

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER WQO 2004-0011

In the Matter of the Petition of

**CAMROSA WATER DISTRICT,
VENTURA COUNTY WATER DISTRICT NO. 1, AND
LOS ANGELES COUNTY SANITATION DISTRICTS NOS. 26 AND 32**

For a Stay of Chloride Effluent Limitations in Permits and
Provisions Pertaining to Chloride Limits in Time Schedule Orders
Issued by the
California Regional Water Quality Control Board,
Los Angeles Region

SWRCB/OCC FILE A-1606, A-1614, & A-1616¹

BY THE BOARD:²

Camrosa Water District, Ventura County Water District No. 1, and Los Angeles County Sanitation Districts Nos. 26 and 32 (collectively referred to as "petitioners") have entered into agreements with the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) concerning chloride effluent limitations in permits issued by the Regional Board. Petitioners operate publicly owned treatment works in the Calleguas Creek and Santa Clara River Watersheds that are subject to time schedule orders and National Pollutant Discharge Elimination System (NPDES) permits with effluent limitations for chloride. The agreements attached hereto reflect an agreement among the petitioners and Regional Board that effluent limitations in the NPDES permits should be stayed at the level established in the time schedule orders.

¹ These three petitions are consolidated pursuant to California Code of Regulations, title 23, section 2054 because the petitions address related issues. The Camrosa Water District and Ventura County Water District No. 1 petitions are also related to prior stay orders adopted by the Board. See SWRCB Order Nos. WQ 2002-0017 and 2003-0019.

² The Board has delegated to the Chair, or the Chair's designee, the authority to conduct hearings on stay requests and to issue stays. SWRCB Res. No. 2002-0103.

Water Code section 13321, subdivision (a), allows the State Water Resources Control Board (SWRCB) to issue a stay without a hearing if no party has requested a hearing. Petitioners and the Regional Board have waived their rights to a hearing on the stay.

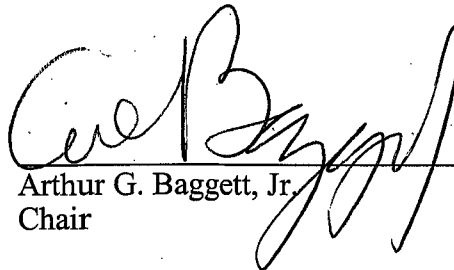
The "Stipulation for Further Order Issuing Stay" entered into by the Camrosa Water District, Ventura County Water District No. 1, and the Regional Board, dated July 6, 2004, stays the final chloride effluent limits in permits and provisions pertaining to chloride limits in time schedule orders issued by the Regional Board. A copy of the stipulation is attached and incorporated by reference. The stipulation as set forth in Paragraph 2 of the agreement is approved.

The "Settlement Agreement and Stipulation Concerning Chlorides in the Upper Santa Clara River" entered into by the Los Angeles County Sanitation Districts Nos. 26 and 32 and the Regional Board, dated March 10, 2004, stays the final chloride effluent limits in permits issued by the Regional Board. A copy of the agreement is attached and incorporated by reference. The stipulation as set forth in Paragraph 2 of the agreement is approved.

Petitioners' petitions for review, SWRCB Office of Chief Counsel files A-1614 & A-1616 will be held in abeyance for three years, and file A-1606 will be held in abeyance for five years.

Dated:

JUL 15 2004



Arthur G. Baggett, Jr.
Chair

RECEIVED

JUL 06 2004

OFFICE OF
CHIEF COUNSEL

BEFORE THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petitions of Camrosa
Water District and Ventura County
Waterworks District No. 1 for Review of
Action and Failure to Act by Los Angeles
Regional Water Quality Control Board.

SWRCB/OCC File A-1616 (Camrosa)
SWRCB/OCC File A-1614 (VCWD No. 1)
[Related Petition: SWRCB/OCC File A-1474]

STIPULATION FOR FURTHER ORDER
ISSUING STAY

RECITALS

1. On October 17, 2002, the State Water Resources Control Board (SWRCB) adopted Order No. WQO 2002-0017. The Order approved the "Stipulation for Order Issuing Stay with Conditions" entered into by the Cities of Simi Valley and Thousand Oaks, Camarillo Sanitary District, Camrosa Water District and Ventura County Water Works District No. 1 and the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), staying chloride effluent limitations contained in WDRs issued to the five publicly owned treatment works. The parties stipulated to a modification of Order No. WQO 2002-0017 on March 31, 2003.¹

2. On January 2, 2004, Camrosa Water District and Ventura County Waterworks District No. 1, (collectively "Petitioners"), pursuant to Water Code section 13320, filed petitions for review with the SWRCB of the new effluent limitations for chloride contained in orders adopted by the Regional Board on December 4, 2003. Petitioners further requested that the SWRCB issue a stay of such limitations.

STIPULATION FOR FURTHER ORDER ISSUING STAY

1 3. The new effluent limitations for chloride in the permits and accompanying time
2 schedule order pertaining to chloride were proposed and adopted in response to statements by
3 the United States Environmental Protection Agency Region IX ("U.S. EPA") that the final
4 orders must include effluent limitations for chloride consistent with wasteload allocations
5 (WLA) contained in a Total Maximum Daily Load (TMDL) for chloride promulgated by
6 U.S. EPA on March 2, 2002. The TMDL was based upon a water quality objective for chloride
7 of 150 mg/l.
8

9 4. Petitioners contend, among other things, that the Regional Board improperly
10 included the numeric effluent limitations for chloride in the orders. The bases of Petitioners'
11 objections are articulated in their respective petitions. The Petitioners ask that the SWRCB stay
12 the chloride effluent limitations consistent with Order WQO 2002-0017.
13

14 5. Petitioners allege they will incur substantial harm if the effluent limitations for
15 chloride are not stayed. Petitioners contend that, absent a stay, they must immediately initiate
16 planning and construction of expensive reverse osmosis facilities in order to comply with the
17 effluent limitations.

18 6. The parties agree that the public will not incur substantial harm if a stay is granted.

