

Clean Water Act Section 401 Water Quality Program



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**Central Valley Regional
Water Quality Control Board**



Presentation Outline

- Overview of Water Boards
- Overview of Clean Water Act Section 401 Water Quality Certification Program
- Laws, Regulations, Policies, and Plans
- Obtaining a Water Quality Certification and/or Waste Discharge Requirement
- Topics of Interest

Mission of the Water Boards

*To preserve, enhance and restore
the quality of California's water resources and
ensure their proper allocation and efficient use
for the benefit of
present and future generations of Californians*

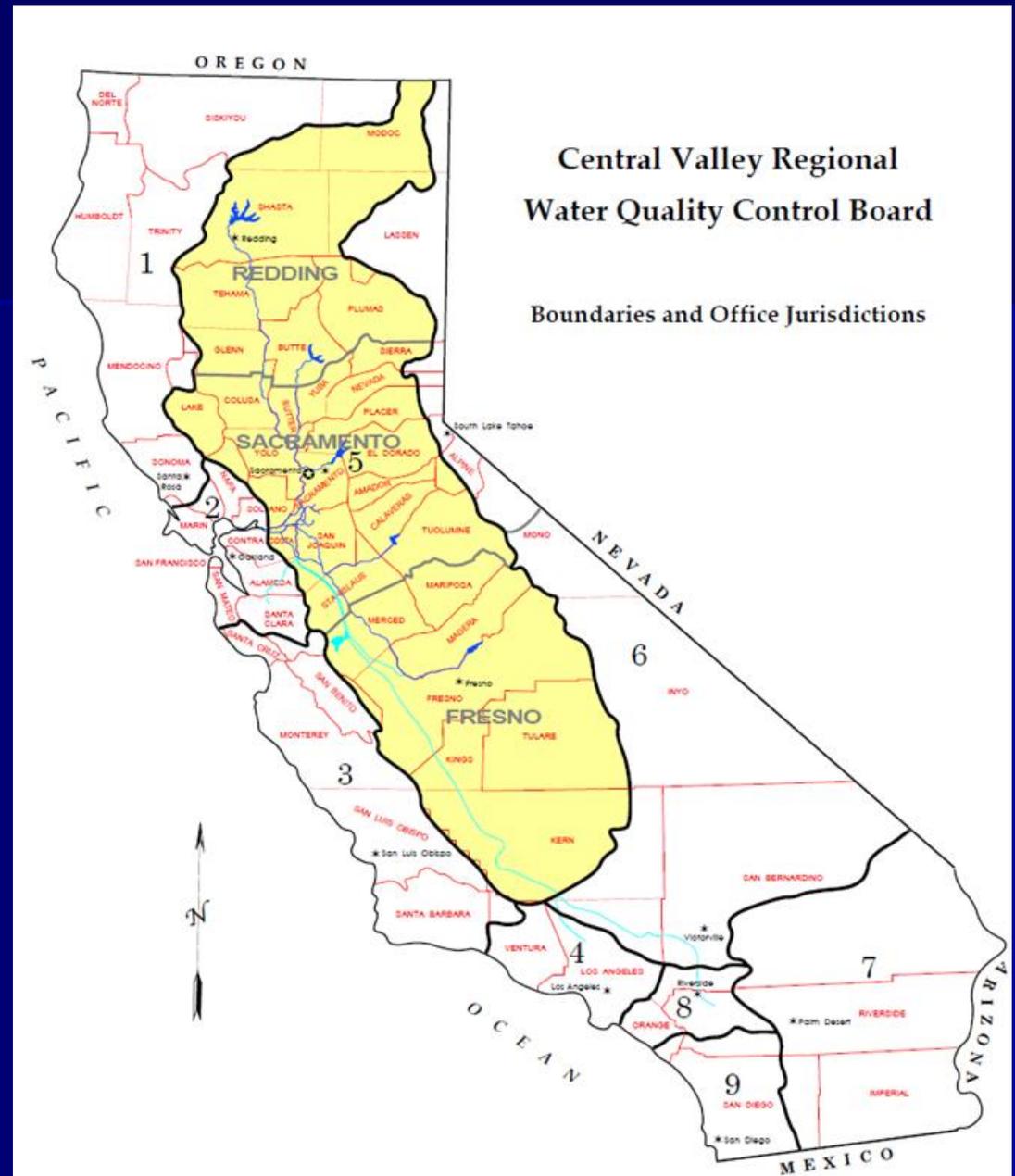
Function of the Water Boards

- *Primary duty - to protect the quality of the waters within the state for all beneficial uses*
- *Specific responsibilities and procedures are contained in the Porter-Cologne Water Quality Control Act*



