I. Introduction

At the direction of the North Coast Regional Water Quality Control Board (Regional Water Board), staff ~~is~~ developed~~ing~~ a proposed amendment to the *Water Quality Control Plan for the North Coast Region* (Basin Plan) that would provide exception criteria to the point source waste discharge prohibitions (point source prohibitions) contained in the Basin Plan. The proposed amendment entitled, "*Proposed A~~A~~mendment to the Water Quality Control Plan for the ~~Point Source Measures in Section 4 of the Water Quality Control Plan for the~~ North Coast Region to Establish Exception Criteria to the Point Source Waste Discharge Prohibitions by Revising~~e~~ the Action Plan for Storm Water Discharges and Adding ~~Include~~ a New Action Plan for Low Threat Discharges ~~to Provide Exception Criteria to the Waste Discharge Prohibitions~~*" (proposed Amendment), would apply only to permitted discharges from specific types of activities where there is a minimal potential (or low threat) for adverse impacts to water quality to occur from the discharge. The proposed Amendment sets specific criteria for permitting low threat discharges.

The purpose of this proposed Amendment is to ~~first~~ address the conflict between conditions in existing regional and statewide point source discharge permits that allow year-round low threat discharges and the existing point source prohibitions in the Basin Plan which do not. Some regional and statewide permits allow year-round point source discharges while the Basin Plan limits point source surface water discharges to the period of October 1 through May 14 in the Eel, Mad, and Russian River ~~some~~ watersheds~~bodies~~ ~~in the North Coast Region~~ and prohibits all point source surface water discharges in the rest of the North Coast Region watersheds~~others~~. Where the discharge period is limited to October 1 through May 14, the discharge during this period is limited to less than one-percent of the receiving stream's flow (one-percent prohibition).

As part of the Region's ongoing basin planning program, the Regional Water Board has consistently directed staff to investigate alternatives to address the conflict between the regional and statewide permits and the Basin Plan prohibitions. Resolving this conflict has been ranked as a high priority by the Regional Water Board during adoption of a number of Triennial Review Priority Lists (3rd of 30 in 2004, 4th of 29 in 2007).

To address the~~is~~ conflict between existing permits and the point source prohibitions~~-~~, staff recommend that the Regional Water Board consider adoption of the proposed Amendment, which would provide criteria under which exceptions to the point source prohibitions would be permitted.

The proposed Amendment consists of:

- A new "Action Plan for Low Threat Discharges" (Low Threat Action Plan):

  The proposed Low Threat Action Plan would apply to certain point source categories of planned, short-term discharges from definable projects where the discharge is controlled to eliminate or reduce pollutants and minimize volume and discharge rates through the implementation of best management practices (BMPs). The proposed Low Threat Action Plan would also allow for exceptions to the one-percent prohibition for low threat discharges. ~~if a discharge meets the~~

~~Basin Plan criteria for exceptions to the one-percent prohibition (Basin Plan pages 4-1.00 to 4-2.00, Item 5).~~ The~~se~~ criteria for exceptions include, in part, that the treatment facility is reliable[1], the discharge is limited to rates and constituents which protect the beneficial uses of water, and that alternatives to the discharge were analyzed. ~~In addition, t~~The proposed Low Threat Action Plan (Appendix A of this Staff Report) provides the framework for permitting these low threat discharges and granting exceptions to the point source prohibitions; and

- Revisions to the existing Action Plan for Storm Water Discharges (Storm Water Action Plan):

  The proposed revisions to the Storm Water Action Plan (Appendix B of this Staff Report) would apply to discharges of storm water and certain categories of low threat non-storm water flows that are incidental to urban activities (hereinafter referred to as non-storm water flows) from regulated ~~permitted~~ storm water collection systems and would identify the conditions that must be met in order to prevent or preclude these discharges from being subject to the point source and one-percent prohibitions. A key condition of the revised Storm Water Action Plan is the requirement for implementation of an approved BMP program by the regulated storm water entity that focuses on the elimination ~~or~~ and reduction of pollutants in storm water and non-storm water flows and minimization of volume and discharge rate of non-storm water flows. As ~~used~~ utilized for the purpose of this project~~in this report~~, BMPs are compliance methods designed, implemented and maintained to eliminate or reduce pollutants and reduce the volume or rate of discharge. A combination of structural (engineered features), non-structural (e.g., operation and maintenance practices) and managerial methods (e.g., policies and procedures) are typically utilized to attain this goal.

Under the proposed Amendment, the exception to the point source prohibitions would apply only to discharges that meet all the following requirements:

- Are of low threat to water quality;
- Are covered under a point source discharge permit (either Waste Discharge Requirements (WDRs) or a National Pollutant Discharge Elimination System (NPDES) permit);
- Are from point sources (non-point source discharges are not subject to the prohibitions).

Generally, a discharge is considered to be of “low threat” to water quality when it meets all the following criteria, although the first two criteria are not always applicable to all storm water conveyance system discharges:

- Short-term and/or periodic in nature.
- Minimized volume, discharge rate and pollutant load to the greatest extent possible by use of BMPs and other disposal alternatives to protect beneficial uses.
- Meets all water quality objectives.
- The discharge does not cause adverse effects on the beneficial uses of the receiving water or cause nuisance conditions.

[1] Reliability is used here as defined in the Basin Plan on page 4-2.00.

~~Under this proposed Amendment~~The types (or categories) of discharges that may be eligible for consideration as ~~a~~ low threat under the proposed Amendment~~,~~ include, but are not limited to, the discharge categories identified in ~~the~~ Table 1 below. It is important to note that some discharges from the activities identified below may not qualify as a low threat discharge if water quality objectives are not met due to site specific conditions. For example, groundwater that contains high levels of naturally occurring metals would not be eligible for consideration as low threat under the proposed Amendment.

Table 1. Types of Discharges Eligible for Consideration as Low Threat

Low Threat Action Plan (Intentional discharges from ~~P~~planned projects)
Construction dewatering
Installation, development, test pumping, maintenance, and purging of water supply or geothermal wells
Hydrostatic testing, maintenance, repair, and disinfection of potable water supply vessels, pipelines, tanks, reservoirs, etc.
Hydrostatic testing of newly constructed pipelines, tanks, reservoirs, etc. used for purposes other than potable water supply (e.g., gas, oil, reclaimed water, etc.)
Dredge spoils dewatering
Other similar types of point source discharges that pose a low threat to water quality, yet technically must be regulated under an NPDES permit
Storm Water Action Plan (Storm water and non-storm water flows ~~incidental~~ into a regulated~~permitt~~ storm water system~~to urban activities~~):
Storm water runoff
Recycled or potable irrigation runoff that is incidental[2]
Releases from potable drinking water supply and distribution systems during or after emergency repairs
Drain discharges from foundations, footings, and crawl spaces
Air conditioning condensate
Dechlorinated/debrominated swimming and landscape pool discharges
Non-commercial car washing by residents
Sidewalk rinsing[3]
~~Emergency fire fighting flows~~
Fire hydrant testing or flushing

~~As identified in Table 1, the~~ Regional Water Board staff has also recognized that in addition to properly handled storm water runoff, there are two distinctly different types of low threat discharges: (1) discharges associated with planned projects and (2) discharges associated with unplanned non-storm water flows. Discharges associated with planned actions have a decreased risk of adverse impact to beneficial uses of water as all actions (BMPs) will have been taken to first prevent discharge to surface water and second to minimize the impacts associated with the remaining discharge. Discharge associated with unanticipated discharges, by their very nature result from

[2] Defined under Master Water Recycler Permits as "runoff that is unintentional (e.g. accidental breakage of sprinkler head) and not associated with negligence on the part of the permittee".

[3] This refers to low volume, high pressure sidewalk rinsing.

unplanned actions, increasing the risk of potential water quality impacts. These Three types of low threat discharge proposed for coverage under the Amendment are further described in the following sections.

1. Storm Water

Municipal storm water conveyance systems are designed, constructed and maintained to protect public heath and safety and property from runoff producing storm events. Given the existing point source prohibitions, it is technically a violation of the point source prohibitions if storm water is discharged to surface water from a regulated storm water conveyance system during the prohibition period (e.g. from May 15 to September 30 in the North Cost Basin). At the time of adoption of the point source prohibition language, storm water collection and transportation systems were not a regulated point source. This proposed Amendment is intended to correct the inconsistency between permitting municipal storm water collection systems and the Basin Plan.

Storm water, if managed properly (e.g. routine cleaning and maintenance of drainage structures to prevent discharge of trash, sediment, and other constituents of concern, street sweeping and washing to remove pollutants prior to early season rain events, etc), can qualify as a low threat discharge if the conditions of the approved permit are met and the discharge does not cause adverse effects on the beneficial uses of the surface water. For storm water discharges from regulated MS4s, whose permits do not contain numeric effluent limitations, they are considered in compliance with the requirement that beneficial uses not be adversely affected as long as they are implementing the iterative BMP process set forth in their approved storm water management plan. Some of the BMPs that will likely be required to ensure that pollutants are reduced in storm water discharges to the maximum extent practicable may include, but not be limited to, pesticide and fertilizer management; the inspection and cleaning of storm drain pipes and inlet structures; trash management; and a street sweeping program.

2. Intentional Discharges from Planned Projects

One Another type of low threat discharge originates is the intentional discharge from planned projects such as dewatering of utility vaults and construction site, testing and maintenance of potable water supplies and discharges from swimming pool draining. Currently, there are regional and statewide permits that apply to some types of projects that usually result in low threat discharges. These permits include:, such as

- *General NPDES Permit/Waste Discharge Requirements for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewatering Activities in the North Coast Region* (Order No. 93-61).
- *Statewide General NPDES Permit for Discharges from Utility Vaults* (Order No. 2006-0008-DWQ).

Projects enrolled under these permits are technically in violation of the point source prohibition if they discharge to surface water during the prohibition period.

This proposed Amendment would provide exception criteria that would allow those seeking coverage under these the applicable permits may also to be eligible for an exemption exception from the point source and one-percent prohibitions if they meet the additional criteria as set forth in the proposed Amendment and as required under the implementing permit.

Regional Water Board staff developed the proposed "*Draft Action Plan for Low Threat Point Source Discharges*", set out in Appendix A of this Staff Report, to describe the exception criteria required to be eligible to discharge to surface water during the prohibition period. This Action Plan would apply to all surface water discharge (except discharges to permitted municipal storm water systems) for which an exception to the point source prohibitions was being requested. Regional Water Board staff also developeding a draft General Low Threat Discharge NPDES permit (Low Threat Discharge Permit) as the regulatory mechanism to permit these types of discharge. The proposed Low Threat Action Plan in concert with the proposed Low Threat Discharge Permit would provide a program for permittees to enroll in that would alleviate the inconsistency in the permitting of low threat discharges and the existing point source prohibitions while ensuring water quality protection.

Thesse additional criteria that would be required under the proposed includeLow Threat Action Plan include:

1. The discharge shall not adversely affect the beneficial uses of the receiving surface water, either individually or cumulatively.

2. The discharge shall comply with all applicable water quality objectives.

3. Low-threat non-storm water discharges upon submittal, approval and implementation of a non-storm water management program. The permittee shall develop a specific management program, to be included in their overall storm water management plan, to eliminate unauthorized non-storm water discharges and reduce pollutant loads in identified authorized non-storm water discharges to the maximum extent practicable, by minimizing the remaining increment of discharge, and mitigating impacts associated with discharge of non-storm water, where necessary. The permittee shall include programs for specific BMP installation, public education and outreach, inspections, monitoring and compliance assurance. The management program shall be submitted to the Regional Water Board Executive Officer or Regional Board for review and approval following a duly noticed 30-day public comment period.

Best practicable treatment or control of the discharge shall be implemented to assure that pollution and nuisance will not occur, and the highest water quality consistent with maximum benefit to the people of the State will be maintained.

4. The discharge is necessary because no feasible alternative to the discharge (reclamation, evaporation, infiltration, discharge to a sanitary sewer system, etc.) is available.

5. The discharge is limited to that increment of wastewater that remains after implementation of all reasonable alternatives for reclamation or disposal.

6. The discharge is regulated by NPDES Permit/Waste Discharge Requirements.

The proposed Low Threat Discharge Permit would replace the existing "*General NPDES Permit/Waste Discharge Requirements for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewatering Activities in the North Coast Region".* The proposed Low Threat Discharge Permit would be applicable to discharges from construction and subsurface seepage dewatering activities as well as the other categories of discharges that could be determined to be low threat (see examples in Table 1, above).

In order to quality for an exception to the prohibition, e~~E~~ach potential discharger ~~must~~ would be required to submit an application Notice of Intent (NOI) or Report of Waste Discharge (ROWD) for permit coverage that includes the following information that is necessary in order for Regional Water Board staff to evaluate whether a proposed discharge qualifies as a low threat discharge ~~and for the Basin Plan exception~~:

- Evaluation of alternatives to discharging to surface waters and demonstration that any discharge to surface waters is limited to that increment of discharge that remains after reasonable alternatives for reclamation, sewer disposal, or land disposal have been exhausted;
- Characterization of the proposed discharge, including a demonstration that the discharge will not contain pollutants or constituents at concentrations that exceed Basin Plan water quality objectives, California Toxic Rule objectives, or any other standard or objective promulgated to protect water quality and beneficial uses;
- Description of the flow rates, volume and duration of discharge, including a demonstration that the discharge of waste will be limited to rates, volume and constituent levels that protect the beneficial uses of the receiving water;
- Demonstration that the discharge complies with State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality Waters in California" and the federal regulations addressing antidegradation;
- A pre-project characterization of the receiving water, including a description of channel characteristics (e.g., width, depth, substrate, presence or absence of water at time of proposed discharge, approximate creek flow rate, etc.), bank characteristics (e.g., slope, presence or absence of vegetation, vegetation type and density, signs of bank instability), and identifiable instream beneficial uses (e.g., identify presence of aquatic life, including aquatic insects and fish and any rare, threatened or endangered species; water contact recreation), and photographs showing representative features of the receiving water;
- Development and implementation of a management plan that includes the suite of BMPs that will be used to protect the receiving water from any adverse impacts of the discharge as well as the inspection, maintenance and reporting schedule.

There are a suite of BMPs that are routinely implemented that could be used to meet the exception criteria. These include: the use of retention or settling basins, dechlorination/debromination of potable water and swimming pool discharges, use of low flow emitters to dissipate flow, etc. See Table 4.0 in Appendix D of the Staff Report for more on BMPs (e.g. reasonably foreseeable compliance measures).

3. Intentional and Incidental Non-Storm Water Flows to Permitted Storm Water Systems

The ~~second~~ third type of low threat discharge addressed by the proposed Amendment relates to low threat discharge from permitted (NPDES) storm water conveyance systems of~~. This includes both storm water runoff and~~ non-storm water flows related to urban uses. ~~See discussion above for more on storm water flows.~~

Non-storm water discharges, such as those identified in Table 1, fall into two categories: (1) intentional discharges that are planned, routine and occur as one time events or on an ongoing basis, and (2) incidental discharges that are unanticipated, accidental, and infrequent. Examples of intentional low-threat non-storm water discharge categories, include, but are not limited to, ~~uncontaminated~~ discharges from foundation, footing and crawl space drains, ~~residential~~ swimming pool draining, maintenance of water storage tanks, air-conditioning condensate, and residential car washing. Examples of incidental low-threat non-storm water discharge categories include, but are not limited to, accidental discharges from potable water sources due to unexpected line breaks, incidental runoff of potable or recycled water from landscape irrigation due to an unexpected break in irrigation line or sprinkler head, and flows from ~~emergency~~ fire-fighting training and maintenance activities.

A discharge of non-storm water is considered to be from a “point source” when the discharge flows into a storm water collection system covered by an NPDES permit, and is consequently discharged to surface water. Although non-storm water flows, such as those identified in Table 1, may be covered under regional or statewide NPDES storm water permits, such discharges currently are inconsistent with the year-round or seasonal point source prohibitions contained in the Basin Plan.

~~In addition,~~ Unplanned (or incidental) non-storm water discharges are more difficult to predict and ~~plan for~~manage than the planned low threat discharges proposed for coverage under the Low Threat Action Plan. Some of the discharge categories that would be covered under the Storm Water Action Plan, such as incidental runoff of reclaimed or potable water or releases of potable water during or after emergency repairs, are unplanned, accidental, and unintentional events. Other discharge categories, such as sidewalk rinsing, or discharges from drains for foundations, footings, and crawl spaces, although intentional, are difficult to plan for because the activities that lead to discharge are: (1) spontaneous and/or sporadic, (2) generally low volume and numerous, thus difficult to capture individually under a permit, and (3) already addressed in various individual and general storm water NPDES permits.

The proposed revision to the *Action Plan for Storm Water Discharges* is set forth in Appendix B of this Staff Report. The proposed revisions include criteria that must be

met in order for non-storm water flows from permitted storm water collection systems to receive an exception to the point source prohibitions.

These proposed criteria include:

- Requiring that the discharge and the activities that affect the discharge, such as irrigation practices, are managed in conformance with the provisions of the applicable NPDES permit;
- Requiring that the discharge does not ~~individually or cumulatively~~ cause adverse affects on the beneficial uses of the receiving water; and
- Requiring implementation of a~~n~~ ~~approved~~ management program by the permitted entity that~~to~~ prevents ~~or~~ and minimizes non-storm water discharges into surface waters by requiring ~~that includes~~ the implementation of appropriate BMPs, outreach and education, inspections, monitoring, reporting and enforcement. Such a management program must be approved by the Regional Water Board, or ~~its~~it's Executive Officer, after a duly noticed thirty (30)~~-~~ day public comment period.

In addition to the above requirements, incidental discharges of non-storm water flows ~~discharges~~ will not be provided an exception to the point source prohibition if the discharge event is caused by negligent maintenance or poor design of infrastructure or failure to oversee the activity that resulted in the discharge. No exception will be provided if there is a feasible alternative to the discharge, such as retention of the runoff, or if the permit holder and/or potable/recycled water user does not have a management plan that identifies BMPs to prevent and minimize runoff incidents.

There are a suite of BMPs that are routinely implemented that could be used to meet the exception criteria. These include: the use of retention or settling basins, dechlorination/debromination of potable water and swimming pool discharges, use of low flow emitters to dissipate flow, etc. See Table 4.0 (page 19 and 20 of the Staff Report, Appendix D) for more on BMPs (e.g. reasonably foreseeable compliance measures).

II. Existing Regulatory Framework

The following section describes the applicable regulatory framework as is currently in use in the North Coast Region.

Basin Plan

The regional water boards are charged with protection of the quality of the groundwater and surface waters of the State within their regions. Basin plans provide, in part, the foundation for the regulatory activities of the regional water boards. The Basin Plan for the North Coast Region, Section 4 - Implementation Plans, pages 4-1.00 through 4-2.00, contains prohibitions that apply to point source discharges to North Coast waterbodies (e.g., inland surface waters, bays and estuaries), for specific periods of time.

~~See Appendix C of this report for the complete Basin Plan point source prohibition(s) language and a brief history of the North Coast Region's point source prohibitions.~~

Year-round point source prohibitions[4] apply to all North Coast watersheds, with the exception of the Mad, Eel, and Russian Rivers and the lower Lost River system. Seasonal point source discharges are prohibited in the Mad, Eel, and Russian River watersheds from the period of May 15 to September 30 of each year. In these watersheds point source discharges can be allowed from October 1 to May 14, in cases where the Regional Water Board issues a NPDES permit that ensures that the discharge of waste will not adversely impact water quality and beneficial uses (Basin Plan page 4-1.00 to 4-2.00). The Basin Plan also includes a discharge flow rate limitation for the Mad, Eel, and Russian Rivers, requiring that waste discharge flow must be no greater than one percent of the receiving stream's flow, although the Regional Water Board may consider exceptions for cause to this waste discharge rate limitation.

The point source and one-percent prohibitions are intended to protect water quality and beneficial uses of the waterbodies in the North Coast Region from discharges from wastewater treatment facilities, but because they arguably apply to all point source waste discharges, they ~~currently~~ do not contain the flexibility to permit the discharge of water considered to be a low threat to water quality during the stated discharge prohibition periods. These point source prohibitions arguably apply even to all ~~the~~ discharges of waste, even where the water being discharged ~~that~~ meets water quality objectives and may not pose a threat to water quality, such as uncontaminated groundwater from construction sites. This is because almost all water has some small amount of pollutants, and would be considered the discharge of a waste under the Porter-Cologne Water Quality Act.[5] Pollutants that are most common in low threat discharges are sediment, elevated temperature, and chlorine.

Prohibiting all low threat discharges is problematic because often no practical alternatives to the discharge are available, and because some activities that result in low threat discharges are vital to community development activities, such as construction and provision of reliable water supply (e.g., well development, and pipeline maintenance and repair). The prevalence of these community development activities indicate that these discharges are occurring even with the prohibition in place. The Basin Plan allows for the possibility of providing exceptions to the point source discharge prohibitions. Section 4 states "... point source waste discharges, except as stipulated by the Thermal Plan, the Ocean Plan, and *the action plans and policies contained in the Point Source Measures section of this Water Quality Control Plan* (emphasis added) are prohibited …". A higher degree of water quality protection can be achieved by acknowledging that these low threat discharges exist and providing a regulatory program that allows the discharges to occur under prescribed conditions. The proposed criteria that the discharge would have to meet to be eligible for

[4] See Appendix C of this report for the complete Basin Plan point source prohibition(s) language and a brief history of the North Coast Region's point source prohibitions.

[5] California Water Code section 13050(d) defines "waste" as including "sewage and any and all other substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal."

consideration as low threat are contained in Appendices A and B.~~the proposed Amendment.~~

Existing Permits

A primary way the regional water boards protect water quality is through the issuance of NPDES permits that are in compliance with the Basin Plan requirements. NPDES permits, authorized by the Clean Water Act, control water pollution by regulating point sources (e.g., outfalls from discrete conveyances such as pipes or man-made ditches) that discharge pollutants into waters of the United States.

Regional Water Board staff currently use several permitting approaches for addressing low threat point source discharges; however, when these discharges take place during the discharge prohibition season, such permitting is arguably inconsistent with the Basin Plan. The following paragraphs identify the four main approaches used by Regional Water Board staff for permitting low threat discharges and how these approaches are applied to discharges that occur during the point source prohibition season. Problems with the current permitting approaches are also identified.

1. Order No. 93-61, General NPDES Permit/Waste Discharge Requirements for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewatering Activities in the North Coast Region.

   The Regional Water Board receives frequent requests for planned low threat discharges in relation to well development, construction dewatering, and municipal water supply pipeline and reservoir maintenance projects. Regional Water Board staff work with project proponents to identify discharge alternatives that do not result in a discharge to surface waters (e.g., discharge to land or to a sanitary sewer). When there are no such alternatives, Regional Water Board staff typically enroll the discharger under Order No. 93-61. However, Regional Water Board staff is aware that some of these types of discharges occur without permit coverage, in part due to the lack of a clear program for addressing low threat discharges. These discharges may reach surface water by various means, including, but not limited to, discharge directly to the surface water by way of a hose or pipe, discharge to a storm water collection system that discharges to the surface water, or by flowing over the land surface thence to the surface water (overland flow).

   Order No. 93-61 requires submittal of a Report of Waste Discharge (ROWD) accompanied by a feasibility study of reuse of the water and, if reuse is not feasible, a description of alternatives for disposal other than to surface waters. This Order is currently issued for discharges of groundwater from construction trenches and vaults and well

development and rehabilitation; and discharges of potable water from flushing of new and existing water lines, reservoirs and water tank maintenance projects. These kinds of projects often need to be done during summer and early fall because these are the prime construction seasons.

Order No. 93-61 has limited applicability for addressing many of the low threat discharges that are encountered in the North Coast Region for two reasons: (1) its focus is construction and subsurface seepage dewatering, and (2) it does not override the Basin Plan discharge prohibitions. Nonetheless, for the lack of a broader low threat discharge general permit, the Order has been used to permit more than just construction dewatering. Historically, Order No. 93-61 has been used to permit low threat discharges in both the allowable discharge period and the discharge prohibition period, but Regional Water Board staff has recently stopped this approach due to the inconsistency and replaced it with the practice identified in the following paragraph.

Regional Water Board staff recently modified its approach to handling requests from potential dischargers for low threat discharges during the point source prohibition period in order to be consistent with the point source prohibitions. Under the new approach, Regional Water Board staff respond to these requests with an email or letter stating that the Regional Water Board is unable to permit such a discharge because it is a violation of the Basin Plan. The email or letter recommends that the project be redesigned to eliminate the need to discharge to surface waters or postponed to an allowable discharge period, if that option is possible. The email or letter further states that if the project must occur during the discharge prohibition period, Regional Water Board staff will not recommend initiation of an enforcement action, provided that the project: (1) is conducted with BMPs that protect water quality, (2) does not result in pollution or nuisance as defined in Water Code section 13050, and (3) is discharged under the provisions of an existing municipal storm water permit.

2. Municipal, Construction and Industrial General or Individual Storm Water Permits

Many storm water discharges to surface waters from municipal, construction, and industrial sources in the Region are permitted under general storm water permits adopted by the State Water Resources Control Board including:

- The Phase II municipal storm water general permit (Order No. 2003-0005-DWQ) generally applies to municipalities with populations greater than 10,000 but less than 100,000, high population densities, high growth potential, or a significant contribution of pollutants to surface waters.

- Order No. 99-08-DWQ, the construction storm water general permit, applies to construction sites larger than one acre.

- Order No. 2003-0007-DWQ for discharges of storm water associated with small linear underground/overhead construction projects (LUPs). This permit covers construction activities associated with small LUPs that result in land disturbances greater than one acre, but less than five acres.

- Order No. 99-06-DWQ, NPDES Permit for Storm Water Discharges From the State of California, Department of Transportation (Caltrans) Properties, Facilities, and Activities. This permit is intended to cover all municipal storm water activities by Caltrans in California. The current permit covers all Caltrans construction activities that require a permit under the federal regulations. ~~When this Order is revised in the near future, it will require Caltrans to comply with the construction storm water general permit for construction storm water activities.~~

- Order No. 97-03-DWQ, NPDES Permit for Discharges of Storm Water Associated with Industrial Activities, Excluding Construction Activities. This permit covers specific categories of industrial discharges identified in this general permit.

The regional water boards have the authorization to adopt individual storm water permits as well. This Region currently has one individual storm water permit; a Phase I municipal storm water permit (Order No. R1-2008 - 0106) for the City of Santa Rosa, Sonoma County, and Sonoma County Water Agency's municipal storm water systems.

The statewide general storm water permits require each discharger to submit a NOI to comply with the terms of the general permit. Individual permits are initiated with the submittal of a ROWD. The general and individual permits require dischargers to develop and implement a Storm Water Pollution Prevention Plan, specifying BMPs that will prevent pollutants from contacting storm water, eliminate or reduce non-storm water discharges to storm water sewer systems and waters of the State, and to perform inspections and maintenance of BMPs. The storm water permits authorize the discharge of certain types of non-storm water discharges to regulated storm drain systems even during the summer months and other periods when there is no precipitation, provided that the non-storm water discharges are controlled with BMPs.

Non-storm water discharges are those discharges from storm water systems that reach a watercourse through the storm water collection system, but are not composed of storm water, particularly when they occur during the summertime.

These discharges are considered point source discharges because they reach the surface water via a pipeline, conveyance ditch, or other discrete point, and, as such, are technically in violation of the point source prohibitions even though the impact of the discharge may be relatively minor. This results in a conflict between the State Water Board general storm water permits and the Basin Plan point source prohibitions. Allowable non-storm water discharges specified in the general storm water permits include, but are not limited to, water line flushing, landscape irrigation, discharges from potable water sources, uncontaminated pumped groundwater, and de-chlorinated swimming pool discharges. These and other categories of discharge are authorized by the storm water permits, provided that BMPs are utilized and the discharge does not contain significant sources of pollutants.

There are currently hundreds of permitted non-storm water discharges in the North Coast Region. Many of the storm water conveyance systems that are covered under storm water permits receive occasional discharges that are in violation of the Basin Plan point source prohibitions. Storm water permits require the permittee to minimize these non-storm water discharges through inspections, education and outreach and other BMP programs. Staff currently use their enforcement discretion in addressing these violations. However this approach does not address permittees concern that they could be vulnerable to third party citizen lawsuits as authorized under the Clean Water Act because the discharge is still a technical violation of the Basin Plan.

3. Order No. 2006-0008-DWQ, Statewide General NPDES Permit for Discharges From Utility Vaults and Underground Structures to Surface Waters.