19 7. The Regional Board and the Petitioners agree upon the need to further consider
20 water quality standards for chloride and alternate approaches to chloride regulation in the
21 Calleguas Creek watershed. In this regard, Petitioners have submitted to the Regional Board a
22 work plan for salts in the Calleguas Creek watershed to support determinations of beneficial
23 uses, water quality objectives, and development of TMDLs as necessary. The Executive Officer
24

25
26
27 ¹ On November 19, 2003, the SWRCB issued Order WQO 2003-0019, approving a Stipulation for
28 Further Order Issuing Stay. This order stayed the effluent limitations for chloride in permits issued to the
Cities of Simi Valley and Thousand Oaks and the Camarillo Sanitary District.

1 of the Regional Board approved such work plan by letter of July 3, 2003, and activities in
2 furtherance of the work plan are in progress.

3 8. The Regional Board and the Petitioners, considering the history of chloride
4 regulation in the Calleguas Creek watershed, the existing stay in effect pursuant to WQO 2002-
5 0017, the incorporation of chloride effluent limitations into the various Regional Board orders
6 that are the subject of the petitions, and the intent to constructively address chloride regulation in
7 the Calleguas Creek watershed and to amicably resolve issues raised in the petitions, have agreed
8 to stipulate to a stay order by the SWRCB as provided below.

9
10 STIPULATION

11 1. The parties stipulate that the entry of a stay on the terms and conditions in
12 Paragraph 2 below is appropriate and in the public interest. This stipulation shall not, however,
13 constitute or be construed as an admission on any issue of law or fact relevant to the final
14 disposition of the petitions.
15

16 2. The parties stipulate to the entry of an Order by the SWRCB providing as follows:
17 “(a) effective December 4, 2003, the following final effluent limitations are stayed
18 consistent with WQO 2002-0017, as modified by the March 31, 2003 stipulation of the parties:

19 “(i) Final effluent limitations for chloride contained in Section I, Discharge
20 Requirements A, “Effluent Limitations” 2.a. of Order No. R4-2003-0156 (NPDES
21 No. CA005951) of the Los Angeles Regional Water Quality Control Board;

22 “(ii) Final effluent limitations for chloride contained in Section I, Discharge
23 Requirements A, “Effluent Limitations” 2.a. of Order No. R4-2003-0151 (NPDES
24 No. CA0063274) of the Los Angeles Regional Water Quality Control Board;

25 “(iii) Effective December 4, 2003, the provisions of Time Schedule Order No.
26 R4-2003-0157 pertaining to compliance with chloride effluent limitations are stayed.”
27
28

1 “(c) The petitions filed on January 2, 2004, denominated SWRCB/OCC Files A-1614
2 and A-1616, will be held in abeyance pursuant to Section 2050.5(d) of Title 23, Division 3,
3 Chapter 6 of the California Code of Regulations for a period of three years from the date of
4 action by the SWRCB approving the Stipulation for Further Order Issuing Stay, subject to the
5 right of Petitioners to reactivate the petitions in whole or in part, or subject to any stipulated
6 extension of the abeyance period. The parties, and the parties to the Petition denominated OCC
7 File A-1474, further stipulate that the Petition under OCC File A-1474 shall remain in abeyance
8 for a period of three years from the date of action by the SWRCB approving the Stipulation for
9 Further Order Issuing Stay, subject to the right of the Petitioners to reactivate the Petition.”

11 “(d) The Regional Board may request that the State Board dissolve this stipulated stay.
12 Upon receiving such a request to dissolve the stay, the State Board shall reactivate Petitioners’
13 petitions as related to chloride and motion for stay. Upon receipt of the request to dissolve the
14 stay, the State Board will, after consultation with the parties, establish a schedule for briefing
15 and, if appropriate, a hearing, with respect to whether a further stay should issue. Under such
16 circumstances, the dissolution of stay issued by this Order upon the parties’ Stipulation shall be
17 coincident with the State Board’s ruling on Petitioners’ motion for stay and such dissolution will
18 be effective prospectively only.”


CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, LOS ANGELES REGION

22 DATE: May 12, 2004

22 By 
23 Dennis Dickerson, Executive Officer

SOMACH, SIMMONS & DUNN

26 DATE: July 6, 2004

26 By 
27 Roberta L. Larson
28 Attorneys for Petitioners

**SETTLEMENT AGREEMENT AND STIPULATION
CONCERNING CHLORIDES IN THE UPPER SANTA CLARA RIVER**

RECITALS

This Upper Santa Clara River Chloride Agreement ("Agreement") is made by and between the California Regional Water Quality Control Board, Los Angeles Region ("Regional Board") and the County Sanitation District Nos. 26 And 32 Of Los Angeles County ("Districts") (collectively with the Regional Board, the "Parties").

A. Whereas, pursuant to the requirements of Clean Water Act ("CWA") Section 303(d) (33 U.S.C. § 1313(d)) and Water Code sections 13000 et seq., the Regional Board prepared a Total Maximum Daily Load ("TMDL") for chloride for the Upper Santa Clara River (hereinafter referred to as the "Chloride TMDL").

B. Whereas, at its October 24, 2002 meeting, the Regional Board adopted the Chloride TMDL as Resolution No. 2002-018, amending the Los Angeles Region Water Quality Control Plan ("Basin Plan") to incorporate the elements of the Chloride TMDL.

C. Whereas, on February 19, 2003, the State Water Resources Control Board ("State Board") remanded Resolution No. 2002-018 to the Regional Board and directed the Regional Board to consider specific modifications to the implementation plan of the Chloride TMDL.

D. Whereas, on July 10, 2003, the Regional Board reconsidered the Chloride TMDL, in light of the State Board's remand in Resolution 2002-018, and adopted Resolution 2003-008, including specified revisions to the Chloride TMDL implementation plan.

E. Whereas, on November 6, 2003, the Regional Board adopted NPDES permits ("Permits") identified as Regional Board Order Nos. R4-2003-0143 and -0145, and Time Schedule Orders ("TSOs") identified as Regional Board Order Nos. R4-2003-0144 and -0146 for the Districts' Saugus and Valencia Water Reclamation Plants, which discharge into the reaches of the Santa Clara River covered by the Chloride TMDL.

