

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
NORTH COAST REGION

RESOLUTION NO. R1- 2005-0113

Amending the Water Quality Control Plan for the North Coast Region to Include the  
Introductory Basin Plan Language Describing Total Maximum Daily Loads  
And the Action Plan for  
The Scott River Watershed Sediment and Water Temperature  
Total Maximum Daily Loads

WHEREAS, the California Water Quality Control Board, North Coast Region, (Regional Water Board) finds that:

1. *The Water Quality Control Plan for the North Coast Region* (Basin Plan) designates the beneficial uses of waterbodies within the North Coast Region. The Basin Plan also establishes water quality objectives in the North Coast Region including objectives for suspended material, settleable material, sediment, turbidity, and water temperature. The beneficial uses of waterbodies, water quality objectives, and the State and Federal antidegradation policies, together, constitute water quality standards.
2. Section 303(d) of the Clean Water Act requires states to identify waters that do not meet applicable water quality standards and further requires the United States Environmental Protection Agency (USEPA) to list such waters on the impaired waters list.
3. The Clean Water Act also requires that states or the USEPA establish Total Maximum Daily Loads (TMDLs) for waters on the impaired water list. Such TMDLs shall be established at levels necessary to implement applicable water quality standards with seasonal variations and a margin of safety.
4. Completed TMDLs provide confirmation of waterbody impairment, analysis of pollutant sources, and guidance for source reduction.
5. The USEPA added the Scott River to California's 303(d) impaired waters list in 1992 due to elevated sediment levels and in 1998 due to elevated water temperatures. The Scott River has continued to be identified as impaired in subsequent listing cycles, the latest in 2002.
6. Excessive sediment loads and elevated water temperatures in the Scott River and its tributaries have resulted in the impairment of designated beneficial uses of water and the non-attainment of water quality objectives. The primary beneficial uses impaired in the Scott River watershed are recreation uses (i.e. contact and non-contact recreation, (REC-1, REC-2) and those associated with the cold water salmonid fishery (i.e. commercial and sport fishing (COMM); cold freshwater habitat (COLD); rare, threatened, and endangered species (RARE); migration of aquatic organisms (MIGR);

and spawning, reproduction, and/or early development of fish (SPAWN)). Agricultural (AGR) and municipal water supplies (MUN) and groundwater recharge (GWR) are also affected by excessive sediment supply.

7. The Coho salmonid population in the Scott River watershed is listed as threatened under the federal Endangered Species Act and the California Endangered Species Act.
8. The Basin Plan Amendment for the Scott River Watershed Sediment and Water Temperature Total Maximum Daily Loads, is attached to this resolution, and meets the requirements of Section 303(d) of the Clean Water Act. The Amendment is a plan to use both voluntary and regulatory means to employ management practices to control the impacts of excess sediment and impacts to natural water temperature regimes, and provide a reasonable assurance that water quality standards will be met.
9. The Basin Plan Amendment includes introductory TMDL language, load allocations for the Scott River watershed, and a corresponding Action Plan, to address sediment and water temperature impairments in the watershed.
10. The Regional Water Board prepared 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 proposed Basin Plan Amendment is consistent with the provisions of the State Water Resources Control Board (State Water Board) Resolution No. 68-16, which is the "Statement of Policy with Respect to Maintaining High Quality Waters in California." Resolution No. 68-16 incorporates the federal Antidegradation Policy.
12. The Secretary for Resources has certified the basin planning process 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 Staff Report and 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 a programmatic Environmental Impact Report.
13. TMDLs are environmentally, and legally, mandated projects that set out performance standards or treatment requirements. The adoption of the proposed Basin Plan Amendment is therefore 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) and 15189.) 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 Water Board staff have presented the CEQA Environmental Checklist and Determination to the Regional Water Board, which reviewed and considered the analysis before adopting this amendment.