   This statewide general permit covers short-term and intermittent discharges from the de-watering of utility vaults and underground structures to surface waters, provided that such discharges do not cause, have the reasonable potential to cause, or contribute to an instream excursion above any applicable State or federal water quality objectives/criteria or cause acute or chronic toxicity in the receiving water. The permit requires the discharger to submit: (1) an NOI, (2) a pollution prevention plan identifying BMPs designed to prevent or control the discharge of pollutants, and (3) certification that there is no pollutant concentration in the discharge that has reasonable potential to cause or contribute to an excursion above any applicable federal water quality criterion or cause acute or chronic toxicity to the receiving water. This permit allows year-round discharges for permittees who are covered under the permit, which is inconsistent with the Basin Plan point source prohibitions.

4. Master Water Recycler Permits

   Master water recycler permits are adopted for municipal wastewater treatment facilities that recycle properly treated effluent for various uses, including, but not limited to, agricultural and urban irrigation, toilet flushing, dust control, and industrial cooling water~~.~~, and fire-fighting activities. The Regional Water Board currently addresses incidental runoff of recycled water in several master water recycler permits. In the North Coast Region, recycled water is currently used

primarily for agricultural and urban landscape irrigation with some limited uses for toilet flushing and dust control.

Master water recyclers are required to implement BMPs to minimize the potential for accidental discharges of recycled water to storm drains and surface waters. Master water recycler permits define "incidental runoff" as "runoff that is unintentional (e.g., accidental breakage of a sprinkler head) and not associated with negligence on the part of the permittee". These incidents are typically low volume, accidental, not due to a pattern of neglect or lack of oversight, and promptly addressed. Water leaving a reuse area due to poor facility design, excessive application, or failure to maintain infrastructure is not considered incidental. The permit language requires the permittees to identify and implement measures to minimize the possibility for incidental runoff and to report incidental runoff incidents in quarterly recycled water monitoring reports. Under these permits incidental runoff is considered a permit violation, which is consistent with the point source prohibitions. The permit language states that an enforcement action will be considered in those situations where the runoff event(s) is/are not incidental, such as when there is/are: inadequate response by the permittee to runoff incidents; repeated runoff incidents that were within the permittee's control; exceedence of water quality objectives; incidents that create a condition of pollution or nuisance; and discharges that reach surface water in violation of the individual permits.

This manner of regulating incidental runoff has been viewed by recycled water permittees and some staff at the regional water boards as not being supportive of the State Legislature's objective of promoting the use of recycled water in order to supplement existing surface and ground water supplies to help meet water needs (California Water Code ~~§§~~sections 13510-13512.). It is generally recognized that even with the diligent implementation of BMPs, incidental runoff events may occur on occasion. Staff has been informed that treating incidental runoff as a permit violation discourages the use of recycled water because of the potential liability associated with incidental runoff during the discharge prohibition season. For example, some municipalities within the North Coast Region have indicated that they are hesitant to pursue or expand water reuse (recycling) projects because it is technically a violation of the point source prohibitions for irrigation water (both potable and recycled) to discharge into a regulated storm drain and reach surface waters during the discharge prohibition season. These municipalities are concerned that such activities could result in liability under the Clean Water Act, unless the Basin Plan is amended to provide exceptions to the Basin Plan point source prohibitions.

The Regional Water Board recognizes that incidental runoff of potable or recycled water, and other potential low threat discharges, can have unintended water quality impacts. Both recycled water and potable water can contain ~~pollutants~~ chemicals of environmental concern (CECs), such as pharmaceutical and personal care products (PPCPs). Potable water typically contains chlorine and can contain other pollutants, such as anthropogenic or naturally occurring metals (e.g. arsenic) that are at concentrations that satisfy drinking water standards, but are still higher than aquatic life criteria in the California Toxics

Rule[6]. Recycled water ~~could contain any number of unidentified pollutants such as pharmaceutical and personal care products and~~ also contains pollutants such as nutrients and salts that could cause problems, especially in low flow streams. Both recycled water and potable water, when applied to land, can carry pollutants, such as sediment, nutrients, pathogens, or pesticides, off the land ~~such as sediment, nutrients, pathogens, or pesticides~~. Incidental runoff may also impact water quality in regard to temperature, dissolved oxygen, pH, conductivity, or turbidity (sediment). Under the terms of the proposed Amendment, urban incidental runoff of recycled or potable water would be considered low threat, and thus would not be subject to the ~~Basin Plan's~~ point source prohibitions provided that: (1) the discharge and the activities that~~which~~ affect the discharge are managed in conformance with the provisions of an NPDES/WDR permit; (2) the discharge does not ~~individually or cumulatively~~ cause adverse effects on the beneficial uses of ~~the receiving~~surface water; and (3) the permittee implements a general management program to elminiate or minimize non-storm water discharges into surface waters. In addition, for incidental discharges, the permittee must also demonstrate that: (1) the discharge event is not due to negligent maintenance or poor design of infrastructure or failure to oversee the activity that resulted in the incidental runoff; (2) there were no feasible alternatives to the incidental discharge event, such as retention of the incidental runoff; or (3) the permit holder and/or potable/recycled water user has a management plan that identifies best management practices designed to avoid, minimize, and where appropriate, mitigate incidental runoff events. ~~is subject to a program to eliminate or and minimize discharge of pollutants into the storm water system, including implementation of a best management program.~~

Existing Policies

The proposed Amendment is also consistent with the Recycled Water Policy[7] adopted by the State Water Board in February 2009. The purpose of the Recycled Water Policy is to increase the use of recycled water from municipal wastewater sources that meet the definition in Water Code Section 13050(n), in a manner that implements state and federal water quality laws. The Recycled Water Policy states that "the State Water Board and Regional Water Boards will exercise the authority granted to them by the Legislature to the fullest extent possible to encourage the use of recycled water, consistent with state and federal water quality laws." The State Board is also charged by statue with developing a general permit for irrigation uses of recycled water.

III. Overview of the Proposed Amendment to the Basin Plan to Address Low Threat Discharges

[6] 65 Federal Register 31682-31719 (May 18, 2000), adding Section 131.38 to title 40 of the Code of Federal Regulations.

[7] Recycled Water Policy, Staff Report and Certified Regulatory Program Environmental Analysis, State Water Resources Control Board, February 2009. http://www.waterboards.ca.gov/water_issues/programs/water_recycling_policy/

The proposed Amendment would provide exception criteria to the point source and one-percent prohibitions contained in the Basin Plan for low threat discharges. The proposed Amendment would not alter or remove the point source prohibition section of the Basin Plan. The proposed Amendment would instead, provide a protective, yet streamlined procedure for regulating low threat point source discharges by: (1) adding a new *Action Plan for Low Threat Discharges* and (2) adding language to the existing Basin Plan *Action Plan for Storm Water Discharges* to address low threat non-storm water flows incidental to urban activities to regulated storm water collection systems. This approach of providing exceptions to the discharge prohibitions already exists in the Basin Plan in the *Interim Action Plan for Cleanup of Groundwaters Polluted with Petroleum Products and Halogenated Volatile Hydrocarbons* (page 4-7.00 to 4-8.00).

The proposed Amendment would apply to:

- All waterbodies in the Region where the Basin Plan point source prohibitions apply;
- All waterbodies in the Region where the Basin Plan one-percent prohibition applies;
- All low threat point source discharges to surface waters where the discharge is permitted under an NPDES/WDR permit.

The proposed Amendment addresses two distinctly different types of low threat discharges, as described in the following paragraphs:

(1) Intentional discharges that are planned, short-term, and ~~discharges~~ from definable projects where the discharge is controlled to eliminate or reduce pollutants and minimize discharge volume and rate, (covered by the Low Threat Action Plan and the Storm Water Action Plan); and

(2) Incidental discharges that are unanticipated, accidental, and/or infrequent (covered only under the Storm Water Action Plan).

~~Both Action Plans require that several conditions be met before an exception to the point source prohibitions would be given or applied.~~

- ~~First, the discharge must pose no more than a low threat to water quality.~~
- ~~Second, the discharge must be covered under an existing individual or general NPDES/WDR permit. Permit options were discussed in greater detail in Section II, and include the statewide general municipal, construction or industrial storm water permits, individual storm water permits, and Regional Water Board or State Water Board permits designed to address low threat discharges.~~
- ~~Third, the discharge to surface waters must be minimized or avoided. This requires assessing alternatives to surface water discharge and/or implementing BMPs that eliminate or minimize discharges to surface waters.~~
- ~~Fourth, the discharger must develop and implement a management plan that identifies BMPs and implement BMPs that remove pollutants (where applicable) and minimizes the volume and duration of the discharge.~~

- ~~Fifth, the discharge must not individually or cumulatively cause adverse effects to the beneficial uses of the receiving water or cause nuisance conditions.~~

The proposed Low Threat Action Plan would apply to certain categories of planned, short-term discharges from definable projects that implement BMPs to minimize pollutants and discharge volume and flow rate. The Low Threat Action Plan provides criteria for permitting these low threat discharges and providing exceptions to the point source prohibitions. The criteria designate categories of discharges that could be considered low threat, establish specific conditions and requirements that a discharger must meet in order to obtain an exception, and contain all of the criteria currently set out in the Basin Plan for granting an exception to the one-percent flow limitation. Exceptions to the point source and one-percent prohibitions would be authorized by the Regional Water Board Executive Officer on a case-by-case basis for dischargers who apply for and meet the requirements of the exception criteria specified in the Low Threat Action Plan and/or apply for coverage under the revised general permit.

The proposed modifications to the Storm Water Action Plan would apply to certain categories of low threat non-storm water flows that are incidental to urban activities from regulated~~permitted~~ storm water collection systems. The Action Plan also identifies the conditions that must be met in order for these discharges to be exempt from the point source prohibitions. Exceptions to the point source prohibitions for storm water and non-storm water flows would not require direct action by Regional Water Board staff or the Regional Water Board, rather the exception would be granted automatically through the provisions of an existing permit, provided that the discharge meets the specific criteria identified in the Storm Water Action Plan, including:

- The discharge and the activities that~~which~~ affect the discharge are managed in conformance with the provisions of an applicable NPDES permit (e.g., a storm water permit or a master water recycler permit issued to a municipality or district) ~~which covers non-storm water discharges from entities within the jurisdiction of the municipality or district~~;

- The discharge does not cause adverse effects to the beneficial uses of the ~~receiving~~ surface water or cause nuisance conditions; municipal dischargers from regulated MS4s whose permits do not contain numeric effluent limitations are considered in compliance with this requirement as long as they are implementing the iterative BMP process set forth in their approved storm water management plan and

- The discharge of non-storm water flows is subject to a~~n~~ ~~approved~~ management program, which has undergone a 30-day public comment period and approved by the Executive Officer or Regional Water Board, that requires ~~implemented by~~ the permittee ~~that requires the~~to ~~-~~implement~~ation of~~ BMPs designed to eliminate, minimize, and where applicable mitigate, non-storm water discharges into surface waters.

Some larger planned projects may propose to discharge directly to a storm drain system that has permit coverage under a municipal storm water permit. The discharged wastewater would reach surface waters via the municipal storm drain system. Regional

Water Board staff would use discretion as to whether to require coverage under an individual or a Regional or Statewide ~~low threat~~ permit, or whether to allow the discharge if the discharger receives approval from the storm water permittee. If a municipal storm water permittee provides a written plan demonstrating that the municipality has a program in place for overseeing low threat discharges, and if the program is as stringent as the criteria required by the Low Threat Action Plan, these larger projects could be allowed under the municipal storm water program (under the provisions of the Storm Water Action Plan). However, Regional Water Board staff anticipate that many larger planned projects proposing to discharge directly to a storm drain would be required to either apply for coverage under a general regional or statewide NPDES permit or obtain an individual NPDES permit, and seek an exemption from the point source discharge prohibition pursuant to the Low Threat Action Plan. This is because either the storm drain system to which the project proposes to discharge is not permitted under the storm water program or because a municipal storm water permittee does not have an adequate program for overseeing these larger low threat projects. For example, a discharge to a municipal storm drain system from a well development project with high volume, albeit relatively short term flows, typically would not be able to discharge directly to a storm drain. On the other hand, seasonal dewatering of residential foundations and crawl spaces, which are often of ~~(~~low volume and with relatively long time frames for the discharges,~~)~~ ~~to a storm drain system~~ are often allowed to discharge to a storm drain system in municipal storm water permits if the municipality has a written plan approved by the Regional Water Board that sets forth a plan to eliminate or minimize such discharges, including the implementation of BMPs, outreach and education, inspections, monitoring, reporting and enforcement provisions.

Although the proposed Amendment applies to a broadly defined set of low threat discharge categories, there are limits on what may be considered low threat. The proposed Amendment would not apply to:

- ~~On-going high volume discharges. Discharges that fall into this category would require individual permit coverage.~~

- Non-storm water discharges to storm collection systems that result from negligence, poor facility or infrastructure design, and/or failure to implement reasonable BMPs.

- Storm water discharges that are not in compliance with the applicable storm water permit (e.g., that result from failure to implement reasonable BMPs).

- Discharges that cause acute or chronic toxicity to aquatic life in the receiving waters;

- Discharges from groundwater cleanup projects, including sites polluted by industrial activity, underground leaking tanks, and farming practices. Discharges of highly treated groundwater to surface water following extraction and cleanup of groundwater polluted with petroleum hydrocarbons and volatile organic compounds should apply for coverage under Order No. R1-2006-0048, which the Basin Plan already exempts from the point source prohibitions.

- Discharges of groundwater which has been polluted by industrial activity, underground leaking tanks, or farming practices, even if the project and/or proponent has no connection with the contamination;

- Discharges that contain chemical pollutants or physical or biological properties that may adversely impact beneficial uses and/or exceed any applicable water quality standard. Chemical pollutants of concern include, but are not limited, to industrial chemicals, chlorinated hydrocarbons, or organic wastes, herbicides, pesticides, oil and grease, bacteria, radioactivity, and salinity. Biological properties of concern include, but are not limited to bacteria, algae, or undesirable aquatic organisms (e.g., mosquito larvae). Physical properties of concern, include, but are not limited to temperature, dissolved oxygen, pH, conductivity, and altered sediment loads (e.g. turbidity and bottom deposits).

- Discharges that are insufficiently characterized and thereby preclude a determination as to suitability for coverage under a low threat permit.

- Discharges to Areas of Special Biological Significance or other sensitive natural communities.

- Discharges to the ocean. These discharges are not subject to the point source discharge prohibitions contained in the Basin Plan.

- Discharges that would create nuisance conditions such as vector problems or localized flooding.

- Discharges from industrial facilities that are subject to Effluent Limitations Guidelines promulgated by the U.S. EPA pursuant to CWA section 304 (b), which limits the discharge of pollutants from these facilities.

- Discharges that could have a significant impact on biological or cultural resources, aesthetics, or air quality;

- Discharges that could significantly alter the existing drainage pattern of the discharge site or surrounding area or result in downstream erosion.

- Discharges that would adversely affect a listed endangered, or threatened, species or their critical habitat.

- Discharges that would have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service.

- Discharges that do not consist solely of low threat wastewater, such as a low threat discharge that mixes with other wastewater (e.g., domestic wastewater, or industrial process wastewater) prior to contacting receiving water.

Exceptions to the point source prohibitions would not be granted to proposed discharges that fit any of the above descriptions.

Permit Revisions Related to the Proposed Amendment

Regional Water Board Order No. 93-61, "General NPDES Permit for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewatering Activities in the North Coast Region" is being updated by Regional Water Board permitting staff concurrently with this proposed Amendment. It is important that the Regional Water Board have an up-to-date general permit to use for low threat discharges in order to implement the Low Threat Action Plan. The revised Order will apply to a broader range of low threat discharges than Order No. 93-61 and will require the submittal of a ~~Notice of Intent (~~NOI~~)~~ that includes information that is necessary for staff to determine if there are alternatives to the surface water discharge, and if not, if the proposed discharge is low threat, ensure that the receiving water can accommodate the discharge, and ensure that appropriate BMPs and treatment are implemented to protect the receiving water.

Information that must be submitted in an NOI includes, but is not limited to:

- A characterization of the discharge and receiving water,
- Certification that no pollutants will be discharged at levels that exceed water quality objectives,
- An evaluation of feasible alternatives to the discharge, and
- A description of treatment measures and BMPs that will remove pollutants and minimize the rate and duration of the discharge.

The revised low threat general permit will require implementation of BMPs for pollutant removal and monitoring of the discharge to document compliance with the low-threat general permit.

The proposed Low Threat Action Plan and revised Storm Water Action Plan contain general language requiring the implementation of BMPs. As defined earlier in this Staff Report, BMPs are methods designed, implemented and maintained to eliminate or reduce pollutants and eliminate or reduce the volume or rate of discharge. A combination of structural (engineered features), non-structural (e.g., operation and maintenance practices) and managerial methods (e.g., policies and procedures) are typically utilized to attain this goal.

The identification and implementation of best management practices is an essential part of the implementation of the proposed Amendment. However, the overarching method utilized to protect water quality is to avoid a discharge either by finding an alternative to discharging altogether or ~~secondly,~~ by discharging to land (e.g. infiltration areas at the lowest elevation of large urban irrigation areas~~, if possible~~). In cases

where these two options are not feasible, minimizing the impact to surface water would include implementation of a BMP program.

The specific details of the BMP program would be described in an NOI, a Report of Waste Discharge, or a storm water management ~~pollution prevention~~ plan required pursuant to a storm water NPDES permit. Municipal storm water permittees are required to develop and implement approved management programs that address potential non-storm water flows to the regulated storm drain system that include~~rough~~ education and outreach, structural controls, inspections and enforcement through which the permittee clearly communicates practices that are necessary to protect water quality.

If a low-threat discharge is deemed necessary, the BMP program must eliminate or reduce pollutants and minimize the volume and rate of discharge. Measures that will address the volume and/or rate of discharge include, but are not limited to, utilization of alternate disposal methods (e.g., discharging to a sanitary sewer, irrigation or infiltration of the water if sufficient land area is available) in combination with surface water discharge and/or utilization of on-site storage tanks to provide detention time to reduce the rate of discharge. A number of different types of discharges and some examples of BMPs are presented in the environmental analysis presented in Appendix D of this Staff ~~r~~Report.

The proposed Amendment will increase the Regional Water Board's effectiveness in overseeing the categories of discharge addressed by the proposed Amendment in several ways:

1. The proposed Amendment will provide a clear regulatory approach for addressing low threat discharges. The criteria and requirements would be clearly identified in the Basin Plan and promoted by Regional Water Board staff, thus more discharges would be included under the Regional Water Board's permitting program and permittees would know fully what is expected of them.

2. The proposed Amendment would provide a higher level of water quality protection. BMPs would be required for, and implemented on, a larger number of discharges, which would improve the quality of water that is discharged. With proper management, low threat discharges, including non-storm water flows to permitted storm drain collection systems, are not expected to pose a threat to, or to adversely affect, the quality of receiving waters. This regulatory approach will require the avoidance of discharge, if possible, and minimization of the volume and rate of discharge when a discharge is authorized. This is a crucial element of this low threat discharge program.

3. The proposed Amendment will provide a structure that allows for a more complete evaluation by Regional Water Board staff of potential impacts from the discharge by providing an opportunity to influence the timing of proposed discharges, thus further reducing the potential for cumulative impacts. Because Regional Water Board staff will now have knowledge of the low threat discharges, their oversight could also prevent multiple discharges occurring too

close together in time and/or location, which may currently be occurring because of the lack of regulatory oversight.

With the proposed Amendment, the Regional Water Board can begin to limit the negative effects that may currently be occurring from many types of discharges that could be considered low threat if they were implementing proper BMPs. For example, non-storm water discharges from irrigation sites would be minimized by requiring the municipality to have procedures in place for overseeing the irrigation operation and a maintenance program for the irrigation infrastructure. In addition, collection systems could be installed at irrigation sites to capture runoff as an operational practice. Implementation of BMPs would be required to accompany planned discharges. Such BMPs would include practices such as directing all or a portion of the discharge to a sanitary sewer or irrigation disposal site, removal of sediment in discharges from well development projects, removal of chlorine in discharges of potable water, and minimizing the volume and/or duration of the discharge. Decreasing the rate of discharge can also increase the potential for infiltration of the water on the land, thus reducing the amount of discharge that reaches surface waters. When dischargers are made aware of the need for these measures, they generally find innovative ways to achieve the goals of reducing pollutants and minimizing the volume, duration, and/or rate of the discharge. The proposed Amendment would, therefore, provide improved water quality protection over what is occurring in the absence of the proposed Amendment, because many of these discharges are currently occurring without proper BMPs in place or regulatory oversight. In addition, the proposed Amendment would address a difficult situation confronting many municipalities in the Region, where the point source prohibitions put impractical limitations on many necessary and vital community activities.

IV. Compliance with State and Federal Antidegradation Policies

As set forth above in this draft Staff Report and in the environmental analysis included in Appendix D, it is Regional Water Board staff's position that the proposed Amendment will have an overall beneficial impact on water quality by providing a clear regulatory approach for addressing low threat discharges, many of which currently occur within the Region in violation of the Basin Plan point source prohibitions, without permit coverage, and often without implementation of BMPs or oversight. There are often no practical alternatives to these discharges and they often are an integral part of many essential community activities, such as construction, well development, irrigation and firefighting. Instead of attempting to abolish all such discharges because they violate the point source prohibitions, the proposed Amendment provides an exemption from the point source prohibitions if the proposed discharges meet the specific criteria set out in the proposed Amendment. The criteria ensure that the discharge does not adversely affect beneficial uses of water by requiring that all applicable water quality objectives are achieved. This can be achieved in a number of ways including finding alternatives disposal methods to surface water discharge and/or by implementing an appropriate suite of BMPs.

One may argue that because the Regional Water Board will continue to allow these discharges, as opposed to tightening enforcement of the point source prohibitions, there

could be an overall increase in the volume and mass of the discharges. Staff, however, does not concur with this argument. The proposed Amendment, along with the implementing permits, will require the establishment of a program that is intended to result in the overall decrease in low threat discharges across the North Coast Region. This will be achieved in part by establishing local public outreach and education programs, by requiring an analysis of alternative discharge methods before permitting discharge to surface water and by the application and maintenance of the appropriate suite of BMPs.

O~~However, o~~ut of an abundance of caution, the Regional Water Board staff has concluded that an analysis of the State and federal anti-degradation requirements sh~~w~~ould be included as part of the environmental analysis of the proposed Amendment.

Under the federal anti-degradation policy, existing instream water uses and the level of water quality necessary to protect existing uses must be maintained and protected. Where, however, the quality of the water exceeds levels necessary to support propagation of fish, shellfish, and wildlife, and recreation in and out of the water, that quality must be maintained and protected unless the State finds, after ensuring public participation, that:

1. Such activity is necessary to accommodate important economic or social development in the area in which the waters are located,
2. Water quality is adequate to protect existing beneficial uses fully, and
3. The highest statutory and regulatory requirements for all new and existing point source discharges and all cost-effective and reasonable best management practices for non point source control are achieved. (40 CFR 131.12.)

The federal policy also requires that the state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's A~~a~~ntidegradation P~~p~~olicy in State Water Board Resolution No. 68-16 (Resolution 68-16), actually prior to the adoption of the federal policy. The Resolution 68-16 incorporates the federal A~~a~~ntidegradation P~~p~~olicy and requires that existing quality of waters be maintained unless degradation is justified based on specific findings.

~~The~~ California's A~~a~~ntidegradation P~~p~~olicy is also included in the North Coast Basin Plan as a General Objective (Basin Plan pages 3-2.00 to 3-3.00).

The state A~~a~~ntidegradation Policy applies to both groundwater and surface waters whose quality meets or exceeds (are better than) water quality objectives. The state P~~p~~olicy establishes several conditions that must be met before the quality of high quality waters may be lowered by waste discharges.

The state must determine that lowering the quality of high quality waters:

1. Will be consistent with the maximum benefit to the people of the state;
2. Will not unreasonably affect present and anticipated beneficial uses of such water; and
3. Will not result in water quality less than that prescribed in state policies (e.g., water quality objectives).

In addition, before any degradation of water quality is permitted, it must be shown that the discharge will be required to meet waste discharge requirements that result in best practicable treatment or control of the discharge necessary to assure that:

1. Pollution or nuisance will not occur;
2. The highest water quality consistent with maximum benefit to the people of the State is maintained.

All low threat discharges are required to be covered under a point source discharge permit (either WDRs or NPDES), and issues of anti-degradation will be considered when issuing, reissuing, amending or revising a permit if there is the potential for water quality degradation. This means that anti-degradation will be considered as part of the Regional Water Board's adoption of a general NPDES permit for low threat discharges and during the adoption of the municipal separate storm water system for the City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency. Nonetheless, as part of the adoption of the proposed Amendment, Regional Water Board staff has considered compliance with the federal and state anti-degradation policies.

As a requirement of the general permit, the low threat discharges that would be exempted from the discharge prohibitions will not exceed Basin Plan water quality objectives, the California Toxics Rule objectives, or any other standard or objective promulgated to protect water quality and beneficial uses. A low threat discharge that meets water quality objectives would not be expected to adversely affect the present or future beneficial use of surface waters, nor will it result in water quality less than that prescribed in the Basin Plan.

The potentially small reduction in water quality cumulatively caused by these low threat discharges is necessary to accommodate important economic or social development in the North Coast Region, and any such change in water quality is consistent with the maximum benefit to the people. All of the potentially low threat discharges identified in Table 1 are associated with activities vital to communities. Construction dewatering, well development, pipeline and reservoir maintenance, irrigation, and draining swimming pools~~fire fighting~~ are all activities that may produce discharges that have been identified as having a potentially low threat on water quality, and serve important economic and social interests. Regional Water Board staff believes that~~,~~ on balance any potentially small increase in water quality degradation is offset by the benefit these activities provide in ensuring safe and viable communities services, such as ~~fire suppression and~~ the development and maintenance of safe water supplies. In addition, even if it was physically possible to keep all such discharges out of surface waters during the point source prohibition period, the cost of doing so would greatly exceed any water quality benefit that would result. Furthermore, this proposed Amendment does not alter or remove the point source prohibitions, which the Regional Water Board recognizes as important in protecting the Region's water quality and beneficial uses. The exception provided by the proposed Amendment is true to the original intent of the point source prohibitions. As described in Appendix C, the point source prohibitions were originally intended to limit discharges from municipal wastewater treatment facilities. Providing exceptions from the point source prohibitions for discharges other than municipal waste is also consistent with the language of the Implementation Plans

section of the Basin Plan, which explicitly provides for such exceptions to be made, and is also consistent with amendments that have previously been made to the Basin Plan, including the *Interim Action Plan for Cleanup of Groundwaters Polluted with Petroleum Products and Halogenated Volatile Hydrocarbons*, which allows discharges to be made year-round with no discharge flow limitations.

In order to be provided an exemption from the Basin Plan point source prohibitions, each permittee will be required to implement BMPs and treatment, as necessary, to ensure that the discharge will not adversely affect beneficial uses of the receiving water and will comply with all applicable beneficial uses and water quality objectives. Appendix D has identified reasonably foreseeable means of compliance with the proposed Amendment, particularly BMPs and treatment that may be implemented for various types of potentially low threat discharges. These will include structural BMPs and treatment, such as settling basins and silt fences, and also non-structural BMPs, such as dechlorination/pH adjustment, and discharging to land or the sanitary sewer system. The implementation of these measures will ensure that any low threat discharge exempted from the point source prohibitions under this proposed amendment will not cause pollution or nuisance, and result in the highest water quality consistent with the goals served by this proposed Amendment.

V. Compliance with the California Environmental Quality Act

This Draft Staff Report is part of the Substitute Environmental Document (SED) prepared for the proposed Amendment, which also includes the attached appendices. Appendix D analyzes the environmental impacts that may occur from implementing the proposed Amendment, including the potential environmental impacts associated with the reasonably foreseeable methods of complying with the proposed Amendment. It also identifies mitigation measures that will be incorporated to reduce impacts to levels of insignificance, and considers alternatives to the proposed Amendment, in accordance with the requirements of California Environmental Quality Act (CEQA). The SED will be considered by the Regional Water Board when the Regional Water Board considers adoption of the proposed Amendment. Approval of the SED will occur concurrently with ~~is separate from~~ approval of the proposed Amendment. Approval of the SED refers to the process of: (1) addressing comments, (2) confirming that the Regional Water Board considered the information in the SED, and (3) affirming that the SED reflects independent judgment and analysis by the Regional Water Board. (14 Cal. Code Regs., ~~§~~section15090.)