F. Whereas, on December 5, 2003, the Districts filed Petitions for Review with the State Board on the Saugus and Valencia WRP NPDES permits and TSOs, and also sought a stay for, *inter alia*, the final chloride effluent limitations contained in the Permits, and a variance from the current chloride objective of 100 mg/L. The Districts alleged substantial harm if the final effluent limitations for chloride are not stayed and that, absent a stay, the Districts must immediately initiate planning and construction of expensive reverse osmosis facilities in order to comply with the final effluent limitations. The Parties agree that based on existing evidence the public will not incur substantial harm if a stay of the chloride effluent limits in the Permits is granted subject to the terms and conditions of this Agreement.

G. Whereas, on or about May 6, 2004, the Regional Board is scheduled to consider adoption of new negotiated amendments ("Chloride TMDL Amendments") to the Chloride TMDL in light of State Board direction and negotiations between the Regional Board staff and the Districts. Because the Parties agree upon the need to further consider the applicable water quality standards for chloride and alternate approaches to chloride regulation in the Santa Clara River watershed, the negotiated Chloride TMDL Amendments include, but are not limited to, affirmative reconsideration provisions at three separate points in time, modified TMDL interim wasteload allocations to match the interim effluent limitations applied to the Districts' Saugus and Valencia treatment plants in TSOs adopted simultaneously with the Permits, removal of language specifying advanced treatment since the status of the ultimate water quality target is still in flux and the necessary control measures are currently uncertain, and minor modifications to the structure and timing of several tasks required by the implementation plan.

H. Whereas, the schedule in the Chloride TMDL implementation plan is longer than five years, and the Districts' NPDES permits for the Saugus and Valencia treatment plants will expire and are expected to be renewed one or more times during the course of the Chloride TMDL implementation schedule.

I. Whereas, during the course of the Chloride TMDL implementation schedule and consistent with existing practice, the Regional Board will include interim chloride effluent

limitations in future NPDES permits for the Saugus and Valencia treatment plants that reflect the revised interim wasteload allocations that modify the final chloride effluent limitations in the Permits.

J. Whereas, in Spring or Summer of 2004, the State Board will consider adoption of a Resolution(s) approving the Chloride TMDL and the Chloride TMDL Amendments to the Basin Plan adopted by the Regional Board.

K. Whereas, any State Board Resolution approving the amendments to the Basin Plan incorporating the Chloride TMDL and the Chloride TMDL Amendments does not become effective until approved by the Office of Administrative Law ("OAL"), and the Chloride TMDL and the Chloride TMDL Amendments do not become effective until approved by the United States Environmental Protection Agency ("EPA").

L. Whereas, an issue exists as to whether the Chloride TMDL, Regional Board Resolution No. 2003-008 and the Chloride TMDL Amendments, and the State Board Resolution(s) will be ripe for review before these regulatory provisions are approved by OAL and/or EPA.

M. Whereas, the Parties seek to avoid unnecessary litigation and motion practice over permit appeals and judicial determinations as to whether the Chloride TMDL, Regional Board Resolution No. 2003-008, and State Board Resolutions are or soon will be ripe for review, particularly where the Parties have agreed to work cooperatively and possibly employ an alternative dispute resolution process to resolve issues related to the Chloride TMDL and the underlying chloride objectives for the Upper Santa Clara River that are currently contained in the Basin Plan.

N. Whereas, it is the Parties' intent to constructively address chloride regulation in the Upper Santa Clara River watershed and to amicably resolve issues raised in the Districts' petition for review, the Parties have agreed to stipulate to a limited stay order by the State Board.

O. Whereas, without admitting anything, the Parties enter into this Agreement to resolve the permitting and Chloride TMDL issues and to avoid the expense and uncertainty of litigation.

IT IS HEREBY AGREED AND STIPULATED by and between the Regional Board and the Districts as follows:

1. Stipulated Stay. The Parties stipulate that the entry of a stay on the terms and conditions in Paragraph 2 below is appropriate and in the public interest. This stipulation shall not, however, constitute or be construed as an admission on any issue of law or fact relevant to the final disposition of the underlying petitions for review. The stipulated stay may be entered without a hearing, as allowed by Water Code section 13321, and the Parties have no objection to the State Board's Executive Director or a State Board member issuing the stay pursuant to delegated authority.

2. Provisions of Stipulated Stay. The Parties stipulate to the entry of an Order by the State Board providing as follows:

“Effective December 26, 2003, the following effluent limitations are stayed by stipulation of the parties:

“(i) Final and interim effluent limitations for chloride currently contained in Section I, Discharge Requirements, 1. “Effluent Limitations,” Provision B.a. of Order No. R4-2003-0143 (NPDES No. CA0054313) of the Los Angeles Regional Water Quality Control Board.

“(ii) Final and interim effluent limitations for chloride currently contained in Section I, Discharge Requirements, 1. “Effluent Limitations,” Provision B.a. of Order No. R4-2003-00145 (NPDES No. CA0054216) of the Los Angeles Regional Water Quality Control Board.

3. Interim Effluent Limitations. The Parties agree that, if or when new or revised NPDES permits are subsequently issued to the Saugus or Valencia treatment plants prior to the date that a revised water quality objective or final wasteload allocations take effect in accordance with the Chloride TMDL Amendments, interim chloride effluent limitations reflecting the interim wasteload allocations in the TMDL, including any revisions thereto, will be included in the revised permits.

4. Abeyance of Petitions. The petitions filed on December 5, 2003 by the Districts, denominated SWRCB/OCC File A-1606, will be held in abeyance pursuant to Section 2050.5(d) of Title 23, Division 3, Chapter 6 of the California Code of Regulations for a period of five years from the date of action by the State Board approving the Stipulation for Further Order Issuing Stay, subject to the right of Petitioners to reactivate the petitions in whole or in part if this Agreement is abrogated and an actual controversy arises concerning the chloride effluent limitations or implementation of the chloride water quality objective, or subject to any stipulated extension of the abeyance period.

