

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

**RESOLUTION NO. R7-2005-0006**

**A Resolution Amending the Water Quality Control Plan  
Of the Colorado River Basin  
To Establish a Sedimentation/Siltation Total Maximum Daily Load for the  
Imperial Valley Drains: Niland 2, P, and Pumice Drains and Implementation Plan**

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, or 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 Imperial Valley Drains.
3. The Basin Plan includes narrative water quality objectives for total suspended solids, sediment, and turbidity for Imperial Valley Drains to protect the beneficial uses listed in Finding No. 2, above.
4. Water quality objectives are not being met in the Niland 2, P, and Pumice Imperial Valley Drains because direct and indirect discharges of silt-laden agricultural tailwater into the drains, 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, Imperial Valley Drains are listed as water quality limited because of 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. This Basin Plan Amendment includes allocations for the Niland 2, P, and Pumice drains, and a corresponding Implementation Plan, to reduce sediment in those drains to protect beneficial uses.
7. This Basin Plan Amendment includes an Implementation Plan that applies to all Imperial Valley Drains that empty directly into the Salton Sea, because all of the drains contribute, albeit in varying degrees, to sediment/silt impacts on water quality standards of the drains and the Salton Sea, and are so listed pursuant to Section 303(d) of the Clean Water Act. This approach ensures Valley-wide consistency in controlling sediment in all drains that empty directly into the Salton Sea, prevents a piecemeal approach in controlling sediment, and enables de-listing of all drains simultaneously upon successful completion of the control measures.
8. This Basin Plan Amendment includes a Prohibition for Discharge of Silt-Laden Tailwater into the Imperial Valley, including the Imperial Valley Drains, New River, Alamo River, and their tributaries. The Prohibition, along with this and previous sediment/silt TMDLs, will help ensure that sediment/silt will no longer violate water quality standards.

9. The Total Maximum Daily Load for Sedimentation/Siltation for the Imperial Valley Drains: Niland 2, P, and Pumice Drains Project Report (hereafter "Project Report") and the proposed Basin Plan Amendment to establish the TMDL, the Implementation Plan, and the Conditional Prohibition are attached to this Resolution, and meet the requirements of Section 303(d) of the Clean Water Act. The amendment requires, in part, that nonpoint sources implement Management Practices (MPs) to control sediment/silt inputs to provide a reasonable assurance that water quality standards will be met.
10. 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).
11. The basin planning process is certified by the Secretary for Resources as being exempt from the requirements of California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), and therefore an Environmental Impact Report or Negative Declaration is not required (Pub. Resources Code, 21080.5; Cal. Code Regs., tit. 14, 15251, subd. (g)). In accordance with California Code of Regulations Title 23, §§3777-3781, the Project Report-Basin Plan Amendment package includes a CEQA Environmental Checklist and Determination that assesses the environmental impacts of the Basin Plan Amendment and discusses alternatives, among other analyses. The Basin Plan Amendment, CEQA Environmental Checklist and Determination, TMDL Staff Report, and supporting documentation are functionally equivalent to an Environmental Impact Report.
12. The adoption of the Basin Plan Amendment based on the Project Report is a regulatory action subject to the requirements of Public Resources Code section 21159. Consistent with the requirements of that section, the CEQA Environmental Checklist and Determination includes an analysis of environmental impacts, mitigation measures to reduce or avoid those impacts, and alternative means of compliance that would avoid or eliminate environmental impacts (Pub. Resources Code, 21159, subd. (a)(1)-(3); Cal. Code Regs title 14, 15187, subds. (b), (c)(1)-(3).) The analysis in the CEQA Environmental Checklist and Determination takes into account a reasonable range of environmental, economic, and technical factors. CEQA analysis determined that the proposed Basin Plan Amendment would not have a significant adverse effect on the environment. Regional Board staff have presented the CEQA Environmental Checklist and Determination to the Regional Board, which reviewed and considered the analysis before adopting this amendment.
13. 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.
14. Since January 1998, Regional Board staff have engaged interested parties in stakeholder involvement through meetings of the Imperial Valley Sedimentation/Siltation TMDL Technical Advisory Committee. On April 29, 2002, a Public CEQA Scoping Meeting was held in El Centro, CA.
15. Consistent with Title 23, California Code of Regulations, Sections 3778 through 3780, Regional Board staff consulted about the proposed action with stakeholders in the Region and with other potentially affected parties, and considered and addressed comments on the matter.
16. On July 1, 2004, the Regional Board held a Public Hearing to consider the Project Report and 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.
17. Additional information about the Economic Impact Assessment was given to the Regional Board by the Imperial County Farm Bureau at the July 1, 2004 Public Hearing. The Regional Board decided to continue the Public Hearing to allow for consideration of the additional information.

18. On January 19, 2005, the Regional Board held a continued Public Hearing to re-consider the Project Report, Basin Plan Amendment, additional information provided at the previous Public Hearing, and a Supplemental Staff Report that provided additional cost estimates for the Economic Impact Assessment that reflected current actual costs.
19. The Basin Plan Amendment must be reviewed and approved by the SWRCB, Office of Administrative Law (OAL), and U.S. Environmental Protection Agency. Once approved by 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.
20. 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 the attached Basin Plan Amendment.
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 the SWRCB approve the Basin Plan Amendment in accordance with Sections 13245 and 13246 of the California Water Code and forward the Amendment to the Office of Administrative Law and U.S. Environmental Protection Agency for approval.
4. The Executive Officer is directed to file a Notice of Decision with the California Secretary for Resources after OAL 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 the 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, Robert Perdue, 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 January 19, 2005.

  
ROBERT PERDUE  
Executive Officer