Appendix A

Proposed Basin Plan Language for the Action Plan for Low Threat Discharge

for the

Proposed Amendment to the Water Quality Control Plan

for the

North Coast Region
to
Establish Exception Criteria
to the
Point Source Waste Discharge Prohibitions
by
Revising the Existing Storm Water Action Plan
and
Adding a New Action Plan for Low Threat Discharges

(Low Threat Discharge Amendment)

July 1, 2009

PROPOSED BASIN PLAN LANGUAGE
FOR THE
LOW THREAT DISCHARGE ACTION PLAN

(strikeout / underline version)

The proposed draft amendment language shown in italics, entitled "Low Threat Discharge ~~Amendment~~Action Plan" will be inserted into the Basin Plan, Section 4, Implementation Plans, immediately preceding the Action Plan for Storm Water Discharges, on page 4-9.00, as follows:

The Regional Water Board finds that there are categories of discharges that pose a low threat to water quality when conducted and managed properly. A low threat discharge is ~~generally~~ a planned discharge that is generally short-term and/or of minimized volume from a definable project that results in a point source discharge to surface waters and that is managed in a manner that does not threaten the quality or beneficial uses of water without additional dilution. These discharges meet the definition of a waste[8], and as such, are required to be permitted pursuant to the California Water Code. These low threat discharges can cause, or threaten to cause minor impairment of ~~existing or potential~~ beneficial uses of the receiving water if they are not properly managed through the application of a best management practices (BMP) program that includes the implementation of measures and actions- that remove pollutants and minimize the volume, rate, and duration of discharge.

The purpose of this Action Plan is to identify procedures for regulating low threat point source discharges that can be demonstrated to not have an adverse impact on beneficial uses or water quality and for which there are no other reasonable discharge alternatives, and thus provide exceptions to the Basin Plan Point Source Waste Discharge Prohibitions, set out on pages 4-1.00 to 4-2.00.

Discharges resulting from the following sources could be determined to be low threat provided that the discharge does not contain pollutants in quantities that could adversely affect beneficial uses and the discharge meets specific criteria identified in this Action Plan:

- *Construction dewatering.*
- *Installation, development, test pumping, maintenance and purging of water supply or geothermal wells.*
- *Hydrostatic testing, maintenance, repair, and disinfection of potable water supply vessels, pipelines, tanks, reservoirs, etc.*
- *Hydrostatic testing of newly constructed pipelines, tanks, reservoirs, etc, used for purposes other than potable water supply (e.g., gas, oil, reclaimed water, etc.);*
- *Dredge spoils dewatering;*

[8] California Water Code, section 13050(d) defines a waste as including "sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of disposal".

- *Other similar types of discharges that pose a low threat to water quality, yet technically must be regulated under a surface water discharge permit.*

Low-threat point source discharges may be permitted to surface waters and may be exempted from the Basin Plan seasonal and year-round point source discharge prohibitions and discharge flow limitation, provided that all of the following conditions are met:

7. *The discharge shall not adversely affect the beneficial uses of ~~the receiving~~surface water or cause a condition of nuisance.*

8. *The discharge shall comply with all applicable water quality objectives.*

9. *Best practicable treatment or control of the discharge shall be implemented to assure that pollution and nuisance will not occur, and the highest water quality consistent with maximum benefit to the people of the State will be maintained.*

10. *The discharge is necessary because no feasible alternative to the discharge (reclamation, evaporation, infiltration, discharge to a sanitary sewer system, etc.) is available.*

11. *The discharge is limited to that increment of wastewater that remains after implementation of all reasonable alternatives for reclamation or disposal.*

12. *The discharge is regulated by NPDES Permit/Waste Discharge Requirements.*

Implementation Plan

Low threat discharges that result in the discharge of pollutants to surface waters shall be covered under an NPDES permit/Waste Discharge Requirements. Several permit options are available, including, but not limited to Statewide general municipal, industrial, or construction storm water permits, Statewide General NPDES Permit for Discharges from Utility Vaults and Underground Structures, Regional Water Board general permits designed to address low threat discharges, and individual permits.

Discharges may be eligible for consideration for permit coverage as a low-threat discharge after the discharger submits specific information to the Regional Water Board for review and approval as required by and outlined in the appropriate permit or as otherwise required by the Regional Water Board.

Appendix B

Proposed Basin Plan Language for Revisions to the Existing Storm Water Action Plan

for the

Proposed Amendment to the Water Quality Control Plan

for the

North Coast Region
to
Establish Exception Criteria
to the
Point Source Waste Discharge Prohibitions
by
Revising the Existing Storm Water Action Plan
and
Adding a New Action Plan for Low Threat Discharges

(Low Threat Discharge Amendment)

July 1, 2009

Proposed Basin Plan Language
For The
Revisions to the Existing Storm Water Action Plan

(Strikeout/underline version)

~~Although, s~~Storm water runoff is part of the natural hydrologic cycle; however, human activities, particularly industrialization and urbanization, can result in significant and problematic changes to the natural hydrology of an area. As a result, when rain falls, without treatment or control pollutants may become dissolved in or eroded into, and carried by runoff~~, without treatment~~, into surface waters. These pollutants, unless controlled, may degrade the beneficial uses of surface waters. In addition to having direct effects on water quality, industrialization and urbanization of watersheds often alter natural runoff patterns. Storm water that would infiltrate into soils or get captured by vegetation and natural topography can ~~get~~ be intercepted by impervious surfaces or compacted soils. Storm drain systems collect this runoff and discharge it directly into waterways. Increased runoff amounts and alteration of peak discharge rates can result in stream bank erosion, modification of natural habitat conditions and increased downstream flooding.

To address the recognized storm water problems, the U.S. Congress added Section 402(p) to the federal Clean Water Act in 1987. This section, and the federal regulations which implement it (40 CFR 122, 123, 124, November 1990), require NPDES permits for storm water discharges from municipalities and industries, including construction. The 1987 Clean Water Act amendments require municipalities to reduce pollutant discharges to the maximum extent practicable, and industries, including construction, to implement ~~B~~best ~~A~~available ~~T~~technology and ~~B~~best ~~C~~conventional ~~P~~pollutant ~~C~~control ~~T~~technology to reduce pollutants.

As a result of Section 402(p), the State of California developed a program for the implementation of four types of storm water permits:

- Phase I ~~areawide~~ municipal storm water permits for municipalities serving greater than 100,000 people,
- Phase II municipal storm water permits for urbanized areas serving less than 100,000 people,
- ~~site-specific~~ ~~i~~Industrial ~~or construction~~ storm water permits for facilities that discharge storm water associated with industrial activities, as set forth in section 122.26(b)(14) of title 40 of the Code of Federal Regulations, and ~~-~~required by federal regulations to obtain a~~ing~~ ~~a general~~ federal permit; ~~pursuant to 40 Code of Federal Regulations, Section 122.26(b)(14),~~ and ~~or~~
- Construction storm water permits for sites that create land disturbance of one (1) acre or more. ~~and general construction.~~

Within ~~that framework~~ the storm water permitting program, ~~the regional water boards issue the municipal areawide permits and site-specific industrial – construction site permits, and~~ the State Water Resources Control Board (State Water Board) ~~issues~~ has issued statewide general permits for the regulation of storm water ~~resulting~~ from Phase II municipalities, and industrial and construction activities. In addition, the State Water

Board has issued a statewide storm water permit to the California Department of Transportation (Calt~~T~~rans) in order to regulate municipal and construction storm water discharges from the state highway system and associated facilities. Enforcement of all categories of storm water permits is the responsibility of the Regional Water Board. The Regional Water Board is also responsible for adopting Phase I municipal permits and may elect to adopt site-specific or region-wide municipal, industrial and construction site permits. In addition, provisions of the Clean Water Act allow the Regional Water Board to issue NPDES storm water permits to other construction, industrial or municipal sources based on a finding that these discharges are significant sources of pollutants to surface waters.

The regional Phase I municipal permit and the statewide general Phase II municipal permit ~~and the Phase I municipal permit for the Santa Rosa area~~ require storm water dischargers to implement a Storm Water Management Program (SWMP). The goal of the SWMP is to ~~reduce or~~ prevent non-authorized non-storm water discharges and to minimize pollutant loads in storm water discharges and in authorized non-storm water discharges to the maximum extent practicable.~~, and to eliminate or minimize non-storm water discharges.~~ The SWMP must include the following elements:

- public education and outreach;
- public involvement in development and implementation of the SWMP;
- inspections of commercial and industrial sites;
- inspections of storm water infrastructure and facilities, including construction sites, that may discharge storm water or non-storm water flows to the storm water infrastructure;
- monitoring of the storm water infrastructure (visual, water quality samples, other environmental indicators), including a program to detect and eliminate illicit discharges;
- pollution prevention and good housekeeping program for municipal operations;
- complaint response, and enforcement of violations.

The Phase I and II municipal permits also require implementation of special programs ~~aimed~~ at construction sites, including the development and implementation of construction site storm water runoff control programs and post-construction storm water management programs. The post-construction storm water management program ~~should~~ shall include measures to implement low-impact design features on an individual site and area-wide basis. The goal of the program is to minimize the impact of new development on storm water quality and quantity. The statewide general industrial and construction storm water permits (statewide general storm water permits) also require the implementation of best management practices (BMPs), including structural and non-structural controls to prevent and minimize pollutants in storm water and authorized non-storm water discharges.

The statewide general storm water permits, Caltrans permit and the Regional Water Board's Phase I permit all acknowledge that municipal and industrial storm water conveyance systems may receive certain de minimis categories of non-storm water discharges, including, but not limited to;~~,~~ flows from water line flushing, irrigation, air conditioning condensate, dechlorinated swimming pool discharges, and fire hydrant flow testing, that are not expected to be sources of pollutants.~~ as determined by studies conducted or approved by the State and regional water boards.~~ The storm water

permits do not prohibit certain types of low-threat non-storm water discharges from entering the storm drain system, provided that they are not significant contributors of pollutants to the municipal storm water conveyance system and do not result in ~~violation~~ exceedence of water quality ~~standards~~objectives. Although these discharges may individually pose little threat to water quality, the storm water permittee is required to implement ~~certain~~ control measures, as described in their SWMP, to ensure that these discharges, individually and cumulatively do not adversely impact water quality.

L~~The allowable l~~ow-threat non-storm water discharges fall into two categories:

1. ~~I~~intentional discharges that are planned, routine and occur on an on-going basis.
2. ~~i~~Incidental discharges that are unanticipated, accidental, and infrequent.

Examples of intentional low-threat non-storm water discharge categories, include, but are not limited to:

- Discharges from utility vaults, foundations, footing and crawl space drains,
- ~~residential~~ S~~s~~wimming pool drainage~~ning~~,
- A~~a~~ir-conditioning condensate, and
- R~~r~~esidential car washing.

Examples of incidental low-threat non-storm water discharge categories include, but are not limited to:

- ~~-~~A~~a~~ccidental discharges from potable water sources due to unexpected line breaks, and
- ~~I~~incidental runoff of potable or recycled water from landscape irrigation due to an unexpected break in irrigation line or ~~-~~sprinkler head, or unintended, minimal over-spray from sprinklers that escapes the use area.~~, and flows from emergency fire-fighting activities. T~~

~~he i~~Intentional discharges, by nature, are expected to have a lower risk of containing pollutants or causing other water quality problems such as erosion~~,~~ because they are subject to planning to minimize pollutants and to control the rate, volume and timing of the discharge. Although the intentional discharge categories may cause nuisance if not managed properly, they require ~~a lesser~~a BMP program~~s~~ appropriate to the nature of discharge, which includes ~~with~~ a longer-term focus~~,~~ and a more active education and outreach component than a program needed to prevent impacts from ~~than the~~ incidental discharge~~s.~~ events. Due to the unplanned nature of incidental discharges, this category of non-storm water discharges poses a slightly greater risk to water quality due to the potential for higher levels of pollutants and less opportunity to control the rate, volume, and timing of the discharge. The SWMP shall describe the additional BMP measures that will be applied in the event of incidental discharges.

Discharges of storm water and certain categories of low-threat non-storm water flows (identified ~~in paragraph 6~~ ~~above and~~ in individual and general storm water permits) from regulated ~~permitted~~ storm water conveyance systems shall not be subject to the Basin Plan's point source waste discharge prohibitions provided that all the following ~~conditions~~ criteria are met:

1. The discharge and the activities which affect the discharge are managed in conformance with the provisions of the applicable NPDES permit.

2. The discharge does not cause adverse effects on the beneficial uses of ~~the receiving~~surface water or cause a condition of nuisance. Discharges of storm water from municipalities whose NPDES storm water permits do not contain numeric effluent limitations are considered in compliance with this requirement as long as they are implementing the iterative BMP process set forth in their approved storm water management plan.

3. For low-threat non-storm water discharges, in addition to # 1 and # 2 above, the permittee shall submit, gain approval of, and implement a non-storm water management program. The permittee shall develop a specific management program, to be included in their overall storm water management plan, to eliminate unauthorized non-storm water discharges and reduce pollutant loads in identified authorized non-storm water discharges to the maximum extent practicable, by minimizing the remaining increment of discharge, and mitigating impacts associated with discharge of non-storm water, where necessary. The permittee shall include programs for specific BMP installation, public education and outreach, inspections, monitoring and compliance assurance. The management program shall be submitted to the Regional Water Board Executive Officer or Regional Board, as defined in the applicable permit, for review and approval following a duly noticed 30-day public comment period.

   ~~The permittee shall implement a general management program to eliminate unauthorized s and reduce pollutant loads in authorized non-storm water dischargesby or minimizinge the non-storm water dischargesing into surface waters. The permittee shall include programs for public education and outreach, inspections, monitoring and compliance assurance. The program shall be submitted to the Regional Water Board for approval after a 30-day public comment period and include, implementation of BMPs, outreach and education, inspections, monitoring, reporting, and enforcement provisions.~~

In addition, incidental discharges of low threat non-storm water flows from permitted storm water conveyance systems shall not be subject to the Basin Plan's point source waste discharge prohibitions provided that the following additional conditions are met:

1. The incidental discharge event is not due to negligent maintenance or poor design of infrastructure, or failure to oversee the activity that resulted in incidental runoff.

2. There were no feasible alternatives to the incidental discharge event, such as retention of the incidental runoff. This condition is not satisfied if measures~~-~~ for capturing the incidental discharge~~-~~, as specified in the approved SWMP, should have been installed to prevent incidental runoff, in the exercise of reasonable engineering judgment to prevent incidental runoffs.

3. The permit~~tee holder and/or potable/recycled water user~~ has a ~~management plan~~SWMP, approved by the Regional Water Board Executive Officer, that identifies ~~best management practices~~BMPs designed to avoid, minimize, and

where appropriate mitigate incidental runoff incidents. ~~The management plan must include education/outreach, inspection, monitoring, and enforcement components~~.

Discharges to municipal storm water systems from flows associated with emergency fire fighting activities shall not be subject to the point source prohibitions. Municipal storm water entities and Regional Water Board staff will encourage fire fighting agencies to control runoff discharges where feasible, particularly where runoff originates from industrial facilities or locations where hazardous materials are located.

~~The Regional Water Board will continue to implement Section 402(p) of the Clean Water Act by permitting discharges of storm water from municipalities which own and operate storm water sewer systems, and discharges associated with industrial and construction activity (as defined in 40 CFR Part 122), to surface waters of the North Coast Region. provided the following conditions are met.~~

~~1. The discharge and the activities which affect the discharge are described in a Notice of Intent or Application for NPDES Permit filed with the State or Regional Water Board; and/or~~

~~2. The discharge and the activities which affect the discharge are managed in conformance with the provisions of the applicable NPDES permit.~~

Appendix C

Historical Background of the Basin Plan Point Source Waste Discharge Prohibitions

for the

Proposed Amendment to the Water Quality Control Plan

for the

North Coast Region
to
Establish Exception Criteria
to the
Point Source Waste Discharge Prohibitions
by
Revising the Existing Storm Water Action Plan
and
Adding a New Action Plan for Low Threat Discharges

(Low Threat Discharge Amendment)

July 1, 2009

Historical Background of the Basin Plan Point Source Waste Discharge Prohibitions

In 1971, the Regional Water Board adopted two interim basin planning documents; the *Interim Water Quality Control Plan for the Klamath Basin 1-A* and the *Interim Water Quality Control Plan for the North Coastal Basin I-B* (Interim Plans). The point source prohibitions were included in the original Interim Plans and have been carried through to the present Basin Plan.

The current Basin Plan point source waste discharge prohibitions language is presented below in its entirety.

POINT SOURCE WASTE DISCHARGE PROHIBITIONS

Section 13243 of the Porter-Cologne Water Quality Control Act authorizes the Regional Water Board – in a water quality control plan or in waste discharge requirements - to specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted.
Under this authority and in order to achieve water quality objectives, protect present and future beneficial water uses, protect public health, and prevent nuisance, the Regional Water Board declares that point source waste discharges, except as stipulated by the Thermal Plan, the Ocean Plan, and the action plans and policies contained in the Point Source Measures section of this Water Quality Control Plan, are prohibited in the following locations in the Region:

Klamath River Basin

1. All surface, freshwater impoundments and their tributaries, with the exception of the lower Lost River system.
2. Crescent City Harbor and all estuaries in accordance with the provisions of the State Water Board's "Water Quality Control Policy for the Enclosed Bays and Estuaries of California."
3. Smith River and its tributaries.
4. Klamath River and its tributaries, including but not limited to the Trinity, Salmon, Scott, and Shasta rivers and their tributaries.
5. The Applegate, Illinois, and Winchuck rivers and their tributaries.
6. On all coastal streams and natural drainage ways that flow directly to the ocean, all new discharges will be prohibited. Existing discharges to these
7. waters will be eliminated at the earliest practicable date.
8. All intertidal reaches of the coast.
9. Areas of Special Biological Significance.
10. All other tidal waters unless it is demonstrated on the basis of waste characteristics, degree and reliability of treatment, rate of mixing and dilution, and other technical factors that water quality objectives will be met and all beneficial uses will be protected.

North Coastal Basin

1. All surface fresh water impoundments and their tributaries.

2. All bays and estuaries in accordance with the provisions of the State Water Resources Control Board's "Water Quality Control Policy for the Enclosed Bays and Estuaries of California".
3. The Mad and the Eel rivers and their tributaries during the period May 15 through September 30 and during all other periods when the waste discharge flow is greater than one percent of the receiving stream's flow as set forth in NPDES permits.1 (Footnote 1 For dischargers not in compliance with the seasonal prohibition and waste discharge rate limitation, time schedules shall be set forth in National Pollutant Discharge Elimination System (NPDES) permit updates for each discharger. In addition, each discharger not in compliance shall report to the Regional Water Board on progress towards compliance on an annual basis.
4. The Russian River and its tributaries during the period of May 15 through September 30 and during all other periods when the waste discharge flow is greater than one percent of the receiving stream's flow as set forth in NPDES permits. In addition, the discharge of municipal waste during October 1 through May 14 shall be of advanced treated wastewater in accordance with effluent limitations contained in NPDES permits for each affected discharger, and shall meet a median coliform level of 2.2 mpn/100 ml.2 (Footnote 2 For dischargers not in compliance with the waste discharge rate limitation and/or advanced wastewater treatment, time schedules shall be set forth in NPDES permit updates for each discharger. In addition, each discharger not in compliance shall report to the Regional Water Board on progress towards compliance on an annual basis.)
5. The Regional Water Board will consider exceptions for cause to the waste discharge rate limitations set forth in Prohibitions 3. and 4. (above). Exceptions shall be defined in NPDES permits for each discharger, on a case by case basis, and in accordance with the following:
   A. The wastewater treatment facility shall be reliable. Reliability shall be demonstrated through analysis of the features of the facility including, but not limited to, system redundancy, proper operation and maintenance, and backup storage capacity to prevent the threat of pollution or nuisance.
   B. The discharge of waste shall be limited to rates and constituent levels which protect the beneficial uses of the receiving waters. Protection shall be demonstrated through analysis of all the beneficial uses of the receiving waters. For receiving waters which support domestic water supply (MUN) and water contact recreation (REC1), analysis shall include expected normal and extreme weather conditions within the discharge period, including estimates of instantaneous and long-term minimum, average, and maximum discharge flows and percent dilution in receiving waters. The analysis shall evaluate and address cumulative effects of all discharges, including point and nonpoint source contributions, both in existence and reasonably foreseeable. For receiving waters which support domestic water supply (MUN), the Regional Water Board shall consider the California Department of Health Services evaluation of compliance with the Surface Water Filtration and Disinfection Regulations contained in Section 64650 through 64666, Chapter 17, Title 22 of the California Code of Regulations. Demonstration of protection of beneficial uses shall include consultation with the California Department of Fish and Game regarding compliance with the California Endangered Species Act.

C. The exception shall be limited to that increment of wastewater which remains after reasonable alternatives for reclamation have been addressed.
D. The exception shall comply with State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality Waters in California," and the federal regulations covering antidegradation (40 CFR§131.12).
E. E There shall be no discharge of waste during the period May 15 through September 30.

6. On all other coastal streams and natural drainageways that flow directly to the ocean all new discharges will be prohibited. Existing discharges to these waters will be eliminated at the earliest practicable date.
7. All intertidal reaches of the coast.
8. Areas of Special Biological Significance.
9. All other tidal waters unless it is demonstrated on the basis of waste characteristics, degree and reliability of treatment, location of discharge, rate of mixing and dilution, and other technical factors that water quality objectives will be met and all beneficial uses will be protected.

Summary of Basin Plan Point Source Prohibition History

A review of the original research documents prepared to support the development of the Basin Plan reveals that the original focus of the point source prohibitions was on discharges from municipal wastewater treatment facilities. The pre-Basin Plan research documents contain evaluations of the municipal wastewater treatment facilities in each watershed and each section ends with the concluding statement, “The Board does not intend to allow any direct discharges to any of the streams in the drainage” or “The Board intends to prohibit direct discharge of effluent to streams in the drainage.”

Similarly, the *Interim Plan for the North Coastal Basin I-B* describes the rationale for establishing the point source prohibitions as follows:

"First, failure to meet objectives would threaten very significant beneficial uses; and second, the terms of the point source prohibitions are currently being met by all or a majority of potential dischargers or can be met by all with methods that are available under the current “state of the art”.

The *Interim Plan for the Klamath Basin I-A* contained a year-round prohibition of waste discharge and the *Interim Plan for the North Coastal Basin I-B* contained a prohibition of waste discharge in the Mad, Eel, and Russian Rivers (excluding the Laguna de Santa Rosa) during the period of May 15 through September 30 and all other periods when the receiving stream's flow is less than 100 times greater than the waste flow. For the Laguna de Santa Rosa, the Interim Plan set forth, in its implementation section, a May 14, 1974 date for the elimination of the discharge of domestic waste during the period of May 15 through September 30 and all other periods when the Russian River's flow is less than 1000 cubic feet per second (cfs). The seasonal portion of the point source prohibition is based on the need to protect beneficial uses, in particular recreation, in the streams during the summer months. The dilution requirement was based both on the quality of the effluent being discharged and guidelines for sewage disinfection developed by the California State Department of Health in 1972 and 1980. The *Interim*

Plan for the North Coastal Basin I-B contained a year-round point source prohibition for all other waterbodies.

There have been several amendments over the years that clarify implementation of the point source prohibitions, including two amendments in 1986, one amendment in 1987 and one in 1994. All of the amendments retained the point source prohibitions and two of the amendments provided specific exceptions to the point source prohibitions.

The first 1986 amendment, adopted on June 27, 1986 by Resolution No. 86-121 added an Interim Action Plan (1986-1990) for the Russian River that contained provisions for the City of Santa Rosa to achieve advanced wastewater treatment (AWT) and for the City to obtain exception to the one percent discharge prohibition under specific conditions. The second 1986 amendment, adopted on August 28, 1986, by Resolution No. 86-148, added a Long-Range Action Plan (post 1990) for the Russian River Basin requiring AWT for all discharges of municipal waste to the Russian River and provided a definition of AWT.

The 1987 amendment, adopted on May 28, 1987 by Resolution No. 87-58 was adopted to address issues that the State Water Board raised during their approval of the Long-Range Action Plan amendment. The State Water Board requested that clarity be provided on what type of waste discharge was to be limited during the May 15 through September 30 discharge prohibition period. The 1987 amendment clarified that the Regional Water Board had intended the prohibition applied to municipal discharges.

The 1994 amendment, adopted on March 24, 1994, by Resolution No. 94-49 clarified that the discharge of waste to the Mad, Eel, and Russian Rivers and their tributaries:

1. Is prohibited during the period of May 15 through September 30, and
2. Is limited to one percent of the receiving stream's flow during October 1 through May 14.

The 1994 amendment also added a procedure for dischargers to follow in applying for an exception to the one percent dilution requirement for the Mad, Eel, and Russian rivers.

An additional modification to the point source prohibitions was adopted by the Regional Water Board in 1989 as part of the *Interim Action Plan for Cleanup of Groundwaters Polluted with Petroleum Products and Halogenated Volatile Hydrocarbons*. This Action Plan specifies that discharges of waste from treatment facilities designed to remove pollutants from groundwaters polluted with petroleum products and halogenated hydrocarbons are permitted to surface waters of the North Coast Region year-round with no discharge flow limitations as long as specific conditions as outlined in the Action Plan are met.

Appendix D

Environmental Analysis

And

Environmental Checklist Form

for the

Proposed Amendment to the Water Quality Control Plan

for the

North Coast Region
to
Establish Exception Criteria
to the
Point Source Waste Discharge Prohibitions
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(Low Threat Discharge Amendment)

July 1, 2009

1. California Environmental Quality Act (CEQA) Requirements

The North Coast Regional Water Quality Control Board (Regional Water Board) is preparing a Basin Plan amendment (proposed Amendment) that would provide exception criteria to the point source waste discharge prohibitions contained in the Basin Plan (point source prohibitions). The proposed ~~a~~Amendment would modify Section 4 of the Basin Plan by ~~modifying~~ revising the existing Action Plan for Storm Water Discharges and by ~~including~~ adding a new Action Plan for Low Threat Discharges. This proposed ~~a~~Amendment is necessary because of the current conflict that exists between conditions in existing regional and statewide point source discharge permits that allow year-round low threat point source discharges, and the Basin Plan, which either limits such discharges to the period of October 1 through May 14 (winter period) in the Eel, Mad and Russian Rivers watersheds, or prohibits such discharges year-round in others. In addition, the Basin Plan currently limits allowed discharges during the winter period to one-percent of the flow of the receiving water. For further information regarding what types of discharges would be considered "low threat" for the purpose of this proposed ~~a~~Amendment, please see Table 1 in the Staff Report.

1.1 CEQA Requirements for Exempt Regulatory Programs

The Regional Water Board is the lead agency for evaluating the environmental impacts of Basin Plan amendments pursuant to the CEQA. Although subject to CEQA, the Regional Water Board's basin planning process is certified by the Secretary for Resources as "functionally equivalent to" CEQA, and therefore exempt from the requirement for preparation of an environmental impact report or negative declaration and initial study.[9] The State Water Resources Control Board~~'s~~ (State Water Board) has promulgated guidelines for exempt regulatory programs that describe the documents required for the adoption or approval of standards, rules, regulations or plans.[10] These documents must at least contain the following:

1. A brief description of the proposed activity. In this case, the proposed activity is the adoption of a Basin Plan Amendment, which includes both a new Action Plan for Low Threat Discharges (located in Appendix A of this Staff Report) and revised Action Plan for Storm Water D~~d~~ischarges (located in Appendix B of this Staff Report). These Action Plans provide exception criteria to the point source prohibitions contained in the Basin Plan. The proposed Amendment is intended to alleviate the existing conflict that exists between the current Basin Plan language and conditions in existing regional and statewide point source discharge permits that allow year-round~~, low threat~~ point source discharges. The proposed Amendment and the rationale to support its adoption are described fully in the draft Staff Report, and briefly in section ~~D.~~2 of this appendix.

2. Reasonable alternatives to the proposed activity (discussed in section ~~D.~~3).

[9] Cal. Code Regs., tit. 14, § 15251(g).
[10] Cal. Code Regs., tit. 23, § 3777.

3. Mitigation measures to minimize any significant adverse environmental impacts of the proposed activity (discussed in section ~~D.~~4).

Additionally, for actions by the Regional Water Board that adopt a rule or regulation requiring the installation of pollution control equipment, establish a performance standard, or establish a treatment requirement, the CEQA[11] and CEQA Guidelines[12] require an environmental analysis of the reasonably foreseeable methods by which compliance with that rule or regulation will be achieved. A substitute environmental document (SED) satisfies this requirement if it contains the following components, some of which are repetitive with the list above:

1. An analysis of the reasonably foreseeable environmental impacts of the methods of compliance. The reasonably foreseeable methods of compliance are the potential actions that individuals may employ to comply with the proposed Amendment. Reasonably foreseeable methods of compliance are described in section ~~D.~~4. Section ~~D.~~4.1 identifies the reasonably foreseeable environmental impacts associated with the reasonably foreseeable methods of compliance.

2. An analysis of the reasonably foreseeable feasible mitigation measures relating to those impacts. This discussion is ~~also~~ in section ~~D~~.7.

