STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

RESOLUTION NO. R3-2005-0106 AMENDING THE WATER QUALITY CONTROL PLAN FOR THE CENTRAL COAST BASIN TO INCLUDE THE SAN LUIS OBISPO CREEK TOTAL MAXIMUM DAILY LOAD AND IMPLEMENTATION PLAN FOR NITRATE-NITROGEN

WHEREAS, the California Regional Water Quality Control Board, Central Coast Region hereby finds that:

The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), adopted the Water Quality Control Plan for the Central Coast Basin (Basin Plan), on September 8, 1994. The Basin Plan includes beneficial use designations, water quality objectives, implementation plans for point source and nonpoint source discharges, and statewide plans and policies.

2. The Central Coast Water Board periodically revises and amends the Basin Plan. The Central Coast Water Board has determined the Basin Plan requires further revision and amendment to incorporate the San Luis Obispo Creek Total Maximum Daily Load (TMDL) for Nitrate-Nitrogen (Nitrate-N).

3. The Central Coast Water Board proposes to amend the Basin Plan by inserting amendments into Chapter Four, Section IX (Total Maximum Daily Loads).

4. Section 303(d) of the Clean Water Act (CWA) requires states to identify and prepare a list of water bodies that do not meet water quality standards and to establish TMDLs for listed waterbodies.

5. San Luis Obispo Creek was identified on California's 1994 303(d) list as impaired by nutrients due to exceedence of the existing Basin Plan objective protecting the municipal and domestic supply (MUN) beneficial use.

6. San Luis Obispo Creek is located in San Luis Obispo County, California. The headwaters are located immediately north-east of the City of San Luis Obispo and flow southwest for approximately 17 miles towards Avila Beach, California, ultimately draining into the Pacific Ocean at Avila Bay.

7. The Final Project Report contains a Problem Statement, Numeric Targets, Source Analysis, Total Maximum Load, Linkage Analysis, Load Allocations, Margin of Safety, an Implementation Plan, and a Monitoring Plan.

8. The elements of a TMDL are described in 40 CFR 130.2 and 130.7 and section 303(d) of the CWA, as well as USEPA guidance documents. A TMDL is defined as "the sum of individual waste load allocations for point sources and load allocations for nonpoint sources and natural background" (40 CFR 130.2). The Central Coast Water Board has determined that the San Luis Obispo Creek Nitrate-N TMDL is set at levels necessary to attain and maintain the applicable numeric water quality objectives taking into account seasonal variations and any lack of knowledge concerning the relationship between effluent limitations and water quality (40 CFR 130.7(c)(1)). The regulations in 40 CFR 130.7 also state that TMDLs shall take into account critical conditions for stream flow, loading and water quality parameters. TMDLs are often expressed as a mass load of the pollutant but can be expressed as a unit of concentration if appropriate (40 CFR 130.2(i)).

9. Upon establishment of TMDLs by the State or US Environmental Protection Agency (USEPA), the State is required to incorporate the TMDLs, along with appropriate implementation measures, into the State Water Quality Management Plan (40 CFR 130.6 (c)(1), 130.7; CWC sections 13050(j), 13242). The Basin Plan, and applicable statewide plans, serves as the State Water Quality Management Plan governing the watersheds under the jurisdiction of the Central Coast Water Board.

10. The Central Coast Water Board's goal for establishing the above mentioned TMDL is to protect the municipal and domestic water supply beneficial use (MUN) as defined in the Basin Plan.

11. Central Coast Water Board staff submitted a TMDL Project Report to an external scientific review panel on March 16, 2005 as required by Health & Safety Code Section 57004. Central Coast Water Board staff edited the Project Report or provided a written response that explained the basis for not incorporating the comments, or the comments did not result in any changes to the proposed Basin Plan Amendment. The scientific portions of the TMDL and implementation plan are based on sound scientific knowledge, methods, and practices in accordance with Section 57004.

12. Interested persons and the public have been informed of TMDL progress from the early stages of TMDL development. Efforts to inform the public and solicit public comment include public meetings, presentations to special interest groups, several individual meetings with vested stakeholders, and a number of telephone conversations with interested parties. Water Board staff provided public notification of the amendment to the Basin Plan 45 days preceding the Board hearing. Notice of public hearing was given by advertising in newspapers of general circulation within the Region and by mailing a copy of the notice to all persons requesting such notice and applicable government agencies. Central Coast Water Board staff responded to oral and written comments received from the public.

13. The Central Coast Water Board considered costs of implementing measures to achieve the TMDL. The costs to implement the TMDL will be incurred by identified responsible parties. These costs are reasonable relative to the water quality benefits to be derived from implementing the TMDL.

