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Secretary for  
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# State Water Resources Control Board

## Executive Office

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Arnold Schwarzenegger  
Governor

## NOTICE OF OPPORTUNITY TO COMMENT

### PROPOSED APPROVAL OF AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SANTA ANA RIVER BASIN (BASIN PLAN) TO INCORPORATE ORGANOCHLORINE COMPOUNDS TOTAL MAXIMUM DAILY LOADS (TMDLS) FOR SAN DIEGO CREEK, AND UPPER AND LOWER NEWPORT BAY.

**NOTICE IS HEREBY GIVEN THAT** the State Water Resources Control Board (State Water Board) will accept comments on the proposed approval of an amendment to the Basin Plan that would incorporate TMDLs for organochlorine compounds for San Diego Creek, and Upper and Lower Newport Bay. The amendment, the State Water Board agenda language, and draft resolution are available on the State Water Board's Web site at [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/index.shtml#rb8](http://www.waterboards.ca.gov/water_issues/programs/tmdl/index.shtml#rb8) or can be received by mail by contacting Nirmal Sandhar at (916) 341-5571. The amendment was adopted by the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) on September 7, 2007 under Resolution No R8-2007-0024. Notice of the meeting at which the State Water Board will consider approval of the amendment will be published separately.

Comment letters to the State Water Board **must be received by 12 noon on May 28, 2010**. After the (May) deadline, State Water Board staff will not accept additional written comments unless the State Water Board determines that such comments should be accepted. Please send comments on the proposed State Water Board approval of the amendment to: Jeanine Townsend, Clerk to the Board, by email at ([commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)) (if 15 megabytes in size or less), (916) 341-5620 (fax), or addressed to State Water Resources Control Board, 1001 I Street, Sacramento, CA 95814. Please also indicate in the subject line, **“Comment Letter –Santa Ana Water Board Organochlorine Compounds Total Maximum Daily Loads.”**

**Incorporation of Comments by Reference:** Comments must specifically address the version of the amendment that is currently being considered for approval by the State Water Board. If similar or identical comments were submitted to the Santa Ana Water Board, the commenter must explain why and in what manner each of the responses provided by the Santa Ana Water Board to each comment was inadequate or incorrect. If the comment does not include such an explanation, the State Water Board will presume that the Santa Ana Water Board's response adequately addressed the commenter's concern.

Please direct questions about this notice to Nirmal Sandhar, Division of Water Quality, at (916) 341-5571 ([nsandhar@waterboards.ca.gov](mailto:nsandhar@waterboards.ca.gov)) or Steven H. Blum, Senior Staff Counsel at (916) 341-5177 ([sblum@waterboards.ca.gov](mailto:sblum@waterboards.ca.gov)).

\_\_\_\_\_  
Date                      May 5, 2010

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*Jeanine Townsend*  
Jeanine Townsend  
Clerk to the Board

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## STATE WATER RESOURCES CONTROL BOARD BOARD MEETING SESSION – DIVISION OF WATER QUALITY (DATE(S) OF MEETING): TBD

### ITEM

#### SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SANTA ANA RIVER REGION (BASIN PLAN) TO INCORPORATE ORGANOCHLORINE COMPOUNDS TOTAL MAXIMUM DAILY LOADS (TMDLs) FOR SAN DIEGO CREEK AND UPPER AND LOWER NEWPORT BAY

#### DISCUSSION

On September 7, 2007 the Santa Ana Water Quality Control Board (Santa Ana Water Board) adopted Resolution No. R8-2007-0024 ([Attachment](#)) amending the Basin Plan to incorporate Organochlorine Compounds TMDLs for San Diego Creek, Upper Newport Bay and Lower Newport Bay.

#### Impairment

The three water bodies are impaired by organochlorine compounds. San Diego Creek is impaired by DDT and toxaphene, and Upper Newport Bay and Lower Newport Bay are impaired by DDT, Chlordane, and PCBs. As a result, these water bodies are listed on United States Environmental Protection Agency's (U.S. EPA) 2004 and 2006 List of Impaired Water Bodies pursuant to section 303(d) of the Clean Water Act ("303(d) List"). Placement on the 303(d) List triggers the development and implementation of TMDLs to correct the impairment.