3. An analysis of reasonably foreseeable alternative means of compliance with the rule or regulation, which would avoid or eliminate any identified impacts. This discussion is in section ~~D.~~7.

The environmental analysis must take into account a reasonable range of:[13]

- Environmental factors (section ~~D.~~6)
- Technical factors (section ~~D.~~9)
- Population (section ~~D~~.9)
- Geographic areas (section ~~D.~~9)
- Specific sites (section ~~D.~~9)
- Economic factors (section ~~D.~~10)

The regulations require consideration of a “reasonable range” of the factors listed above; however, an examination of every site is not required, only a reasonably representative sample of them. The statute specifically states that the agency shall not conduct a “project level analysis.”[14] Rather, in most circumstances, a project level analysis will be performed by the permittees to be eligible for a permit. Notably, the Regional Water Board is prohibited from specifying the manner of compliance with its regulations,[15] and accordingly, the actual environmental impacts will necessarily depend upon the compliance strategy selected by the permittees. There could be adverse environmental impacts from specific methods if not properly implemented, or if inappropriate methods are selected. Regional Water Board staff intends that the

[11] Cal. Pub. Resources Code, § 21159 (a).
[12] Cal. Code Regs., tit.14 § 15187 (c).
[13] Cal. Code Regs., tit. 14 § 15187(d); Cal. Pub. Resources Code, § 21159 (c).
[14] Public Resources Code section 21159(d)
[15] Water Code section 13360

reasonably foreseeable methods of compliance selected by a permittee will be the most cost-effective available with the least potential impacts on the environment. Each permittee will identify the methods of compliance in a Notice of Intent (NOI) or Report of Waste Discharge (ROWD) and will be subject to review by Regional Water Board staff and final approval of the Regional Water Board Executive Officer. The Regional Water Board Executive Officer may approve or deny an NOI/ROWD or request additional information from the permittee demonstrating that a proposed project meets the Basin Plan criteria.

This SED identifies broad mitigation approaches that could be considered for general categories of projects. Consistent with the CEQA, this document does not engage in speculation or conjecture, but rather considers the reasonably foreseeable environmental impacts of the reasonably foreseeable methods of compliance, the reasonably foreseeable mitigation measures which would be required to avoid, eliminate, or reduce the identified impacts, and the reasonably foreseeable alternative means of compliance.

2. Description of the Proposed Activity

As briefly described above, the Regional Water Board is developing a proposed ~~a~~Amendment to the Basin Plan that would provide exception criteria to the point source prohibitions in the Basin Plan. The proposed Amendment, which is entitled, "Amendment to the Water Quality Control Plan for the North Coast Region to Establish Exception Criteria to the Point Source Waste Discharge Prohibitions by revising ~~Measures in Section 4 of the Water Quality Control Plan for the North Coast Region to modify~~ the Action Plan for Storm Water Discharges and ~~Include~~ Adding a New Action Plan for Low Threat Discharges ~~Discharges to Provide Exception Criteria to the Waste Discharge Prohibitions,~~" would apply to permitted discharges from specific types of activities where there is a minimal potential (or low threat) for adverse impacts to water quality to occur from the discharge. The proposed Amendment also sets specific criteria low threat discharges must meet to be eligible for an exception from the point source prohibitions.

The purpose of this proposed Amendment is to address the conflict between conditions in existing regional and statewide point source discharge permits that allow low threat discharges and the existing prohibitions in the Basin Plan which do not, while still protecting water quality and beneficial uses. Some regional and statewide permits allow year-round point source discharges and the Basin Plan limits point source surface water discharges to the period of October 1 through May 14 in ~~some waterbodies in the North Coast Region~~ the Eel, Mad and Russian Rivers and prohibits all point source surface water discharges in the remaining North Coast Region waterbodies~~others~~. Where the discharge period is limited to October 1 through May 14, the discharge during this period is limited to less than one percent of the receiving stream's flow (one-percent prohibition). The proposed Amendment would also relax the one-percent prohibition for low threat discharges.

To address ~~this conflict~~the conflict between existing permits and the point source prohibitions, the Regional Water Board is proposing to amend the Basin Plan to provide

criteria under which exceptions to the point source prohibitions contained in the Basin Plan may be allowed. The proposed Amendment consists of:

- A new "Action Plan for Low Threat Discharges" (Low Threat Action Plan):

  The proposed Low Threat Action Plan would apply to certain point source categories of planned, short-term discharges from definable projects where the discharge is controlled to eliminate or reduce pollutants and minimize volume and discharge rates through the implementation of best management practices (BMPs). The proposed Low Threat Action Plan would also allow for exceptions to the one-percent prohibition for low threat discharges. The criteria for exceptions include, in part, that the treatment facility is reliable[16], the discharge is limited to rates and constituents which protect the beneficial uses of water, and that alternatives to the discharge were analyzed. The proposed Low Threat Action Plan provides the framework for permitting these low threat discharges and granting exceptions to the point source prohibitions; and

- ~~Modifications~~ Revisions to the existing Action Plan for Storm Water Discharges (Storm Water Action Plan):

  The proposed revisions ~~modifications~~to the Storm Water Action Plan would apply to discharges of storm water and certain categories of low threat non-storm water flows that are incidental to urban activities (hereinafter referred to as non-storm water flows) from permitted storm water collection systems and would identify the conditions that must be met in order to prevent or preclude these discharges from being subject to the point source prohibitions. A key condition of the revised Storm Water Action Plan is the requirement for implementation of an approved BMP program by the permitted storm water entity that focuses on the elimination and reduction of pollutants in storm water and non-storm water flows and minimization of volume and discharge rate of non-storm water flows. ~~implementation management program that identifies best management practices that will eliminate or reduce pollutants and minimize the volume, duration and discharge rate.~~

Under the proposed Amendment, the exception to the point source prohibitions would apply only to discharges that meet all the following requirements:

- Are of low threat to water quality.
- Are covered under a point source discharge permit (either Waste Requirements (WDRs) or a National Pollutant Discharge Elimination System (NPDES) permit).
- Are from regulated point sources (non-point source discharges are not subject to the prohibitions).

Generally, a discharge is considered to be of "low threat" to water quality when it meets all the following requirements, although the first two criteria are not always applicable to all storm water system discharges:

[16] Reliability is used here as defined in the Basin Plan on page 4-2.00.

- Short-term and/or periodic in nature.

Minimized ~~rate and volume~~ volume, discharge rate and pollutant load to the greatest extent possible by use of BMPs and other disposal alternatives to protect beneficial uses~~.~~.

- ~~(e.g., BMPs and other disposal alternatives utilized to ensure that the volume discharged is reduced as much as possible).~~
- Meets all water quality ~~standards~~objectives.
- Best m~~M~~anagement p~~P~~ractices (BMPs) are implemented to protect beneficial uses by reducing pollutants, volume, and flow rate.
- The discharge does not ~~individually or cumulatively~~ cause adverse affects on the beneficial uses of the receiving water or cause nuisance conditions.

~~Types of discharges considered to pose a low threat to water quality under the proposed exception criteria include, but are not limited to, the discharge categories identified in the following table:~~

The types (or categories) of discharges that may be eligible for consideration as low threat under the proposed Amendment include, but are not limited to, the discharge categories identified in Table 2.1 below. It is important to note that some discharges from the activities identified below may not qualify as a low threat discharge if water quality objectives are not met due to site specific conditions. For example, groundwater that contains high levels of naturally occurring metals would not be eligible for consideration as low threat under the proposed Amendment.

Table ~~2.~~1 Types of Discharge Potentially Eligible to be Considered Low Threat

Low Threat Action Plan (intentional discharges from p~~P~~lanned projects):
Construction dewatering
Installation, development, test pumping, maintenance, and purging of uncontaminated water supply or geothermal wells
Hydrostatic testing, maintenance, repair, and disinfection of potable water supply vessels, pipelines, tanks, reservoirs, etc.
Hydrostatic testing of newly constructed pipelines, tanks, reservoirs, etc. used for purposes other than potable water supply (e.g., gas, oil, reclaimed water, etc.)
Commercial non-contact cooling tower water
Dredge spoils dewatering
Other similar types of point source discharges that pose a low threat to water quality, yet technically must be regulated under an NPDES permit
Storm Water Action Plan (Storm water and non-storm water flows ~~incidental to urban activities~~into a regulated storm water system):
Storm water runoff
Recycled or potable irrigation runoff that is incidental
Releases from potable drinking water supply and distribution systems after emergency repairs
Drains for foundations, footings, and crawl spaces
Air conditioning condensate
Dechlorinated/debrominated swimming and landscape pool discharges
Non-commercial car washing by residents
Sidewalk rinsing
~~Emergency fire fighting flows~~
Fire hydrant testing or flushing

~~As identified above, the~~ Regional Water Board staff has also recognized that there are two distinctly different types of low threat discharges. 1) discharges associated with planned projects and (2) discharges associated with unplanned non-storm water flows. Discharges associated with planned actions have a decreased risk of adverse impact to beneficial uses of water as all actions (BMPs) will have been taken to first prevent discharge to surface water and second to minimize the impacts associated with the remaining discharge. Discharge associated with unanticipated discharges, by their very nature result from unplanned actions, increasing the risk of potential water quality impacts. Three types of low threat discharge proposed for coverage under the proposed Amendment are further described in Section 1 of the Staff Report; 1) storm water, 2) intentional flows from planned projects, and 3) intentional and incidental non-storm water flows to the storm water system. The three types of low threat discharge proposed for coverage under the proposed Amendment are further described in the following sections.

~~The first type relates to discharges from planned projects. Currently, there are region wide and statewide permits that apply to some types of projects that usually result in low threat discharges, such as Order No. 93-61, General NPDES Permit/Waste Discharge Requirements for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewater Activities in the North Coast Region and Order No.~~

~~2006-0008-DWQ, Statewide General NPDES Permit for Discharges from Utility Vaults. Projects that would seek coverage under these permits may also be eligible for exemption from the point source and one percent prohibitions if they meet the additional criteria set forth in the *Action Plan for Low Threat Point Source Discharges*, set out in Appendix A. These include:~~

- ~~Demonstrating that alternatives to discharging to surface waters have been evaluated and exhausted;~~
- ~~Demonstrating that the discharge will comply will all applicable water quality objectives and criteria. To make this showing, the discharger will need to characterize the proposed discharge and demonstrate that the discharge will not contain pollutants at concentrations that exceed Basin Plan water quality standards, California Toxic Rule objectives, or any other standard or objective promulgated to protect water quality and beneficial uses;~~
- ~~Demonstrating that the discharge will not adversely affect beneficial uses of the receiving water. To make this showing, the discharger will need to provide a pre-project characterization of the receiving water, and describe the volume, flow rates and length of discharge.~~
- ~~Describing a Best Management Practices and Treatment Plan that will be implemented to protect the receiving water from any adverse impacts of the discharge. The Plan will be required to demonstrate that the discharge will meet anti-degradation requirements.~~

~~The Regional Water Board is also proposing modifications to Regional Water Board Order 93-61, General NPDES Permit for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewatering Activities in the North Coast Region to cover a broader range of low threat discharges than are currently covered under that permit in order to address other categories of discharges that could be determined to be low threat, and that must currently be permitted under an individual NPDES permit because no other coverage currently exists. Many other regional water boards, which do not have similar point source prohibitions, have already adopted general permits to specifically address categories of low threat discharges.~~

~~The second type of low threat discharge addressed by the proposed Amendment relates to non-storm water flows. Discharges of non-storm water flows are considered to be from a "point source" when the discharge flows into a storm water collection system covered by an NPDES permit, and are consequently discharged to surface water. Although non-storm water flows, such as those identified in the table above, may be permitted under individual or general statewide NPDES storm water permits, such discharges currently are inconsistent with the point source prohibitions contained in the Basin Plan. In addition, these types of discharges are more difficult to predict and plan for than the low threat discharges proposed for coverage under the Low Threat Action Plan. Some of the discharge categories that would be covered under the Storm Water Action Plan, such as incidental runoff of reclaimed or potable water, are unplanned, accidental, and unintentional events. Other discharge categories, such as sidewalk rinsing or discharges from drains for foundations, footings, and crawl spaces, although intentional, are difficult to plan for because the activities that lead to discharge are (1) spontaneous and/or sporadic and (2) generally low volume and numerous, thus difficult to capture individually under a permit.~~

~~The proposed revision to the *Action Plan for Storm Water Discharges* are set forth in Appendix B, and include criteria that must be met in order for non-storm water flows from permitted storm water collection systems to receive an exception to the point source prohibitions. The criteria include:~~

- ~~Requiring that the discharge and the activities which affect the discharge, such as irrigation practices, are managed in conformance with the provisions of the applicable NPDES permit;~~
- ~~Requiring that the discharge does not individually or cumulatively cause adverse affects on the beneficial uses of the receiving water; and~~
- ~~Requiring implementation of a general program to eliminate or minimize non-storm water discharges into surface waters that includes BMPs, outreach and education, inspections, monitoring, and enforcement.~~

~~In addition to the above requirements, incidental discharges of low threat non-storm water flows from permitted storm water conveyance systems will not be provided an exception to the point source prohibitions if the incidental discharge event is caused by negligent maintenance of infrastructure or failure to oversee the activity that resulted in the discharge. No exception will be provided if there are feasible alternatives to the discharge, such as retention of the incidental runoff, or if the permit holder and/or potable/recycled water user does not have a management plan that identifies BMPs to avoid, minimize or mitigate incidental runoff incidents.~~

1. Storm Water

Municipal storm water conveyance systems are designed, constructed and maintained to protect public heath and safety and property from runoff producing storm events. Given the existing point source prohibitions, it is technically a violation of the point source prohibitions if storm water is discharged to surface water from a regulated storm water conveyance system during the prohibition period (e.g. from May 15 to September 30 in the North Cost Basin). At the time of adoption of the point source prohibition language, storm water collection and transportation systems were not a regulated point source. This proposed Amendment is intended to correct the inconsistency between permitting municipal storm water collection systems and the Basin Plan.

Storm water, if managed properly (e.g. routine cleaning and maintenance of drainage structures to prevent discharge of trash, sediment, and other constituents of concern, street sweeping and washing to remove pollutants prior to early season rain events, etc), can qualify as a low threat discharge if the conditions of the approved permit are met and the discharge does not cause adverse effects on the beneficial uses of the surface water. For storm water discharges from regulated MS4s, whose permits do not contain numeric effluent limitations, they are considered in compliance with the requirement that beneficial uses not be adversely affected as long as they are implementing the iterative BMP process set forth in their approved storm water management plan. Some of the BMPs that will likely be required to ensure that pollutants are reduced in storm water discharges to the maximum extent practicable may include, but not be limited to, pesticide and fertilizer management; the inspection and cleaning of storm drain pipes and inlet structures; trash management; and a street sweeping program.

2. Intentional Discharges from Planned Projects

Another type of low threat discharge is the intentional discharge from planned projects such as dewatering of utility vaults and construction site, testing and maintenance of potable water supplies and discharges from swimming pool draining. Currently, there are regional and statewide permits that apply to some types of projects that usually result in low threat discharges. These permits include:

- *General NPDES Permit/Waste Discharge Requirements for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewatering Activities in the North Coast Region* (Order No. 93-61).
- *Statewide General NPDES Permit for Discharges from Utility Vaults (*Order No. 2006-0008-DWQ).

Projects enrolled under these permits are technically in violation of the point source prohibition if they discharge to surface water during the prohibition period.

This proposed Amendment would provide exception criteria that would allow those seeking coverage under the applicable permit to be eligible for an exception from the point source and one-percent prohibitions if they meet the additional criteria as set forth in the proposed Amendment and as required under the implementing permit.

Regional Water Board staff developed the proposed "*Draft Action Plan for Low Threat Discharges*", set out in Appendix A of this Staff Report, to describe the exception criteria required to be eligible to discharge to surface water during the prohibition period. This Action Plan would apply to all surface water discharge (except discharges to permitted municipal storm water systems) for which an exception to the point source prohibitions was being requested. Regional Water Board staff also developed a draft General Low Threat Discharge NPDES permit (Low Threat Discharge Permit) as the regulatory mechanism to permit these types of discharge. The proposed Low Threat Action Plan in concert with the proposed Low Threat Discharge Permit would provide a program for permittees to enroll in that would alleviate the inconsistency in the permitting of low threat discharges and the existing point source prohibitions while ensuring water quality protection.

The additional criteria that would be required under the proposed Low Threat Action Plan include:

1. The discharge shall not adversely affect the beneficial uses of surface water.

2. The discharge shall comply with all applicable water quality objectives.

3. Low-threat non-storm water discharges upon submittal, approval and implementation of a non-storm water management program. The permittee shall develop a specific management program, to be included in their overall storm water management plan, to eliminate unauthorized non-storm water discharges and reduce pollutant loads in identified authorized non-storm water discharges to the maximum extent practicable, by minimizing the

remaining increment of discharge, and mitigating impacts associated with discharge of non-storm water, where necessary. The permittee shall include programs for specific BMP installation, public education and outreach, inspections, monitoring and compliance assurance. The management program shall be submitted to the Regional Water Board Executive Officer or Regional Board for review and approval following a duly noticed 30-day public comment period.

4. The discharge is necessary because no feasible alternative to the discharge (reclamation, evaporation, infiltration, discharge to a sanitary sewer system, etc.) is available.

5. The discharge is limited to that increment of wastewater that remains after implementation of all reasonable alternatives for reclamation or disposal.

6. The discharge is regulated by NPDES Permit/Waste Discharge Requirements.

The proposed Low Threat Discharge Permit would replace the existing "*General NPDES Permit/Waste Discharge Requirements for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewatering Activities in the North Coast Region".* The proposed Low Threat Discharge Permit would be applicable to discharges from construction and subsurface seepage dewatering activities as well as the other categories of discharges that could be determined to be low threat (see examples in Table 2.1, above). In order to quality for an exception to the prohibition, each potential discharger would be required to submit an application Notice of Intent (NOI) or Report of Waste Discharge (ROWD) for permit coverage that includes the following information that is necessary in order for Regional Water Board staff to evaluate whether a proposed discharge qualifies as a low threat discharge:

- Evaluation of alternatives to discharging to surface waters and demonstration that any discharge to surface waters is limited to that increment of discharge that remains after reasonable alternatives for reclamation, sewer disposal, or land disposal have been exhausted;
- Characterization of the proposed discharge, including a demonstration that the discharge will not contain pollutants or constituents at concentrations that exceed Basin Plan water quality objectives, California Toxic Rule objectives, or any other standard or objective promulgated to protect water quality and beneficial uses;
- Description of the flow rates, volume and duration of discharge, including a demonstration that the discharge of waste will be limited to rates, volume and constituent levels that protect the beneficial uses of the receiving water;
- Demonstration that the discharge complies with State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality Waters in California" and the federal regulations addressing antidegradation;
- A pre-project characterization of the receiving water, including a description of channel characteristics (e.g., width, depth, substrate, presence or absence of water at time of proposed discharge, approximate creek flow rate, etc.), bank characteristics (e.g., slope, presence or absence of vegetation, vegetation type and density, signs of bank instability), and identifiable instream beneficial uses

(e.g., identify presence of aquatic life, including aquatic insects and fish and any rare, threatened or endangered species; water contact recreation), and photographs showing representative features of the receiving water;

- Development and implementation of a management plan that includes the suite of BMPs that will be used to protect the receiving water from any adverse impacts of the discharge as well as the inspection, maintenance and reporting schedule.

There are a suite of BMPs that are routinely implemented that could be used to meet the exception criteria. These include: the use of retention or settling basins, dechlorination/debromination of potable water and swimming pool discharges, use of low flow emitters to dissipate flow, etc. See Table 4.0, below for more on BMPs (reasonably foreseeable compliance measures).

3. Intentional and Incidental Non-Storm Water Flows to Storm Water System

The third type of low threat discharge addressed by the proposed Amendment relates to low threat discharge from permitted (NPDES) storm water conveyance systems of non-storm water flows related to urban uses.

Non-storm water discharges, such as those identified in Table 1 above, fall into two categories: (1) intentional discharges that are planned, routine and occur as one time events or on an ongoing basis, and (2) incidental discharges that are unanticipated, accidental, and infrequent. Examples of intentional low-threat non-storm water discharge categories, include, but are not limited to, discharges from foundation, footing and crawl space drains, swimming pool draining, maintenance of water storage tanks, air-conditioning condensate, and residential car washing. Examples of incidental low-threat non-storm water discharge categories include, but are not limited to, accidental discharges from potable water sources due to unexpected line breaks, incidental runoff of potable or recycled water from landscape irrigation due to an unexpected break in irrigation line or sprinkler head, and flows from fire-fighting training and maintenance activities.

A discharge of non-storm water is considered to be from a “point source” when the discharge flows into a storm water collection system covered by an NPDES permit, and is consequently discharged to surface water. Although non-storm water flows, such as those identified in Table 1, may be covered under regional or statewide NPDES storm water permits, such discharges currently are inconsistent with the year-round or seasonal point source prohibitions contained in the Basin Plan.

Unplanned (or incidental) non-storm water discharges are more difficult to predict and manage than the planned low threat discharges proposed for coverage under the Low Threat Action Plan. Some of the discharge categories that would be covered under the Storm Water Action Plan, such as incidental runoff of reclaimed or potable water or releases of potable water during or after emergency repairs, are unplanned, accidental, and unintentional events. Other discharge categories, such as sidewalk rinsing, or discharges from drains for foundations, footings, and crawl spaces, although intentional, are difficult to plan for because the activities that lead to discharge are: (1) spontaneous

and/or sporadic, (2) generally low volume and numerous, thus difficult to capture individually under a permit, and (3) already addressed in various individual and general storm water NPDES permits.

The proposed revision to the *Action Plan for Storm Water Discharges* is set forth in Appendix B of this Staff Report. The proposed revisions include criteria that must be met in order for non-storm water flows from permitted storm water collection systems to receive an exception to the point source prohibitions.

These proposed criteria include:

- Requiring that the discharge and the activities that affect the discharge, such as irrigation practices, are managed in conformance with the provisions of the applicable NPDES permit;
- Requiring that the discharge does not cause adverse affects on the beneficial uses of the receiving water; and
- Requiring implementation of an management program by the permitted entity that prevents and minimizes non-storm water discharges into surface waters by requiring the implementation of appropriate BMPs, outreach and education, inspections, monitoring, reporting and enforcement. Such a management program must be approved by the Regional Water Board, or it's Executive Officer, after a 30-day public comment period.

In addition to the above requirements, incidental discharges of non-storm water flows will not be provided an exception to the point source prohibition if the discharge event is caused by negligent maintenance or poor design of infrastructure or failure to oversee the activity that resulted in the discharge. No exception will be provided if there is a feasible alternative to the discharge, such as retention of the runoff, or if the permit holder and/or potable/recycled water user does not have a management plan that identifies BMPs to prevent and minimize runoff incidents.

There are a suite of BMPs that are routinely implemented that could be used to meet the exception criteria. These include: the use of retention or settling basins, dechlorination/debromination of potable water and swimming pool discharges, use of low flow emitters to dissipate flow, etc. See Table 4.0 (of the Staff Report, Appendix D) for more on BMPs (reasonably foreseeable compliance measures).

3. Reasonable Alternatives to the Proposed Activity

3.1 Analysis of Reasonable Alternatives

The Regional Water Board has identified five alternatives to address the inconsistency between the Basin Plan point source prohibitions and regional and statewide permits that allow low threat discharges from point sources year-round. The purpose of this analysis is to determine if there is an alternative that would feasibly attain the basic objective of the rule or regulation (the proposed activity), but would lessen, avoid, or eliminate any identified impacts. The first alternative proposes no change to the Basin Plan and would not address the conflict between the Basin Plan and existing regional and statewide permits. The second alternative describes an approach that would not

revise the Basin Plan, but would instead focus on increased enforcement against low threat discharges from regulat~~permitt~~ed point sources during the point source prohibition period. The three other alternatives propose amending the Basin Plan, Section 4 – Implementation Plans, in some fashion to allow for a partial exception from the point source and one-percent prohibitions.

The alternatives are compared on the basis of their ability to protect water quality and beneficial uses, and to address the current conflict between conditions in existing regional and statewide point source discharge permits that allow year-round low threat discharges, and the point source prohibitions in the Basin Plan that do not.

1. No Action - No Proposed Change in Basin Plan Language or in Program Implementation.

Under the "No Action" alternative, the Basin Plan would not be revised to allow any exception to the point source prohibitions. Under this alternative, the Regional Water Board would not modify the Basin Plan to provide exception criteria to the point source prohibitions for low threat discharges of any kind, including incidental runoff, during the discharge prohibition periods, and would continue to make this a low-priority enforcement issue.

It is important to note that low threat discharges will likely continue to occur during discharge prohibition periods for two primary reasons. First, because these discharges are already permitted under some statewide permits, and without limitation as to flow, some permittees are unaware of the fact that the Basin Plan does not allow point source waste discharges of low threat water due to the fact that outreach and education about these low threat discharges is often limited to municipal areas that are covered under a municipal storm water permit. Second, there is a lack of other options for disposing of the low threat water, and because of their necessity to vital economic activities, such as construction, well development, irrigation and pipe and reservoir maintenance, these discharges will continue to occur despite the lack of regulatory approval or inconsistency with the Basin Plan. Although some of these discharges are currently permitted under storm water permits, with the implementation of BMPs, many of these discharges occur undetected and/or unreported, due to the fact that they are typically short term and/or relatively low volume discharges. In these unpermitted situations, the discharges occur with no regulatory oversight and without the implementation of BMPs to prevent and minimize the impacts on water quality. In addition, this "No Action" alternative would not provide a program to ensure the implementation of BMPs to eliminate or reduce the discharge of pollutants and the volume, duration, and rate of discharge, nor provide a program of monitoring, inspecting, and reporting to verify that water quality is being protected.

Pros:

- This alternative would save planning funds and allow planning staff to start addressing the next issue on Triennial Review Priority List.

Cons:

- Many low threat discharges would continue to occur without a permit and the Regional Board would lose the opportunity to work with and require the

permittees to implement BMPs that would reduce the effect of these discharges on water quality,

- This alternative does not address the State Water Board and Legislature's goal to promote water recycling because it creates disincentives for recycled water projects because of the potential liability for incidental runoff and other unregulated discharges.
- This alternative does not address the purpose of the proposed amendment, which is to address the conflict between conditions in existing regional and statewide permits that allow point source discharges year-round, and prohibitions in the Basin Plan, which do not, while still protecting water quality and beneficial uses.
- This alternative may restrict the ability of public and private water agencies to maintain their facilities during the summertime because of the risk of being subject to a citizen suit under the Clean Water Act for violation of the Basin Plan.
- Regional Water Board staff could not use statewide general permits (municipal, construction and industrial storm water permits; and the statewide general NPDES permit for discharges from utility vaults and underground structures to surface waters) and would have to develop general permits specific to the North Coast Region, because the statewide general permits allow year round discharge and the Basin Plan does not.

2. No Basin Plan Amendment and Increased Focus on Enforcement

As with the "No Action" alternative, this alternative would not change the Basin Plan to allow for any exceptions to the point source prohibitions. Unpermitted low threat discharges would likely continue to occur under this alternative, but without any implementation of BMPs, and in violation of the point source prohibitions. Under this alternative, the Regional Water Board would increase its enforcement efforts against low threat discharges during the prohibition period.

Under this alternative, all ~~point source~~ discharges from regulated point sources, regardless of their origin~~source~~ or water quality, would not be eligible for permitting during the point source prohibition season, and would be subject to enforcement. This would require a significant increase in staff resources and/or a reevaluation of regional priorities to free up additional resources for the increased enforcement. The likelihood of obtaining additional permanent and dedicated resources for enforcement activities in the North Coast Region, given the current state of California's economy, is not likely. This alternative would also require the Regional Water Board to develop its own storm water permits because the Regional Water Board would not be able to utilize the statewide general permits that permit discharges year-round. In addition, the Regional Water Board would need to retract language in Master Reclamation Permits that is not consistent with the Basin Plan, such as the ability to not routinely recommend enforcement following incidental runoff events that are unintentional and not associated with negligence on the part of the permittee.

Pros:

- An outright prohibition provides regulatory clarity by removing the conflicting conditions that currently exist between regional and statewide general

permits, which authorize discharges year round, and the Basin Plan, which does not.

- Taking enforcement on every incidental runoff and low threat discharge would provide marginal water quality improvement.
- This alternative would save planning funds and planning staff could move on to the next issue on Triennial Review Priority List.

