

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING MAY 16, 2003

Prepared on April 24, 2003

ITEM: 36

**SUBJECT: READOPTING THE LAS TABLAS CREEK AND LAKE NACIMIENTO
TOTAL MAXIMUM DAILY LOAD FOR MERCURY AS A BASIN PLAN
AMENDMENT**

BACKGROUND

The Las Tablas Creek and Lake Nacimiento Total Maximum Daily Load (TMDL) for Mercury was presented to, and adopted by, the Regional Water Quality Control Board (Regional Board) on November 1, 2002.

Section 3777 of Title 23 California Code of Regulations requires that the Regional Board consider alternatives when adopting Basin Plan Amendments and to document the alternatives considered in the staff report that proposes the amendments. Although staff did consider alternatives as part of the process of preparing the recommendations for the amendment, staff did not explicitly include documentation of alternatives considered in the staff report. In order to insure proper documentation and presentation of alternatives as part of the decision to adopt this TMDL as a Basin Plan Amendment, staff has prepared alternatives analyses and provided public notice of this additional information.

DISCUSSION

After Regional Board adoption in November 2002, the complete administrative record for the Las Tablas Creek and Lake Nacimiento TMDL for Mercury was sent to the State Water Resources Control Board (State Board). State Board staff reviewed the administrative record in order to notify Regional Board staff of any changes needed before presenting the item to the State Board for approval.

State Board staff indicated the need for an explicit alternatives analysis for the TMDL.

Regional Board and State Board legal counsel also indicated that this information must be part of the decision to adopt the TMDL as a Basin Plan Amendment and, therefore, the TMDL needs to be re-adopted with this information in the public record.

Staff prepared a written analysis of alternatives for the Las Tablas Creek and Lake Nacimiento TMDL for Mercury. The analysis is included in Attachment C of the proposed amendment package, as part of the California Environmental Quality Act (CEQA) "Functional Equivalent" Report, placed after the Environmental Checklist.

Additionally, staff proposes some minor typographical and grammatical corrections to the Basin Plan Amendment, as discussed in detail below. All changes are shown in the "markup" version of the Resolution and Amendment (Attachment A) with redline and strikeout formatting.

In the original resolution, staff included numeric guidance values for fish tissue in the implementation compliance schedule table. The TMDL did not set a numeric target for fish tissue, so staff deleted the guidance values from the implementation compliance table to avoid confusion with the proposed numeric targets. Fish tissue sampling is still included as part of the monitoring for future TMDL compliance determinations.

Staff also had included "required action completed" reports as an indicator of achieving a load allocation (e.g., paving or equivalent control of Cypress Mountain Road

runoff) in the “Numeric Target” column of the compliance schedule. Because these are written reports and not measurable numeric indicators, they did not belong in that column of the table. Therefore, that text has been removed from the “Numeric Target” column of the compliance schedule. Note the actions are still required as stated in text in Table IX.C.1 – TMDL Elements.

Other changes on the implementation compliance schedule are revisions to clarify specific actions required and responsible parties. This includes a change on the implementation compliance schedule to delete the row for years 11 – 30, which indicated the “5 and 10 year milestones” monitoring would continue. This row has been deleted as unnecessary. The TMDL is expected to be achieved by the end of implementation year 10, therefore projecting future monitoring beyond year 10 is inappropriate. If it turns out that the TMDL is not achieved by year 10, the TMDL, implementation actions and future monitoring will need to be reevaluated and revisions proposed to the Regional Board at that time.

Except for the above changes made to Attachment A and Attachment C, the technical support documentation for the TMDL and the technical information in the Resolution has not been substantially changed from that presented before the Board in November 2002.

The technical support documentation for this proposed Basin Plan Amendment is available at the Region 3 website at <http://www.swrcb.ca.gov/rwqcb3/tmdl/Participation.htm>. Staff did not include the entire document in the staff report in order to save paper.

PUBLIC COMMENT

This TMDL was made available for Public Review on April 1, 2003.

Comment: Comments were received from one commenter on April 21, 2003. This commenter, Mr. Harold J. Biaggini, stated he wished to protest the Las Tablas Creek and Lake Nacimiento TMDL in addition to the San

Lorenzo river and Chorro Creek and Los Osos Creek TMDLs. Mr. Biaggini stated that there are other alternatives that should be discussed. Neither these alternatives nor the reasons for discussing them were clearly presented in his letter.

Staff Reply: Comment noted.

RECOMMENDATION

Adopt the Las Tablas Creek and Lake Nacimiento TMDL for Mercury as a Basin Plan Amendment.

ATTACHMENTS:

- A. Resolution and Amendment Language-redline/strikeout version, R3-2002-0107
- B. Technical Support Document- available at the Region Three website <http://www.swrcb.ca.gov/rwqcb3/tmdl/Participation.htm>
- C. CEQA “Functional Equivalent” Report
- D. Notice of Public Hearing/Notice of Filing
- E. Department of Fish and Game Fee Exemption

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