5. Dissolution of Stay. The Regional Board may request that the State Board dissolve the stipulated stay. Upon receiving such a request to dissolve the stay, the State Board shall reactivate the Districts' petition as related to chloride and allow the Districts to file a new motion for stay. Upon receipt of the request to dissolve the stay, the State Board will, after consultation with the parties, establish a schedule for briefing and, if appropriate, a hearing, with respect to whether a further stay should issue. Under such circumstances, the dissolution of stay issued by this Order upon the Parties' Stipulation shall be coincident with the State Board's ruling on Districts' motion for stay and such dissolution will be effective prospectively only.

6. Incorporation of Updated Interim Limits into Permits. Prior to the effective date of the Chloride TMDL Amendments, the Regional Board staff agrees to propose modifications to the Districts' Permits to replace the current interim limits with new interim limits consistent with the updated interim wasteload allocations and implementation schedule included in the Chloride TMDL Amendments; to propose amendments to the current footnotes to the chloride effluent limitations in the Permits to reflect the updated situation; and to amend the Permits' finding related to the Chloride TMDL to state that the final effluent limitations and wasteload allocations may change depending on the ultimate outcome of the review of the current chloride objective. After the modification of the Permits and upon the effective date of the Chloride TMDL Amendments, the updated interim limits will take effect in the Permits, the stay granted by the State Board as

discussed herein of the interim limits shall be lifted, and the Time Schedule Order provisions and interim limits related to chloride will be dissolved.

7. Amendments to Chloride TMDL. The Regional Board staff and the Districts agree to recommend certain revisions of the current Chloride TMDL to the Regional Board for adoption, to be known as the Chloride TMDL Amendments (Attachment 1). If the Regional Board approves the Chloride TMDL Amendments, then all Parties shall advocate to the State Board approval of the Chloride TMDL, including the Chloride TMDL Amendments. Such advocacy by the Districts shall not be construed as an acceptance of or agreement with the underlying facts or findings contained in the Chloride TMDL Amendments. If the Parties' agreed-upon language in the Chloride TMDL Amendments remains unchanged, the Districts agree not to challenge through a judicial proceeding in either state or federal court (i) the Regional Board's incorporation of the Chloride TMDL Amendments into the current Chloride TMDL or Basin Plan; (ii) the State Board's approval of Regional Board's incorporation of the Chloride TMDL Amendments into the current Chloride TMDL or Basin Plan; (iii) OAL's approval of the incorporation of the Chloride TMDL Amendments into the current Chloride TMDL or Basin Plan; or (iv) EPA's approval of the incorporation of the Chloride TMDL Amendments into the current Chloride TMDL or Basin Plan.

8. Effect of Agreeing to the Chloride TMDL Amendments. The Parties acknowledge that this Settlement Agreement does not limit the authority or discretion of the Regional Board members in acting pursuant to the Porter-Cologne Act, the Clean Water Act, and other applicable laws. Regional Board members must consider the evidence before them and exercise their authority consistent with applicable laws, the record before the Regional Board, and the discretion vested in the Regional Board members by applicable laws. If the Regional Board incorporates the Chloride TMDL Amendments unchanged into the current Chloride TMDL and the Basin Plan, then the Districts will not challenge the Chloride TMDL Amendments or the provisions of the current Chloride TMDL as amended by the Chloride TMDL Amendments, except as follows: (1) the Districts reserve the right to pursue a judicial challenge to the Chloride TMDL if the Regional Board fails to incorporate the Chloride TMDL Amendments into the current TMDL or Basin Plan,

or if the Chloride TMDL Amendments are not approved by the State Board, OAL, or EPA; (2) the Districts reserve the right to pursue a judicial challenge to the underlying chloride objectives if they remain unchanged after the Regional Board's reconsideration of the objective five years after the effective date of the amended Chloride TMDL; (3) the Districts reserve the right to challenge any additional revisions (besides the addition of the Chloride TMDL Amendments) to the current or revised Chloride TMDL or the Basin Plan that the Regional Board, State Board, or EPA may make at any time; (4) the Districts reserve the right to challenge future revisions to the amended Chloride TMDL, as well as any failure to take any actions specified in the Chloride TMDL or to make revisions to the current Chloride TMDL or the underlying water quality objectives; (5) the Districts reserve the right to pursue its challenge of the provisions of the Permits and Time Schedule Orders on all legal theories raised in its petitions for review if not changed as provided herein; and (6) the Districts reserve the right to challenge the Chloride TMDL should there be a change in law that renders this TMDL, as amended, inconsistent with the Clean Water Act or the Porter-Cologne Act.

9. Tolling Period. Subject to the above-reserved rights in Paragraph 8, all applicable statutes of limitations, including the 30-day statute of limitations and judicial commencement requirements of Water Code section 13330, governing the commencement of any judicial action by the Districts challenging the Regional Board's adoption of or failure to amend or grant a variance of the chloride water quality objectives for the Santa Clara River, or the imposition of requirements in the Permits or Time Schedule Order for the Saugus or Valencia Water Reclamation Plants related to chloride are hereby tolled. The intent of the Parties is not that the applicable statutes of limitations are tolled in perpetuity, but that the applicable statutes are tolled until the occurrence of one or more of the actions or inactions specified in Paragraph 8. Nothing in this Agreement shall be construed in any manner to revive causes of action upon which the statute of limitations has already expired. Subject to the provisions of this paragraph, the Regional Board agrees not to assert any defense to an action identified in Paragraph 8, based on a claim of ripeness, exhaustion of remedies, failure to adhere to applicable statutes of limitation, failure to adhere to applicable

jurisdictional filing deadlines including, but not limited to, those set forth in California Water Code section 13330 or Government Code section 11350, or other similar defense.

10. No Commencement of Defenses During Tolling Period. Any applicable statute of limitations, filing requirement, statute of repose, laches defense, claim of waiver or estoppel, or other similar defense or claim that is applicable to any of the claims or causes of action that the Districts have asserted or may assert, which arise out of or relate to the chloride objective, related chloride requirements in the Permits, the Chloride TMDL, Regional Board Resolution No. 2003-008, and State Board Resolutions, that have not run as of the date of execution hereof, shall not commence during the tolling period of Paragraph 9.