Cons:

- Increasing enforcement would be a poor use of staff resources given the marginal improvement that would be provided to water quality.
- The enforcement required under this alternative would be very time consuming for staff and the Regional Water Board. It would detract from other priorities and would be difficult to implement with current staffing. This alternative could require a huge redirection of enforcement and permitting staff time.
- ~~Because it is impossible to completely stop incidental runoff, and such runoff could be prosecuted by the Regional Water Board, new or expanded water reuse projects would likely not go forward, which is inconsistent with the State Board and Legislature's goals for recycled water use.~~
- This alternative would result in high costs to the regulated community. It could have a negative economic effect on many industries and activities addressed by this proposed ~~Basin Plan~~ amendment (e.g., construction, municipal water supply, well development) because cost-effective measures do not always exist to dispose of wastewater generated from these industries during the period of the Basin Plan point source prohibitions.
- Regional Water Board staff could not use statewide general permits (municipal, construction and industrial storm water) and would have to develop general permits specific to the North Coast Region, because the statewide general permits allow year round discharge and the Basin Plan does not.
- This alternative i~~does~~s not consistent with~~address~~ the State Water Board Recycled Water Policy and legislature's goal to promote water recycling because incidental runoff during the discharge prohibition period is prohibited. ~~it creates disincentives for recycled water projects due to the potential liability for incidental runoff.~~

3. Basin Plan Amendment Addressing Low Threat Discharges Only

This approach would provide an exception from the Basin Plan point source prohibitions for planned discharges that are considered "low threat," but would not provide an exception for non-storm water flows that are incidental to urban activities (including incidental runoff) from the point source prohibitions. Under this option, a new Low Threat Action Plan would be proposed for addition to the Basin Plan to provide exceptions to the Basin Plan prohibitions for planned projects involving low threat discharges. The Storm Water Action Plan would not be modified to allow exceptions to the Basin Plan prohibitions for non-storm water flows that are incidental to urban activities.

Pros:

- The Basin Plan Amendment providing an exception from the point source prohibitions for planned low threat discharges would require that BMPs be in place to protect water quality. This may result in an improvement to water quality because previously unknown, unpermitted discharges would now be placed under a permit and controlled with specific procedures and requirements to limit impacts to water quality and ensure discharge is low threat.
- The Regional Water Board would have a clear regulatory approach for addressing certain low threat discharges.
- Certain categories of low threat discharges would be covered under permits and would be subject to inspection and monitoring.

Cons:

- This alternative spends significant staff time and resources without achieving the entire purpose of the project's goal of protecting water quality and beneficial uses while addressing the conflict between conditions in existing regional and statewide point source discharge permits that allow year-round low threat discharges and the point source prohibitions in the Basin Plan that do not.
- BMPs may not be put in place to protect water quality in cases where unknown or unpermitted non-storm water flows, such as incidental runoff, may be occurring.
- ~~This alternative would result in a perceived disincentive to urban activities that result in incidental flows, such as irrigation with potable or recycled water or fire hydrant flushing, due to uncertainties about potential liability.~~
- ~~Communities may feel the need to find other, more expensive means to dispose of recycled water because of the potential exposure to liability that could result in response to incidental runoff events.~~ This alternative is not consistent with the State Water Board Recycled Water Policy and legislature's goal to promote water recycling because incidental runoff during the discharge prohibition period is prohibited.

4. Basin Plan Amendment Modifying the Storm Water Action Plan to Address Storm Water and Non-Storm Water Flows that are Incidental to Urban Activities Only

This approach would provide an exception from the Basin Plan point source prohibitions for non-storm water flows that are incidental to urban activities, but would not provide an exception for other low threat discharges from the Basin Plan point source prohibitions. Under this option, the Storm Water Action Plan would be modified to allow exceptions to the Basin Plan prohibitions for non-storm water flows that are incidental to urban activities. A new Low Threat Action Plan would not be added to the Basin Plan to provide exceptions to the Basin Plan prohibitions for planned projects involving certain categories of low threat discharges.

Pros:

- The Basin Plan Amendment providing an exception from the point source prohibitions for non-storm water flows that are incidental to urban activities would require that BMPs be in place to protect water quality. This may result in reducing the number of non-storm water discharges, the volume of water discharged, and pollutant levels in such discharges, and is an improvement over past practices where unknown, unpermitted discharges that are incidental to urban activities, including incidental runoff discharges, occurred without BMPs in place.
- Users of recycled water would no longer be under threat of potential liability for incidental runoff.
- The Regional Water Board would have a clear regulatory approach for addressing incidental runoff.

Cons:

- BMPs may not be put in place to protect water quality in cases where unknown/unpermitted low threat discharges are occurring.
- This alternative would result in high costs to the regulated community. It could have a negative economic effect on many industries and activities identified in this report (e.g., construction, municipal water supply, well-development) because no cost-effective measures appear to exist to dispose of wastewater generated from these industries during the period of the Basin Plan's point source prohibitions.
- Regional Water Board staff could not use statewide general permits, such as the Statewide General NPDES Permit for Discharges from Utility Vaults and Underground Structures to Surface Waters, and would need to develop general permits specific to Region 1 because the statewide general permits allow year-round discharge and the Basin Plan does not.
- This alternative spends significant staff time and resources without achieving the entire purpose of the project's goal of protecting water quality and beneficial uses while addressing the conflict between conditions in existing regional and statewide point source discharge allow year-round low-threat discharges, and the point source prohibitions in the Basin Plan that do not.

3.2 Recommended Alternative

Staff recommends that the Regional Water Board adopt the proposed ~~Basin Plan~~ Amendment, which identifies procedures for providing exceptions to the point source prohibition for low threat point source discharges that meet the exception criteria set forth in the proposed Low Threat Action Plan and proposed revisions to the Storm Water Action Plan. The proposed Amendment is described in detail in Section III of this Staff Report. The proposed Amendment will address the conflict between conditions in existing regional and statewide NPDES permits that allow low threat discharges year-round, and point source prohibitions in the Basin Plan that limit such discharges.

Regional Water Board staff would invest time and resources in outreach and education to increase awareness in the discharge community of water quality issues related to

discharges that could be considered low threat, and the need to address the potential water quality threats through permitting and BMP implementation.

Specific criteria that would need to be met for a discharge to be considered low threat would be outlined in the Action Plan for Low Threat Point Source Discharges. Storm water flows and n~~N~~on-storm water flows ~~to regulated storm water collection systems~~ that are incidental to urban activities (including incidental runoff) to regulated storm water collection systems would be addressed under the revised Action Plan for Storm Water D~~d~~ischarges, and requirements would be set forth to limit the application of the exception to only those incidental discharges that were not due to negligent maintenance or poor design of infrastructure, and where there was no feasible alternative to the incidental event. In addition, an approved management plan, that includes procedures for education/outreach, inspection, monitoring and enforcement, must be in place.

The recommended approach also provides an opportunity to address potential cumulative impacts caused by multiple low threat discharges to the same waterbody at the same time. Because these discharges are currently often occurring without any regulatory oversight, they could be having cumulative effects on a waterbody, especially if no BMPs are being implemented. The regulatory approach proposed in the preferred alternative involves Regional Water Board staffs' review and approval of proposed discharges, and submittal of monitoring data to demonstrate that the discharge is not ~~individually or cumulatively~~ having an adverse effect on beneficial uses. Regional Water Board staff would, therefore, have the ability to require that discharges from different projects be scheduled at different time periods to avoid or minimize cumulative impacts.

Under the recommended approach, the Regional Water Board will ensure compliance with the Basin Plan similarly to the way it ensures compliance of other permits; through self monitoring and reporting by the discharger and inspections by the Regional Water Board. Regional Water Board staff will also conduct periodic inspections to verify compliance with permit conditions. This approach is consistent with other Regional Water Board regulatory programs. Staff does not envision that extensive staff time will be required to get permittees enrolled in the program after submittal of a complete application package. As both the dischargers and Regional Water Board staff become more familiar with the program, the time needed to both submit a complete application package and subsequent enrollment by Regional Water Board staff should decrease.

Pros:

- More discharges would be captured under the Regional Board's permitting program and those discharges would be addressed with BMPs that would provide a higher level of protection to water quality.
- The Regional Water Board would have a clear regulatory approach for low threat discharges, including incidental runoff of recycled and potable water.
- Users of recycled water and those that need to discharge low threat water during the discharge prohibition season because of a lack of economically feasible alternatives would no longer be under threat of potential liability.
- This approach provides an opportunity to addresses potential cumulative impacts caused by multiple low threat discharges to the same waterbody at

the same time, which is currently not being addressed because the discharges are often unregulated.

- The Regional Water Board would be actively supporting the Legislature's directive to increase water recycling by providing regulatory certainty and protection from liability for incidental runoff events.
- The Regional Water Board would be addressing low threat discharges and incidental runoff consistently with other Regional Water Boards (which can, and do, allow year-round low-threat discharges).
- This approach addresses the complete stated purpose of the project, which is to address the conflict between conditions in existing regional and statewide permits that allow point source discharges year-round, and prohibitions in the Basin Plan, which do not, while still protecting water quality and beneficial uses.

Cons:

- Possible incremental degradation of water quality if BMPs are not implemented properly.
- Perceived weakening of the Basin Plan's point source prohibitions.
- This alternative would result in increased costs to permittees to fund implementation of BMPs and provide testing and monitoring of the discharge and receiving waters, which that the permittees are not currently doing.
- Regional Water Board will have an increase in permitting and planning staff time (costs) associated with education and outreach regarding BMP implementation.

4. Analysis of Reasonably Foreseeable Methods of Compliance

The analysis of potential environmental impacts was conducted by considering the numerous alternative methods of compliance available for eliminating discharges to surface waters during the point source prohibition period, and where that is not feasible, for eliminating or reducing pollutants in the discharge to surface waters, and minimizing the volume, duration, and/or rate of discharge. Potential environmental impacts associated with the Basin Plan Amendment depend, in part, upon the specific compliance methods selected by the responsible party, most of whom will be public agencies subject to their own CEQA obligations. (See Pub. Res. Code ~~§~~ section 21159.2). The Regional Water Board does not specify the means by which permittees must comply with the proposed Amendment. To assess environmental impacts that could be associated with compliance with the proposed Amendment, this ~~draft~~ SED identifies potential mitigation approaches that may be implemented. Consistent with Public Resources Code section 21159, the ~~draft~~ SED does not engage in speculation or conjecture, but rather considers the reasonably foreseeable environmental impacts of the foreseeable methods of compliance. Where potential impacts are identified, the SED identifies mitigation measures, and also considers reasonably foreseeable alternative means of compliance that could avoid or reduce the identified impacts.

First and foremost, where feasible, a permit applicant will be required to use alternatives to surface water discharge to reduce discharges, ~~during the discharge prohibition~~

~~period,~~ even if it is only for a portion of the water. Such alternatives could include discharge of all or part of the water to land or an existing sewer system. The discharge could also be minimized by implementation of conservation measures, including the use of low flow emitters, irrigation schedules to reduce potential runoff, and proper maintenance of irrigation equipment. Where analysis by the permittee during the permitting process establishes that there are no alternatives to surface water discharge, the Regional Water Board has identified a number of best management practices (BMPs) that would likely be used to comply with the requirements of the proposed Amendment.

The specific BMPs that would likely be used to comply with the requirements of the proposed Amendment will depend on the category of the low threat discharge. A combination of structural, non-structural (e.g., operation and maintenance practices) and managerial methods (e.g., policies and procedures) will likely be used by each permittee. Table 4, below, identifies the BMPs that are the reasonably foreseeable methods of complying with the proposed Amendment. Examples of low threat discharges are identified in the table, followed by the some examples of BMPs that would likely be implemented by the permittees for that type of discharge. These examples are not meant to be exhaustive of the suitable suite of appropriate BMPs.

Table 4.0 Reasonably Foreseeable Compliance Measures

Type of Discharge	**Reasonably Foreseeable Compliance Measures**
Construction dewatering	• Segregation of flow to prevent introduction of pollutants. • Sediment removal through settling or filtration basins. • Utilize measures such as vegetation, straw bales, silt fences, wattles, and/or sand/gravel bags to control flow rate of discharge to minimize erosion potential and prevent sediment transport. • Utilize stormdrain inlet filters to capture some pollutants
Discharges from potable water sources Development and test pumping of water supply wells Maintenance and repair of water supply structures (e.g., pipelines, tanks, reservoirs)	• Dechlorinate water using aeration and/ or sodium thiosulfate and/or other appropriate means. • Sediment removal in discharge through settling or filtration basins. • Utilize measures such as vegetation, straw bales, silt fences, wattles, and/or sand/gravel bags to control flow rate of discharge to minimize erosion potential and prevent sediment transport. • Utilize Instream diffuser, if necessary, to prevent instream erosion. Note: *All sediments shall be collected and disposed of in a legal and appropriate manner.*
Commercial non-contact cooling tower water	• Segregation of flow to prevent introduction of pollutants. Note: *Infiltration shall be used whenever possible.*

Recycled and potable irrigation runoff	• Segregation of flow to prevent introduction of pollutants. • Implement conservation programs to minimize this type of discharge by using less water. • User agreements between Master Water Recycler and recycled water user requiring adherence to Title 22 standards and setbacks to waterways. Inspection and enforcement by the Master Water Recycler. • Utilize measures such as vegetation, straw bales, silt fences, wattles, and/or sand/gravel bags to control flow rate of discharge to minimize erosion potential and prevent sediment transport. • Implement structural BMPs such as low flow emitters, drip irrigation systems, grading and/or systems to capture runoff and pump back to irrigation area in order to minimize potential for runoff. • Utilize valves in storm drains to capture incidental runoff and pump out as necessary. • Proper maintenance of sprinkler systems. Note: *Recycled water suppliers should establish irrigation schedules for urban areas to minimize runoff potential to same storm drain system.*
~~Flows from emergency fire fighting activities~~	~~• Utilize mats over storm drain inlets to increase the distance and settling out of pollutants before discharge to storm drain when possible.~~ ~~• Pooled water after fire shall be controlled.~~ ~~• Runoff controls shall be considered for fires at industrial or other facilities where hazardous materials may be onsite.~~
Flows from non- emergency fire fighting activities (fire hydrant testing, non- emergency repairs)	• Dechlorinate water using aeration and/or sodium thiosulfate and/ or other appropriate means and/or be allowed to infiltrate to the ground. • Utilize mats over storm drain inlets to increase the distance and removal of chlorine by volatilization before discharge to storm drain. Note: *Fire hydrants that are not in close proximity to a storm drain inlet or receiving water can be tested without dechlorination.*
Dewatering of utility vaults, foundations, footings, and crawl spaces	• Segregation of flow to prevent introduction of pollutants. • Sediment removal through settling or filtration. • Utilize measures such as vegetation, straw bales, silt fences, wattles, and/or sand/gravel bags to control flow rate of discharge to minimize erosion potential and prevent sediment transport. • Education and outreach[17].
Swimming and landscape pool discharges	• Dechlorinate or debrominate using aeration and/or sodium thiosulfate and/ or other appropriate means and/or allow to infiltrate into the ground. • Education and outreach[8].

[17] Education and outreach should address the need to eliminate discharges to storm drains and surface waters when possible, and to eliminate pollutants and reduce the volume, flow rate and duration of any discharges to storm drains and surface waters.

Residential car washing	• Pumps or vacuums may be used to direct water to areas for infiltration or other use. • Education and outreach[8]. Note: *Preferred disposal area is at commercial carwash or in an area where wash water infiltrates.*
Sidewalk rinsing	• Education and outreach. • Direct rinse water to permeable area for infiltration

The Compliance Matrix, Table 4.1, details the reasonably foreseeable compliance measures (i.e. BMPs) that could be used to implement the proposed Amendment, and the potential environmental impacts associated with the implementation of these BMPs. The categories of resources that the Regional Water Board identified as potentially being impacted by the implementation of the BMPs include:[18] cultural resources, biological resources, geology and soils, hydrology and water quality, and utilities and services. On the Compliance Matrix, potential impacts are listed below each of category. In most cases, any potential impacts would be temporary and the result of installing and/or removing structural BMPs. Most of the structural BMPs identified as reasonably foreseeable methods of compliance with the proposed Amendment would cause very minimal, if any, adverse impacts. Only those BMPs that involve land disturbance, such as the installation of settling or infiltration basins, would potentially have the ability to cause adverse environmental impacts. All of these potential impacts, however, can be mitigated to levels expected to be insignificant.

The following is an explanation of some of the items listed on the Compliance Matrix which may not be entirely transparent:

- Pumps are included as a potential compliance measure as they can be used in conjunction with certain other compliance measures when water needs to be transferred from one area to another for appropriate disposal/discharge.

- Impermeable mats placed over storm drains inlets can be used to lengthen the distance the water would travel before it was discharged into the storm drain system thereby aerating the water and removing chlorine compounds. .

[18] See CEQA Checklist (pages 25 - 33)

Table 4.1 Reasonably Foreseeable Compliance Measures and Potential Temporary Associated Environmental Impacts

		Cultural Resources	Biological Resources					Geology/ Soils	Hydro/ Water Quality	Utilities & Services
Compliance Measure	**Associated Implementation Actions**	Cause an Adverse Change to a Cultural or Historic Resource	Adverse Effect on Habitat or Sensitive Community	Interfere Substantially with Movement of Fish or Wildlife	Conflict with an HCP or Policy Protecting Bio Resources	Adverse Effect on Specicial Status Species	Cause Substantial Adverse Effect on Wetlands	Result in substantial soil erosion or the loss of topsoil	Violate any water quality standards or WDRs	Exceed wastewater treatment requirements
Structural Measures										
Settling Basin	Discharge to Land, Discharge to Surface Waters	X	X			X	X			
Filtration Basin	Discharge to Land	X	X			X	X			
Sprinkler Irrigation	Discharge to Land		X	X	X	X	X	X	X	
Storm Drain Valves	Discharge to Storm Drain									
Storm Drain Inlet Filters	Discharge to Storm Drain									
Erosion Control Measures: Silt fences, straw bales, wattles	Discharge to Land									
Low Flow Emitters	Discharge to Land									
Use of Pumps	Various									
Use of Holding Tanks	Various									
Sand Bags or Mats Over Storm Drains	Discharge to Storm Drain									
Install Temporary In-stream Diffuser	Discharge to Surface Waters		X	X	X	X	X			
Drip Irrigation Systems	Discharge to Land; Water Conservation						X			
Non-Structural Measures										
Dust Control	Discharge to Land		X	X	X	X	X			
Discharge to Sanitary Sewer	Discharge to Sanitary Sewer									X
Infiltration	Discharge to Land		X		X	X	X			
Flow segregation	Discharge to Surface Waters									
Dechlorination/pH Adjustment	Discharge to Surface Waters									
Education and Outreach	Water Conservation, All Discharges									
Limit discharge to non-prohibition period	Discharge to Surface Waters		X			X	X			

Table 4.2 Mitigation Measures to Reduce Impacts from Potential Temporary Impacts of Reasonable Foreseeable Compliance Measures

Category/ Potential Temporary Environmental Impact	Minimize Discharge Flow	Consider timing & location of discharge/ BMPs	Conduct Water Quality Monitoring	Conduct Bioassessments	Prior to Land Disturbance Contact USFWS & DFG	Prior to Land Disturbance Contact Calif. Historical Res. Info System	Minimize pollutants in discharge	Implementation & Regular Inspections of BMPs	Obtain Permission from WWTF	Evaluate discharge to ensure it meets WQOs
Cultural Resources										
Cause an Adverse Change to a Cultural or Historic Resource		X				X				
Biological Resources										
Adverse Effect on Habitat or Sensitive Community	X	X	X	X	X		X	X		X
Interfere Substantially with Movement of Fish or Wildlife	X	X	X	X	X		X	X		X
Conflict with an HCP or Policy Protecting Bio Resources	X	X	X	X	X		X	X		X
Adverse Effect on Special Status Species	X	X	X	X	X		X	X		X
Cause Subtantial Adverse Effect on Wetlands	X	X	X	X	X		X	X		X
Geology and Soils										
Result in substantial soil erosion or the loss of topsoil	X	X			X			X		
Hydrology and Water Quality										
Violate any water quality standards or waste discharge requirements	X	X	X	X			X	X		X
Utilities and Service Systems										

The Mitigation Matrix, Table 4.2, presents potential mitigation measures to reduce any impacts from the implementation or installation of the reasonably foreseeable compliance measures presented in the Compliance Matrix. For example, in order to reduce any potential environmental impacts, measures such as conducting water quality monitoring (to ensure compliance or cessation of the discharge if problems are identified) and/or reducing the flow of the discharge will be required.

5. Land Uses and Environmental Setting

The North Coast Hydrologic Region encompasses a total area of approximately 19,390 square miles or 12.3 percent of California's land area, including 340 miles of scenic coastline and remote wilderness areas, as well as urbanized and agricultural areas. The region includes all or large portions of Modoc, Siskiyou, Del Norte, Trinity, Humboldt, Mendocino, Lake, and Sonoma counties. It also includes small areas of Shasta, Tehama, Glenn, Colusa, and Marin counties. The region includes the Pacific Ocean coastline from Tomales Bay to the Oregon border, and then extends east along the border to the Goose Lake Basin.

Forest and rangeland represent about 98 percent of this region's land area. Much of the region is identified as national forests, state and national parks, under the jurisdiction of the federal Bureau of Land Management, and American Indian lands such as the Hoopa Valley and Karuk and Hoopa reservations. The major land uses in the North Coast region consist of timber production, agriculture, fish and wildlife management, parks, recreational areas, and open space.
Year-round point source prohibitions apply to all North Coast watersheds with the exception of the Mad, Eel, and Russian Rivers and the lower Lost River system. Seasonal point source discharges are prohibited in the Mad, Eel, and Russian River watersheds from the period of May 15 to September 30 of each year. In these watersheds point source discharges can be allowed from October 1 to May 14, in cases where the Regional Water Board issues a NPDES permit that ensures that any discharge of waste will not adversely impact water quality and beneficial uses (Basin Plan page 4-1.00 to 4-2.00). The Basin Plan also includes a discharge flow rate limitation for the Mad, Eel and Russian Rivers, requiring that waste discharge flow must be no greater than one percent of the receiving stream's flow, but the Regional Water Board may consider exceptions for cause to this waste discharge rate limitation (Basin Plan at p. 4-2.00).

These point source prohibitions were originally intended to apply municipal wastewater treatment facilities, and do not contain the flexibility to permit the discharge of water considered to be a low threat to water quality during the stated discharge prohibition periods. (See discussion of historical background of the Basin Plan point source prohibitions in Appendix C.) These point source prohibitions arguably apply even to the discharge of water that may not pose a threat to water quality, such as groundwater that needs to be dewatered from a site or de-chlorinated potable water. This is because almost all water has some small amount of pollutants, and would be considered a

discharge of waste under the Porter-Cologne Water Quality Act.[19] Pollutants that are most common in low threat discharges are sediment, temperature, and chlorine.

Prohibiting all low threat discharges is problematic because there are often no practical alternatives to the discharge, and because these discharges result from activities, such as construction, well development, irrigation and pipeline maintenance and repair, that are vital to communities. In addition, we know that these discharges are occurring even with the prohibition in place. The Regional Water Board believes that a higher degree of water quality protection can be achieved by acknowledging that these low threat discharges exist and providing a regulatory program that allows the discharges to occur under prescribed conditions. The proposed Basin Plan criteria that the discharge would have to meet before it could be provided an exemption from the point source prohibitions is contained in the proposed Amendment.

The current environmental setting, therefore, already includes these year-round, low threat discharges, even though they are generally unpermitted and unregulated. For those permittees that come to the Regional Water Board before discharging low threat wastes, the Regional Water Board staff currently use several permitting approaches for addressing low threat point source discharges; however, when these discharges take place during the discharge prohibition season, such permitting is arguably inconsistent with the Basin Plan. (For discussion of current permitting practices used by the Regional Water Board staff to permit low threat discharges, and the problems associated with each of these approaches, see section II of the Staff Report.) For the most part, the Regional Water Board staff will continue to rely upon its current methods for permitting low threat discharges. The proposed amendment will provide a set mechanism in the Basin Plan that will assess alternatives to surface water discharge, and assure that any discharge is in fact low threat. The real substantial difference from this amendment, however, will be that these discharges will no longer be in conflict with the Basin Plan point source prohibitions.

Many of the region's watersheds, both urban and rural, support threatened and endangered species of plants and animals, and many North Coast streams and rivers support anadramous fish runs of salmon and steelhead trout. The principal reaches of the Klamath, Eel, and Smith rivers have been designated wild and scenic under federal and State law and therefore are protected from additional large-scale water development.

The majority of the North Coast Region's drains to rivers and streams are listed as having excess sediment and/or temperature impairments (2006 Clean Water Act Section 303(d) list).[20] Implementation of temperature objectives will be strengthened by the Stream and Wetlands System Protection Policy that is currently being drafted as a joint effort between the North Coast and San Francisco Bay regions. As part of the North Coast Region's efforts to control sediment waste discharges and restore sediment impaired water bodies, the Regional Water Board adopted the Total Maximum Daily

[19] Water Code section 13050 defines "waste" as including "sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.
[20] http://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/303d/

Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region, which is also known as the Sediment TMDL Implementation Policy, on November 29, 2004. The Sediment TMDL Implementation Policy states that Regional Water Board staff shall control sediment pollution by using existing permitting and enforcement tools. The goals of the Policy are to control sediment waste discharges to impaired water bodies so that the TMDLs are met, sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment.

The current air quality in the region is above average to good. However, Humboldt, Del Norte, and Trinity Counties do not fully meet the state health standards[21] for clean air. The two pollutants of greatest concern are ozone and particulate matter. The county's sunny climate, pollution-trapping mountains and valleys, along with the growing population, all contribute to the problem. Particulate matter is the fine mineral, metal, soot, smoke and dust particles suspended in the air. Other areas in the region typically have a few exceedances of the State air quality standards during the year. These usually occur in the more dense population areas and are usually coincident with severe smoke inundation of all of Northern California due to wildfires. The majority of the particulate matter (PM) pollution concerns come from wood burning and emissions associated with transportation in the more densely populated areas of Sonoma County. However, the air quality index air quality was at or below 50 (the upper level of ‘good’ air quality on the Air Quality Index[22] the majority of the year throughout the region Ozone can also be an issue during the summer months in Santa Rosa, the largest city in the region, mainly due to vehicles.

[21] http://www.arb.ca.gov/research/aaqs/caaqs/caaqs.htm

6. Environmental Checklist Form

1. Project title:
"Proposed Amendment to the Water Quality Control Plan for the North Coast Region to Establish Exception Criteria to the Point Source Prohibitions by Revising the Action Plan for Storm Water Discharges and Adding a New Action Plan for Low Threat Discharges."

2. Lead agency name and address:
North Coast Regional Water Quality Control Board

3. Contact person and phone number:
Lauren Clyde (707) 576-2674

4. Project location:
The project would take place in the region under jurisdiction of the North Coast Regional Water Quality Control. This region encompasses all surface and ground water basins draining into the Pacific Ocean, including Lower Klamath Lake and Lost River basins, and extends from the California-Oregon state line southerly, to the southerly boundary of the watershed of the Estero de San Antonio and Stemple Creek in Marin and Sonoma counties.

5. Description of the project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation).

The proposed Amendment to the Water Quality Control Plan for the North Coast Region (Basin Plan) would provide exception criteria to the point source prohibitions contained in the Basin Plan that would apply to low threat discharges. The proposed Amendment would not alter or remove the discharge prohibition section of the Basin Plan. The proposed Amendment would, instead, provide a protective, yet streamlined procedure for regulating low threat point source discharges by (1) adding a new *Action Plan for Low Threat Discharge*s and (2) adding language to the existing Basin Plan *Action Plan for Storm Water Discharges* to address storm water and non-storm water flows that are incidental to urban activities to regulated storm water collection systems. This approach of allowing exceptions to the discharge prohibitions already exists in the Basin Plan in the *Interim Action Plan for Cleanup of Groundwaters Polluted with Petroleum Products and Halogenated Volatile Hydrocarbons* (page 4-7.00 to 4-8.00).

The proposed Amendment would apply to:

- All waterbodies in the Region where the Basin Plan point source prohibitions apply.
- All low threat regulated point source discharges to surface waters where the discharge is permitted under an NPDES permit.

ISSUES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☑	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☑	☐
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☑	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☑	☐
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☑
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☑
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☑

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☑	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☑	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☑	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☑	☐
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☑	☐

IV. BIOLOGICAL RESOURCES -- Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☑	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☑	☐	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☑	☐	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☑	☐	☐

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☑	☐	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☑	☐	☐

V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	☐	☑	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	☐	☑	☐	☐
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☑	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☑	☐	☐

VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☐	☑
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☑
ii) Strong seismic ground shaking?	☐	☐	☐	☑
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☑
iv) Landslides?	☐	☐	☑	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☑	☐	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☑	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☑

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☑

VII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☑	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☑	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☑	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☑	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☑	☐
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☑
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☑

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

a) Violate any water quality standards or waste discharge requirements?	☐	☐	☑	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☑	☐

c) Substantially alter the existing drainage pattern of the site or area,

including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☑	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☑	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☑	☐
f) Otherwise substantially degrade water quality?	☐	☐	☑	☐
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☑
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☑
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☑	☐
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☑
IX. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community?	☐	☐	☐	☑
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☑	☐
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☑	☐	☐
X. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☑
XI. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or	☐	☐	☑	☐

applicable standards of other agencies?