Based on earlier section 303(d) listings, in 2002, U.S. EPA established toxic substance TMDLs for San Diego Creek, Upper Newport Bay and Lower Newport Bay. U.S. EPA's TMDLs included the organochlorine compounds identified above, as well as certain other organochlorine compounds. Upon approval by the State Water Board, the Office of Administrative Law, and the U.S. EPA, the organochlorine compound TMDLs adopted by the Santa Ana Water Board will replace the 2002 TMDLs established by the U.S. EPA.

The TMDLs adopted by the Santa Ana Water Board include an implementation plan that identifies specific actions to be taken by the Santa Ana Water Board and dischargers of organochlorine compounds in the watershed. The implementation plan also establishes compliance schedules for the completion of the specified actions and for ultimate attainment of water quality standards.

The TMDLs, is require reduction of the inputs of the pollutant(s) that cause the impairment, so that water quality standards will be achieved. Water quality standards include beneficial uses and narrative and numeric water quality objectives. The following beneficial uses are specified by the Basin Plan for San Diego Creek, Reach 1; water contact recreation (REC1); non-contact water recreation (REC2); warm freshwater habitat (WARM); and wildlife habitat (WILD). The following were specified for San Diego Creek, Reach 2: water contact recreation (REC1); non-contact water recreation (REC2); warm freshwater habitat (WARM); wildlife habitat (WILD); and groundwater recharge (GWR). For Upper Newport Bay, the following were specified: water

# DRAFT

contact recreation (REC1); non-contact water recreation (REC2); commercial and sportsfishing (COMM); preservation of biological habitats of special significance (BIOL); spawning, reproduction, and development (SPWN); wildlife habitat (WILD); rare, threatened, or endangered species (RARE); marine habitat (MAR); shellfish harvesting (SHEL); and estuarine habitat (EST). For Lower Newport Bay, the following were specified: water contact recreation (REC1); non-contact water recreation (REC2); commercial and sportsfishing (COMM); spawning, reproduction, and development (SPWN); wildlife habitat (WILD); rare, threatened, or endangered species (RARE); marine habitat (MAR); shellfish harvesting (SHEL); and navigation (NAV).

## Targets and TMDL Allocations

Numeric targets identify specific endpoints in sediment, water column or fish tissue that equate to attainment of water quality standards. Multiple targets may be appropriate where a single indicator is insufficient to protect all beneficial uses and thus attain all applicable water quality objectives. The range of beneficial uses identified in this Basin Plan for the waters addressed by the organochlorine compounds TMDLs makes clear that the targets must address the protection of aquatic organisms, wildlife (including federally listed threatened and endangered species) and human consumers of recreationally- and commercially-caught fish.

The sediment and water column targets are identical to those selected by U.S. EPA in the development of their organochlorine compounds TMDLs (2002). Fish tissue targets are added for the protection of aquatic life and wildlife. Reducing contaminant loads in the sediment will result in progress toward reducing risk to aquatic life and wildlife. During implementation of these TMDLs and as risk assessment information becomes available, additional and/or modified wildlife or other targets will be identified. The Santa Ana Water Board has committed to revisiting and revising these TMDLs as appropriate.

The TMDLs contain the following targets:

<b>Water Body</b>	<b>Pollutant</b>	<b>TMDL (average grams per day)</b>	<b>TMDL (grams per year)</b>
<b>San Diego Creek and Tributaries</b>	Total DDT	1.08	396
	Toxaphene	0.02	6
<b>Upper Newport Bay</b>	Total DDT	0.44	160
	Chlordane	0.25	93
	Total PCBs	0.25	92
<b>Lower Newport Bay</b>	Total DDT	0.16	59
	Chlordane	0.09	34
	Total PCBs	0.66	241

The TMDLs are to be achieved as soon as possible but no later than December 31, 2015.