11. No Waiver of Statutes Against Public Policy. The Parties recognize that under limited circumstances, certain statutes of limitations enacted for the benefit of the public cannot be waived by agreement. To the fullest extent permitted by law, the Parties to this stipulation agree that no such statute of limitations is involved in or implicated by this stipulation and the Parties will not raise any defenses based on such grounds.

12. No Admission of Liability. Nothing in this Stipulation shall be construed as an admission of liability by any of the Parties, or as a waiver of any claims or causes of action, or as an agreement on the appropriate standard of review or causes of action or claims that may be asserted in challenging the chloride objectives for the Santa Clara River, the Permits' requirements related to chloride for its Saugus and Valencia treatment plants discharging to the Santa Clara River, the Chloride TMDL, Regional Board Resolution No. 2003-008, and State Board Resolutions.

13. Counterparts. This stipulation may be signed in counterparts.

14. Facsimile Signatures. Signatures transmitted by facsimile shall be deemed to have the same force and effect as original signatures.

15. Representation by Counsel. The Parties understand and agree that this Agreement has been freely and voluntarily entered into by the Parties, each of which has been fully represented by counsel at every stage of these proceedings, and that no representations or promises

of any kind other than as contained herein have been made by any party to induce any other party to enter into this Agreement. The language of this Agreement shall be construed in its entirety, according to its fair meaning, and not strictly for or against any of the Parties.

16. Integrated Agreement. This Agreement and the language of the Chloride TMDL Amendment reflected on the attachment hereto contains the entire understanding of the Parties concerning the matters contained herein and constitutes an integrated agreement.

17. Subsequent Amendment. This Agreement may not be altered, amended, modified, or otherwise changed except by a writing executed by each of the Parties.

18. Use of Agreement. This Agreement cannot be introduced into evidence in any action filed in any court except to enforce this Agreement itself.

19. Effective Date. This Agreement is effective when signed by all Parties and the effective date shall be date of the last signature.

20. Authority. Each party to this Agreement warrants that the individual executing this Agreement is duly authorized to do so and that execution is the act and deed of the party.

Dated: March 9, 2004

CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, LOS ANGELES REGION

By: Dennis A. Dickerson

Dennis Dickerson,
Executive Officer

Dated: March 10, 2004

COUNTY SANITATION DISTRICTS NOS. 26 & 32
~~DISTRICTS~~ OF LOS ANGELES COUNTY

By: James F. Stahl

James F. Stahl,
Chief Engineer and General Manager

ATTACHMENT 1
SETTLEMENT AGREEMENT AND STIPULATION
CONCERNING CHLORIDES IN THE UPPER SANTA CLARA
RIVER

State of California
California Regional Water Quality Control Board, Los Angeles Region

RESOLUTION NO. 04-0XX

May 6, 2004

**Revision of interim waste load allocations and implementation plan for chloride in the
Amendment to the Water Quality Control Plan for the Los Angeles Region to include a
TMDL for Chloride in the Upper Santa Clara River, Resolution 03-008**

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region, finds that:

1. The federal Clean Water Act (CWA) requires the California Regional Water Quality Control Board (Regional Board) to develop water quality standards which are sufficient to protect beneficial uses designated for each water body found within its region.
2. The Regional Board carries out its CWA responsibilities through California's Porter-Cologne Water Quality Control Act and establishes water quality objectives designed to protect beneficial uses contained in the Water Quality Control Plan for the Los Angeles Region (Basin Plan).
3. At a public meeting on October 24, 2002, the Regional Board considered amending the Basin Plan to include a Total Maximum Daily Load (TMDL) for chloride in the Upper Santa Clara River. The proposed TMDL included interim waste load allocations for chloride for the Valencia and Saugus Water Reclamation Plants (WRPs) which are owned and operated by the County Sanitation Districts of Los Angeles County (CSDLAC). These interim waste load allocations provide the discharger the necessary time to implement chloride source reduction, complete site specific objective studies, and make appropriate modifications to the WRP, as necessary, to meet the water quality objective for chloride. The interim waste load allocations proposed in the TMDL were based on a statistical evaluation of the WRP's performance in the three years preceding October 2002.
4. The Regional Board considered the entire record, including written and oral comments received from the public and the Regional Board staff's response to the written comments. Resolution 02-018, the TMDL for chloride in the Upper Santa Clara River, was adopted by Regional Board on October 24, 2002. Resolution 02-018 assigned waste load allocations (WLAs) to major POTWs, minor point sources, and MS4s permittees discharging to specific reaches of the Santa Clara River.
5. At a public workshop on February 4, 2003, the State Board considered the TMDL for chloride in the Upper Santa Clara River, the entire record, including written and oral comments received from the public and the State Board staff's response to the written comments. At a public meeting on February 19, 2003 the State Board adopted SWRCB Resolution 2003-0014 (the "Remand Resolution") which remanded the TMDL to the Regional Board and directed the Regional Board to

reconsider several matters associated with the TMDL implementation plan, including the duration of the interim waste load allocations. The State Board resolution did not recommend that the Regional Board consider revision of the interim waste load allocations.

