Message

From: MacDonald, Alex@Waterboards [Alex.MacDonald@waterboards.ca.gov]
Sent: 5/23/2018 10:13:39 PM
To: Bradfish, Larry [Bradfish.Larry@epa.gov]
Subject: RE: Area 40 ARAR Table

That should be easy to fix.

From: Bradfish, Larry [mailto:Bradfish.Larry@epa.gov]
Sent: Wednesday, May 23, 2018 2:36 PM
To: MacDonald, Alex@Waterboards <Alex.MacDonald@waterboards.ca.gov>
Cc: Lancaster, David@Waterboards <David.Lancaster@Waterboards.ca.gov>
Subject: RE: Area 40 ARAR Table

Hi Alex,

I am OK with your Line 60 language. Also, thanks for modifying what is now Line 69.

I still have concerns over the language in Line 11 (Synopsis comments). Only numerical water quality objectives should be discussed here in the Chemical Specific part of the table. The beneficial uses in the Basin Plan should be in the Action Specific part of the table. There is a vague a discussion of beneficial uses in Line 58. Maybe the language in the Synopsis of Line 58 could be tweaked to include a more definitive statement concerning beneficial uses in the Basin Plan.

Otherwise, I think it's looking good. I still haven't heard back from DTSC yet.

Larry

Larry Bradfish
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 9, ORC-3
75 Hawthorne St.
San Francisco, CA 94105
(415) 972-3934
Email: bradfish.larry@epa.gov

From: MacDonald, Alex@Waterboards [mailto:Alex.MacDonald@waterboards.ca.gov]
Sent: Wednesday, May 23, 2018 2:14 PM
To: Bradfish, Larry <Bradfish.Larry@epa.gov>
Subject: RE: Area 40 ARAR Table

Larry – I have made your recommended edits (see your recommendations below). For the cumbersome, all-inclusive Title 23, Title 27 ARAR that was found in two places (your recommendation 2) I reduced to only one place, eliminated the Title 23, Chapter 15 citations, and took only the portions of Title 27 dealing with construction, operation and closure of a new storage/treatment unit (not a landfill). My reasoning is as follows:

Under the alternatives, the soils that would be placed in the units will be designated or non-hazardous (perchlorate only) and thus Chapter 15 does not apply.
There are several Title 27 sections regarding monitoring and the like that are already covered under other listed Title 27/Chapter 15 ARARs and do not need to be duplicated here.

This new listing is found in Line 60 in the latest version of the table (attached).

Once we have agreement I will provide to the others.

Alex

From: Bradfish, Larry [mailto:Bradfish.Larry@epa.gov]
Sent: Tuesday, May 22, 2018 12:46 PM
To: MacDonald, Alex@Waterboards <Alex.MacDonald@waterboards.ca.gov>
Subject: RE: Area 40 ARAR Table

Thanks, Alex.

Sounds like we are getting there.

Larry

Larry Bradfish
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 9, ORC-3
75 Hawthorne St.
San Francisco, CA 94105
(415) 972-3934
Email: bradfish.larry@epa.gov

From: MacDonald, Alex@Waterboards [mailto:Alex.MacDonald@waterboards.ca.gov]
Sent: Tuesday, May 22, 2018 12:42 PM
To: Bradfish, Larry <Bradfish.Larry@epa.gov>
Subject: RE: Area 40 ARAR Table

Thanks – I'll take a crack at it. See responses embedded in your text below

---

From: Bradfish, Larry [mailto:Bradfish.Larry@epa.gov]
Sent: Tuesday, May 22, 2018 11:21 AM
To: MacDonald, Alex@Waterboards <Alex.MacDonald@waterboards.ca.gov>; Alasti, Isabella@DTSC <Isabella.Alasti@dtsc.ca.gov>; Lancaster, David@Waterboards <David.Lancaster@Waterboards.ca.gov>
Cc: Black, Stewart@Waterboards <Stewart.Black@Waterboards.ca.gov>; Keller, Lynn <Keller.Lynn@epa.gov>; Fennessy, Christopher <christopher.fennessy@Rocket.com>; MacNicholl, Peter@DTSC <Peter.MacNicholl@dtsc.ca.gov>
Subject: RE: Area 40 ARAR Table

Hi Alex,

Thank you for the explanations provided below.