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☑	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☑	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☑	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☑	☐
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☑	☐

XII. POPULATION AND HOUSING -- Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☑
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑

XIII. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	☐	☐	☐	☑
Police protection?	☐	☐	☐	☑
Schools?	☐	☐	☐	☑
Parks?	☐	☐	☐	☑
Other public facilities?	☐	☐	☐	☑

XIV. RECREATION

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☑
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☑

XV. TRANSPORTATION/TRAFFIC -- Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	☐	☐	☑	☐
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☑
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☑	☐
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☑	☐
e) Result in inadequate emergency access?	☐	☐	☐	☑
f) Result in inadequate parking capacity?	☐	☐	☐	☑
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☑

XVI. UTILITIES AND SERVICE SYSTEMS -- Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☑	☐	☐
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☑	☐
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☑	☐
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☑

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☑	☐
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☑	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☑	☐

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☑	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☑	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☑	☐

7. Discussion of Possible Environmental Impacts of Reasonably Foreseeable Compliance Methods and Mitigation Measures

As stated previously, the environmental analysis must include an analysis of the reasonably foreseeable environmental impacts of the methods of compliance and the reasonably foreseeable feasible mitigation measures relating to those impacts. This section, consisting of answers to the questions in the checklist, discusses compliance methods and mitigation measures as they pertain to the checklist.

In formulating these answers, the impacts of the low threat discharges and implementing the non-structural and structural BMPs listed in Table 4.0 were evaluated. At this time, the exact type, size, and location of BMPs that might be implemented for future proposed projects to comply with the ~~Basin Plan~~proposed Amendment are unknown. This analysis considers a range of non-structural and structural BMPs that might be used by a permittee, but is by no means an exhaustive list of available BMPs. The permittee for each proposed discharge will be required to conduct a project-level and site-specific analysis of the BMPs that are selected for implementation and compliance with the Basin Plan criteria.

Potential reasonably foreseeable impacts of the reasonably foreseeable compliance measures were evaluated with respect to earth, air, water, plant life, animal life, noise, light, land use, natural resources, risk of upset, population, housing, transportation, public services, energy, utilities and services systems, human health, aesthetics, recreation, and archeological/historical concerns. Additionally, mandatory findings of significance regarding short-term, long-term, cumulative and substantial impacts were evaluated. Based on this review, Staff concluded that any potentially significant impacts can be mitigated to less than significant levels. The evaluation considered whether the construction or implementation of the BMPs would cause a substantial, adverse change in any of the physical conditions within the area affected by the BMP. In addition, the evaluation considered environmental effects in proportion to their severity and probability of occurrence.

A significant effect on the environment is defined in statute as "*a substantial, or potentially substantial, adverse change in the environment*" where "*Environment*" is defined by Public Resources Code section 21060.5 as "*the physical conditions which exist within the area which will be affected by a proposed project, including air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance*."[23]

In this analysis, the level of significance was based on baseline conditions (i.e., current conditions). Baseline conditions are described in section 5, Environmental Setting. Short-term impacts associated with the construction of structural BMPs were considered less than significant because the impacts due to construction activities are temporary and similar to typical capital improvement
projects and maintenance activities currently performed throughout the region. All of the identified impacts are, however, short-term.

Social or economic changes related to a physical change of the environment were also considered in determining whether there would be a significant effect on the environment. However, adverse social and economic impacts alone are not significant effects on the environment.

1. Aesthetics: a.) Have a substantial adverse effect on a scenic vista?

Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the non-structural BMPs that could potentially be used to comply with the requirements of the proposed Amendment, would have an adverse effect on scenic vistas.

None of the structural BMPs identified as reasonably foreseeable compliance measures would cause a substantial adverse effect on a scenic vista. None require the permanent construction of a sizable structure that would either block a scenic vista or

[23] Pub. Resources Code §21068

substantially degrade the vista. In addition, all BMPs would be installed for only the duration of the discharge, and, therefore, any impact to a scenic vista would be temporary in nature.

1. Aesthetics: b.) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Answer: Less than significant.

Discussion: The low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment would not be expected to have an impact on scenic resources.

The non-structural BMPs that could potentially be used to comply with the requirements of the proposed Amendment would not have an adverse effect on scenic vistas.

All of the BMPs identified as reasonably foreseeable means of compliance with the proposed Amendment would be implemented for limited periods, and removed once a discharge was completed. If a BMP was selected that required land disturbance, such as the construction of a settling or filtration basin, there may be minor surface soil excavation or grading during construction of structural BMPs, which could result in increased disturbance of the soil. If, however, scenic resources were identified at the site, they would be avoided, and standard construction techniques should not result in damage to scenic resources.

1. Aesthetics: c.) Substantially degrade the existing visual character or quality of the site and its surroundings?

Answer: Less than significant

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the non-structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would be expected to degrade the existing visual character or quality of a site and its surroundings.

Although implementation of structural BMPs could result in some change in visual character or ground surface relief features, most of the potential BMPs are so small and temporary, that changes to the visual character or quality of the site and its surroundings will not be noticeable.

1. Aesthetics: d.) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the non-structural BMPs that would potentially be used

to comply with the requirements of the proposed Amendment would be expected cause a new source of substantial lighting or glare.

Certain structural BMPs could create a new source of glare which would adversely affect day or nighttime views in the area. However, less than significant impacts are expected as there are many foreseeable methods of compliance that would avoid this potential outcome. For example, using an alternative BMP or camouflaging a BMP treatment are just a couple of ways to avoid creation of a glare.

2. Agriculture Resources: a.) In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would convert Farmland to non-agricultural use.

2. Agriculture Resources: b.) In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

Conflict with existing zoning for agricultural use, or a Williamson Act contract?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would conflict with existing zoning for agricultural use, or a Williamson Act contract.

3. **Agriculture Resources: c.)** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

Answer: No impact.

Discussion: Neither the low threat discharges that could occur under this ~~Basin Plan~~proposed Amendment nor the implementation of non-structural and structural BMPs that would potentially be used to comply with the requirements of this ~~Basin Plan~~proposed Amendment would result changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.

3. Air Quality: a.) Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

Conflict with or obstruct implementation of the applicable air quality plan?

Answer: Less than significant.

Discussion: Neither the low threat discharges that could occur under this ~~Basin Plan~~proposed Amendment nor the implementation of non-structural BMPs would result in any conflicts with or obstruction of the implementation of the applicable air quality plan.

Implementation of structural BMPs, such as the construction of settling basins or filtration basins, could result in vehicle emissions during construction; however, these impacts would be short-term, and would not result in conflicts with, or obstruction of the implementation of the applicable air quality plan.

3. Air Quality: b.) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Answer: Less than significant.

Discussion: Neither the low threat discharges that could occur under this ~~Basin Plan~~ proposed Amendment nor the implementation of non-structural BMPs will result in any violation of air quality standards or contribute substantially to an existing or projected air quality violation.

The implementation of structural BMPs in order to comply with the requirements of the ~~Basin Plan~~proposed Amendment could result in the generation of fugitive dust and particulate matter during construction or maintenance activities, which could temporarily impact ambient air quality. Any such impacts would be temporary, and would be controlled with standard construction operations, such as the use of moisture to reduce the transfer of particulates and dust to air. The emission of air pollutants during short-term construction activities associated with reasonably foreseeable methods of

compliance would not likely change ambient air conditions, because long-term ambient air quality would not change after short-term construction activities are completed.

3. Air Quality: c.) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Answer: No impact.

Discussion: Neither the low threat discharges that could occur under this ~~Basin Plan~~proposed Amendment nor the implementation of non-structural BMPs to implement the requirements of the Basin Plan Amendment will result in a cumulatively considerable net increase of any criteria pollutant for which the region is non-attainment under an applicable federal or state ambient air quality standard.

The implementation of BMPs that could result in fine particulate matter and vehicle emissions, such as the construction of settling or filtration basins, could contribute to the problems with these pollutants. However, any contribution would be very small, given both the temporary nature of any such impacts and the fairly small nature of any such construction activity.

3. Air Quality: d.) Expose sensitive receptors to substantial pollutant concentrations?

Answer: Less than significant.

Discussion: Neither the discharges that occur under this ~~Basin Plan~~proposed Amendment, nor the structural and non-structural BMPs would expose sensitive receptors to substantial pollutant concentrations. Language will be included in the revision of the general permit to address the potential issue of low threat discharges coming into contact with soil or groundwater at contaminated sites.

3. Air Quality: e.) Create objectionable odors affecting a substantial number of people?

Answer: Less than significant.

Discussion: Neither the low threat discharges that could occur under this ~~Basin Plan~~proposed Amendment nor the implementation of non-structural BMPs to implement the requirements of the Basin Plan Amendment will result in objectionable odors affecting a substantial number of people.

Construction and installation of structural BMPs may result in objectionable odors in the short-term due to exhaust from construction equipment and vehicles, but no more so than during typical infrastructure construction and maintenance activities currently

performed throughout the region. However, certain structural BMPs, such as settling basins and filtration basins, could become a source of objectionable odors if the BMP designs allow for water stagnation or collection of water with sulfur-containing compounds. Any odors would be very short-lived and would not affect a substantial number of people. Dischargers will be required to monitor the implementation of BMPs to ensure they are working correctly. If a discharger found that odors were occurring from implementation of a settling or filtration basin, measures, such as proper BMP design to eliminate standing water, covers, aeration, filters, barriers, and/or odor suppressing chemical additives, would be required if the odors were becoming a nuisance to the community. The Regional Water Board will require structural BMPs that could result in stagnant water to be inspected regularly to ensure that treatment devices are not clogged, pooling water, or odorous.

4. Biological Resources: a.) Would the project:

Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game (CDFG) or U.S. Fish and Wildlife Service (USFWS)?

Answer: Less than significant with mitigation.

Discussion: The low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment may have a potential impact upon any species identified as a candidate, sensitive, or special status species in local or regional plan, policies or regulations or by the CDFG or USFWS if they occur in an area where such species are located and were not properly restricted. Low threat discharges will generally have little impact if the pollutants are reduced to levels that meet water quality objectives and if the rate of discharge is minimized.

Prior to any discharge being permitted as low threat, the discharger will have to characterize the discharge and the receiving waters. This will include a description of identifiable beneficial uses, such as the presence of aquatic life, including aquatic insects and fish and any rare, threatened, or endangered species. If the discharge would adversely affect a rare, threatened, or endangered species or their critical habitat, it would not be permitted. The required use of BMPs to reduce pollutants and flow into the stream will likely have a beneficial impact on aquatic species overall.

Under the proposed Amendment, for discharges of non-storm water flows to a MS4 system, the permittee must develop a specific management program, to be included in the overall storm water management plan, to eliminate unauthorized non-storm water discharges and reduce pollutant loads in identified authorized non-storm water discharges to the maximum extent practicable, by minimizing the remaining increment of discharge, and mitigating impacts associated with the discharge of non-storm water, where necessary. The permittee must include programs for specific BMP installation, public outreach and education, inspections, monitoring and compliance assurance. The management plan must be submitted to the Regional Water Board Executive Officer for review and approval following a duly noticed 30-day comment period. These

requirements will help reduce all non-storm water flows to surface water, and reduce the pollutant loads in all authorized non-storm water flows, resulting in an overall improvement in water quality.

Non-structural BMPs will not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS.

BMPs that may not have an impact when implemented in one area could potentially have an impact if they are implemented in a sensitive area. Therefore, when installing structural BMPs that involve substantial earth moving, permittees will be required under their applicable permit to consult with federal, state and local agencies, including but not limited to the county the project is located in, CDFG and the USFWS, and implement mitigation identified by the agencies to avoid impacts to rare, threatened or endangered species. If no such mitigation is available, the discharge would not be permitted. In most cases the installation of structural BMPs would be temporary, and any impacts could avoided by adjusting the timing and/or location of the BMPs to take into account any candidate, sensitive, or special status species or their habitats.

Structural BMPs that divert, reduce, and/or eliminate non-storm water runoff to surface waters could potentially change the fish and wildlife habitat within stream channels by changing the flow regime of the creeks. It is unlikely, ~~;~~ however, that the amount of non-storm water flows that currently reaches surface waters is significant enough to affect fish and wildlife species if the flow is reduced through the implementation of BMPs. Permittees may also choose to implement non-structural BMPs and/or structural BMPs that do not divert or reduce the non-storm water runoff, but rather focus on reducing pollutant loads that would be discharged.

Because of these mitigation requirements, substantial adverse effects either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS are not expected to occur.

4. Biological Resources: b.) Would the project:

Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?

Answer: Less than significant with mitigation.

Discussion: The low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment will be from definable projects where the discharge is controlled to eliminate or reduce pollutants and minimize volume, duration and discharge rate through the implementation of best management practices. Therefore, substantial adverse effects on any riparian habitat or other sensitive natural community are not expected to be substantial because the Basin Plan criteria would require that rates of

flow, and quantity of pollutants which could potentially impact riparian habitat or other sensitive natural communities, must be minimized and controlled.

Under the proposed Amendment, for discharges of non-storm water flows to a MS4 system, the permittee must develop a specific management program, to be included in the overall storm water management plan, to eliminate unauthorized non-storm water discharges and reduce pollutant loads in identified authorized non-storm water discharges to the maximum extent practicable, by minimizing the remaining increment of discharge, and mitigating impacts associated with the discharge of non-storm water, where necessary. The permittee must include programs for specific BMP installation, public outreach and education, inspections, monitoring and compliance assurance. The management plan must be submitted to the Regional Water Board Executive Officer for review and approval following a duly noticed 30-day comment period. These requirements will help reduce all non-storm water flows to surface water, and reduce the pollutant loads in all authorized non-storm water flows, resulting in an overall improvement in water quality.

None of the proposed non-structural BMPs would have the potential to adversely affect any riparian habitat or other sensitive natural community of plants identified in local or regional plans, policies, regulations, or by the CDFG or USFWS.

BMPs that may not have an impact when implemented in one area could potentially have an impact if they are implemented in a sensitive area. Therefore, when installing structural BMPs that may include substantial earth moving, permittees will be required under their applicable permit, to avoid riparian habitat or other sensitive natural communities.

Because of these mitigation requirements, substantial adverse effects either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service are not expected to occur.

4. Biological Resources: c.) Would the project:

Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Answer: Less than significant with mitigation.

Discussion: In order to be eligible for an exception from the Basin Plan point source prohibitions, the discharge cannot have a significant effect on the receiving water or affect beneficial uses. The low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment would not be allowed in federally protected wetland areas if doing so would affect beneficial uses of that wetland. All water quality objectives for the wetland must be met. Implementation of most BMPs would not be allowed within a wetland because doing so would interfere with the protection of the beneficial uses of

that wetland. For example, any BMP that required construction, such as a filtration or siltation basin, would not be allowed in the wetland because it would interfere with the beneficial uses of the wetland.

Under the proposed Amendment, for discharges of non-storm water flows to a MS4 system, the permittee must develop a specific management program, to be included in the overall storm water management plan, to eliminate unauthorized non-storm water discharges and reduce pollutant loads in identified authorized non-storm water discharges to the maximum extent practicable, by minimizing the remaining increment of discharge, and mitigating impacts associated with the discharge of non-storm water, where necessary. The permittee must include programs for specific BMP installation, public outreach and education, inspections, monitoring and compliance assurance. The management plan must be submitted to the Regional Water Board Executive Officer for review and approval following a duly noticed 30-day comment period. These requirements will help reduce all non-storm water flows to surface water, and reduce the pollutant loads in all authorized non-storm water flows, resulting in an overall improvement in water quality.

4. Biological Resources: d.) Would the project:

Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Answer: Less than significant with mitigation.

Discussion: The low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment are from definable projects where the discharge is controlled under specific permit requirements to eliminate or reduce pollutants and minimize volume, duration and discharge rate through the implementation of best management practices. Because the flow rate of the discharge will be controlled and minimized under the requirements of a permit, there will not be any substantial adverse effects on the movement of any native resident or migratory fish or wildlife species. Similarly, the low threat discharges will not have any effect on established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

Under the proposed Amendment, for discharges of non-storm water flows to a MS4 system, the permittee must develop a specific management program, to be included in the overall storm water management plan, to eliminate unauthorized non-storm water discharges and reduce pollutant loads in identified authorized non-storm water discharges to the maximum extent practicable, by minimizing the remaining increment of discharge, and mitigating impacts associated with the discharge of non-storm water, where necessary. The permittee must include programs for specific BMP installation, public outreach and education, inspections, monitoring and compliance assurance. The management plan must be submitted to the Regional Water Board Executive Officer for review and approval following a duly noticed 30-day comment period. These requirements will help reduce all non-storm water flows to surface water, and reduce the pollutant loads in all authorized non-storm water flows, resulting in an overall improvement in water quality.

None of the non-structural BMPs that are reasonably foreseeable means of compliance with the proposed ~~Basin Plan~~ Amendment will result in a barrier to the migration or movement of aquatic or wildlife species.

A migratory corridor is generally described as a landscape feature (such as a ridgeline, canyon, or riparian strip) within a larger natural habitat area that is used frequently by animals to facilitate movement and provide access to necessary resources such as water, food, or den sites. Wildlife corridors are generally an area of habitat, usually linear in nature, which connect two or more habitat patches that would otherwise be fragmented or isolated from one another. It is unlikely that construction of structural BMPs for compliance with the ~~Basin Plan~~proposed Amendment would restrict wildlife movement because the size of the BMPs are generally too small to obstruct a corridor and they will be in place only temporarily. However, if a permittee will be conducting substantial earth movement to implement BMPs, the permittee will be required under their applicable permit to consult with various Federal, State and local agencies, including but not limited to the CDFG and the USFWS to confirm that the BMPs would not substantially interfere with movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors and native wildlife nursery. If there was the potential for an adverse impact to wildlife migration and/or use of a native wildlife nursery, the timing of the discharge or the location of the BMP would have to be changed to avoid the impact. None of the structural BMPs would, therefore, result in direct or reasonably foreseeable indirect impacts to fish and wildlife movement, migration or use of a native wildlife nursery site.

4. Biological Resources: e.) Would the project:

Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Answer: Less than significant with mitigation.

Discussion: The low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment will not conflict with any local policies or ordinances protecting biological resources. The discharges, by their nature, are very low in pollutants, and cannot, under the terms of the proposed Amendment, have an adverse effect, ~~individually or cumulatively~~, on water quality. The proposed Amendment too requires that the volume, rate and length of the discharge be minimized. Because of this, the discharges are not expected to have any adverse effects on biological resources, and, therefore, will not conflict with ordinances protecting biological resources.

Non-structural BMPs will not conflict with any local policies or ordinances protecting biological resources.

Depending on the structural BMPs selected, direct or indirect impacts to biological resources may occur. Similarly, BMPs that may not have an impact when implemented in one area could potentially have an impact if they are implemented in a sensitive area. Therefore, when installing structural BMPs that may include substantial earth moving, permittees will be required under their applicable permit, to consult with various Federal,

State and local agencies, including but not limited to the CDFG and the U.S. Fish and Wildlife Service (USFWS).

Because of these mitigation requirements, conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance is not expected to occur.

4. Biological Resources: f.) Would the project:

Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Answer: Less than significant with mitigation.

Discussion: It is unlikely that the low threat discharges that occur under this proposed ~~Basin Plan~~ Amendment could conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The low threat discharges will meet all water quality objectives and will protect beneficial uses of the receiving waters. The pollutants and flow rate will be minimized, and no discharges will be permitted if it would adversely affect a rare, threatened, or endangered species. Such restrictions are likely to make any discharge in alignment with any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

Non-structural BMPs will not conflict with the provisions of any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

Regional Water Board staff has collected and reviewed current applicable HCPs as part of this project. Depending on the structural BMPs selected, direct or indirect impacts to existing fish or wildlife habitat may occur; however, any such impact would be temporary. BMPs that may not have an impact when implemented in one area could potentially have an impact if they are implemented in a sensitive area. Therefore, when installing structural BMPs that may include substantial earth moving, permittees will be required under their applicable permit, to consult with various Federal, State and local agencies, including but not limited to the county the project is located in, CDFG and the USFWS. If appropriate to avoid conflicts with any Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan, the timing and/or location of the BMPs could be adjusted to take into account any requirements in the plans. If, however, such adjustments could not be made, the BMP would have to be changed to avoid any adverse impacts to rare, threatened, or endangered species, or the discharge would not be permitted to occur.

Because of these mitigation requirements, conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan are not expected to occur.

5. Cultural Resources: a.) Would the project:

Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5

Answer: Less than significant with mitigation.

Discussion: The low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment will not result in the alteration of a significant historical resource.

Non-structural BMPs will also not result in the alteration of a significant historical resource because none of the non-structural BMPs would involve any physical effects that could impact historical resources.

Similarly, it is unlikely that implementation of any structural BMP would result in a substantial adverse change in the significance of a historical resource. However, in cases where the installation of structural BMPs may involve excavation activities, a cultural resources investigation shall be conducted before any substantial disturbance of land that has not been disturbed previously. The cultural resources investigation will include, at a minimum, a records search for previously identified cultural resources and previously conducted cultural resources investigations of the project parcel and vicinity.

5. Cultural Resources: b.) Would the project:

Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

Answer: Less than significant with mitigation.

Discussion: The low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment will not cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5.

Non-structural BMPs will also not cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5.

Similarly, it is unlikely that implementation of any structural BMP would cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5. However, in cases where the installation of structural BMPs may involve excavation activities, a cultural resources investigation shall be conducted before any substantial disturbance of land that has not been disturbed previously. The cultural resources investigation will include, at a minimum, a records search for previously identified cultural resources and previously conducted cultural resources investigations of the project parcel and vicinity. This record search will include, at a minimum, contacting the appropriate information center of the California Historical Resources Information System, operated under the auspices of the California Office of Historic Preservation. In coordination with the information center or a qualified archaeologist, a determination shall be made regarding whether previously identified

cultural resources will be affected by the proposed project and if previously conducted investigations were performed to satisfy the requirements of CEQA. If not, a cultural resources survey shall be conducted. The purpose of this investigation will be to identify resources before they are affected by a proposed project and avoid the impact. ~~If the impact is unavoidable, mitigation will be determined on a case-by-case basis, as warranted.~~

5. Cultural Resources: c.) Would the project:

Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Answer: Less than significant.

Discussion: The low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment will not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

Non-structural BMPs will also not result in the direct or indirect destruction of a unique paleontological resource or site or unique geologic feature.

Similarly, it is unlikely that implementation of any structural BMP would result in the destruction of a unique paleontological resource or site or unique geologic feature. Most of the BMPs require no earth movement. However, in cases where the installation of structural BMPs may involve excavation activities, a cultural resources investigation shall be conducted before any substantial disturbance of land that has not been disturbed previously.

5. Cultural Resources: d.) Would the project:

Disturb any human remains, including those interred outside of formal cemeteries?

Answer: Less than significant.

Discussion: Neither the low threat discharges that could occur under this proposed ~~Basin Plan~~ Amendment nor the implementation of non-structural BMPs will result in the disturbance of any human remain, including those interred outside of formal cemeteries.

Similarly, it is unlikely that implementation of any structural BMP would cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5. However, in cases where the installation of structural BMPs may involve excavation activities, a cultural resources investigation shall be conducted before any substantial disturbance of land that has not been disturbed previously. The cultural resources investigation will include, at a minimum, a records search for previously identified cultural resources and previously conducted cultural resources investigations of the project parcel and vicinity. This record search will include, at a minimum, contacting the appropriate information center of the California Historical Resources Information System, operated under the auspices of the California Office of Historic Preservation. In coordination with the information center or a qualified

archaeologist, a determination shall be made regarding whether previously identified cultural resources will be affected by the proposed project and if previously conducted investigations were performed to satisfy the requirements of CEQA. If not, a cultural resources survey shall be conducted. The purpose of this investigation will be to identify resources before they are affected by a proposed project and avoid the impact~~. If the impact is unavoidable, mitigation will be determined on a case-by-case basis, as warranted~~.

6. Geology and Soils: a.)(i) Would the project:

Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the structural or non-structural BMPs that may be implemented to comply with the ~~Basin Plan~~ proposed Amendment would result in exposing people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault as there will be no ground moving activities. Neither the ~~Basin Plan~~ proposed Amendment nor the reasonably foreseeable means of compliance involve moving permanent structures or people onto an earthquake fault.

6. Geology and Soils: a)(ii) Would the project:

Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~ proposed Amendment nor the non-structural or structural BMPs that may be implemented to comply with the ~~Basin Plan~~proposed Amendment would expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking. Neither the proposed~~Basin Plan~~ Amendment nor the reasonably foreseeable means of compliance involve moving permanent structures or people onto an earthquake fault.

6. Geology and Soils: a.)(iii) Would the project:

Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction.

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the implementation of non-structural or structural BMPs that may be necessary to comply with the proposed ~~Basin Plan~~ Amendment would expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction. Neither the proposed ~~Basin Plan~~ Amendment nor the reasonably foreseeable means of compliance involve moving permanent structures or people on top of an earthquake fault.

6. Geology and Soils: a.)(iv) Would the project:

Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the implementation of non-structural or structural BMPs that may be necessary to comply with the ~~Basin Plan~~proposed Amendment would expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides. Neither the ~~Basin Plan~~ proposed Amendment nor the reasonably foreseeable means of compliance involve moving permanent structures or people into an area potentially subject to landslides.

6. Geology and Soils: b.) Would the project:

Result in substantial soil erosion or the loss of topsoil?

Answer: Less than significant with mitigation.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~ proposed Amendment nor the implementation of non-structural BMPs would result in substantial erosion of soils because none of the non-structural BMPs would result in increased storm water discharge to the MS4 system, or in exposing soils to erosion by water.

A few of the structural BMPs that may be implemented to comply with the ~~Basin Plan~~proposed Amendment may result in minor, temporary soil excavation during construction of structural BMPs. However, construction related erosion impacts will cease with the cessation of construction activities. Erosion of soils may occur as a potential short-term impact. On site soil erosion during construction activities will be similar to typical temporary capital improvement projects and maintenance activities currently performed by the permittees. During construction of any structural BMPs that requires moving dirt, project proponents will be required to minimize offsite sediment runoff or deposition under general construction storm water waste discharge requirements (WDRs) and/or through the construction program of the applicable

municipal separate storm water systems (MS4) WDRs; both of which are already designed to minimize or eliminate erosion impacts on receiving water.

6. Geology and Soils: c.) Would the project:

Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Answer: Less than significant.

Discussion: Structural BMPs that may be implemented to comply with the ~~Basin Plan~~proposed Amendment would not likely be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. Most structural BMPs that would be reasonably foreseeable means of compliance with the ~~Basin Plan~~proposed Amendment would not have any significant adverse effect if located on unstable soil, nor would they cause soil to become unstable. The only BMPs with any potential to have such affects would be filtration or settling basins. However, even in the unlikely event that a project proponent installed a filtration or settling basin on unstable soil, it would only be a temporary placement and any potential impact would be less than significant.

6. Geology and Soils: d.) Would the project:

Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

Answer: No impact.

Discussion: Even if structural BMPs that may be implemented to comply with the ~~Basin Plan~~proposed Amendment were located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), they would not create substantial risks to life or property. The structural BMPs that have been identified as the foreseeable means of compliance do not involve moving permanent structures or people into a new area, and so there would be no risk to life or property created.

6. Geology and Soils: e.) Would the project:

Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

Answer: No impact.

~~**Discussion**: Because neither the Basin~~proposed Plan Amendment nor the reasonably foreseeable means of compliance with the ~~Basin Plan~~proposed Amendment require access to sewer systems or septic tanks, this question is not applicable.

7. Hazards and Hazardous Materials: a.) Would the project:

Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Answer: Less than significant.

Discussion: Neither the low threat discharges that could occur under this ~~Basin Plan~~proposed Amendment nor the implementation of non-structural and structural BMPs that would potentially be used to comply with the requirements of this ~~Basin Plan~~proposed Amendment would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. There is the possibility that hazardous materials (e.g., oil, gasoline) may be transported to a site and present during BMP construction and installation activities. Any potential risks of exposure would be small, especially with proper handling and storage procedures. All risks of exposure would be short term and would be eliminated with the completion of BMP construction and installation activities.

7. Hazards and Hazardous Materials: b.) Would the project:

Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Answer: Less than significant.

