

July 7, 2006

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
San Luis Obispo, California**

RESOLUTION NO. R3-2006-044

JULY 7, 2006

**ADOPTING A TOTAL MAXIMUM DAILY LOAD
AND IMPLEMENTATION PLAN
FOR NUTRIENTS AND DISSOLVED OXYGEN
IN CHORRO CREEK**

**The California Regional Water Quality Control Board, Central Coast Region,
hereby finds:**

1. The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), adopted the Water Quality Control Plan for the Central Coastal Basin (Basin Plan), on September 8, 1994. The Basin Plan includes beneficial use designations, water quality objectives, implementation plans for point source and nonpoint source discharges, and statewide plans and policies.
2. Section 303(d) of the Clean Water Act requires states to identify and prepare a list of water bodies that do not meet water quality standards and establish a Total Maximum Daily Load (TMDL) for the listed water bodies. A TMDL is the loading capacity of a pollutant that a water body can assimilate while protecting beneficial uses. TMDLs can be expressed in terms of either mass per time, concentration, or other appropriate measure [40 CFR §130.2(i)].
3. Chorro Creek was identified as impaired by nutrients and included on the 1998 Clean Water Act Section 303(d) list of impaired water bodies. Chorro Creek is identified as impaired due to low dissolved oxygen on the draft 2006 Clean Water Act Section 303(d) list of impaired water bodies. Due to the 303(d) listings, the Central Coast Water Board is required to adopt a TMDL and associated Implementation Plan (40 CFR 130.6(c)(1), 130.7, Water Code section 13242).
4. The Chorro Creek watershed is located along the central coast of California in San Luis Obispo County. Chorro Creek watershed drains approximately 30,000 acres, ultimately draining to the Morro Bay Estuary. The United States Environmental Protection Agency (USEPA) has included Morro Bay Estuary as part of the National Estuary Program (NEP). USEPA elevates NEP designated waterbodies to national importance and are often the recipients of funding aimed at environmental protection.
5. The Final Project Report contains a Problem Statement, Numeric Targets, Source Analysis, Total Maximum Load, Linkage Analysis, Load Allocations, Margin of Safety, an Implementation Plan, and a Monitoring Plan. The Final Project Report addresses the nutrient and dissolved oxygen impairments.
6. The Central Coast Water Board has determined that the TMDLs for nutrients and dissolved oxygen in Chorro Creek are set at levels necessary to attain and maintain the applicable numeric water quality objectives, taking into account seasonal

Item 9, Attachment 1
July 7, 2006 Meeting
Chorro Creek TMDL

variations and any lack of knowledge concerning the relationship between effluent limitations and water quality (40 CFR 130.7(c)(1)).

7. The Central Coast Water Board finds that the TMDL for nutrients and dissolved oxygen for Chorro Creek will be achieved through adoption of the National Pollutant Discharge Elimination System (NPDES) permit for the discharge of wastewater from the California Men's Colony (CMC), and through water quality improvements that will result from the existing Chorro Flats riparian restoration project along lower Chorro Creek. The Coastal San Luis Resource Conservation District owns, implemented, and monitors the Chorro Flats restoration project. The NPDES permit establishes effluent limits that implement the wasteload allocations described in the Final Project Report. The Chorro Flats project will increase stream shading, thereby reducing stream temperature. The Central Coast Water Board further finds that compliance with the NPDES permit, along with the water quality improvements from the riparian restoration project, will correct the impairments in Chorro Creek. Therefore, these existing actions implement the TMDL.
8. The Central Coast Water Board further finds that monitoring during the implementation phase of the TMDL is necessary to track progress toward achieving the TMDL numeric targets and allocations.
9. The CMC monitors nitrate-N, orthophosphorus, total dissolved solids, sodium, temperature, and dissolved oxygen in their effluent and in Chorro Creek pursuant to the Monitoring and Reporting Program associated with the NPDES permit regulating this discharge. Volunteer and employed monitors associated with Morro Bay National Estuary Program's Volunteer Monitoring Program (VMP) monitor stream temperature, shading, algal cover, and dissolved oxygen in Chorro Creek. The combined monitoring efforts of the CMC and VMP will provide the information necessary to determine whether and when the TMDL for Chorro Creek is achieved.
10. Central Coast Water Board staff will conduct a review of implementation activities every three years, beginning three years after TMDL approval by the Central Coast Water Board, unless funding is unavailable. Central Coast Water Board staff will utilize reports associated with the NPDES permit, Volunteer Monitoring Programs, as well as other available information, to review water quality data and implementation efforts of implementing parties and progress being made towards achieving the allocations and the numeric targets. Central Coast Water Board staff may conclude that ongoing implementation efforts are insufficient to ultimately achieve the allocations and numeric targets. If staff makes this determination, staff will recommend that additional reporting, monitoring, or implementation efforts be required either through approval by the Executive Officer (e.g. pursuant to CWC section 13267 or section 13383) or by the Central Coast Water Board (e.g. through revisions of existing permits and/or a Basin Plan Amendment). Central Coast Water Board staff may conclude that to date, implementation efforts are likely to result in achieving the allocations and numeric targets, in which case existing implementation efforts will continue.
11. Central Coast Water Board staff (staff) mailed a public draft version of the Final Project Report for the TMDL directly to the CMC. Staff also provided a forty-five day public review and comment period before the Central Coast Water Board hearing held on July 7, 2006. Notice of public hearing was given through newspapers of

