

# State Water Resources Control Board

Division of Water Rights

Implementation of Senate Bill (SB) 837

**Cannabis Interim**

**Principles and Guidelines**



October 20, 2016 – Santa Rosa  
State Water Resources Control Board  
Division of Water Rights  
Daniel Schultz  
Item #5

# Overview

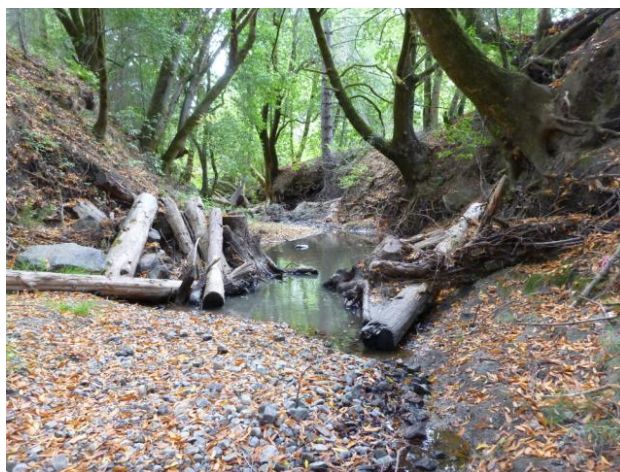
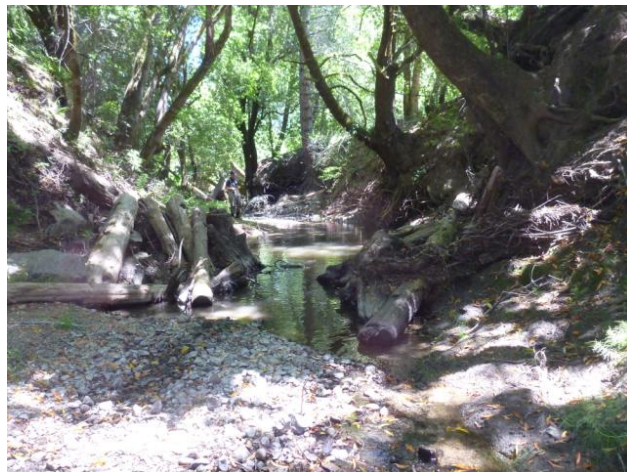
- In general, reference to “cannabis cultivation” throughout this presentation refers to “commercial medical cannabis cultivation”
- The State Water Resources Control Board (State Water Board) is developing a regulatory program to protect waters of the State from water diversions related to cannabis cultivation
  - Program will cover medical cannabis (Proposition 215) cultivated on private land
- **Cannabis cultivation on public lands is illegal and may be subject to criminal prosecution**
- Water Boards (State Water Board and Regional Water Quality Control Boards) do not approve or endorse cannabis cultivation

# SB 837 Background

- Trailer Bill that includes clean up language for three bills passed in 2015 that established the Medical Marijuana Regulation and Safety Act in 2015 (renamed Medical Cannabis Regulation and Safety Act)
  - Assembly Bill 243
  - Assembly Bill 266
  - Senate Bill 643

# State Water Board Responsibilities

- Ensure individual and cumulative effects of water diversion and discharge associated with cannabis cultivation do not affect instream flows needed for fish spawning, migration, and rearing, and flows needed to maintain natural flow variability



# Principles and Guidelines

- Developed by State Water Board in consultation with California Department of Fish and Wildlife
- For diversion and use of water for cannabis cultivation in areas where cultivation may have potential to substantially affect instream flows



# Principles and Guidelines (cont.)

- Principles and guidelines shall include measures to protect springs, wetlands, and aquatic habitat from negative impacts of cannabis cultivation
- May include requirements that apply to groundwater extractions



# Principles and Guidelines (cont.)

- Interim principles and guidelines may be updated as reasonably necessary (pending development of long-term principles and guidelines)
- Adopted as part of policy for water quality control
- Qualify as a Class 8 action under California Environmental Quality Act
  - Actions by Regulatory Agencies for Protection of Environment

# Interim Principles and Guidelines - Concepts

- Surface water diversion forbearance period
  - Dry period – will vary by location depending on climate and hydrology
- Flow requirements for diversion period (wet season)
  - Maintain first flush flows, spring recession flows, and portions of other high flow events
- Fish screens and removal of passage barriers
- Conservation measures (drip, micro-spray irrigation)
- Riparian buffers