6. In response to the Remand Resolution, Regional Board staff revised the TMDL Implementation Plan to address issues identified in the Remand Resolution. At a public hearing on July 10, 2003, the Regional Board considered the revised TMDL for chloride in the Upper Santa Clara River. The Regional Board considered the entire record, including written and oral comments received from the public, the Regional Board staff's response to the written comments, and the Remand Resolution. At the public hearing, the Regional Board directed staff to reconsider interim waste load allocations and evaluate how any changes would affect avocados and groundwater.
7. On July 10, 2003, the Regional Board adopted Resolution 03-008 to revise the Basin Plan to include a TMDL in the Upper Santa Clara River. Resolution 03-008 contained interim waste load allocations for the Saugus and Valencia WRPs and assigned waste load allocations (WLAs) to major POTWs, minor point sources, and MS4s permittees discharging to specified reaches of the Santa Clara River.
8. During the time that the State and Regional Boards were considering the chloride TMDL, the National Pollutant Discharge Elimination System (NPDES) permits for the Valencia and Saugus Water Reclamation Plants (WRPs) were under consideration for renewal by the Regional Board. Time Schedule Orders adopted contemporaneously with the NPDES permits also included interim discharge limits for chloride ("NPDES Interim Limits") which differed from the TMDL interim waste load allocations. The NPDES Interim Limits are based on the chloride concentration of the water served from Castaic Lake for municipal supply in the Santa Clarita Valley plus a loading factor of 134 mg/L of the Valencia WRP and 114 mg/L for the Saugus WRP, measured as a twelve month rolling average. The loading values are the highest measured at each plant in the last 5 years.
9. Staff finds that the effects of the NPDES Interim Limits relative to TMDL interim waste load allocations on groundwater and avocados are minor. Potential fiscal impacts could be addressed through the mechanisms of the TMDL. The purpose of this Basin Plan Amendment is to modify the interim waste load allocations in the Chloride TMDL to conform to those in the Saugus and Valencia Time Schedule Orders adopted by the Regional Board on November 6, 2003.
10. The item summary, as well as CEQA checklist and tentative Basin Plan Amendment were released for public comment on December 30, 2003. The revised interim waste load allocations are proposed in attachment A to this resolution.
11. The amendment is consistent with the State Antidegradation Policy (State Board Resolution No. 89-16), in that the changes to water quality objectives (i) consider maximum benefits to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies. Likewise, the amendment is consistent with the federal Antidegradation Policy (40 CFR 131.12).

12. The proposed amendment results in no potential for adverse effect (de minimis finding), either individually or cumulatively, on wildlife.
13. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).
14. The Basin Plan amendment incorporating a revision for interim waste load allocations for chloride in the Santa Clara River Chloride TMDL must be submitted for review and approval by the State Water Resources Control Board (State Board), the State Office of Administrative Law (OAL), and the U.S. Environmental Protection Agency (U.S. EPA). The Basin Plan amendment will become effective upon approval by OAL and U.S. EPA. A Notice of Decision will be filed.
15. The TMDL Implementation Plan includes a task to develop site specific objectives for chloride to protect beneficial uses. The studies supporting the proposed site specific objectives are to be completed within three years after the effective date of the TMDL. The three-year timeline is reasonable in light of existing information; however, depending on the data requirements that are recommended by technical experts pursuant to Implementation Task 4, the completion dates for the development of appropriate thresholds for chloride and associated implementation tasks may need to be revised in order to provide sufficient time to complete the necessary scientific studies. The Implementation Plan has been modified to recognize that the Regional Board will re-evaluate the implementation schedule 12 months after the effective date of the TMDL, and take action to amend the schedule if there is sufficient technical justification.
16. The Regional Board recognizes that certain completion dates provided in the TMDL Implementation Plan are estimates and that there are uncertainties associated with implementation of some of the tasks, particularly for those related to the development and implementation of appropriate control measures for meeting the water quality objective. For example, should additional treatment facilities be required, the time needed for actions including, but not limited to, gaining regulatory approval for measures selected for implementation, completion of CEQA requirements, and acquisition of land and easements, are subject to uncertainties and factors outside the control of responsible parties. In recognition of these uncertainties, the implementation plan has been modified to recognize that the Regional Board will re-evaluate the schedule 9 years after the effective date of the TMDL.

THEREFORE, be it resolved that pursuant to Section 13240 and 13242 of the Water Code, the Regional Board hereby amends the Basin Plan as follows:

1. The revised implementation plan in attachment A of this Resolution supersedes the implementation plan contained in Resolution 03-008.
2. Pursuant to sections 13240 and 13242 of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendment to Chapter 7 the Water Quality Control Plan for the Los Angeles Region to incorporate the revisions of the interim waste load

allocations and implementation plan in the Santa Clara River Chloride TMDL, Table 7-8.1, Implementation Section as set forth in Attachment A hereto.

3. The Executive Officer is directed to forward copies of the Basin Plan amendment to the SWRCB in accordance with the requirements of section 13245 of the California Water Code.
4. The Regional Board requests that the SWRCB approve the Basin Plan amendment in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward it to Office of Administrative Law (OAL) and the United State Environmental Protection Agency (U.S. EPA).
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 consistently, the Executive Officer may make such changes, and shall inform the Board of any such changes.
6. The Executive Officer is authorized to sign a Certificate of Fee Exemption.
7. Amend the text in the Basin Plan, Plans and Policies (Chapter 5) to add:

“Resolution No. 04-X. Adopted by the Regional Water Quality Control Board on May 6, 2004.

‘Amendment to revise the interim waste load allocations and implementation plan in the TMDL for Chloride in the Upper Santa Clara River, Resolution 03-008’. The resolution proposes revisions for the interim waste load allocations for chloride and a revised implementation plan for the Upper Santa Clara River.”

I, Dennis Dickerson, 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, Los Angeles Region, on May 6, 2004.

Dennis A. Dickerson
Executive Officer

Attachment A to Resolution No. R04-00XX

Revision of interim waste load allocations and implementation plan for chloride in the Amendment to the Water Quality Control Plan for the Los Angeles Region to include a TMDL for Chloride in the Santa Clara River, Resolution 03-008

Proposed for adoption by the California Regional Water Quality Control Board, Los Angeles Region on May x, 2004.

Amendments

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Add:

Chapter 7. Total Maximum Daily Loads (TMDLs)

7-6 Upper Santa Clara River Chloride TMDL

List of Figures, Tables, and Inserts

Add: Chapter 7. Total Maximum Daily Loads (TMDLs) Tables

7-6.1. Upper Santa Clara River Chloride TMDL: Elements

7-6.2. Upper Santa Clara River Chloride TMDL: Implementation Schedule

Chapter 7. Total Maximum Daily Loads (TMDLs) Upper Santa Clara River TMDL

This TMDL was adopted by: The Regional Water Quality Control Board on October 24, 2002.

