

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

RESOLUTION NO. R7-2002-0097

A Resolution Amending the Water Quality Control Plan
for the Colorado River Basin
to Establish a Total Maximum Daily Load for Sedimentation/Siltation
for the New River

WHEREAS, the California Regional Water Quality Control Board, Colorado River Basin Region (hereinafter Regional Board), finds that:

1. An updated Water Quality Control Plan for the Colorado River Basin (Basin Plan) was adopted by the Regional Board on November 17, 1993, approved by the State Water Resources Control Board (SWRCB) on February 17, 1994, and approved by the Office of Administrative Law on August 3, 1994.
2. Warm freshwater habitat (WARM), wildlife habitat (WILD), preservation of rare, threatened, and endangered species (RARE), water contact recreation (REC I), non-contact recreation (REC II), and freshwater replenishment (FRSH) are among the beneficial use designations specified in the Basin Plan for the New River.
3. The Basin Plan includes narrative water quality objectives for total suspended solids, sediment, and turbidity for the New River to protect the beneficial uses listed in Finding No. 2, above.
4. Water quality objectives are not being met in the New River because direct and indirect discharges of silt-laden agricultural tailwater into the River and drain maintenance operations are adversely impacting the beneficial uses. The silt carries insoluble pesticides such as DDT and its byproducts, which bioaccumulate in fish tissue.
5. Pursuant to Section 303(d) of the Clean Water Act, the Regional Board, with the concurrence of the State Board, listed the New River as water quality limited because of the sediment impairments. Section 303(d) of the Clean Water Act requires the establishment of the Total Maximum Daily Load (TMDL) of sediment/silt that can be discharged while still ensuring compliance with water quality standards. Section 303(d) also requires the allocation of this TMDL among sources of sediment/silt, together with an implementation plan and schedule that will ensure that the TMDL is met and that compliance with water quality standards is achieved.
6. The New River Sedimentation/Siltation TMDL Report (hereafter "TMDL Report") and the proposed Basin Plan amendment (hereafter "Attachment 2") to establish the TMDL are hereby made part of this Resolution by reference.
7. The TMDL Report and related Basin Plan amendment attached to this resolution meet the requirements of Section 303(d) of the Clean Water Act. The amendment requires, in part, that nonpoint sources implement Best Management Practices (BMPs) to control sediment/silt inputs to provide a reasonable assurance that water quality standards will be met.
8. The Regional Board prepared and distributed written reports regarding adoption of the Basin Plan amendment in compliance with applicable state and federal environmental regulations (Title 23, California Code of Regulations, Section 3775 et seq.; and Title 40, Code of Federal Regulations, Parts 25 and 131).

9. The process of basin planning has been certified by the Secretary for Resources as exempt from the requirements of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) to prepare an Environmental Impact Report or Negative Declaration. (Pub. Resources Code, 21080.5; Cal. Code Regs., tit. 14, 15251, subd. (g).) The TMDL Report-Basin Plan amendment package includes an Environmental Checklist, an assessment of the environmental impacts of the Basin Plan amendment, and a discussion of alternatives, among other analyses. The amended Basin Plan, Environmental Checklist, TMDL Report, and supporting documentation are functionally equivalent to an Environmental Impact Report or Negative Declaration.
10. The proposed adoption of the Basin Plan amendment based on the TMDL Report is a regulatory action subject to the requirements of Public Resources Code section 21159. Consistent with the requirements of that section, the CEQA Checklist and the CEQA Checklist Discussion include, among other things, an analysis of reasonably foreseeable environmental impacts associated with proposed methods of compliance set forth in the Basin Plan amendment, an analysis of reasonably foreseeable feasible mitigation measures to reduce or avoid those impacts, and an analysis of reasonably foreseeable alternative means of compliance with the requirements embodied by the Basin Plan amendment that would avoid or eliminate the related environmental impacts. (Pub. Resources Code, 21159, subd. (a)(1)-(3); Cal. Code Regs., tit. 14, 15187, subds. (b), (c)(1)-(3).) In so doing, the analysis in the CEQA Checklist and CEQA Checklist Discussion takes into account a reasonable range of environmental, economic, and technical factors. CEQA analysis determined that the proposed Basin Plan amendment could have a significant adverse effect on the environment. However, there are feasible alternatives and/or feasible mitigation measures that would substantially lessen any significant adverse impact.
11. The Regional Board has considered federal and state antidegradation policies and other relevant water quality control policies and finds the Basin Plan amendment consistent with those policies.
12. Since January 1998, Regional Board staff has engaged interested parties in stakeholder involvement through regular meetings of the Silt Total Maximum Daily Load Technical Advisory Committee.
13. Consistent with Title 23, California Code of Regulations, Sections 3778 through 3780, the Regional Board consulted about the proposed action with stakeholders in the Region and with other potentially affected parties, considered and addressed comments on the matter, and considered and incorporated feasible mitigation measures to avoid significant impacts on the environment.
14. On June 26, 2002, the Regional Board held a Public Hearing to consider the TMDL Report and the Basin Plan amendment. Notice of the Public Hearing was given to all interested persons and published in accordance with Water Code Section 13244 and Title 40, Code of Federal Regulations, Part 25.
15. The Basin Plan amendment must be submitted for review and approval by the SWRCB, the Office of Administrative Law (OAL), and the U.S. Environmental Protection Agency. Once approved by the SWRCB, the amendment is submitted to OAL. A Notice of Decision will be filed after the SWRCB and OAL have acted on this matter. The SWRCB will forward the approved amendment to the U.S. Environmental Protection Agency for review and approval.
16. The TMDL establishes a numeric target of 200 mg/L for Total Suspended Solids (annual average). Numeric targets in a TMDL are not water quality objectives. Numeric targets are implementation tools that translate existing objectives, by quantifying the limits those objectives require, considering seasonal variations and a margin of safety. Targets do not create new bases for enforcement apart from the objectives they translate.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Regional Board adopts the amendment to the Water Quality Control Plan for the Colorado River Basin as set forth in Attachment 2.
2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the SWRCB in accordance with the requirement of Section 13245 of the California Water Code.
3. The Regional Board requests that the State Water Resources Control Board approve the Basin Plan amendment in accordance with Sections 13245 and 13246 of the California Water Code and forward it to the Office of Administrative Law and United States Environmental Protection Agency for approval.
4. The Executive Officer is directed to file a Notice of Decision with the California Secretary for Resources after final approval of the Basin Plan amendment, in accordance with Section 21080.5(d) (2)(E) of the Public Resources Code and Title 23, California Code of Regulations, Section 3781.
5. If during its approval process the SWRCB or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Board of any such changes.

I, Phil Gruenberg, 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, Colorado River Basin Region, on June 26, 2002.

Phil Gruenberg
Executive Officer