14. Anti-Degradation – This Resolution is consistent with the provisions of the State Water Resources Control Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California" and 40 CFR 131.12. The TMDL will result in improved water quality and maintains the level of water quality necessary to protect existing and anticipated beneficial uses.

15. The Central Coast Water Board concurs with the analysis contained in the Final Project Report, California Environmental Quality Act "Substitute Document" Report for Basin Plan Amendment, including the CEQA Checklist, the staff report and the responses to comments and finds that the analysis complies with the requirements of the State Water Resources Control Board's (State Water Board) certified regulatory CEQA process, as set forth in California Code of Regulations, Title 23, section 3775 et seq. Furthermore, the Central Coast Water Board finds that the analysis fulfills the Central Coast Water Board's obligations attendant with the adoption of regulations "requiring the installation of pollution control equipment, or a performance standard or treatment requirement," as set forth in section 21159 of the Public Resources Code. All public comments were considered.

16. The Basin Plan amendment incorporating a TMDL for nitrate-N for San Luis Obispo Creek must be submitted for review and approval by the State Water Board, the State Office of Administrative Law (OAL), and the USEPA. The Basin Plan amendment will become effective upon approval by OAL.

17. The amendment to the Basin Plan will result in no potential adverse effect, either individually or cumulatively, on wildlife and is therefore exempt from fee payments to the Department of Fish and Game under the California Fish and Game Code.

18. On September 9, 2005, in San Luis Obispo, California, the Central Coast Water Board held a public hearing and heard and considered all public comments and evidence in the record.

THEREFORE, be it resolved that:

1 Pursuant to sections 13240 and 13242 of the California Water Code, the Central Coast Water Board, after considering the entire record, including the oral testimony at the hearing, hereby adopts the amendment: "Attachment A: Attachment -Proposed Basin Plan Amendments."

2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of section 13245 of the California Water Code.

3. The Central Coast Water Board requests that the State Water Board approve the Basin Plan amendment in accordance with the requirements of sections 13245 and 13246 of the

California Water Code and forward it to OAL and the USEPA. The Central Coast Water Board shall file a Notice of Decision with the Secretary of Resources and the Governor's Office of Planning and Research (State Clearinghouse) after approval by OAL and USEPA.

4. The Executive Officer is authorized to sign a Certificate of Fee Exemption.

5. If, during its approval process, the State Water Board or OAL determines that minor, non-substantive corrections to the language of the amendment are needed, the Executive Officer may make such changes, and shall inform the Central Coast Water Board of any such changes.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of the resolution adopted by the California Regional Water Quality Control Board, Central Coastal Region, on September 9, 2005.

for Roger W. Briggs
Executive Officer

RESOLUTION NO. R3-2005-0106

ATTACHMENT - PROPOSED BASIN PLAN AMENDMENTS

1. Revise the September 8, 1994 Basin Plan, Chapter Four, as follows:

Add the following to Chapter 4 after IX. F.

IX. G. SAN LUIS OBISPO CREEK TOTAL MAXIMUM DAILY LOAD AND IMPLEMENTATION PLAN FOR NITRATE-NITROGEN

The Regional Water Quality Control Board adopted this TMDL on September 9, 2005.
This TMDL was approved by:
The State Water Resources Control Board on _____.
The California Office of Administrative Law on _____ (*Effective date*)
The U.S. Environmental Protection Agency on _____

Problem Statement
The municipal and domestic supply of water beneficial use (MUN) is not being supported because nitrate-N concentrations in San Luis Obispo Creek exceed the existing Basin Plan numeric objective protecting the MUN beneficial use.

Numeric Target
The numeric target used to calculate the TMDL is a nitrate-N concentration of 10 mg/L-N.

Source Analysis
Nitrate-N sources contributing to the problem identified in the Problem Statement are, in decreasing order of contribution: City of San Luis Obispo Water Reclamation Facility (WRF), croplands, background, reservoirs, and residential areas.

TMDL and Allocations
The TMDL is a receiving water nitrate-N concentration equal to the numeric target. The following allocations are necessary to achieve the TMDL.

Wasteload Allocations:

City of San Luis Obispo WRF effluent: The monthly mean nitrate-N concentration of effluent shall not exceed 10 mg/L-N.

Load Allocations:
- Croplands in Prefumo Creek Watershed: shall not cause nitrate-N concentration in receiving waters to exceed 10 mg/L-N.
- Background: Nitrate concentration of 0.1 mg/L-N.

Load and wasteload allocations to sources currently meeting water quality standards:
- The following wasteload and load allocations ensure that the receiving water will achieve compliance with water quality standards at the earliest possible date, continue to meet

water quality standards after the above wasteload and load allocations are attained, and comply with state and federal anti-degradation requirements.

