

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – SAN DIEGO REGIONAL WATER BOARD
JANUARY 21, 2014**

ITEM 3

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO REGION TO INCORPORATE A SEDIMENT TOTAL MAXIMUM DAILY LOAD (TMDL) FOR LOS PEÑASQUITOS LAGOON, SAN DIEGO COUNTY, CALIFORNIA

DISCUSSION

On June 13, 2012, the San Diego Regional Water Quality Control Board (San Diego Water Board) adopted [Resolution No. R9-2012-0033](#) amending the Water Quality Control Plan for the San Diego Basin (9) to incorporate a Sediment Total Maximum Daily Load (TMDL) for Los Peñasquitos Lagoon.

In 1996 Los Peñasquitos Lagoon (Lagoon), a coastal lagoon in north San Diego County, was designated as impaired on the Clean Water Act section 303(d) list of Water Quality Limited Segments due to excessive sedimentation and siltation. Adoption of the TMDL meets Clean Water Act requirements, sets the regulatory framework for addressing the sediment impairment, and is necessary for the restoration of the Lagoon. Identified responsible parties include Phase I MS4 copermittees (County of San Diego, City of San Diego, City of Del Mar, and City of Poway); Phase II MS4 permittees in the watershed; Caltrans; and the General Construction and General Industrial Storm Water NPDES permittees in the watershed. The TMDL requires responsible parties to jointly reduce the current sediment loading from the watershed by 67% in order to achieve the level of sediment loading that occurred in the early 1970s. The early 1970s represents a time period prior to the intense development of the watershed when the Lagoon was receiving relatively natural sediment loads and the water quality objective for sediment was likely met. The TMDL watershed numeric target is 59 tons of sediment per day.

The Lagoon's most sensitive and impaired beneficial use is its estuarine or saltwater wetlands habitat. As a result of the continual discharge and accumulation of sediment in the Lagoon (and associated reduction of tidal exchange and increased freshwater flows), Los Peñasquitos is gradually being converted from a coastal salt marsh to a freshwater marsh. The loss of coastal saltwater wetlands habitat is a common and concerning trend in Southern California. To protect the Lagoon's salt marsh habitat, the TMDL also establishes a lagoon numeric target based on the extent of salt marsh vegetation present which is a good indicator of an estuary's overall health. The final lagoon numeric target requires the successful restoration of salt marsh habitat to achieve a Lagoon total of 346 acres (or 80% of the Lagoon's 1973 acreage)¹.

¹ This can either mean: (1) Successful restoration of 80 percent of the 1973 acreage of lagoon salt marsh habitat (346 acres); or (2) Demonstration that implementation actions are active on and/or affecting 346 acres with continued monitoring to ensure 80 percent target achievement.

The TMDL's Implementation Plan requires that the responsible parties: (1) develop and implement a sediment load reduction plan capable of attaining the increasing load reductions required over time; and (2) restore the salt marsh habitat (as defined above) within the 20 year compliance schedule. To evaluate BMP effectiveness, facilitate adaptive management, and measure progress towards compliance, the Implementation Plan also requires the conduct of compliance monitoring both in the watershed and within the Lagoon. Ultimate compliance will be measured in terms of the improving health of the Lagoon and will be considered achieved when the Lagoon's salt marsh habitat reaches a total of 346 acres.

POLICY ISSUE

Should the State Water Board approve the amendment to the Basin Plan for the San Diego Region to incorporate the Total Maximum Daily Load (TMDL) for sediment in Los Peñasquitos Lagoon as adopted under San Diego Water Board Resolution No. R9-2012-0033?

FISCAL IMPACT

San Diego Water Board and State Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL BOARD IMPACT

Yes, approval of this resolution will amend the San Diego Water Board's Basin Plan.

STAFF RECOMMENDATION

That the State Water Board:

1. Approves the amendment to the Basin Plan as adopted under San Diego Water Board Resolution No. R9-2012-0033.
2. Authorizes the Executive Director or designee to submit the amendment adopted under San Diego Water Board Resolution No. R9-2012-0033 as approved, and the administrative record for this action to the Office of Administrative Law and the TMDL to the U.S. Environmental Protection Agency for approval.

<p>State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030. In particular, approval of this item will assist in fulfilling Objective 1.1 to implement a statewide strategy to efficiently prepare, adopt, and implement TMDLs, which result in water bodies meeting water quality standards, and adopt and begin implementation of TMDLs for all 2006-listed water bodies by 2019.</p>
--

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2014-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO REGION TO INCORPORATE A SEDIMENT TOTAL MAXIMUM DAILY LOAD FOR LOS PEÑASQUITOS LAGOON, SAN DIEGO COUNTY, CALIFORNIA.

WHEREAS:

1. On June 13, 2012, the Regional Water Quality Control Board for the San Diego Region (San Diego Water Board) adopted [Resolution No. R9-2012-0033](#), an amendment to the Water Quality Control Plan for the San Diego Region (Basin Plan amendment), to incorporate a Sediment Total Maximum Daily Load (TMDL) for Los Peñasquitos Lagoon.
2. The San Diego Water Board found that the analysis contained in the California Environmental Quality Act (CEQA) “Substitute Environmental Documents” for the proposed Basin Plan amendment, including the CEQA Checklist, the final staff report entitled “[Sediment TMDL for Los Peñasquitos Lagoon](#)”, and the responses to comments complies with the State Water Board’s regulations for the implementation of CEQA, as set forth in the California Code of Regulations, Title 23, sections 3775 through 3781. The State Water Board has reviewed the Substitute Environmental Documents for the Basin Plan amendment and concurs with San Diego Water Board’s findings and determinations, including the Statement of Overriding Considerations.
3. The San Diego Water Board also adopted the Basin Plan amendment pursuant to the “Necessity” standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).
4. The San Diego Water Board found the Basin Plan amendment is consistent with the Statement of Policy with Respect to Maintaining High Quality of Waters in California ([State Water Board Resolution No. 68-16](#)) and the federal Antidegradation Policy (40 C.F.R. § 131.12), in that it does not allow degradation of water quality, but requires restoration of water quality and attainment of water quality standards.
5. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that regional water quality control boards may revise basin plans, and section 13242, which requires a program of implementation for achieving water quality objectives. The State Water Board also finds that the TMDL as reflected in the Basin Plan amendment is consistent with the requirements of section 303(d) of the federal Clean Water Act.
6. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). The TMDL must also receive approval from the U.S. Environmental Protection Agency (U.S. EPA).

DRAFT

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan amendment adopted under San Diego Water Board Resolution No. R9-2012-0033.
2. Authorizes and directs the Executive Director or designee to submit the Basin Plan amendment adopted under San Diego Water Board Resolution No. R9-2012-0033 to OAL for approval of the regulatory provisions and to U.S. EPA for approval of the TMDL.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on January 21, 2014.

Jeanine Townsend
Clerk to the Board