Organization of the Water Boards

- Water Boards work hard to preserve, protect, enhance, and restore water quality throughout the State
- State Water Board in Sacramento
- 9 Regional Boards



Typical Projects

- Bridges
- Roads
- Pipelines/utility construction
- Culvert repair or reconstruction
- Minor stream crossings
- Levee repair and reconstruction
- Flood control
- Wetland habitat improvements
- Fish screens
- Residential and commercial developments



401 Water Quality Certification Program Function

To protect surface waters
ensuring that discharge, dredge or fill to
surface waters from a proposed activity
will comply with applicable laws, regulations,
policies and plans, including
State water quality control standards

Additional Definitions

“Waste” – includes 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 disposal

“Discharge” – the discharge or release of waste to surface water (with a potential water quality impact)

“Dredge material” - material excavated or dredged from waters of the United States

“Fill material” - material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body

“Waters of the State” Definition

Any surface water or groundwater, including saline waters, within boundaries of the State

(California Water Code §13050(e))

- Waters of the State are defined more broadly than “waters of the United States”
- Artificial and natural water bodies
- Federally jurisdictional and federally non-jurisdictional waters (i.e., “isolated waters”)

Examples of “Waters of the State”

- Estuary and delta
- Wetlands (tidal, seasonal, etc.)
- Rivers
- Creeks/Streams/Seeps (intermittent, ephemeral)
- Ponds
- Grassy swales
- Non-MS4 stormwater
Facilities/systems
(e.g. sediment basins)



Examples of “Waters of the State”



Vernal Pools



Seasonal Wetland

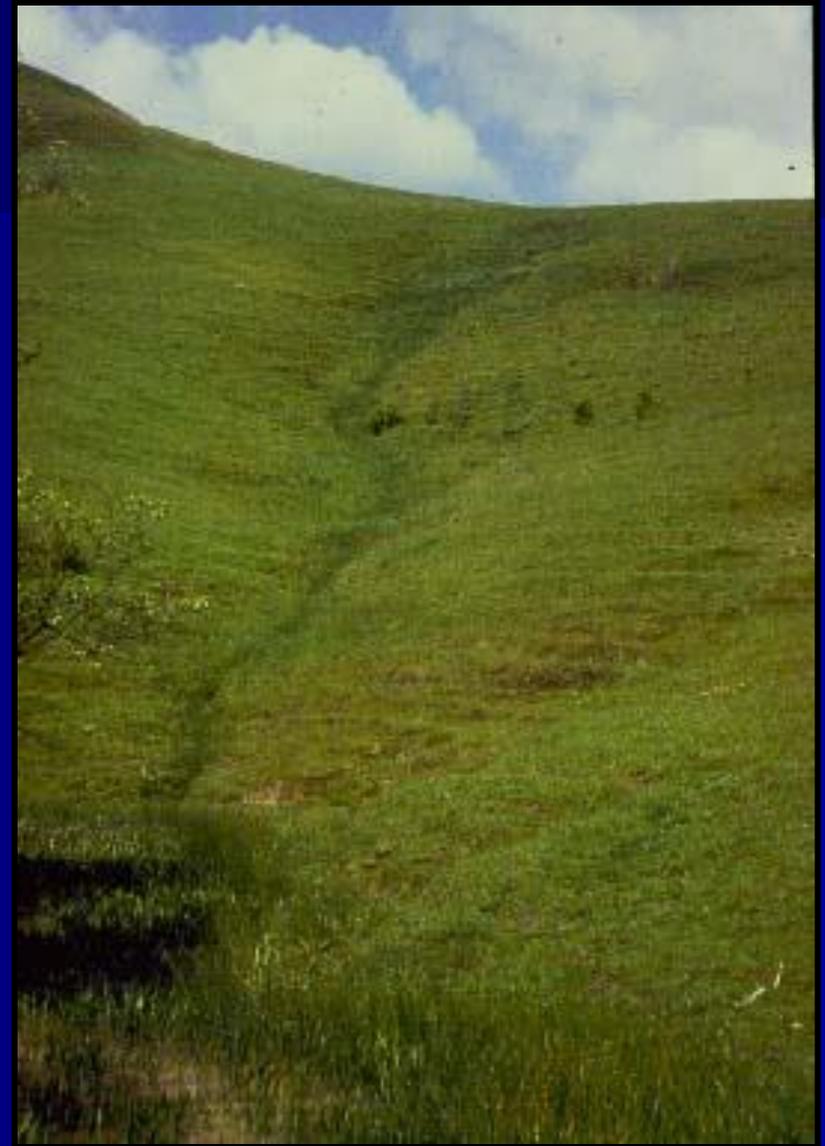
Examples of “Waters of the State”