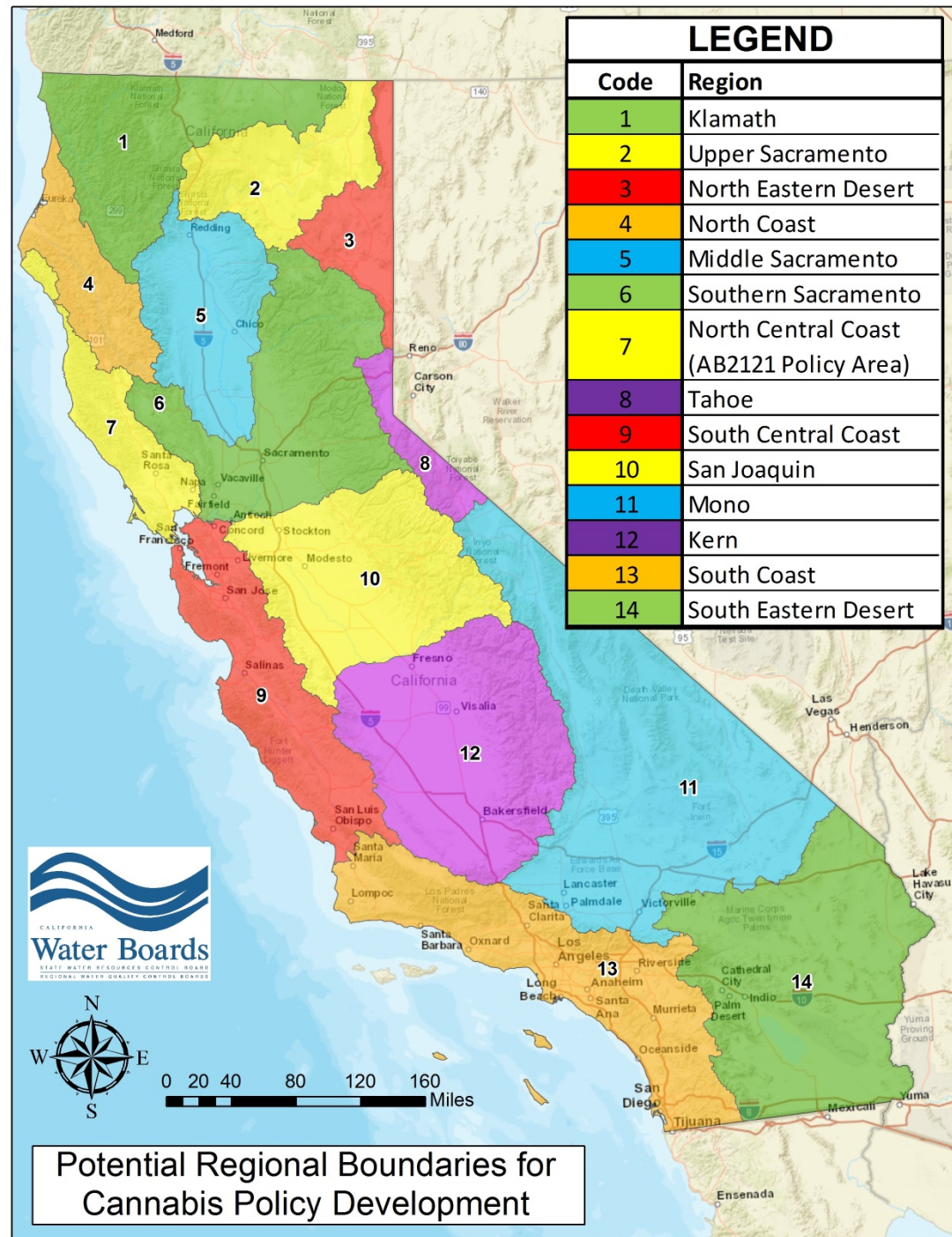
# Implementation and Enforcement

- Goal: Develop interim principles and guidelines that are easily understood and enforceable
- State Water Board has primary enforcement responsibility for any principles and guidelines implemented as a result of SB 837
- Must notify California Department of Food and Agriculture of any enforcement action taken
- SB 837 does not limit regulatory authority of State Water Board under other provisions of law

