

California Regional Water Quality Control Board
Santa Ana Region

RESOLUTION NO. 99-10

A Resolution Amending the Water Quality Control Plan
for the Santa Ana River Basin
to Establish a Total Maximum Daily Load for Fecal Coliform Bacteria
in Newport Bay

WHEREAS, the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

1. An updated Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) was adopted by the Regional Board on March 11, 1994, approved by the State Water Resources Control Board (SWRCB) on July 21, 1994 and approved by the Office of Administrative Law on January 24, 1995.
2. Water contact recreation (REC1) and shellfish harvesting (SHEL) are among the beneficial use designations specified in the Basin Plan for Newport Bay.
3. The Basin Plan includes numeric water quality objectives for fecal coliform bacteria in Newport Bay. For the protection of the water contact recreation beneficial use, these objectives specify that Newport Bay shall not contain fecal coliform in excess of a 5 sample/month log mean of 200 organisms/100 mL, and not more than 10% of the samples exceed 400 organisms/100 mL for any 30-day period. To protect the shellfish harvesting beneficial use, the Basin Plan also requires that Newport Bay have a median fecal coliform density of less than 14 MPN (most probable number)/100 mL, and not more than 10% of the samples exceed 43 MPN/100 mL.
4. These objectives for fecal coliform are not being consistently met in Newport Bay. Discharges of fecal coliform waste adversely impact beneficial uses by causing the Orange County Health Care Agency to close beach areas to body contact recreation, and/or to post notices to avoid body contact recreation. Shellfish harvesting is also banned in Upper Newport Bay. In part in response to these problems, the Regional Board listed Newport Bay as water quality limited in accordance with Section 303(d) of the Clean Water Act. Section 303(d) of the Clean Water Act requires the establishment of the Total Maximum Daily Load (TMDL) of fecal coliform 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 fecal coliform, together with an

implementation plan and schedule that will ensure that the TMDL is met and that compliance with water quality standards is achieved.

5. The Regional Board discussed this matter at public workshops held on December 11, 1998 and January 15, 1999, after notice was given to all interested persons in accordance with Section 13244 of the California Water Code. Based on that discussion and the testimony received, the Board directed staff to prepare the appropriate Basin Plan amendment and related documentation to establish a TMDL for fecal coliform in Newport Bay. The Board considered the proposed Basin Plan amendment during a public hearing held on March 5, 1999, and continued the public hearing until April 9, 1999.
6. The TMDL-related Basin Plan amendment attached to this resolution meets the requirements of Section 303(d) of the Clean Water Act. The amendment requires the implementation of Best Management Practices (BMPs) to control bacterial inputs to provide a reasonable assurance that water quality standards will be met.
7. The Regional Board prepared and distributed written reports (staff reports) regarding adoption of the Basin Plan amendment in compliance with applicable state and federal environmental regulations (California Code of Regulations, Section 3775, Title 23, and 40 CFR Parts 25 and 131).
8. The process of basin planning has been certified by the Secretary for Resources as exempt from the requirements of the California Environmental Quality Act (Title 14, Section 15251g of the California Code of Regulations) to prepare an Environmental Impact Report or Negative Declaration. The Basin Plan amendment package includes an Environmental Checklist, an assessment of the environmental impacts of the Basin Plan amendment, and a discussion of alternatives. The amended Basin Plan, Environmental Checklist, staff reports, and supporting documentation are functionally equivalent to an Environmental Impact Report or Negative Declaration.
9. 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.
10. On April 9, 1999, the Regional Board held a Public Hearing to consider the Basin Plan amendment. Notice of the Public Hearing was given to all interested persons and published in accordance with Water Code Section 13244.

11. 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 adopts the amendment to the Water Quality Control Plan for the Santa Ana River Basin (Region 8) as set forth in the attachment.
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 that the SWRCB approve the Basin Plan amendment in accordance with Sections 13245 and 13246 of the California Water Code and forward it to the Office of Administrative Law for approval.

I, Gerard J. Thibeault, 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, Santa Ana Region, on April 9, 1999.



Gerard J. Thibeault
Executive Officer