Seasonal Creeks

Examples of “Waters of the State”

Although water is not visible, this intermittent seep/stream is considered a *Waters of the State*



Examples of “Waters of the State”



Sediment Basin

Permit Types Issued

Waste Discharge Requirements

- Individual
- State Board General Orders

401 Water Quality Certifications

- Individual
- State Board General Orders



Waste Discharge Requirements

- Waste Discharge Requirement permit to be issued by Central Valley Water Board will be required for proposed project
 - If it is determined that only federally non-jurisdictional, waters of the State will be potentially impacted
- There are limited “waivers” for Waste Discharge Requirements



Clean Water Act Section 401 Water Quality Certification

- Water Quality Certification must be obtained from the Central Valley Water Board *prior* to initiation of proposed Project activities if the following permits are required due to the disturbance of waters of the United States, including but not limited to streams and wetlands,
 - United States Army Corps of Engineers permit, or
 - Any other federal permits

- There are no “waivers” for 401 Water Quality Certifications in the State

Laws, Regulations, Policies, and Plans

- Federal Clean Water Act
- Porter-Cologne Water Quality Control Act
- California Code of Regulations
- California Water Code
- California Environmental Quality Act
- Nonpoint Source Policy
- Antidegradation Policy
- Wetland Conservation Policy
- *Proposed Wetland and Riparian Area Protection Policy*
- *Proposed Nutrient Policy for Inland Surface Waters*
- Water Quality Control Plans (Basin Plans)
- Total Maximum Daily Load Implementation Plans
- And others...

Tips to Prevent Delays for 401 Water Quality Certification

- Incomplete application
- Insufficient fees submitted or to incorrect Water Board
- Application submitted to incorrect Regional or State Water Board
- CEQA compliance



CEQA Compliance

CEQA requires that project proponents study and disclose a project's anticipated environmental impacts and specify means to mitigate those impacts



Tips to Prevent Delays for 401 Water Quality Certification

- Water quality issues
- Missing signed copies of Federal/State permits
- Inaccurate permanent/temporary impacts or water body references
- Communicate proposed project's impacts



Topics of Interest

- Application Processing Time – 6 months average
- Central Valley Water Board no longer be issuing after-the-fact Water Quality Certifications
- Pre-Application Meetings available- contact supervisor of 401 unit



Topics of Interest

- Amendments to 401 Certification:
 - For changes in seasonal work windows, Applicant, impacts, compensatory mitigation, or project description
 - Notify supervisor of 401 unit regarding impending amendment
 - Requires new 401 Application for amendment request including fees and CEQA compliance

- State Water Board's Wetland and Riparian Area Protection Policy is expected to be adopted within the year

- Application fees may change periodically

Useful Websites

- Water Quality Certification or Waste Discharge Requirement Applications
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit_2.shtml
- Interactive Water Board Map
http://www.waterboards.ca.gov/waterboards_map.shtml
- Preliminary Draft Wetland and Riparian Area Protection Policy
http://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.shtml

Useful Websites

- CWA Section 401 Board Certification General Orders-
coverage under state initiatives
http://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders_wb.shtml
- CWA Section 401 Board Certification General Orders-
coverage under federal permits
http://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.shtml
- General WDRs for Dredged or Fill Discharges to Waters
Deemed by the Corps to be Outside of Federal Jurisdiction
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

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Questions?

