

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

RESOLUTION NO. 01-197

A RESOLUTION AMENDING THE WATER QUALITY CONTROL PLAN  
FOR THE COLORADO RIVER BASIN  
TO ESTABLISH A TOTAL MAXIMUM DAILY LOAD FOR PATHOGENS  
FOR THE NEW RIVER

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

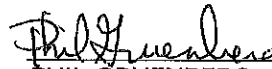
1. An updated Water Quality Control Plan for the Colorado River Basin (Basin Plan) was adopted by the Regional Board on November 17, 1993, approved by the State Water Resources Control Board (SWRCB) on February 17, 1994, and approved by the Office of Administrative Law on August 3, 1994.
2. Warm freshwater habitat (WARM), wildlife habitat (WILD), preservation of rare, threatened, and endangered species (RARE), water contact recreation (REC I), non-contact recreation (REC II), and freshwater replenishment (FRSH) are among the beneficial use designations specified in the Basin Plan for the New River.
3. The Basin Plan includes narrative water quality objectives for fecal coliform, E. coli, and enterococci bacteria for the New River to protect the beneficial uses listed in Finding No. 2, above.
4. Water quality objectives are not being met in the New River primarily because of direct and indirect discharges of untreated, partially treated, and undisinfected wastes from Mexico; and because of direct and indirect discharges of undisinfected wastewater from some domestic wastewater treatment plants in Imperial County.
5. Pursuant to Section 303(d) of the Clean Water Act, the Regional Board, with the concurrence of the State Board, listed the New River as water quality limited because of the pathogenic impairments as indicated by concentrations of fecal and E. coli bacteria. Section 303(d) of the Clean Water Act requires the establishment of the Total Maximum Daily Load (TMDL) of pathogens 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 pathogens, together with an implementation plan and schedule that will ensure that the TMDL is met and that compliance with water quality standards is achieved.
6. The New River Pathogen TMDL Report (hereafter "TMDL Report") and the proposed Basin Plan amendment (hereafter "Attachment 2") to establish the TMDL are hereto made part of this Resolution by reference.
7. The TMDL Report and related Basin Plan amendment attached to this resolution meet the requirements of Section 303(d) of the Clean Water Act. The amendment requires, in part, that wastewater plants in Imperial County provide effluent disinfection to control their pathogenic contribution and asks that the U.S. Government submit a plan with proposed measures to address pollution from Mexico so that water quality standards will be met by 2004.

8. The Regional Board prepared and distributed written reports regarding adoption of the Basin Plan amendment in compliance with applicable state and federal environmental regulations (Title 23, California Code of Regulations, Section 3775 et seq.; and Title 40, Code of Federal Regulations, Parts 25 and 131).
9. The process of basin planning has been certified by the Secretary for Resources as exempt from the requirements of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) to prepare an Environmental Impact Report or Negative Declaration. (Pub. Resources Code, 21080.5; Cal. Code Regs., tit. 14, 15251, subd. (g).) The TMDL Report-Basin Plan amendment package includes an Environmental Checklist, an assessment of the environmental impacts of the Basin Plan amendment, and a discussion of alternatives, among other analyses. The amended Basin Plan, Environmental Checklist, TMDL Report, and supporting documentation are functionally equivalent to an Environmental Impact Report or Negative Declaration.
10. The proposed adoption of the Basin Plan amendment based on the TMDL Report is a regulatory action subject to the requirements of Public Resources Code section 21159. Consistent with the requirements of that section, the CEQA Checklist and the CEQA Checklist Discussion include, among other things, an analysis of reasonably foreseeable environmental impacts associated with proposed methods of compliance set forth in the Basin Plan amendment, an analysis of reasonably foreseeable feasible mitigation measures to reduce or avoid those impacts, and an analysis of reasonably foreseeable alternative means of compliance with the requirements embodied by the Basin Plan amendment that would avoid or eliminate the related environmental impacts. (Pub. Resources Code, 21159, subd. (a)(1)-(3); Cal. Code Regs., tit. 14, 15187, subds. (b), (c)(1)-(3).) In so doing, the analysis in the CEQA Checklist and CEQA Checklist Discussion takes into account a reasonable range of environmental, economic, and technical factors. CEQA analysis determined that the proposed Basin Plan Amendment would have no significant adverse effect on the environment.
11. The Regional Board has considered federal and state antidegradation policies and other relevant water quality control policies and finds the Basin Plan amendment consistent with those policies.
12. Since January 1998, Regional Board staff has engaged interested parties in stakeholder involvement through regular meetings with the New River/Mexicali Sanitation Project Binational Technical Advisory Committee, special discussions with the International Boundary and Water Commission, discussions with City of Calexico personnel, and other outreach efforts throughout the Region.
13. Consistent with Title 23, California Code of Regulations, Sections 3778 through 3780, the Regional Board consulted about the proposed action with stakeholders in the Region and with other potentially affected parties, considered and addressed comments on the matter, and considered and incorporated feasible mitigation measures to avoid significant impacts on the environment.
14. On October 10, 2001, the Regional Board held a Public Hearing to consider the TMDL Report and the Basin Plan amendment. Notice of the Public Hearing was given to all interested persons and published in accordance with Water Code Section 13244 and Title 40, Code of Federal Regulations, Part 25.
15. The Basin Plan amendment must be submitted for review and approval by the SWRCB, the Office of Administrative Law (OAL), and the U.S. Environmental Protection Agency. Once approved by the SWRCB, the amendment is submitted to OAL. A Notice of Decision will be filed after the SWRCB and OAL have acted on this matter. The SWRCB will forward the approved amendment to the U.S. Environmental Protection Agency for review and approval.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Regional Board rescinds Resolution No. 01-101 because stakeholders potentially affected by the amendment were reportedly not given sufficient notification prior to the 28 June 2001 Regional Board Hearing.
2. The Regional Board adopts the amendment to the Water Quality Control Plan for the Colorado River Basin as set forth in Attachment 2.
3. 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.
4. The Regional Board requests that the State Water Resources Control Board approve the Basin Plan amendments in accordance with Sections 13245 and 13246 of the California Water Code and forward it to the Office of Administrative Law and United States Environmental Protection Agency for approval.
5. The Executive Officer is directed to file a Notice of Decision with the California Secretary for Resources after final approval of the Basin Plan amendment, in accordance with Section 21080.5(d) (2)(E) of the Public Resources Code and Title 23, California Code of Regulations, Section 3781.
6. Resolved that, if during its approval process the SWRCB or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Board of any such changes.

I, Phil Gruenberg, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on October 10, 2001.

  
PHIL GRUENBERG  
Executive Officer