In addition, the Santa Ana Water Board also developed informational TMDLs for chlordane and PCBs for San Diego Creek and its tributaries. While impairment due to chlordane and PCBs was not found in San Diego Creek, the informational TMDLs are appropriate because San Diego Creek is the major tributary to Newport Bay. No action to implement the informational

# DRAFT

TMDLs is required but the informational TMDLs may forward action to address downstream chlordane and PCBs impairments. The informational TMDLs are as follows:

Water Body	Pollutant	TMDL (average grams per day)	TMDL (grams per year)
San Diego Creek and Tributaries	Chlordane	0.70	255
	Total PCBs	0.34	125

## **Implementation**

The implementation plan identified in this amendment reflects an adaptive management, phased approach with compliance schedules. The Santa Ana Water Board recognized that some additional monitoring and special studies were underway, and that more studies and monitoring would be needed to address data limitations and the uncertainty associated with the TMDL calculations. The Santa Ana Water Board found that changes to the TMDLs might be appropriate based on the results of these investigations. Existing data limitations and uncertainties are relevant to the impairment assessment itself, and will assist with the determination of the specific organochlorine compounds for which TMDLs are required. The natural attenuation of these compounds over time is expected to significantly affect the selection, development and implementation of the TMDLs. In response to the recommendation by watershed stakeholders, this implementation plan provides an opportunity for dischargers to participate in the development and implementation of a comprehensive work plan. Implementation of the work plan, which must be approved by the Santa Ana Water Board at a public meeting, would obviate the need for individual actions on the tasks required in this amendment by members of the Working Group. Completion of the work plan will result, in part, in recommendations for revisions to these TMDLs based on review by an Independent Advisory Panel and the results of ongoing or requisite monitoring and investigations. In addition, the work plan is expected to ensure the development of a comprehensive plan for best management practices (BMPs) and other actions needed to assure compliance with the TMDLs, wasteload allocations and load allocations as soon as possible after complete execution of the work plan, but no later than December 31, 2015.

The Santa Ana Water Board committed to revisiting these TMDLs no later than five (5) years following OAL approval of this Basin Plan amendment, in order to evaluate the effectiveness of Phase I implementation. At that time, all new data will be evaluated and used to reassess impairment, BMP effectiveness, and potential modifications to the TMDLs. If BMPs implemented during Phase 1 have been shown to be ineffective in reducing levels of organochlorine compounds, then more stringent BMPs may be necessary during Phase II implementation.

Implementation of these TMDLs and the schedule for implementation are very closely tied with other TMDLs that are currently being implemented in the watershed. The sediment TMDL for San Diego Creek was the basis for calculating organochlorine compound loading capacities.

# DRAFT

## POLICY ISSUE

Should the State Water Board approve the amendment to the Basin Plan to incorporate organochlorine compounds TMDLs for San Diego Creek, Upper & Lower Newport Bay?

## FISCAL IMPACT

Santa Ana 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 Santa Ana Water Board's Basin Plan.

## STAFF RECOMMENDATION

That the State Water Board:

1. Approves the amendment to the Basin Plan adopted under Santa Ana Water Board Resolution No. R8-2007-0024.
2. Authorizes the Executive Director or designee to submit the amendment adopted under Santa Ana Water Board Resolution No. R8-2007-0024 to OAL for approval of the regulatory provisions and to U.S. EPA for approval of the TMDL.

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 Action 1 to prepare, adopt, and take steps to carry out Total Maximum Daily Loads, designed to meet water quality standards, for all impaired water bodies on the 2006 list.

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## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2010-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SANTA ANA REGION (BASIN PLAN) TO INCORPORATE ORGANOCHLORINE COMPOUNDS TOTAL MAXIMUM DAILY LOADS (TMDLs) FOR SAN DIEGO CREEK, AND UPPER AND LOWER NEWPORT BAY

### WHEREAS:

1. On September 7, 2007, the Santa Ana Water Board adopted Resolution No. R8-2007-0024 ([Attachment](#)) amending the Basin Plan to incorporate organochlorine compounds TMDLs for San Diego Creek, Upper Newport Bay and Lower Newport Bay.
2. The Santa Ana Water Board found that the analysis contained in the California Environmental Quality Act (CEQA) substitute documentation for the proposed Basin Plan amendment, including the CEQA Checklist, the staff report, and the responses to comments complies with the requirements of the State Water Board's certified regulatory CEQA process, as set forth in the California Code of Regulations, Title 23, section 3775 et seq.
3. The Santa Ana 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 CFR section 131.12).
4. The State Water Board found 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 of 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 federal Clean Water Act section 303(d).
5. 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).

### THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan adopted under Santa Ana Water Board Resolution No. R8-2007-0024.

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2. Authorizes the Executive Director or designee to submit the amendment adopted under Santa Ana Water Board Resolution No. R8-2007-0024 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 (TBD).

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Jeanine Townsend  
Clerk to the Board