This TMDL was remanded by: The State Water Resources Control Board on February 19, 2003

This TMDL was adopted by: The Regional Water Quality Control Board on July 10, 2003

This TMDL was revised and adopted by: The Regional Water Quality Control Board on [Insert date]

This TMDL was approved by: The State Water Resource Control Board on [Insert Date]

The Office of Administrative Law on [Insert Date].

The U.S. Environmental Protection Agency on [Insert Date].

Element	<p>Table 7-6.1 Upper Santa Clara River Chloride TMDL: Elements</p> <p style="text-align: center;">Santa Clara River Chloride</p>
<i>Problem Statement</i>	<p>Elevated chloride concentrations are causing impairments of the water quality objective in Reach 5 (EPA 303(d) list Reach 7) and Reach 6 (EPA 303(d) list Reach 8) of the Santa Clara River. This objective was set to protect all beneficial uses; agricultural beneficial uses have been determined to be most sensitive, and not currently attained at the downstream end of Reach 5 (EPA 303(d) list Reach 7) and Reach 6 (EPA 303(d) list Reach 8) in the Upper Santa Clara River. Irrigation of salt sensitive crops such as avocados and strawberries with water containing elevated levels of chloride results in reduced crop yields. Chloride levels in groundwater are also rising.</p>
<i>Numeric Target (Interpretation of the numeric water quality objective, used to calculate the load allocations)</i>	<p>This TMDL has a numeric target of 100 mg/L, measured instantaneously and expressed as a chloride concentration, required to attain the water quality objective and protect agricultural supply beneficial use. These objectives are set forth in Chapter 3 of the Basin Plan.</p> <p>The numeric target for this TMDL pertains to Reaches 5 and 6 of the Santa Clara River and is based on achieving the existing water quality objective of 100 mg/L, measured instantaneously, throughout the impaired reaches. A subsequent Basin Plan amendment will be considered by the Regional Board to adjust the chloride objective based on technical studies about the chloride levels, including levels that are protective of salt sensitive crops, chloride source identification, and the magnitude of assimilative capacity in the upper reaches of the Santa Clara River, provided that County Sanitation Districts of Los Angeles County choose to submit timely and complete studies in accordance with tasks 2 through 6 of Table 7.6.2.</p>
<i>Source Analysis</i>	<p>The principal source of chloride into Reaches 5 and 6 of the Santa Clara River is discharges from the Saugus Water Reclamation Plant (WRP) and Valencia WRP, which are estimated to contribute 70% of the chloride load in Reaches 5 and 6.</p>
<i>Linkage Analysis</i>	<p>Linkage between chloride sources and the in-stream water quality was established through a statistical analysis of the WRP effluent and water quality data at Blue Cut and Highway 99. The analysis shows that additional assimilative capacity is usually added to Reaches 5 and 6 from groundwater discharge, but the magnitude of the assimilative capacity is not well quantified. Consequently, the Implementation Plan includes a hydrological study (Surface Water/Groundwater Interaction) of the upper reaches of the Santa Clara River.</p>

Element	<p>Table 7-6.1 Upper Santa Clara River Chloride TMDL: Elements</p> <p style="text-align: center;">Santa Clara River Chloride</p>
<i>Waste Load Allocations (for point sources)</i>	<p>The numeric target is based on the water quality objective for chloride. The proposed waste load allocations (WLAs) are 100 mg/L for Valencia WRP and 100 mg/L for Saugus WRP. The waste load allocations are expressed as a concentration limit derived from the existing WQO, thereby accommodating future growth. Other NPDES discharges contribute a minor chloride load. The waste load allocation for these point sources is 100 mg/L.</p>
<i>Load Allocation (for non point sources)</i>	<p>The source analysis indicates nonpoint sources are not a major source of chloride. The load allocations for these nonpoint sources is 100 mg/L.</p>
<i>Implementation</i>	<p>Refer to Table 7-6.2.</p> <p>The implementation plan proposes that during the period of TMDL implementation, compliance for the WRPs' effluents will be evaluated in accordance with interim waste load allocations.</p> <p>Saugus WRP: The interim waste load allocations for chloride are based on the sum of State Water Project treated water supply concentration plus 114 mg/L, not to exceed 230 mg/L, or the following formula, both as a twelve month rolling average:</p> <p style="padding-left: 40px;">Interim Waste Load Allocation = Treated Potable Water Supply + 114 mg/L, not to exceed 230 mg/L.</p> <p>114 mg/L, is the maximum difference in chloride concentration between the State Water Project treated water and the Saugus WRP treated effluent over the last five years.</p> <p>Valencia WRP: The interim waste load allocation for chloride are based on the sum of State Water Project treated water supply concentration plus 134 mg/L, not to exceed 230 mg/L, or the following formula, both as a twelve month rolling average:</p> <p style="padding-left: 40px;">Interim Waste Load Allocation = Treated Potable Water Supply + 134 mg/L, not to exceed 230 mg/L.</p> <p>134 mg/L, is the maximum difference in chloride concentration between the State Water Project treated water and the Valencia WRP treated effluent over the last five years.</p>
<i>Margin of Safety</i>	<p>An implicit margin of safety is incorporated through conservative model assumptions and statistical analysis.</p>
<i>Seasonal Variations and Critical Conditions</i>	<p>Three critical conditions are identified for this TMDL. The driest six months of the year is the first critical condition for chloride because less surface flow is available to dilute effluent discharge, pumping rates for agricultural purposes are higher, groundwater discharge is less, poorer quality groundwater may be drawn into the aquifer and evapotranspiration effects are greater in warm</p>

