

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TENTATIVE RESOLUTION R5-2026-XXXX

RESCINDING RESOLUTION R5-2008-0030

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board) finds that:

1. In 2008, the Central Valley Water Board found that Five-Mile Slough, Lower Calaveras River, Mormon Slough, Mosher Slough, Smith Canal, and Walker Slough had been identified under the Federal Clean Water Act (Clean Water Act) §303(d) (33 U.S.C. §1313(d)) as impaired water bodies due to elevated concentrations of pathogens, which are assessed using indicator organisms.
2. On March 14, 2008, the Central Valley Water Board purported to establish total maximum daily loads of pathogens in Five-Mile Slough, Lower Calaveras River, Mormon Slough, Mosher Slough, Smith Canal, and Walker Slough through the adoption of Resolution R5-2008-0030 (the Resolution).
3. In 2004, the City of Stockton submitted a *City of Stockton San Joaquin County Pathogen Plan* (Pathogen Plan). Monitoring under the Pathogen Plan was required in NPDES permit Order No. R5-2007-0173 (the Stockton MS4 Permit), which established an NPDES MS4 stormwater permit and monitoring and reporting requirements for stormwater discharges in the City of Stockton. In 2007, the Board issued a *Requirement For Technical Report Pursuant to California Water Code Section 13267*.
4. The Stockton MS4 Permit established numerical water quality targets for fecal coliform and *E. coli* to assess the effectiveness of the Pathogen Plan. These targets were based on the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (Basin Plan) water quality objective for fecal coliform and the U.S. Environmental Protection Agency's (US EPA) freshwater criteria for *E. coli*.
5. Referencing the Stockton MS4 Permit and the 2007 *Requirement For Technical Report Pursuant to California Water Code Section 13267*, the Resolution found that, "implementation of the NPDES stormwater permit requirements and Section 13267 of the Porter-Cologne Water Quality Control Act will result in the 303(d) listed Stockton urban waterways meeting the applicable pathogen water quality objectives by the conclusion of the Pathogen Plan," and that, "existing Central Valley Water Board and federal regulatory requirements are sufficient to attain water quality objectives in Five-Mile Slough, Lower Calaveras River, Mormon Slough, Mosher Slough, Smith Canal, and Walker Slough with respect to bacteria."

6. As of today, over 16 years past the adoption of the Resolution, waterbodies described in the Resolution still do not consistently meet water quality objectives for bacteria.
7. The Resolution also made numerous findings and conclusions that included the statements, “existing regulatory requirements make any further regulatory action to implement this TMDL (i.e., any “project”) unnecessary,” (Finding No. 13), “the Central Valley Water Board will establish no new regulatory requirements based on this TMDL,” (Resolved No. 3), and that, “[a]ny further regulatory action by the Central Valley Water Board to adopt a program of implementation through a Basin Plan Amendment to implement this TMDL is unnecessary.” (Resolved No. 4.)
8. Finding No. 5 of the resolution stated, “[s]hould the water body still fail to meet water quality objectives, the TMDL will be reevaluated to determine what additional measures need to be taken.”
9. On August 7, 2018, the State Water Board adopted Part 3 of the Inland Surface Waters, Enclosed Bays, and Estuaries (ISWEBE) Plan - Bacteria Provisions and a Water Quality Standards Variance Policy via Resolution 2018-0038.
10. The wasteload and load allocations described in the Resolution are inconsistent with Part 3 of the ISWEBE Plan that is now in effect.
11. Resolved No. 5 of the Resolution states, “The Central Valley Water Board may amend the Basin Plan or use its other authorities to address localized sources of pathogens should current regulatory requirements prove insufficient to attain water quality objectives.”

### **Regulatory Findings**

12. Public Notice: The Central Valley Water Board provided notice of its intention to consider this matter at a public meeting and provided an opportunity for interested persons to comment on the tentative resolution and its attachments. The draft resolution and its attachments were mailed to the interested persons and regulatory agencies and posted on the Board’s website.
13. Public Hearing: The Central Valley Water Board, at a public meeting, heard and considered all comments pertaining to this matter.

### **THEREFORE, BE IT RESOLVED THAT**

14. Resolution R5-2008-0030 has been insufficient to address pathogen impairments in Five-Mile Slough, Lower Calaveras River, Mormon Slough, Mosher Slough, Smith Canal, and Walker Slough as intended, and the total maximum daily load described in the Resolution has been ineffective in achieving water quality objectives.

15. The Central Valley Water Board expects the City of Stockton to continue to implement best management practices (BMPs) consistent with their Pathogen Plan.
16. It is reasonable to rescind Resolution R5-2008-0030 to allow further evaluation of regulatory options to address pathogen impairments in the water bodies addressed by the Resolution, and to allow additional regulatory options to be consistent with the ISWEBE.
17. The California Regional Water Quality Control Board, Central Valley Region, hereby rescinds Resolution R5-2008-0030.

I, Patrick Pulupa, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on XX August 2026.

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PATRICK PULUPA, Executive Officer