- Residential Sources Wasteload Allocation:
  - Storm water discharge shall not cause an increase in receiving water nitrate-N concentration greater than the current increase in nitrate-N concentration resulting from the discharge.

- Reservoir Sources Load Allocation (Laguna Lake):
  - Reservoir discharge shall not cause an increase in receiving water nitrate-N concentration greater than the current increase in nitrate-N concentration resulting from the discharge.

Margin of Safety: Nitrate concentration of 2.2 mg/L-N.

IMPLEMENTATION

The following actions will be taken to implement the TMDL.

WRF Source:

The Central Coast Water Board will incorporate an effluent limit for nitrate-N in the City of San Luis Obispo's National Pollutant Discharge Elimination System permit (NPDES permit) for the WRF, consistent with the allocations described in the Wasteload Allocations section above. The effluent limit will be incorporated in the NPDES permit at the first permit renewal following TMDL approval by the Central Coast Water Board (expected in May 2007).

The Central Coast Water Board intends to issue a Cease and Desist Order (CDO) or Time Schedule Order to the WRF concurrently with the NPDES permit, requiring the WRF to reduce nitrate-N concentration in the effluent. The CDO will contain a time schedule establishing the time allowed to comply with the order.

The Central Coast Water Board will consider a revision of the wasteload allocation and corresponding effluent limit for the WRF if an amendment to the Basin Plan removing or revising the MUN beneficial use and corresponding numeric objective for nitrate is approved by USEPA.

Residential Source (Storm water):

- The City of San Luis Obispo, the County of San Luis Obispo, and Cal Poly State University will implement management practices consistent with and required by Small MS4 Permits regulating storm water discharge in San Luis Obispo Creek watershed, and will submit annual reports as required by such permits. If implementation actions are insufficient to achieve the TMDL, additional implementation actions will be required through approval by the Executive Officer (e.g., pursuant to CWC section 13267 or section 13383) or by the Central Coast Water Board (e.g., by requiring revisions of existing storm water management plans and/or a Basin Plan Amendment).

Reservoir Source

- Implementation measures to achieve the allocation to the reservoir source are carried out through the Residential Source (Storm water) implementation actions.

Cropland Source:

- Landowners and operators of irrigated lands in Prefumo Creek watershed will implement actions needed to achieve the allocations to croplands pursuant to the Conditional Waiver of Waste Discharge Requirements for Discharges to Irrigated Lands (Conditional Waiver). Implementation and monitoring requirements for parties engaged in agricultural activities are consistent with, and rely upon, the Conditional Waiver.
- Monitoring reports and data associated with the Conditional Waiver, as well as other information, will be used to determine whether management measures being taken are sufficient to achieve the TMDL by the year 2012. Central Coast Water Board staff will make this determination every three years as described in the Tracking and Monitoring section below. If implementation actions are insufficient to achieve the TMDL, additional implementation actions will be required through approval by the Executive Officer (e.g., pursuant to CWC section 13267 or section 13383) or by the Central Coast Water Board; the Executive Officer or the Central Coast Water Board will approve of additional actions as soon as practicable.

Monitoring

The following actions will be taken to implement monitoring requirements.

The Executive Officer (EO) or the Central Coast Water Board will amend the Monitoring and Reporting Program (M&RP) of the City's NPDES permit for the WRF to incorporate effluent and stream monitoring for nitrate-N, and to incorporate reporting of these monitoring activities. The City of San Luis Obispo will comply with the amended M&RP as soon as the EO or the Water Board issues the revised program (anticipated to occur at the next permit renewal following TMDL approval by the Central Coast Water Board [expected in May 2007]).

Implementation and monitoring requirements for parties engaged in agricultural activities are consistent with, and rely upon, the Conditional Waiver.

Tracking and Monitoring

- Central Coast Water Board staff will conduct a review of implementation activities every three years, beginning three years after TMDL approval by the Office of Administrative Law, unless funding is unavailable. Central Coast Water Board staff will utilize annual reports associated with Small MS4 permits, as well as other available information, to review water quality data and implementation efforts of implementing parties and progress being made towards achieving the allocations and the numeric target. Central Coast Water Board staff may conclude that ongoing implementation efforts may be insufficient to ultimately achieve the allocations and numeric target. If staff makes this determination, staff will recommend that additional reporting, monitoring, or implementation efforts be required either through approval by the Executive Officer (e.g.,

pursuant to CWC section 13267 or section 13383) or by the Central Coast Water Board (e.g., through revisions of existing permits and/or a Basin Plan Amendment). Central Coast Water Board staff may conclude that to date, implementation efforts and results are likely to result in achieving the allocations and numeric target, in which case existing and anticipated implementation efforts will continue.

Three-year reviews will continue until the TMDL is achieved, unless funding is unavailable. The target date to achieve the TMDL is during or before the year 2012.