Discussion: The low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment would have to meet all water quality objectives in the Basin Plan. This would require that all discharges demonstrate that it will not contain pollutants or constituents at concentrations that exceed Basin Plan water quality standards, California Toxics Rule objectives, or any other standard or objective promulgated to protect water quality and beneficial uses. This means that contaminated groundwater would not be eligible for consideration as a low threat discharge. To ensure that groundwater from an activity such as construction dewatering or well development meets the criteria of a low threat discharge and does not that contain contamination for a nearby cleanup site, the amendment to Regional Water Board Order No. 93-61, *General NPDES Permit/Waste Discharge Requirements for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewatering Activities in the North Coast Region* (Low Threat General Permit), will state specific requirements. To ensure that hazardous materials are not inadvertently discharged with any permitted low threat discharges, the proposed General Low Threat Permit has a general mitigation measure that addresses hazardous materials. The requirements will include that any discharge that comes from groundwater located within a specific distance (approximately one half mile to 1 mile) of a known contaminated site, will be required to not only demonstrate that the discharge will meet water quality objectives and anti-degradation criteria, as required in Appendix A. Additional precautions will be required to ensure that any pumping near a contaminated site does not have the inadvertent effect of drawing in groundwater pollutants.

In addition, the BMP plan that must be submitted with each enrollment under the general low threat permit needs to identify how hazardous materials will be prevented from being discharged with the low threat discharge. Such BMPs could include the installation of monitoring wells between the contaminated site and the point from which groundwater will be pumped or additional monitoring of the discharge to ensure that it does not contain any contaminants. For the purposes of the proposed Amendment, however, it is sufficient for protection of the public and the environment from the release of hazardous materials into the environment associated with implementation of the proposed Amendment to require that all discharges be required to meet water quality objectives.

~~The implementation of non-structural BMPs to comply with the requirements of the Basin Plan would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.~~

The reasonably foreseeable structural BMPs that may be used to comply with the requirements of the ~~Basin Plan~~proposed Amendment would not be subject to explosion or the release of hazardous substances in the event of an accident because these types of substances would not be present. Again, there is the possibility that hazardous materials (e.g., oil, gasoline) may be present during construction and installation activities, but potential risks of exposure would be small, especially with proper handling and storage procedures. All risks of exposure would be short term and would be eliminated with the completion of construction and installation activities.

7. Hazards and Hazardous Materials: c.) Would the project:

Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Answer: Less than significant.

Discussion: Neither the low threat discharges that could occur under this ~~Basin Plan~~proposed Amendment nor the implementation of non-structural and structural BMPs that would potentially be used to comply with the requirements of this ~~Basin Plan~~proposed Amendment would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. Again, there is the possibility that hazardous materials (e.g., oil, gasoline) may be present during construction and installation activities, but potential risks of exposure would be small, especially with proper handling and storage procedures. All risks of exposure would be short term and would be eliminated with the completion of construction and installation activities.

7. Hazards and Hazardous Materials: d.) Would the project:

Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Answer: Less than significant.

Discussion: For a project to qualify as a low threat discharge under the criteria set out in the ~~Basin Plan~~proposed Amendment, the discharge cannot adversely affect beneficial uses of the receiving water and must comply with all applicable water quality objectives and criteria. In addition, to receive consideration for permit coverage as a low threat discharge, the project proponent must characterize the water proposed for discharge, and demonstrate that it does not contain any pollutants at concentrations that exceed Basin Plan water quality standards, California Toxic Rule (CTR) objectives, or any other standard or objective that has been promulgated for the protection of water quality and the beneficial uses of water. Because of these requirements, it is unlikely that any proposed discharge that comes from a place known to be a hazardous materials site could qualify as a low threat discharge under the ~~Basin Plan~~proposed Amendment. The discharge would likely contain pollutants that would disqualify from being considered low threat. In addition, any discharge within two miles of a known contaminated site will have additional precautions that will be set out in the proposed amendment to the low threat permit, Regional Water Board Order No. 93-61, *General NPDES Permit/Waste Discharge Requirements for Discharges of Groundwater to Surface Water Related to Construction and Subsurface Seepage Dewatering Activities in the North Coast Region*, to ensure that contamination is not drawn over from the contaminated site.

7. Hazards and Hazardous Materials: e.)
For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

Answer: No impact.

Discussion: For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, it is unlikely that the project result in a safety hazard for people residing or working in the project area.

7. Hazards and Hazardous Materials: f.)
For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

Answer: Less than significant.

Discussion: Under the unlikely possibly that a discharge of structural BMPs were located in the vicinity of a private airstrip, the project would not result in a safety hazard for people residing or working in the project area.

7. Hazards and Hazardous Materials: g.) Would the project:
Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Answer: No impact.

Discussion: Neither the discharges that occur under the proposed ~~Basin Plan~~ Amendment, nor the structural and non-structural BMPs would impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

7. Hazards and Hazardous Materials: h.) Would the project:
Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

Answer: No impact.

Discussion: Neither the discharges that occur under the proposed ~~Basin Plan~~ Amendment, nor the structural and non-structural BMPs would expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

8. Hydrology And Water Quality: a.) Would the project:
Violate any water quality standards or waste discharge requirements?

Answer: Less than significant with mitigation.

Discussion: Discharges that are permitted under the proposed ~~Low Threat Discharge~~ Amendment would not violate any water quality standards or waste discharge requirements. The discharges covered by this amendment are, by their nature, very low in pollutants. Where some pollutants of concern may be present, BMPs are required to protect water quality. In order to qualify as a low threat discharge, it must comply with all applicable water quality objectives and criteria.

Many of the waterbodies within the North Coast region are listed as impaired under section 303(d) of the Clean Water Act for sediment and temperature. By requiring the implementation of BMPs to reduce pollutants and the implementation of management plans to control non-storm water flows, it is anticipated that the proposed Amendment will have an overall beneficial impact on water quality. The creation of a regulatory process by which non-structural and/or structural BMPs are required for all low threat discharges will minimize the level of pollutants discharged to waterbodies and will help ensure that waterbodies will meet water quality objectives and that beneficial uses are protected.

Cumulative effects of small amounts of pollutants, particularly sediment, could potentially be a concern. However, the proposed Amendment is consistent with the Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region, which is also known as the Sediment TMDL Implementation Policy. The Sediment TMDL Implementation Policy requires Regional Water Board staff to control sediment pollution in impaired water bodies by using existing permitting and enforcement tools. Similarly, because these low threat discharges are short-term events, and require the implementation of BMPs to reduce

pollutants, and reductions in discharge volume rate to minimize potential impacts caused by erosion, potential cumulative effects are reduced. Regional Water Board staff will be able to track the location and timing of these low threat discharges. If multiple applications are submitted for discharges that are close enough to one another to raise the concern for cumulative impacts, staff may condition the timing of the permit coverage to reduce potential concerns regarding too many low threat discharges occurring too closely to one another.

Non-structural and/or structural BMPs that would likely be implemented to comply with the proposed ~~Basin Plan~~ Amendment would not result in any additional effect on surface waters. Because the proposed ~~Basin Plan~~ A~~a~~mendment will require that permittees implement all reasonable alternatives to surface water discharge and the implementation of structural BMPs, the current amount of runoff discharged to surface waters will likely be reduced and the amount of pollutants from low threat discharges reduced.

Hydrology And Water Quality: b.) Would the project:
Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

Answer: Less than significant.

Discussion: Neither low threat discharges that may occur under the proposed~~Basin Plan~~ Amendment nor the implementation of structural or non-structural BMPs to comply with the requirements of the proposed ~~Basin Plan~~ Amendment would substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. In some cases, ground water may be pumped and discharged to surface waters; however, this will be short-term, such as during initial well development. Because the proposed~~Basin Plan~~ Amendment requires a feasibility study analysis of alternatives to surface water discharge, it will encourage consideration of land discharge, which may actually result in increased groundwater recharge.

8. Hydrology And Water Quality: c.) Would the project:
Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

Answer: Less than significant.

Discussion: Neither low threat discharges that may occur under the proposed ~~Basin Plan~~ Amendment nor the implementation of structural or non-structural BMPs to comply with the requirements of the proposed ~~Basin Plan~~ Amendment would substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or

siltation on- or off-site. Because low threat discharges will be limited to that increment of wastewater that remains after reasonable alternatives for reclamation or disposal have been addressed, the volume and flow rate will be reduced, protecting the receiving waters from erosion. Because Regional Water Board staff will have the opportunity to review specific requests for low threat discharge, they will have the ability to require that the rate of the discharge be minimized in order to protect the receiving water from any erosion of the banks. Any potential impact caused by the alteration of the existing drainage patterns is, therefore, expected to be less than significant.

Construction of a structural BMP such as an infiltration basin could potentially cause a temporary alteration of the existing drainage pattern of a site. In most cases; however, ~~in most cases~~ these measures would be small scale~~enough~~ and of a temporary nature and thus would not cause any alteration of the existing drainage pattern on the land.

8. Hydrology And Water Quality: d.) Would the project:
Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

Answer: Less than significant.

Discussion: Neither low threat discharges that may occur under the proposed ~~Basin Plan~~ Amendment nor the implementation of structural or non-structural BMPs to comply with the requirements of the ~~Basin Plan~~proposed Amendment would substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site. The proposed ~~Basin Plan~~ Amendment will not result in the alteration of the course of any streams or rivers. Although the proposed ~~Basin Plan~~ Amendment will allow discharges of low threat water from certain types of activities to streams and rivers, the rate or amount of surface runoff will not be increased from that currently occurring from similar types of discharges that are currently occurring in the Region without any type of permitting or oversight. The ~~Basin Plan~~proposed Amendment will limit low threat discharges to that increment of wastewater that remains after reasonable alternatives for reclamation or disposal have been addressed, likely reducing the volume and flow of discharges. Also, the Regional Water Board staff will have the opportunity to review specific requests for low threat discharges, and will have the ability to require that the rate of the discharge be minimized in order to protect the receiving water and protect from any concerns of flooding on or off site.

8. Hydrology And Water Quality: e.) Would the project:
Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?

Answer: Less than significant.

Discussion: The low threat discharges that may occur under this ~~Basin Plan~~proposed ~~a~~Amendment would not contribute to runoff water which would exceed the capacity of

existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. First, as noted previously, the storm water and non-storm water discharges are already occurring; the ~~Basin Plan~~proposed Amendment would require that all such discharges be permitted and BMPs implemented to protect water quality. Second, the proposed ~~Basin Plan~~ Amendment would require, as a condition for not subjecting non-storm water discharges to the point source prohibition, that the storm water permittee implement a general management program to eliminate or minimize non-storm water discharges into surface waters. Similarly, for incidental discharges of low threat non-storm water flows, the permittee must consider alternatives to the incidental discharge event, such as measures for capturing the incidental discharge. The low threat discharges will also not provide substantial additional sources of polluted runoff because such discharges will be limited to those that do not~~, individually or cumulatively,~~ cause adverse affects on the beneficial uses of the receiving water. In addition, both proposed Amendment prohibits discharges that cause a nuisance (e.g. increased flooding)

8. Hydrology And Water Quality: f.) Would the project:
Otherwise substantially degrade water quality?

Answer: Less than significant.

Discussion: The low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment would not substantially degrade water quality. In fact, it is anticipated that by requiring permitting, implementation of BMPs, and monitoring of discharges that are currently often occurring without such measures, the proposed ~~Basin Plan~~ Amendment would not degrade water quality and will have a beneficial impact on water quality. Similarly, the implementation of general management programs designed to eliminate or minimize non-storm water discharges, including incidental runoff of recycled or potable water, will also reduce impacts to water quality that are currently occurring.

Currently, short-term discharges are occurring year-round from many categories of activities because there often are no feasible alternatives to all or part of the discharge. There are several categories of discharges that could be considered low threat, but many currently occur without permitting or the implementation of BMPs to lessen the amount of pollutants. The proposed ~~Basin Plan~~ Amendment includes requirements that must be met for a discharge to be considered low-threat, including consideration of alternatives to discharge to surface waters and implementation of BMPs to reduce pollutants in the discharge and protect the receiving water from any adverse impacts from the receiving water. Regional Water Board staff will be conducting outreach and education to the regulated community regarding the requirements necessary to be considered a low-threat discharge.

8. Hydrology And Water Quality: g.) Would the project:
Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.

8. Hydrology And Water Quality: h.) Would the project:
Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would place structures, within a 100-year flood hazard area, which would impede or redirect flood flows.

8. Hydrology And Water Quality: i.) Would the project:
Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.

8. Hydrology And Water Quality: j.) Would the project:
Cause inundation by seiche, tsunami, or mudflow?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Pla~~n Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would cause inundation by seiche, tsunami, or mudflow.

9. Land Use And Planning: a.) Would the project:
Physically divide an established community?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the non-structural or structural BMPs that would

potentially be used to comply with the requirements of the proposed Amendment would physically divide an established community.

9. Land Use And Planning: b.) Would the project:
Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

Answer: Less than Significant.

Discussion: The purpose of the proposed ~~Basin Plan~~ Amendment is to address the conflict that currently exists between conditions in existing and regional and statewide point source discharge permits that allow year-round low threat discharges and the existing point source prohibitions in the Basin Plan, which do not. The proposed ~~Basin Plan~~ Amendment would also alleviate problems with potential liability that existed for entities with MS4 and master water reclamation permits, which are unable to control or eliminate all non-storm water discharges to storm water systems, including incidental runoff. Although the proposed ~~Basin Plan~~ Amendment would change this existing conflict, it would nonetheless protect water quality and beneficial uses, which is the main objective of the Basin Plan. The proposed ~~Basin Plan a~~Amendment would, therefore, not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect, and would in fact create greater consistency between existing regional and statewide permits and the Basin Plan point source prohibitions.

9. Land Use And Planning: c.) Would the project:
Conflict with any applicable habitat conservation plan or natural community conservation plan?

Answer: Less than significant with mitigation.

Discussion: It is unlikely that the low threat discharges that occur under this proposed ~~Basin Plan~~ Amendment could conflict with the provisions of an adopted Habitat Conservation Plan or Natural Community Conservation Plan, as explained previously in the question 4(f), above. The low threat discharges will meet all water quality objectives and will protect beneficial uses of the receiving waters. The pollutants and flow rate will be minimized, and no discharges will be permitted if it would adversely affect a rare, threatened, or endangered species. Such restrictions are likely to make any discharge in alignment with any adopted Habitat Conservation Plan or Natural Community Conservation Plan.

Non-structural BMPs will not conflict with the provisions of any adopted Habitat Conservation Plan or Natural Community Conservation Plan.

Depending on the structural BMPs selected, direct or indirect impacts to existing fish or wildlife habitat may occur; however, any such impact would be temporary. BMPs that

may not have an impact when implemented in one area could potentially have an impact if they are implemented in a sensitive area. Therefore, when installing structural BMPs that may include substantial earth movement, permittees will be required under their applicable permit, to consult with various Federal, State and local agencies, including but not limited to the county the project is located in, CDFG and the USFWS. If appropriate to avoid conflicts with any Habitat Conservation Plan or Natural Community Conservation Plan, the timing and/or location of the BMPs may be adjusted to reduce any potential conflict with any Habitat Conservation Plan or Natural Community Conservation Plan. If, however, such adjustments could not be made, the BMP would have to be changed to avoid any adverse impacts to rare, threatened, or endangered species, or the discharge would not be permitted to occur.

Because of these mitigation requirements, conflict with the provisions of an adopted Habitat Conservation Plan or Natural Community Conservation Plan.

10. Mineral Resources: **a.)** Would the project:
Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state.

10. Mineral Resources: b.) Would the project:
Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

11. Noise: a.) Would the project result in:
Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under the proposed ~~Basin Plan~~ Amendment nor the non-structural BMPs that may be implemented to comply with the requirements of the proposed ~~Basin Plan~~ Amendment would result in

increases in exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

The implementation of some structural BMPs may result in increased noise levels. Such increased noise levels would likely be associated with heavy equipment operation associated with construction of settling or filtration basins. These impacts would, however, be temporary, and are, therefore, not considered to be a significant impact.

11. Noise: b.) Would the project result in:
Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this proposed~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would result in the exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.

11. Noise: c.) Would the project result in:
A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this proposed~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

11. Noise: d.) Would the project result in:
A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under the proposed ~~Basin Plan~~ Amendment nor non-structural BMPs that may be implemented to comply with the requirements of the proposed Amendment would result in a substantial temporary nor periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

The construction and installation of some structural BMPs, such as filtration or settling basins, could result in temporary increases in existing noise levels, but this would be short term and only exist until construction is completed. The noise associated with the construction and installation of structural BMPs would be the same as typical

construction activities in urbanized areas, such as ordinary road and infrastructure maintenance and building activities. Although noise will be increased in the vicinity of where BMPs requiring heavy equipment use are constructed, these noise impacts will not be substantial, such as an explosions or pile driving.

11. Noise: e.) Would the project result in:
For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this proposed~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would be likely be located within an airport land use plan or within two miles of a public airport or public use airport. However, even if this were to occur, neither the potential discharges nor the reasonably foreseeable BMPs would result in excessive noise levels. The use of heavy equipment for the construction and installation of some structural BMPs could result in temporary increases in existing noise levels, but the noise associated with heavy equipment use is not any louder than noises that would typically occur within two miles of an airport.

11. Noise: f.) Would the project result in:
For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this proposed~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would likely be located in the vicinity of a private airstrip. However, even if this were to occur, neither the potential discharges nor the reasonably foreseeable BMPs would result in excessive noise levels. The use of heavy equipment for the construction and installation of some structural BMPs could result in temporary increases in existing noise levels, but the noise associated with heavy equipment use is not any louder than noises that would typically occur within the vicinity of a private airstrip.

12. Population And Housing: a.) Would the project:
Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially

be used to comply with the requirements of the proposed Amendment would induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure).

12. Population And Housing: b.) Would the project:
Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.

12. Population And Housing: c.) Would the project:
Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

13. Public Services: a~~b~~.)
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would have an effect upon, or result in a need for new or altered fire protection services.

13. Public Services: b.)
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Police protection?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would have an effect upon, or result in a need for new or altered police protection services.

13. Public Services: c~~b~~.)
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Schools?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would have an effect upon, or result in a need for new or altered schools or school services.

13. Public Services: d~~b~~.)

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Parks?

Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the non-structural or structural BMPs that would

potentially be used to comply with the requirements of the proposed Amendment would have an effect upon, or result in a need for new or altered parks.

13. Public Services: e~~b~~.) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: Other public facilities?
Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would have an effect upon public facilities.

14. Recreation: a.) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.

14. Recreation: b.) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?
Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

15. Transportation/Traffic: a.) Would the project: Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?
Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections).

Depending on the structural BMPs selected for implementation, temporary alterations to present patterns of circulation or movement of people and/or goods may be required during construction and installation activities. For example, putting mats over storm drain inlets to increase the settling out of pollutants before discharge to the storm drain could cause water to backup into the road, causing traffic to slow down. The potential impacts would be limited and short-term, and therefore, insignificant.

15. Transportation/Traffic: b.) Would the project: Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?
Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would exceed~~, either individually or cumulatively,~~ a level of service standard established by the county congestion management agency for designated roads or highways.

15. Transportation/Traffic: c.) Would the project: Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?
Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would result in a

change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

15. Transportation/Traffic: d.) Would the project: Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses.

Some structural BMPs, such as mats over storm drain inlets to increase the settling out of pollutants before discharge to storm drains, may temporarily increase hazards in a roadway. Water may backup, causing cars to maneuver around the area. The potential impacts would, however, be limited and short-term, and therefore, insignificant.

15. Transportation/Traffic: e.) Would the project: Result in inadequate emergency access?
Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would result in inadequate emergency access.

15. Transportation/Traffic: f.) Would the project: Result in inadequate parking capacity?
Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would result in inadequate parking capacity.

15. Transportation/Traffic: g.) Would the project: Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?
Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this proposed ~~Basin Plan~~ Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks).

16. Utilities and Service Systems: a.) Would the project: Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?
Answer: Less than significant with mitigation.

Discussion: One of the foreseeable means of complying with the proposed ~~Basin Plan~~ Amendment is to discharge low threat waters to sanitary sewer systems. No permit would be required from the Regional or State Water Board for such disposal; however, permission and permitting from the treatment work is required for any such disposal. It is unlikely that such disposal methods would cause any exceedance of wastewater treatment requirements. The owner of a treatment work cannot grant permission if there is not sufficient capacity or capability to treat the wastewater. To do otherwise would subject the treatment work to administrative civil penalties for permit violations.

16. Utilities and Service Systems: b.) Would the project: Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?
Answer: Less than significant.

Discussion: One of the foreseeable means of complying with the proposed ~~Basin Plan~~ Amendment is to discharge low threat waters to sanitary sewer systems. No permit would be required from the Regional or State Water Board for such disposal; however, permission and permitting from the wastewater treatment provider would be required. It is unlikely that such disposal methods would result in a wastewater treatment provider needing to expand existing treatment facilities. If treatment capacity did not exist, the treatment provider would simply deny the option of discharge to the sanitary sewer system. The owner of a treatment work cannot grant permission if there is not sufficient capacity or capability to treat the wastewater. To do otherwise would subject the treatment work to administrative civil penalties for permit violations.

Similarly, the amount of additional discharge that may occur to the sanitary sewer system from the low threat discharges would not be of sufficient quantity to facilitate an expansion of a wastewater treatment facility.

The ~~Basin Plan~~proposed Amendment is not, therefore, expected to require of new water or wastewater treatment facilities, or result in the expansion of such facilities.

16. Utilities and Service Systems: c.) Would the project: Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?
Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under the ~~Basin Plan~~proposed Amendment nor the non-structural BMPs that may be implemented to comply with the requirements of the ~~Basin Plan~~proposed Amendment will result in a need for new storm water systems or the expansion of existing facilities. The volume of non-storm water discharges to the sanitary sewer system is not expected to increase under the ~~Basin Plan~~proposed Amendment. In fact, because one of the requirements under the ~~Basin Plan~~proposed Amendment is for a storm water system permittee to implement a general management program to eliminate or minimize non-storm water discharges into surface waters, the volume of non-storm water discharges to storm water systems is expected to decrease.

One of the foreseeable means of complying with the proposed ~~Basin Plan~~ Amendment is minor reconfiguration and/or retrofitting of storm water drains with structural BMPs to capture and/or treat a portion or all of the storm water runoff. This may include adding valves or inlet filters to storm drains. Any impacts from construction activities to retrofit or reconfigure the storm drain system as part of BMP installation would have to under go additional analysis by the municipality that owned the storm water system. Any impacts resulting from such construction would likely be minimal and temporary in nature, and are therefore considered insignificant.

16. Utilities and Service Systems: d.) Would the project: Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?
Answer: No impact.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the non-structural or structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment require a water supply source.

16. Utilities and Service Systems: e.) Would the project: Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?
Answer: Less than significant.

Discussion: One of the foreseeable means of complying with the proposed ~~Basin Plan~~ Amendment is to discharge low threat waters to sanitary sewer systems. No permit would be required from the Regional or State Water Board for such disposal; however, permission and permitting from the wastewater treatment provider would be required. It is unlikely that such disposal methods would result in a wastewater treatment provider not having sufficient capacity to serve the low threat disposal and the treatment provider's existing commitments. The owner of a treatment work cannot grant permission if there is not sufficient capacity or capability to treat the wastewater. To do otherwise would subject the treatment work to administrative civil penalties for permit violations.

16. Utilities and Service Systems: f.) Would the project: Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?
Answer: Less than significant.

Discussion: Neither the low threat discharges that may occur under this ~~Basin Plan~~proposed Amendment nor the non-structural BMPs that would potentially be used to comply with the requirements of the proposed Amendment would generate solid wastes.

Construction and implementation of structural BMPs may generate solid wastes requiring disposal. Debris created from construction of BMPs, such as settling basins, will require disposal. Sediment and solid waste collected by BMPs, such as inlet filters and sand bags or mats over storm drains, must also be properly disposed of. The amount of waste needing disposal, however, will be very minimal, and could therefore be served by an existing landfill.

16. Utilities and Service Systems: g.) Would the project: Comply with federal, state, and local statutes and regulations related to solid waste?
Answer: Less than significant.

Discussion: As noted above, implementation of structural BMPs to comply with requirements of the Basin Plan Amendment will generate very little solid waste. There

will, therefore, be no problems with compliance with federal, state, and local statutes and regulations related to solid waste disposal.

17. Mandatory Findings of Significance:

Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Answer: Less than significant with mitigation.

Discussion: Discharge from categories of activities that have been identified as potentially posing a low threat to water quality under the proposed Basin Plan Amendment could have the potential to degrade the quality of the receiving waters and impact fish species if they were not properly controlled. Before any discharge can be considered low threat, and given an exemption from the Basin Plan point source prohibitions, the discharger will have to demonstrate that the discharge meets the criteria set forth in the *Draft Action Plan for Low Threat Point Source Discharges*, set out in Appendix A of this Staff Report, which include:

1. The discharge shall not adversely affect the beneficial uses of the ~~receiving~~ surface water or cause a condition of nuisance.~~, either individually or cumulatively.~~

2. The discharge shall comply with all applicable water quality ~~standards~~objectives.

~~3. The discharge complies with the requirements of State and federal antidegradation policies, including a demonstration that the discharge:~~

~~a. Is consistent with maximum benefit to the people of the State;~~
~~b. Will not unreasonably affect present and anticipated beneficial use of high quality waters and will not result in water quality less than that prescribed in adopted policies; and~~
~~c. Best practicable treatment or control of the discharge will be implemented to assure that pollution and nuisance will not occur, and the highest water quality consistent with maximum benefit to the people of the State will be maintained.~~

3. Best practicable treatment or control of the discharge shall be implemented to assure that pollution and nuisance will not occur, and the highest water quality consistent with maximum benefit to the people of the State will be maintained.

4. The discharge is necessary because no feasible alternative to the discharge (reclamation, evaporation, infiltration, discharge to a sanitary sewer system, etc.) is available.

5. The discharge is limited to that increment of wastewater that remains after implementation of all reasonable alternatives for reclamation or disposal.

6. The discharge is regulated by NPDES Permit/Waste Discharge Requirements.

Each potential discharger must submit an application (NOI or ROWD) for permit coverage that includes the following information that is necessary in order for Regional Water Board staff to evaluate whether a proposed discharge qualifies as a low threat discharge and for the Basin Plan exception:

- Evaluation of alternatives to discharging to surface waters and demonstration that any discharge to surface waters is limited to that increment of discharge that remains after reasonable alternatives for reclamation, sewer disposal, or land disposal have been exhausted;
- Characterization of the proposed discharge, including a demonstration that the discharge will not contain pollutants or constituents at concentrations that exceed Basin Plan water quality standards, California Toxic Rule objectives, or any other standard or objective promulgated to protect water quality and beneficial uses;
- Description of the flow rates, volume and duration of discharge, including a demonstration that the discharge of waste will be limited to rates, volume and constituent levels that protect the beneficial uses of the receiving water;
- Demonstration that the discharge complies with State Water Board Resolution No. 68-16, “Statement of Policy with Respect to Maintaining High Quality Waters in California” and the federal regulations addressing antidegradation;
- A pre-project characterization of the receiving water, including a description of channel characteristics (e.g., width, depth, substrate, presence or absence of water at time of proposed discharge, approximate creek flow rate, etc.), bank characteristics (e.g., slope, presence or absence of vegetation, vegetation type and density, signs of bank instability), and identifiable instream beneficial uses (e.g., identify presence of aquatic life, including aquatic insects and fish and any rare, threatened or endangered species; water contact recreation), and photographs showing representative features of the receiving water;
- Development and implementation of a management plan that includes the suite of BMPs that will be used to protect the receiving water from any adverse impacts of the discharge as well as the inspection, maintenance and reporting schedule.

Similarly, non-storm water discharges that reach receiving waters through the municipal storm water system also will be allowed during the point source discharge prohibition period if they are managed in conformance with the provisions of the applicable NPDES storm water permit, will not individually or cumulatively cause adverse effects on the beneficial uses of the receiving water, and the NPDES permittee implements a general management program, approved by the Regional Water Board, that eliminates or minimizes non-storm water discharges into surface waters. The management program

must include BMPs, outreach and education, inspections, monitoring and enforcement provisions. Incidental discharges that are the result of negligent maintenance or poor infrastructure design are not exempt, and there must be a management plan in place that identifies best management practices designed to avoid, minimize, or mitigate incidental runoff events.

All of these requirements will likely improve water quality from the current baseline, where many discharges of potentially low threat water are occurring without these additional protections.

Non-structural BMPs will not result in the substantial degradation of the environment for plant and animal species because none of the non-structural BMPs would have any physical effects that could degrade the environment or impact plant or animal species.

As discussed above, under category 4 Biological Resources, plant and animal species could potentially be adversely affected by the installation and operation of structural BMPs that involve substantial earth movement. If a discharger seeking to be exempted from the point source prohibitions proposed installation of a BMP that would require substantial earth movement, the discharger would be required to consult with federal, state and local agencies, including but not limited to the county the project is located in, CDFG and the USFWS, and implement mitigation identified by the agencies to avoid impacts to rare, threatened or endangered species. If no such mitigation is available, the discharge would not be permitted. In most cases the installation of structural BMPs would be temporary, and any impacts could avoided by adjusting the timing and/or location of the BMPs to take into account any candidate, sensitive, or special status species or their habitats.