general circulation within the Chorro Creek watershed. In addition, a copy of the notice of public hearing was mailed to interested government agencies as well as persons requesting such notice.

12. The Central Coast Water Board finds that existing actions by the Central Coast Water Board and the Coastal San Luis Resource Conservation District make any further regulatory action (i.e. any 'project') unnecessary. Therefore, this action is not a "project" that requires compliance with the California Environmental Quality Act (California Public Resources Code §21000 et seq.). The Water Board is not directly undertaking an activity, funding an activity, or issuing a permit or other entitlement for use (Public Resources Code section 21065; 14 Cal. Code of Regs. §15378).
13. The TMDL and associated Implementation and Monitoring Plan do not allow degradation or a decrease in water quality, and do not approve an activity that produces or may produce a waste or increased volume or concentration of waste or an activity that discharges or proposes to discharge to existing high quality waters. This resolution therefore complies with Resolution 68-16 and 40 CFR §131.12.
14. This TMDL will become effective upon approval by the Central Coast Water Board.
15. On July 7, 2006, in San Luis Obispo, California, the Central Coast Water Board held a public hearing and heard and considered all public comments and evidence in the record.

THEREFORE, BE IT RESOLVED,

1. The Central Coast Water Board, after considering the entire record, including oral testimony, adopts the Total Maximum Daily Load for Nutrients and Dissolved Oxygen in Chorro Creek, as shown in the Final Project Report.
2. The Central Coast Water Board finds that the existing actions taken by the Central Coast Water Board adopting the NPDES permit for the discharge of wastewater from the CMC, and by the Coastal San Luis Resource Conservation District through the existing and implemented Chorro Flats riparian restoration project along Chorro Creek, are appropriate for implementation of the TMDL, are adequate to correct the impairments, and are expected to result in attainment of water quality objectives for nutrients and dissolved oxygen in Chorro Creek. At this time, any further regulatory action to create another program of implementation by the Central Coast Water Board would be redundant and unnecessary.
3. These findings shall remain valid as long as Chorro Creek attains nutrient and dissolved oxygen objectives no later than July 7, 2016.
4. The Central Coast Water Board may revoke these findings if it finds that the discharge modifications of the California Men's Colony wastewater treatment plant, and/or the Chorro Flats riparian restoration project along Chorro Creek, are not adequately implemented or are no longer adequate to resolve the impairments.

5. The Central Coast Water Board's Executive Officer is directed to submit the TMDL to the U.S. Environmental Protection Agency (USEPA) for review. If during its approval process the USEPA determines that minor, non-substantive corrections to the language of the TMDL are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Central Coast Water Board of any such changes.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of the Resolution adopted by the California Regional Water Quality Control Board, Central Coastal Region, on **July 7, 2006.**

Executive Officer

S:\TMDLs & Watershed Assessment\TMDL and Related Projects- Region 3\Chorro Creek\Nutrients\6 Regulatory Action\TMDL\Final RB Agenda Item\ATT-1 - CHORRO NUT&DO TMDL RESOLUTION (5June06).doc