	<p>weather. During drought, the second critical condition, reduced surface flow and increased groundwater extraction continues through several seasons with greater impact on groundwater resource and discharge. The third critical conditions is based on the recent instream chloride concentration increases such as those that occurred in 1999, a year of average flow, when 9 of 12 monthly averages exceeded the objective. Data from all three critical conditions were used in the statistical model described. Hydrological modeling will be completed to evaluate whether additional loading will impact the WQO or beneficial uses during non-critical conditions.</p>
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<p align="center">Table 7-6.2. Upper Santa Clara River Chloride TMDL: Implementation Implementation Tasks</p>	<p align="center">Completion Date</p>
<p>1. Alternate Water Supply</p> <p>a) Should (1) the monthly average in-river concentration at Blue Cut, the reach boundary, exceed the water quality objective of 100 mg/L, measured for the purposes of this TMDL as a rolling twelve month average, for three months of any 12 months, (2) each agricultural diverter provide records of the diversion dates and amounts to the Regional Board and County Sanitation Districts of Los Angeles County (CSDLAC) for at least 2 years after the effective date of the TMDL and (3) each agricultural diverter provide photographic evidence that diverted water is applied to avocado, strawberry or other chloride sensitive crop and evidence of a water right to divert, then CSDLAC will be responsible for providing an alternative water supply, negotiating the delivery of alternative water by a third party, or providing fiscal remediation to be quantified in negotiations between CSDLAC and the agricultural diverter at the direction of the Regional Water Quality Control Board until such time as the in-river chloride concentrations do not exceed the water quality objective.</p> <p>b) Should the instream concentration exceed 230 mg/L more than two times in a three year period, the discharger identified by the Regional Board Executive Officer shall be required to submit a work plan for an accelerated schedule to reduce chloride discharges within ninety days of a request by the Regional Board Executive Officer.</p> <p>2. Progress reports will be submitted by CSDLAC to Regional Board staff on a semiannual basis from the effective date of the TMDL for tasks 4, 6, and 7, and on an annual basis for Task 5.</p>	<p align="center">Effective Date of TMDL</p>
<p>3. Chloride Source Identification/Reduction, Pollution Prevention and Public Outreach Plan: Six months after the effective date of the TMDL, CSDLAC will submit a plan to the Regional Board that addresses measures taken and planned to be taken to quantify and control sources of chloride, including, but not limited to: execute community-wide outreach programs, which were developed based on the pilot outreach efforts conducted by CSDLAC, assess potential incentive/disincentive programs for residential self-regenerating water softeners, and other measures that may be effective in controlling chloride. CSDLAC shall develop and implement the source reduction/pollution prevention and public outreach program, and report results annually thereafter to the Regional Board. Chloride sources from imported water supplies will be assessed. The assessment will include conditions of drought and low rainfall, and will analyze the alternatives for reducing this source.</p>	<p align="center">6 months after Effective Date of TMDL</p>
<p>4. CSDLAC will convene a technical advisory committee or committees (TAC(s)) in cooperation with the Regional Board to review literature,</p>	<p align="center">12 months after Effective Date</p>

<p>develop a methodology for assessment, and provide recommendations with detailed timelines and task descriptions to support any needed changes to the time schedule for evaluation of appropriate chloride threshold for Task 6. The Regional Board, at a public hearing will re-evaluate the schedule for Task 6 and subsequent linked tasks based on input from the TAC(s), along with Regional Board staff analysis and assessment consistent with state and federal law, as to the types of studies needed and the time needed to conduct the necessary scientific studies to determine the appropriate chloride threshold for the protection of salt sensitive agricultural uses, and will take action to amend the schedule if there is sufficient technical justification.</p>	<p>of TMDL</p>
<p>5. Groundwater/Surface Water Interaction Model: CSDLAC will solicit proposals, collect data, develop a model in cooperation with the Regional Board, obtain peer review, and report results. The impact of source waters and reclaimed water plans on achieving the water quality objective and protecting beneficial uses, including impacts on underlying groundwater quality, will also be assessed and specific recommendations for management developed for Regional Board consideration. The purpose of the modeling and sampling effort is to determine the interaction between surface water and groundwater as it may affect the loading of chloride from groundwater and its linkage to surface water quality.</p>	<p>2 years after Effective Date of TMDL</p>
<p>6. Evaluation of Appropriate Chloride Threshold for the Protection of Sensitive Agricultural Supply Use and Endangered Species Protection: CSDLAC will prepare and submit a report on endangered species protection thresholds. CSDLAC will also prepare and submit a report presenting the results of the evaluation of chloride thresholds for salt sensitive agricultural uses, which shall consider the impact of drought and low rainfall conditions and the associated increase in imported water concentrations on downstream crops utilizing the results of Task 5.</p>	<p>3 years after Effective Date of TMDL</p>
<p>7. Develop Site Specific Objectives (SSO) for Chloride for Sensitive Agriculture: CSDLAC will solicit proposals and develop technical analyses upon which the Regional Board may base a Basin Plan amendment.</p>	<p>4 years after Effective Date of TMDL</p>
<p>8. Develop Anti-Degradation Analysis for Revision of Chloride Objective by SSO: CSDLAC will solicit proposals and develop draft anti-degradation analysis for Regional Board consideration.</p>	
<p>9. Develop a pre-planning report on conceptual compliance measures to meet different hypothetical final wasteload allocations. CSDLAC shall solicit proposals and develop and submit a report to the Regional Board that identifies potential chloride control measures and costs based on different hypothetical scenarios for chloride water quality objectives and final wasteload allocations.</p>	
<p>10. a) Preparation and Consideration of a Basin Plan Amendment (BPA) to revise the chloride objective by the Regional Board.</p> <p>b) Evaluation of Alternative Water Supplies for Agricultural Beneficial Uses: CSDLAC will quantify water needs, identify alternative water supplies, evaluate necessary facilities, and report results, including the long-term application of this remedy.</p>	<p>5 years after Effective Date of TMDL</p>

Allocations for the period 1970-1975. The report on feasible implementation measures established pursuant to the above.

d) Reconsideration of the Wasteload Allocations for the Upper Santa Clara River Board.

11. The Regional Board staff will re-evaluate the schedule of measures needed to meet Final Regional Allocation Task 10 (d) and the schedule for the next meeting will consider extending the completion date of Task 12 and reconsider the schedule to implement control measures for Wasteload Allocations. The Regional Board will provide the justification for the need for an extension to the Regional Board Executive Officer at least 6 months in advance of the deadline for this task.

12. The interim effluent limits for chloride shall remain in effect for a period of not more than 13 years after the date of the final Regional Allocation Objective for chloride in the Upper Santa Clara River. The Regional Board may consider extending the interim task as necessary to meet the final Regional Allocation Objective.