The potential impacts of the project will not cause a significant cumulative impact in the environment. In fact, the adoption of this Basin Plan Amendment should result in improved water quality in the waters of the Region and will have significant beneficial affects on the environment over the long term.

17. Mandatory Findings of Significance:

Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Answer: Less than significant.

Discussion: Cumulative impacts, defined in section 15355 of the CEQA Guidelines, refer to two or more individual effects, that when considered together, are considerable or that increase other environmental impacts. Cumulative impact assessment must consider not only the impacts of the proposed Amendment, but also the impacts from other Basin Plan Amendments, municipal, and private projects, which have occurred in the past, are presently occurring, and may occur in the future, in the watershed during the period of implementation.

As previously described, many discharges that the Regional Water Board has identified as potentially low threat in nature that are already occurring during the prohibition period because there are often no practical alternatives. These discharges are related to activities that are vital to community development activities, such as construction and the provision of reliable water supply (e.g. well development and pipeline maintenance and repair). By providing a regulatory program that allows the discharges to occur under prescribed conditions, and setting criteria that must be met before an exemption to the point source prohibitions are provided, a higher degree of water quality protection can be achieved. In addition, the Regional Water Board's involvement in the permitting of these low threat discharges will provide some ability to schedule multiple projects within a watershed, thereby reducing the potential for multiple projects to being proceeding simultaneously.

Cumulative effects of small amounts of pollutants, particularly sediment, could potentially be a concern. However, the proposed Amendment is consistent with the Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region, which is also known as the Sediment TMDL Implementation Policy. The Sediment TMDL Implementation Policy requires Regional Water Board staff to control sediment pollution in impaired water bodies by using existing permitting and enforcement tools. Similarly, because these low threat discharges are short-term events, and require the implementation of BMPs to reduce pollutants, and reductions in discharge volume rate to minimize potential impacts caused by erosion, potential cumulative effects are reduced.

The use of recycled water for irrigation is increasing, independent of this ~~Basin Plan~~proposed Amendment. The Legislature has set a goal in the California Water Code of recycling one million acre-feet of water per year by 2010. (Water Code ~~§~~section13577). The Water Code also states that the use of potable water for non-potable uses, including, but not limited to irrigation of cemeteries, golf courses, parks, highway landscape areas, and industrial uses is a waste and unreasonable use of water if recycled water is available that meets specified conditions for its use. (Water Code ~~§~~ section 13550).

The proposed Amendment is also consistent with the Recycled Water Policy[24] adopted by the State Water Board in February 2009. The purpose of the Recycled Water Policy is to increase the use of recycled water from municipal wastewater sources that meet the definition in Water Code Section 13050(n), in a manner that implements state and federal water quality laws. The Recycled Water Policy states that "the State Water Board and Regional Water Boards will exercise the authority granted to them by the Legislature to the fullest extent possible to encourage the use of recycled water, consistent with state and federal water quality laws." The State Board is also charged by statue with developing a general permit for irrigation uses of recycled water.

The State Water Board too has supported water recycling efforts in a number of ways, including by providing financial support to water recycling projects, such as the Santa Rosa Urban Reuse Program, which is intended to provide a billion gallons of recycled water per year. In addition, other communities within the North Coast region have

[24] Recycled Water Policy, Staff Report and Certified Regulatory Program Environmental Analysis, State Water Resources Control Board, February 2009. http://www.swrcb.ca.gov/water_issues/programs/water_recycling_policy/

recycled water programs, and have indicated interest in expanding the production and use recycled water within the region.

The Mediterranean climate and the cyclical nature of the Region's weather patterns results in extremely lows flow (if not no flows) in many stream systems during portions of the year. Discharge of recycled water into these minimally flowing surface waters could result in adverse impacts to the beneficial uses of water if not managed properly. Before an exception would be granted under the proposed Amendment, an approved management plan (SWMP) would need to contain the BMP program that would be put in place to prevent incidental discharge from all sources (potable and recycled). This should lead to an overall decrease in these type of runoff events.

The increasing use of recycled water within the North Coast region and statewide has raised concerns regarding the potential increased human and environmental exposure of chemicals related to personal products and pharmaceuticals. These products are not removed during wastewater treatment. Although concern about the potential impacts of exposure has grown significantly in the last few years, there is still a great deal of research to be done on this issue. This is an issue of statewide concern whose implications are not limited to recycled water use. The Regional Water Board expects the State Water Board and Department of Health will be taking a lead role in addressing these concerns in the future.

The implementation of this Basin Plan will not directly affect the issue of exposure to chemicals related to personal products and pharmaceuticals. Although this Basin Plan Amendment provides an exception to the Basin Plan for incidental runoff of recycled and potable irrigation water if certain conditions are met, it does not explicitly encourage recycled water use. The decision to implement recycled water projects, and the analysis and the mitigation of the environmental impacts of those decisions, are being made by individual municipalities. The implementation of the Basin Plan amendment will provide additional protection to surface waters in the region by requiring recycled water users implement management plans to avoid, minimize or mitigate incidental runoff incidents.

Structural BMPs that may be implemented are not likely to have cumulative impacts on the environment. Implementation of most of the structural BMPs for low threat discharges will be short-term, and will not have significant adverse effects on the environment. BMPs that involve substantial earth movement could have potentially significant cumulative impacts. However, the because the Regional Water Board staff will be involved in approval of these discharges, there will be the opportunity to limit the potential for cumulative impacts by ensuring that multiple projects that propose to implement BMPs that may cause short-term impacts are phased appropriately to limit potential cumulative impacts.

17. Mandatory Findings of Significance:

Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Answer: Less than significant

Discussion: As explained previously, the ~~Basin Plan~~proposed Amendment will improve water quality by providing a regulatory process to govern discharges from certain categories of activities. These discharges are currently occurring during the discharge prohibition period, often without BMPs in place to minimize the pollutants that may be present or reduce the volume and rate of flow. To be considered "low threat," all discharges will be required to meet water quality objectives and not cause an adverse effect on the beneficial uses of receiving waters or nuisance conditions. The discharges will generally be short-term or periodic in nature and the volume, rate, and the pollutant load of the discharge must be minimized to the greatest extent possible by the use of BMPs and other disposal alternatives. The Basin Plan Amendment will require dischargers to go through an analysis of the discharge to ensure that it will not impact receiving waters and that alternatives to surface water discharge are considered and to implement BMPs to ensure water quality of the receiving water is protected.

All of the potentially significant impacts to human beings from the implementation of BMPs are either short-term in nature, or can be mitigated to acceptable levels, as previously discussed.

7.1 Alternative Means of Compliance

The CEQA requires an analysis of reasonably foreseeable alternative means of compliance with the rule or regulation, which would avoid or eliminate the identified impacts.[25] The permittees can use the structural and non-structural BMPs described in section 3, or other structural and non-structural BMPs, to control and prevent pollution, and meet the requirements of the Basin Plan Amendment. The alternative means of compliance with the Basin Plan Amendment consist of the different combinations of structural and non-structural BMPs that the permittees might use. Because there are innumerable ways to combine BMPs, all of the possible alternative means of compliance cannot be discussed here. However, because most of the adverse environmental effects are associated with the construction and installation of large scale structural BMPs, to avoid or eliminate impacts, compliance alternatives should minimize structural BMPs, maximize non-structural BMPs, and site, size, and design structural BMPs in ways to minimize environmental effects.

8. CEQA Determination

The implementation of this proposed ~~Basin Plan~~proposed Amendment will result in no significant adverse impacts that cannot be reduced to levels of insignificance with mitigation. As explained previously, there are currently discharges from the categories of projects that have been identified in Table 4 that are occurring without permitting and without BMPs being implemented to reduce the levels of pollutants from those discharges, and reduce the duration, volume and rate of the flow. Requiring these discharges to meet the criteria set out in Appendix A or B (the ~~Basin Plan~~proposed Amendment) before they are permitted, requiring monitoring of those discharges, and

[25] Cal. Code Regs., tit. 14, § 15187(c)(3).

requiring BMPs to be implemented prior to discharge will result in overall benefits to water quality.

Implementation of BMPs could result in temporary adverse impacts to the environment. All of these impacts, however, can be reduced to levels of less than significant with mitigation. For example, implementation of BMPs that require substantial earth movement, such as the construction of filtration or settling basins, could result in significant impacts if they were conducted in sensitive areas. To alleviate any such impacts, dischargers will be required to consult with federal, state and local agencies, including but not limited to the county the project is located in, CDFG and the USFWS, and implement mitigation identified by the agencies to avoid impacts to rare, threatened or endangered species. If no such mitigation is available, the discharge would not be permitted. In most cases the installation of structural BMPs would be temporary, and any impacts could avoided by adjusting the timing and/or location of the BMPs to take into account any candidate, sensitive, or special status species or their habitats. These mitigation measures will be required as part of the permitting of the low threat discharges to ensure that there are no significant adverse environmental impacts.

The Staff Report, the ~~draft Basin Plan~~proposed Amendment, and the Environmental Checklist and associated analysis provide the necessary information pursuant to state law to conclude that the proposed Amendment, and the associated reasonably foreseeable methods of compliance (i.e. BMPs) will not have a significant adverse effect on the environment.

The implementation of the Amendment is both necessary and beneficial. Currently, the Basin Plan point source prohibitions are inconsistent with regional and statewide general permits that permit year-round discharges of low threat water to surface waters. By providing a regulatory process by which these discharges can occur, and at the same time protecting water quality and beneficial uses by requiring the implementation of BMPs, water quality will benefit. The Regional Water Board will provide education and outreach to the regulated community in order to implement these requirements. In addition, any temporary adverse impacts that may be caused by the implementation of BMPs will be far outweighed by the benefits that the proposed Amendment provides to water quality and to the regulated community at large, who are concerned about potential liability for those low threat discharges that currently occur during the point source prohibition period.

In accordance with state law, the North Coast Regional Water Board finds that the proposed Amendment, with the identified mitigation measures, will not have a significant adverse impact on the environment, revisions in the project to avoid or substantially lessen the impacts. This finding is supported by the evidence provided in the impact evaluation section of this document, which indicates that all foreseeable impacts are either short-term or can be readily mitigated.

9. Reasonably Foreseeable Methods of Compliance at Specific Sites

Reasonably foreseeable compliance methods are the BMPs that permittees could reasonably be assumed to use to prevent and low threat discharges to surface waters.

Non-storm water discharges will be required to be prevented and minimized through the implementation of a m~~M~~anagement p~~P~~lan approved by the Regional Water Board Executive Officer that proposes implementing a combination of both structural and non-structural BMPs, based on the nature and extent of the discharge, such as the examples listed in Table 4 of this Staff Report. Although consideration of site specific conditions will be required, it is unlikely that the BMP selection will vary much from site to site as storm water discharges are anticipated to be occurring in urban areas and the land use will not significantly affect the BMP selection in most cases. Some examples of storm water discharges include: swimming pool discharges, recycled and potable irrigation runoff, and construction dewatering. Dechlorination of swimming pool water will be required prior to discharge to the storm drain. In addition, infiltration of the discharge into the ground is an alternative option, and in most cases the preferred method, to discharging to the storm drain. Recycled and potable water irrigation would require BMPs such as low flow emitters or drip irrigation systems in order to minimize the potential for runoff. Common BMPs that are used for construction dewatering include silt fences and straw bales and sediment removal through settling or filtration basins.

Site specific conditions are more applicable in the case of planned low threat discharges, which will need to be considered prior to selection and implementation of BMPs for such discharges. In addition to consideration of land use in the project area, the BMPs that will be appropriate to control pollutants and discharge rate, flow and duration will in part depend upon the receiving water. Waterbody specific information about the receiving water is one of the primary issues staff will consider when reviewing a low threat discharge permit application. Waterbody specific information includes such things as the beneficial uses of the water associated with that waterbody, whether the waterbody is listed as impaired, and the nature of the watercourse (e.g. main stem of a river, a mid-sized tributary stream, or ephemeral in nature).

Some of the BMPs that would be appropriate for different types of surface waters, such as the main stem of a river, a mid-sized tributary stream and an ephemeral stream, are discussed below in the context of a low threat discharge originating from construction dewatering, well water supply development or pumping, or maintenance of water supply lines, all of which could produce large volumes of water to the receiving water. These examples provide a perspective on how the type of receiving water at issue will affect the Regional Water Board's analysis prior to discharge.

One main concern that must be addressed in considering the potential impacts of a low threat discharge on a waterbody is the impact of the flow on the waterbody. Larger waterbodies, such as the main stem of a river, can generally accommodate higher quantities (flows) of water from low threat discharges over a longer time period with less risk of environmental impacts (e.g. stream bank erosion, alteration of habitat conditions) due to the size of the existing channel morphology and the year-round nature of the surface flow. Beneficial uses of concern in such a waterbody would, in most cases include some of the most sensitive uses including, but not limited to: rare and endangered species (RARE), spawning, reproduction, and/or early development (SPAWN), cold freshwater habitat (COLD), and municipal and domestic water supply (MUN). In order to protect water quality and the beneficial uses, implementation of BMPs shown in Tables 4 and 4.1, such as silt fences, waddles, and vegetation could be

used to prevent erosion, and the discharge of sediment into the water body. In addition, sediment could be removed from the discharge through the use of settling or filtration basins. No discharge would be permitted as a low threat discharge if it did not meet the criteria set out in Appendix A, which includes compliance with water quality objective, protection of beneficial uses, and compliance with anti-degradation requirements. In addition, any potential temporary environmental impacts of the BMPs would need to be considered and potentially mitigated as demonstrated in Table 4.2.

In instances where potentially high volume discharge would occur to a small sized stream or tributary, in addition to complying with requirements with Appendix A, BMPs would likely be required to reduce the risk of accelerated stream bank erosion and the alteration of aquatic habitat caused by increased stream flow. Such BMPs would include restrictions on the discharge volume and rate of discharge, and could possibly include more stringent requirements on the time period in which the discharge occurs. In addition, consideration of an alternative to surface water discharge would also be made in order to reduce flow in order to protect water quality and the beneficial uses of the stream.

In the case of a proposed discharge to an ephemeral stream, the potential impacts from increased flows could result in significant erosion to the existing channel, adverse impacts to biotic resources, and nuisance (e.g. inducing vectors, such as mosquitoes). In some cases, staff could not approve a discharge to a waterbody where flows are seasonal if it significantly affected the timing and use of the waterbody by aquatic life. However, in many cases, a discharge to an ephemeral stream could be considered during the time that it is dry without creating problems if it is done with BMPs to prevent erosion or standing water.

In each of these locations, some common concerns regarding the discharge of low threat water remain the same. No matter what type of waterbody is receiving the low threat discharge, permittees would be required, at a minimum, to meet specific requirements to protect water quality and beneficial uses. These conditions are outlined in the Low Threat Discharge and Storm Water Action Plans as well as the revised General Permit. Additional requirements; however, may be required, depending on the receiving water.

10. ECONOMIC FACTORS

10.1 Economic Guidelines

As described above, CEQA requires that the environmental analysis for a rule or regulation that requires the installation of pollution control equipment for the establishment of a treatment requirement or performance standard take into consideration a reasonable range of economic factors. No guidance, however, exists on how this should be conducted.

U.S. Environmental Protection Agency (US EPA) issued guidelines for conducting economic analysis in the course of evaluating environmental policies.[26] Although the guidelines pertain to economic analysis conducted by the US EPA and contractors, the

[26] Guidelines for Preparing Economic Analysis, U.S. Environmental Protection Agency, September, 2000.

principals, concepts and methods are well suited to analysis conducted by other public agencies. The US EPA guidelines identify four types or levels of economic analysis in evaluating proposed environmental policies, regulations, or actions:

1. a general equilibrium analysis to estimate net welfare changes;
2. a benefit cost analysis to estimate changes in social net benefits;
3. an economic impact analysis to identify and assess the gainers and losers; and
4. an equity assessment to identify disadvantaged sub-populations.

10.2 Background

As stated in section 1.2, the environmental analysis required by the CEQA must take into account a reasonable range of economic factors. This section on economic factors contains an estimate of the costs of implementing the reasonably foreseeable methods of compliance with the proposed ~~Basin Plan~~ Amendment. Specifically, this analysis estimates the costs of implementing the structural and non-structural BMPs, discussed in section 4, which could foreseeably be used to comply with the requirements of the ~~Basin Plan~~proposed Amendment and low threat permit, which requires indentifying treatment and/or BMPs to reduce/remove pollutants. A majority of the BMPs and treatment methods identified are already being required by the Regional Water Board for many types of discharges (see section 2 of the Staff Report for discussion of staff's current practice for handling low threat discharges). Permittees that have not implemented BMPs are receiving an economic advantage over discharges that implement BMPs for their projects to protect water quality. On the other hand, compliance with the Basin Plan point source prohibitions can be very costly in some circumstances because it requires finding alternatives to surface water discharge.

10.3 New Action Plan for Low-Threat Discharges

Planned, short-term discharges from definable projects that are currently allowed under regional and statewide point source discharge permits, but prohibited under the existing Basin Plan are the subject of the Basin Plan action plan being proposed. The new action plan provides requirements that must be met for a low threat point source discharge to be exempted from the point source prohibitions. The proposed Amendment would not alter or remove the discharge prohibition section of the Basin Plan. The adoption of the Low Threat Action Plan and the low threat permit will make the Basin Plan consistent with current discharge practices, and will improve staff effectiveness in regulating low-threat discharges.

Because the proposed Action Plan for Low Threat Discharges requires the implementation of BMPs, it arguably is creating additional costs for permittees; however, any discharge to surface waters during the prohibition period is currently inconsistent with the point source prohibitions and subjects a discharger to potential liability. To be consistent with the Basin Plan would require alternatives to surface water discharges during the point source prohibition period, which could be very costly. In addition to cost of implementing BMPs, the permittees will also have costs related to characterizing their discharge and the receiving water prior to discharge, and inspection, maintenance and reporting requirements.

10.4 Revised Action Plan for Storm Water Discharges

The Storm Water Action Plan provides an exception from the point source prohibitions for non-storm water discharges, provided that certain conditions are met. Certain low threat non-storm water flows identified in individual and general storm water permits, and incidental discharges of low threat non-storm water flows from permitted storm water conveyance systems are exempt provided that the permittee and/or the potable/recycled water user has a management plan, approved by the Regional Water Board Executive Officer, that identifies BMPs designed to avoid, minimize or mitigate incidental runoff incidents. Implementing BMPs to eliminate, avoid, minimize, or mitigate non-storm water discharges into surface waters will increase costs for those dischargers that are not currently implementing BMP, however, under the current general and individual storm water permits,

The proposed Storm Water Action Plan requires that storm water meet the following requirements:

1. The discharge and the activities which affect the discharge are managed in conformance with the provisions of the applicable NPDES permit.

2. The discharge does not cause adverse effects on the beneficial uses of surface water or cause a condition of nuisance. Discharges of storm water from regulated MS4s by municipalities whose NPDES storm water permits do not contain numeric effluent limitations are considered in compliance with this requirement as long as they are implementing the iterative BMP process set forth in their approved storm water management plan.

The proposed Storm Water Action Plan also requires that only authorized non-storm water discharges addressed under the approved SWMP can legally be discharged.

10.5 Cost Estimates of Typical BMPs and Treatment

For each discharge that may be permitted as a low threat discharge, specific BMPs must be identified by the permittee. The cost of compliance with the proposed Amendment will, therefore, depend on what suite of BMPs a permittee decides to implement. For purposes of this analysis, the costs of the different types of BMPs that may be implemented by a permittee are estimates; actual costs will vary depending on factors such as size and location of the implementation of the BMPs. Table 10.1 below, summarizes the estimated costs of implementing the BMPs identified in Table 4.

TABLE 10.1 Summary of Cost Estimates for Structural BMPs

BMP	Estimated Cost
Settling Basin	$2,000/acre*
Filtration Basin	$10,000/acre**
Sprinkler Irrigation	$600-1,000/acre***
Storm drain valves	$1,000-4,200/each+

BMP	Estimated Cost
Storm drain inlet filters	$5,000-35,000[++] /impervious acre
Storm drain inlet diverters (hydrodynamic separator)	$7,500 – 34,000/each 36”-96”[++]
Pumps (portable motor driven 1,800 – 3.600gpm)	$30,000-50,000[+++]
Use of holding tanks	$68-5,000[#]
Dechlorination (Sodium Thiosulfate)	$10/500grams[##]
Sand bags/mats over drain (pre-filled)	$1.50-$2.00 /each[###]
Drip irrigation system	$800-1,600/acre[***]
Flow segregation	$6,800/acre**

Costs were obtained from:
[*]USEPA, 1999. Preliminary Data Summary of Urban Storm Water Best Management Practices. (EPA-821-R-99-012). August 1999.
[**] bmpdatabase.org
[***] Home Depot (Santa Rosa)
[+] ryanherco.com
[++] Kristar Enterprises, www.Kristar.com
[+++] Rain For Rent, www.Rainforrent.com
[#] tank-depot.com
[##] sciencecompany.com
[###] www.cabmphandbooks.com

10.6~~7~~ Cost Estimates for Receiving Water and Discharge Characterization and Surface Water Monitoring

In addition to estimating the estimated cost of implementing BMPs, this analysis of the reasonable range of economic considerations also considered additional costs that will likely be associated with the reasonably foreseeable methods of complying with the proposed Amendment. Such additional costs included:

- Costs associated with collecting, transporting, and analyzing a water sample for a range of pollutants that would be determined on a case-case-basis. These analysis might include metals (copper, lead, zinc, mercury, nickel, silver, etc), trihalomethanes (dichlorobromomethane, chlorodibromomethane, chlorform, bromoform), volatile organic hydrocarbons, and total petroleum hydrocarbons.
- Costs associated with different levels of bioassessment of the receiving water that may be required prior to, during, and following a discharge.
- Costs associated with the collection of field parameters, such as dissolved oxygen (DO), pH, specific conductance (SC), temperature, chlorine residual, turbidity, and flow.

These additional costs will likely be necessary because the proposed Amendment requires that the discharge not adversely affect beneficial uses of the receiving water, and that it complies with all Basin Plan water quality objectives and criteria. To demonstrate no adverse effects on beneficial uses and compliance with water quality objectives, a discharger will be required to both characterize the discharge and the receiving water and conduct monitoring of the discharge and receiving water while the

discharge is occurring. The purpose of testing the discharge is to demonstrate that pollutants are not present at levels that exceed the applicable water quality objectives for protection of aquatic life, including Basin Plan and California Toxics Rule (CTR) objectives.[27] The purpose of testing the receiving water is to ensure that the discharge does not individually or cumulatively cause adverse effects on the beneficial uses of the receiving water or cause nuisance conditions. The Basin Plan receiving water objectives include, but are not limited to, dissolved oxygen, pH, turbidity, temperature, and toxicity.

For example, it is anticipated that in implementing the requirements of the Low Threat Discharge Action Plan (Appendix A), the Regional Water Board will require all applicants for an exception from the point source prohibitions and/or coverage under the proposed general permit will need to characterize the proposed discharge with regard to temperature, dissolved oxygen, pH, conductivity, total dissolved solids or conductivity, and turbidity. All applicants will also need to complete a full CTR analysis, unless a low-volume exception is granted that allows the discharger to sample only selected CTR pollutants (see footnote below). Most applicants would be required to test their proposed discharge for metals because some metals such as arsenic, copper, lead, and mercury, are commonly found in potentially low-threat discharges due to either naturally occurring or man-made sources. If the water proposed for discharge contained chlorine, chlorine residual and trihalomethanes testing must also be done to show that any subsequent removal of the chlorine is at non-detectable levels and to demonstrate that triholomethanes are not present at levels above the CTR water quality objectives for protection of aquatic life. The Regional Water Board staff may request monitoring for additional pollutants that have the potential to be present in the discharge water at levels that cause, or have the reasonable potential to cause, or contribute to an excursion above any state water quality standard. For example, if the receiving water is listed on the CWA 303(d) list of impaired waterbodies, the applicant must sample the discharge for the pollutants causing the impairment in the receiving water.

Characterization of the receiving water would typically entail a small amount of effort on the part of the applicant. The applicant must identify the name of the receiving water and the location and method of discharge to that receiving water. The applicant must provide photographs and a narrative description of the receiving water and general water quality monitoring of the receiving water to allow Regional Water Board staff to determine if allowing the proposed discharge meets the criteria of the general permit. General receiving water monitoring at a minimum must include testing upstream and downstream of the proposed discharge point for dissolved oxygen, temperature, pH, total dissolved solids or conductivity, and turbidity. In cases where the proposed discharge is to a waterbody with sensitive habitat during the low flow season, the

[27] The low-threat general permit will require all applicants to demonstrate that the proposed discharge complies with water quality objectives in the Basin Plan and the California Toxics Rule. Dischargers applying for coverage under the general permit will be required to analyze the proposed discharge for constituents regulated under the Basin Plan and the California Toxics Rule. The general permit will allow dischargers to request an exception to the requirement to sample for all CTR pollutants, if the discharger demonstrates that (1) the discharge qualifies as a low volume discharge pursuant to Section 1.3 of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (SIP) and (2) the proposed discharge does not have the potential to contain certain CTR pollutants.

receiving water characterization may also include consultation with the Department of Fish and Game and/or other resources agencies to ensure that the proposed discharge would not have adverse impacts on sensitive aquatic habitat or species.

The discharge and receiving water will need to be monitored while the discharge is occurring. A typical monitoring scenario would include monitoring the discharge upstream and downstream of receiving water locations a minimum of once daily for flow, dissolved oxygen, temperature, pH, conductivity and turbidity. The discharge and receiving water may also need to be monitored for additional pollutants of concern. For example, if the discharge is from a chlorinated source that is being treated to remove chlorine, chlorine residual would need to be monitored continuously, if continuous chlorine residual monitoring equipment is available, or a minimum of hourly if continuous monitoring equipment is not available. If the discharge is to a 303(d) listed waterbody, the discharge would need to be monitored for the pollutants causing the impairment. If the discharge is groundwater with naturally occurring levels of a metal such as arsenic, the discharge would need to be monitored at least once during the period of discharge to demonstrate that the pollutant levels did not exceed the applicable water quality objective. The discharge outfall and receiving water would need to be visually assessed for erosion, scour, turbidity and the general condition of the temporary outfall and creek on a daily basis. Monitoring reports are typically required on a monthly basis, thus for many low-threat discharges, there would only be one monitoring report. It would be a rare case, where a bioassessment would be required to be conducted for a low threat discharge. Costs for bioassessments are estimated to run anywhere from $4,000 for a minimal effort assessment to $40,000 for a full-blown bioassessment hiring a consulting firm utilizing the State of California Surface Water Monitoring and Assessment Program (SWAMP) and CDFG bioassessment protocols.[28]

The costs of collecting, transporting, and analyzing a water sample have been estimated for the following:

- Metals Panel (copper, arsenic, lead, zinc, mercury, nickel, silver, etc)
- Trihalomethanes (dichlorobromomethane, chlorodibromomethane, chloroform, bromoform)
- Volatile Organic Hydrocarbons
- Total Petroleum Hydrocarbons + BTEX
- CTR Priority Pollutants

The costs disclosed are those associated with employing a two-person team, day-long field sampling effort. The costs were estimated based on a billing rate of $110 per hour, which is the rate used for billing out Regional Water Board staff costs in the Cost Recovery Programs, and which includes overhead costs. The vehicle costs were estimated assuming a distance traveled of 25 miles per day, and a vehicle cost of $0.51 per mile, the per diem reimbursement rate for Regional Water Board staff when they use their own cars for State business. This analysis assumes that the dischargers possess basic field monitoring equipment, including meters to measure temperature,

[28] SWAMP/CDFG Standard Operating Procedures for Collecting Benthic Macroinvertebrate Samples and Associated Physical and Chemical Data for Ambient Bioassessments in California, 2007, http://www.dfg.ca.gov/abl/public/current%20protocols.asp

conductivity, and pH, and equipment to measure flow in the field. No additional costs were computed for these items. Surface water monitoring costs are summarized in Table 10.2 below.

Table 10.2: Cost Estimates for Surface Water Monitoring

LAB ANYALYSIS	Cost per Unit
Metals panel	$20 per sample
Trihalomethanes	$75 per sample
Volatile organic hydrocarbons	$125 per sample
Petroleum Hydrocarbons	$55 per sample
Field Parameters on H2O(not including temp or chlorine residual)	$66 per sample
CTR Priority Pollutants	$2,278 ($90-$225 per sample)
Staff Costs	$220 per hr
Vehicle Costs	$12 per 25 mi