14. The Regional Water Board finds that the analysis contained in the TMDL Report, the CEQA Checklist, and the Response to Comments comply with the requirements of the State Water Resource control Board's certified regulatory CEQA process, as set forth in Cal. Code Regs. Tit. 23, section 3775 et seq. Furthermore, the Regional Water Board finds that the analysis fulfills the Regional Board's obligations attendant with the adoption of regulations "requiring the installation of pollution control equipment, or a performance standard or treatment requirements", as set forth in section 21159 of the Public Resources Code.
15. Throughout the Scott River watershed, many individuals, groups, and agencies have been working to enhance and restore fish habitat and water quality. These groups include, but are not limited to, the Siskiyou Resource Conservation District, the Scott River Watershed Council, the French Creek Watershed Advisory Group, private timber companies, Siskiyou County and the Five Counties Salmon Conservation Program, the California Department of Fish and Game, the California Department of Water Resources, the United States Forest Service, and the Klamath River Basin Fisheries Task Force. The past and present proactive efforts of these stakeholders have improved, and will continue to improve, water quality conditions in the Scott River watershed.
16. The Basin Plan Amendment for the Scott River Sediment and Water Temperature TMDLs, has been developed in coordination with the United States Environmental Protection Agency, and will address a listing identified in the Consent Decree, *Pacific Coast Federation of Fishermen's Associations v. Marcus*, U.S. District Court for the Northern District of California, No. 95-4474 MHP, requiring timely development of TMDLs for certain named watersheds in the North Coast Region.
17. Since May 2003, Regional Water Board staff has engaged interested parties in stakeholder involvement through meetings of the Scott River TMDL Technical Advisory Group. On June 28, 2005, a Public CEQA Scoping Meeting was held in Yreka, CA.
18. Consistent with Title 23, California Code of Regulations, Sections 3778 through 3780, Regional Water 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.
19. The Regional Water Board submitted the Action Plan for the Scott River Sediment and Water Temperature Total Maximum Daily Loads (Basin Plan Amendment) and corresponding Staff Report to two external scientific peer reviewers; Dr. Donald Erman and Dr. Douglas Piirto. On August 10, 2005 and July 25, 2005 respectively, the peer reviewers submitted their review to Regional Water Board. The reviewers

provided several specific areas of concern. The Regional Water Board revised the TMDL Staff Report and proposed Basin Plan Amendment in response to the comments submitted by the reviewers, or provided a written response that explained the basis for not making the suggested revisions.

20. A Public Notice of the proposed Basin Plan Amendment was published on September 20, 2005.
21. On October 12, October 18, and October 19, 2005, Regional Water Board staff conducted public workshops in Santa Rosa, Yreka, and Arcata respectively. Regional Water Board staff received considerable public comment at the workshops. Regional Water Board staff revised the proposed Basin Plan Amendment as a result of public comments, and responded in writing.
22. The Regional Water Board has determined that compliance with the proposed Basin Plan Amendment should attain and maintain the applicable water quality objectives for sediment and temperature and restore and protect beneficial uses.
23. On December 7, 2005, the Regional Water Board held a public hearing and received written comment and testimony on the proposed Basin Plan Amendment.
24. The proposed Basin Plan Amendment was developed in accordance with Water Code section 13240, et seq., governing Basin Plan revisions.
25. The proposed Basin Plan Amendment does not establish any new water quality objectives and therefore the factors specified in Water Code section 13241 are not triggered for analysis. Moreover, the proposed Basin Plan Amendment is crafted to build upon ongoing and proposed voluntary water quality improvement work in the affected communities, and beyond that relies only upon the use of existing regulatory and enforcement authorities and water quality objectives to achieve the recovery of beneficial uses in the Scott River watershed. Therefore, no new costs are associated with the Action Plan, as it involves only the exercise of existing authorities to direct the performance of existing obligations, using watershed-specific information to guide this effort.
26. The Basin Plan Amendment must be reviewed and approved by the State Water Board, the Office of Administrative Law (OAL), and the USEPA. Once approved by the State Water Board, the State Water Board and OAL have acted on this matter. The State Water Board will forward the approved amendment to the USEPA for review.

NOW, THEREFORE, BE IT RESOLVED THAT, after considering the entire record, including oral testimony at the hearing,

1. The Regional Water Board approves the Staff Report and adopts the amendment to the Water Quality Control Plan for the North Coast Region 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 Water 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 OAL and the USEPA for approval.
4. The environmental documents prepared by Regional Board staff pursuant to Public Resources Code section 21080.5 are hereby certified, and the Executive Officer is directed to file a Notice of Decision with the California Secretary for Resources after SWRCB and 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 Regional Water Board of any such changes.

### **CERTIFICATION**

I, Catherine Kuhlman, 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, North Coast Region, on December 7, 2005.

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(original signed by)

Catherine E. Kuhlman  
Executive Officer