Following your revisions to the ARARs table, I just see a few areas of disagreement:

Comments 2 & 8 (lines 11 and 60 of my ARARs table) – I suggest combining line 60 with line 11 (as line 11) concerning Basin Plan water quality objectives and deleting any mention of "policy" If RWQCB considers the water quality objectives of the Basin Plan to be policy then they cannot be ARAR. They must be classified as TBC. I don't think we

have done that in the past. I am OK with citing numerical Basin Plan Water Quality Objectives as Chemical Specific ARARs. However, any narrative water quality objectives and beneficial uses under the Basin Plan should be separately cited under the Action Specific part of the Table (regardless of how we did it in OU-6). I agree and will make the suggested edits.

Comments 9 & 13 (Lines 62 and 78 of my ARARs table) – I don't disagree with you that the state must comply with 23 CCR and 27 CCR, but these cites are too general when they include everything. When we can, we try to be more specific in the ARARs table to avoid including procedural and non-applicable substantive requirements. It doesn't always happen in practice, but that is the intent. Given the large number of specific cites this ARARs table to 23 CCR, etc. I don't think that these very broad cites are necessary. Will take a closer look at and see if they should be pared down

Comment 11 (Line 71 of my ARARs table) – There may be some disagreement over whether the sumps are WMUs, but for purposes of the table I am OK with leaving the cites (lines 72 & 73) in. However, my issue is with Line 71 of my ARAR table in the comment section that states: "Applies to all soil cleanup activities" I disagree that 23 CCR monitoring requirements (groundwater monitoring?) apply to all soil cleanups as I explained earlier. I added "agree to disagree" language to that comment, but you took it out. See line 69 of your table. It needs to be put back in. No intent on removing your language – when I initially made the edits I did not see the added text you put in. I went back and added it in. Added one I missed this morning but did not catch this one. I have made the change. By the way, it is my contention that monitoring is not required all cleanup activities, only those that leave waste in place that could impact water quality and we are expecting certain outcomes by the remedy we applied.. I will make that clarification

I am waiting on Isabella to review the ARARs table, particularly for the DTSC ARARs. She indicated she may have some comments later this week. That's great.

Larry

Larry Bradfish
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 9, ORC-3
75 Hawthorne St.
San Francisco, CA 94105
(415) 972-3934
Email: bradfish.larry@epa.gov

From: MacDonald, Alex@Waterboards [mailto:Alex.MacDonald@waterboards.ca.gov]
Sent: Tuesday, May 22, 2018 9:28 AM
To: Bradfish, Larry <Bradfish.Larry@epa.gov>; Alasti, Isabella@DTSC <Isabella.Alasti@dtsc.ca.gov>; Lancaster, David@Waterboards <David.Lancaster@Waterboards.ca.gov>
Cc: Black, Stewart@Waterboards <Stewart.Black@Waterboards.ca.gov>; Keller, Lynn <Keller.Lynn@epa.gov>; Fennessy, Christopher <christopher.fennessy@Rocket.com>; MacNicholl, Peter@DTSC <Peter.MacNicholl@dtsc.ca.gov>
Subject: Area 40 ARAR Table

Larry: Here are the things that I did to respond to your comments embedded in the table. Here I reference you comment on the listed line. I have attached the table to make a couple of corrections in my second look through the table. I have not addressed the comments on the DTSC-designated ARARs and will let them do so. Their ARAR are in a light purple.

1. On line 10- made the change requested.
2. Line 11 -did not make any changes. Kept in as it was in the OU 6 ROD.
3. Lines 13-18 - moved to action-specific as requested.
4. Line 20 – combined with Line 11 as recommended. Just did that and so is found in the latest version that is attached.

5. Lines 22 and 23 – original had thought of deleting them. However, the excavation of the sumps will impact so wetlands that the City had proposed to preserve. It is not known where Aerojet will place the OU-10 soils for remediation (if that option is pursued) so the 100-year flood plain may come into play.
6. Lines 32-38 – Moved to action-specific as requested.
7. Lines 39-44 – DTSC ARAR issues so I did not modify at this time.
8. Line 60. Added text stating that EPA considers this a most to be a TBC.
9. Line 62. Did not make the change as we still must have this for the State evaluation of the project.
10. Line 68. Made some wording changes – see new line 62.
11. Lines 71, 72, 73. One can consider the old sumps as waste management units.
12. Line 74 – made the requested change.
13. Line 78 – Did not make the change as we still must have this for the State evaluation of the project.
14. Line 80. Made changes requested. The groundwater in OU-10 is considered a source of drinking water until it is demonstrated that is should not be. That case has not been made.
15. Line 81-90. Did not address as they are DTSC ARARs.
16. Line 91 – made change.

Alex