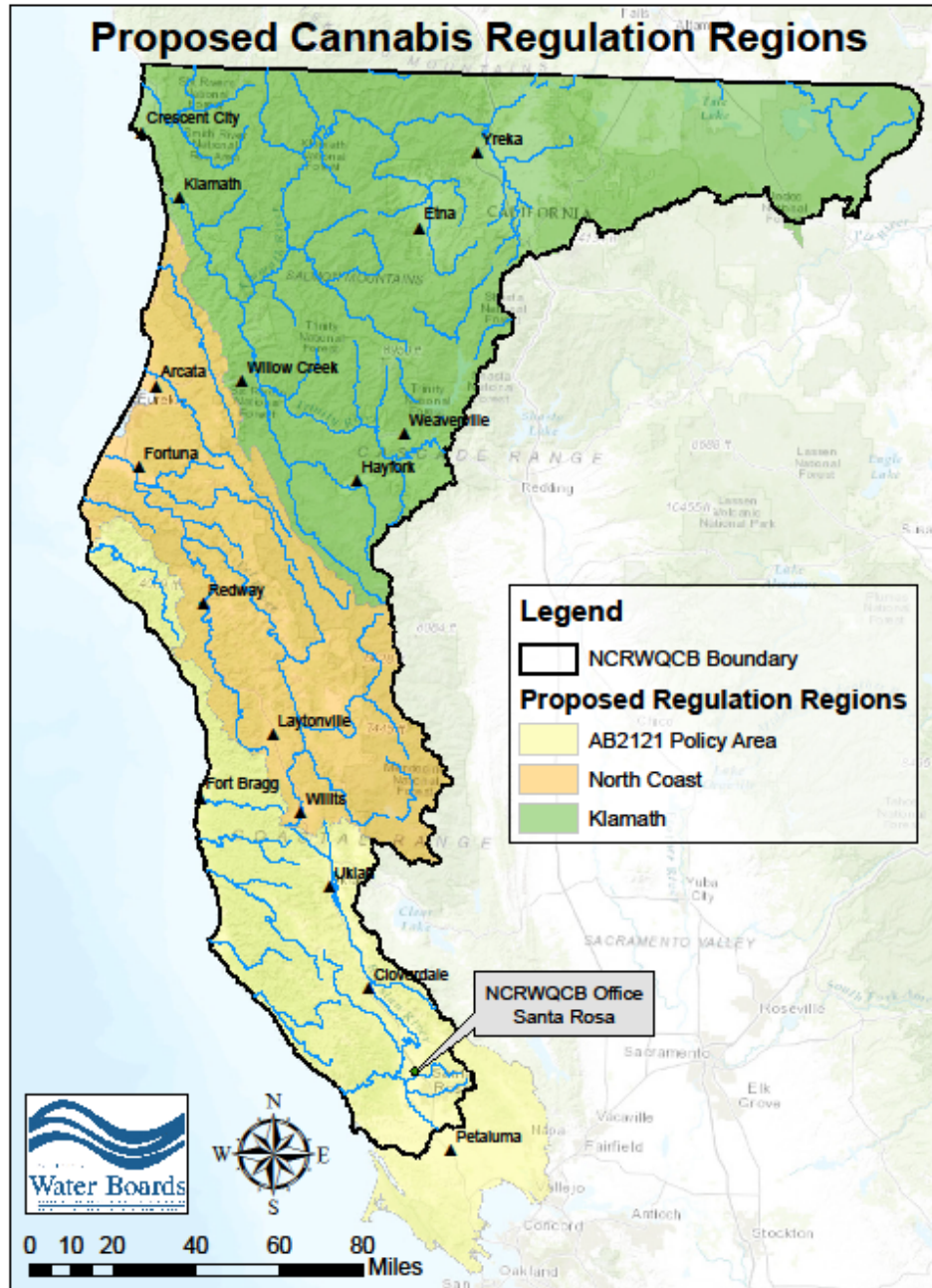
# Overview of Approach to Establish Interim Principles and Guidelines

- Establish regional boundaries and define geographic scope
- Identify desktop method and develop flow requirements at compliance gages
- Identify additional (non-flow) principles and guidelines
- Draft policy with flow requirements and additional principles and guidelines
- Present final policy for adoption by State Water Board

# Map of Potential Regional Boundaries



# Proposed Cannabis Regulation Regions



# Projected Timeline

- Initial Public Outreach: comment period ended October 7, 2016
- Release draft policy, with principles and guidelines, for public review (60 days): March- May 2017
- State Water Board meeting for consideration of proposed principles and guidelines: August 2017
- California Department of Food and Agriculture commences licensing process under its Medical Cannabis Cultivation Program: January 1, 2018

# Existing Registration Programs

- Small Irrigation Use registration program
  - General Conditions currently only established for the Assembly Bill 2121 Policy area (portions of five counties on North Coast)
  - 20 acre-feet per year or less
  - Primary beneficial use is for irrigation, heat control, or frost protection
  - A small domestic use registration and a small irrigation registration may be in effect for the same facility if combined water use is less than 20 acre-feet per year
- **Small Domestic Use Registration Program does not cover commercial cannabis irrigation**
  - Application to cannabis cultivation for personal use is a case by case determination

# Future Registration Program

- Develop general terms and conditions for Small Irrigation Use registration program that can be applied statewide to support cannabis cultivation



# Resources

- Water Boards cannabis cultivation information available at: [waterboards.ca.gov/cannabis](http://waterboards.ca.gov/cannabis) – portal to all Water Boards cannabis programs
- Sign up for to receive emails about State Water Board’s commercial cannabis cultivation effort:
  - [http://www.waterboards.ca.gov/resources/email\\_subscriptions/](http://www.waterboards.ca.gov/resources/email_subscriptions/)
    - Select “Water Rights” and “Cannabis Cultivators”
- Contact Information:
  - Daniel Schultz, Sr. ES, Division of Water Rights, State Water Board, 1-916-323-9392
  - Erin Ragazzi, EPM1, Division of Water Rights, State Water Board, 1-916-322-9634