

State of California
California Regional Water Quality Control Board, Los Angeles Region

RESOLUTION NO. R15-004

April 9, 2015

Amendments to the *Water Quality Control Plan for the Los Angeles Region* to Adopt Site-Specific Objectives for Lead and Copper in the Los Angeles River Watershed and to Revise the Total Maximum Daily Load for Metals in the Los Angeles River and Tributaries

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region, finds that:

1. On June 2, 2005, the California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) adopted, by Resolution No. R05-006, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) incorporating a Total Maximum Daily Load (TMDL) for metals for the Los Angeles River and its tributaries. The TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) in Resolution No. 2005-0077 on October 20, 2005 and by the Office of Administrative Law (OAL) on December 9, 2005. U.S. EPA approved the Los Angeles River and Tributaries Metals TMDL on December 22, 2005. The effective date of the TMDL established by Resolution No. R05-006 was January 11, 2006, when the Certificate of Fee Exemption was filed with the California Department of Fish and Game.
2. On September 6, 2007, the Regional Water Board re-adopted the TMDL by Resolution No. R07-014 in compliance with a writ of mandate issued by the Los Angeles County Superior Court in the matter of *Cities of Bellflower et al. v. State Water Resources Control Board et al.* (Los Angeles Superior Court No. BS101732). The writ directed the Regional Water Board to consider alternatives to the project before re-adopting the TMDL. The writ was limited to this issue, and the TMDL was affirmed in all other respects. The re-adopted TMDL replaced the previous implementation deadlines that were tied to “the effective date of the TMDL” with specific dates. The re-adopted TMDL was subsequently approved by State Water Board in Resolution No. 2008-0046 on June 17, 2008 and by OAL on October 14, 2008. U.S. EPA approved the re-adopted Los Angeles River and Tributaries Metals TMDL on October 29, 2008, which is the effective date of the TMDL. On May 7, 2009, in compliance with the writ, the Regional Water Board voided and set aside Resolution No. R05-006.
3. The TMDL numeric targets and waste load allocations (WLAs) are based on criteria in the California Toxics Rule (CTR). The CTR allows for the adjustment of certain metals criteria through the use of a water-effect ratio (WER) that accounts for site-specific chemical conditions. A WER represents the correlation between metals that are measured and metals that are biologically available and toxic. A WER is a ratio calculated by dividing an appropriate measure of toxicity of a material in site water by the same measure of toxicity of the same material in laboratory test water.

4. The TMDL was revised in 2010 by Resolution No. R10-003 to adjust the copper targets for Reaches 1-4 of the River and the Burbank Western Channel and the copper WLAs for the Donald C. Tillman (Tillman), Los Angeles-Glendale (LA-Glendale), and Burbank water reclamation plants (WRPs) based on the results of a WER special study performed by the cities of Los Angeles and Burbank. The TMDL was subsequently approved by State Water Board, OAL, and USEPA. The effective date of the revised TMDL is November 3, 2011.
5. On May 13, 2014, the Los Angeles River Metals TMDL Special Studies Steering Committee submitted the results of a watershed-wide WER study entitled “Final Report Copper Water-Effect Ratio Study to Support Implementation of the Los Angeles River and Tributaries Metals TMDL” in accordance with the 2010 Work Plan. The purpose of the study was to determine WERs for copper that would apply to all sources in Reaches 1, 2, 3, and 4 of the LA River, as well as select tributaries: Compton Creek, Rio Hondo, Arroyo Seco, Verdugo Wash, Burbank Western Channel and Tujunga Wash.
6. On May 13, 2014, the Los Angeles River Metals TMDL Special Studies Steering Committee also submitted a recalculation of lead criteria using USEPA’s Recalculation Procedure entitled “Final Lead Recalculation Report to Support Implementation of the Los Angeles River and Tributaries Metals TMDL” in accordance with the 2010 Work Plan. The purpose of the study was to recalculate lead criteria based on new data collected since USEPA’s 1984 lead water quality criteria were developed, which were the basis of the CTR lead criteria and the lead numeric targets in the Los Angeles River and Tributaries Metals TMDL.
7. These amendments revise the water quality objectives for copper using WERs for Reaches 1-4 of the River and Tujunga Wash, Verdugo Wash, Arroyo Seco, Compton Creek, Rio Hondo Reach 1, and the Burbank Western Channel, and recalculate the lead acute and chronic water quality objectives using an expanded national dataset, and correspondingly revise the Los Angeles River and Tributaries Metals TMDL in accordance with the revised water quality objectives.
8. Regional Water Board staff has prepared a technical document that analyzes and describes the specific necessity and rationale for revising water quality objectives and the TMDL. The technical document entitled “Revision of the Los Angeles River and Tributaries Metals TMDL – Second Revision” is an integral part of this Regional Water Board action and was reviewed, considered, and accepted by the Regional Water Board before acting.
9. The public has had a reasonable opportunity to participate in the review of the amendments to the Basin Plan. Draft Basin Plan amendments were released for public comment on January 30, 2015. A Notice of Hearing and Notice of Filing were published and circulated 45 days preceding Board action; this notice was published in the Los Angeles Times on January 30, 2015. Regional Water Board staff responded to oral and written comments received from the public; and the Regional Water Board held a public hearing on April 9, 2015 to consider adoption of the revisions to water quality objectives and the TMDL.
10. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional Water Boards’ basin planning process as a “certified regulatory program” that

adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*) requirements for preparing environmental documents. (14 Cal. Code Regs. § 15251(g); 23 Cal. Code Regs. § 3782.)

11. The Regional Water Board previously prepared substitute environmental documentation for the Los Angeles River and Tributaries Metals TMDL (Resolution No. R07-014) and the Revised Los Angeles River and Tributaries Metals TMDL (Resolution No. R10-003). That documentation contained the required environmental documentation under the State Water Board's CEQA regulations (23 Cal. Code Regs § 3777). The project itself was the establishment of the TMDL and the subsequent revision of the TMDL based on the site-specific copper WER developed for Reaches 1-4 of the River and the Burbank Western Channel. In preparing the previous substitute environmental documents, the Regional Water Board considered the requirements of Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187, and intended those documents to serve as a tier 1 environmental review. The previous substitute environmental documents contained significant environmental analysis and numerous findings related to the reasonably foreseeable methods of compliance, the impacts of the methods of compliance, feasible mitigation measures, and alternative means of compliance. Those documents were filed with the Resources Agency on October 28, 2008 and November 17, 2011.
12. The current activity revises copper WLAs based on site-specific copper WERs and recalculated lead criteria submitted to the Regional Water Board in 2014. The copper and lead WLAs based on the WERs and recalculated lead criteria, respectively, will allow higher levels of copper and lead in the Los Angeles River than the copper and lead WLAs in the existing TMDL. However, the proposed revisions to the water quality objectives and TMDL take into account site-specific conditions in the Los Angeles River and its tributaries and modify the water quality objectives for copper and lead based on USEPA procedures such that the objectives will still be fully protective of the aquatic life in these waterbodies.
13. This action does not alter the environmental analysis that was previously prepared for Resolution Nos. R07-014 and R10-003 because the addition of site-specific copper WERs for Tujunga Wash, Verdugo Wash, Arroyo Seco, Compton Creek, and Rio Hondo Reach 1, as well as the recalculated lead criteria, will not result in any additional implementation actions other than those previously analyzed for Resolution Nos. R07-014 and R10-003, or different effects upon the environment. The reasonably foreseeable implementation actions for this resolution are the same as for the TMDL adopted and amended by Resolution Nos. R07-014 and R10-003, respectively, except that responsible parties will need to implement fewer actions to meet the less stringent WLAs based on the copper WERs and recalculated lead criteria. Thus, this action will result in fewer implementation actions and less potential impacts to the environment. As such, this amendment is consistent with the prior CEQA documentation.
14. Further, consistent with California Code of Regulations, title 14, section 15162, the Regional Water Board has determined that no subsequent environmental documents shall be prepared because this action does not involve new significant environmental effects, a substantial increase in the severity of previously identified significant effects, or mitigation measures or

alternatives that are considerably different from those analyzed in the previous substitute environmental documentation.

15. In amending the Basin Plan to revise water quality objectives and the TMDL, the Regional Water Board considered the requirements set forth in Sections 13240, 13241, and 13242 of the California Water Code.
16. These amendments are consistent with the State Antidegradation Policy (State Water Board Resolution No. 68-16), in that the changes to water quality objectives (i) consider maximum benefits to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies. Likewise, the amendment is consistent with the federal Antidegradation Policy (40 C.F.R. § 131.12). Considering the record as a whole, this Basin Plan amendment will result in no effect, either individually or cumulatively, on wildlife resources.
17. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).
18. The Basin Plan amendments revising water quality objectives and the TMDL must be submitted for review and approval by the State Water Board, OAL, and U.S. EPA. The Basin Plan amendments will become effective upon approval by OAL and U.S. EPA. A Notice of Decision will be filed following these approvals.
19. Occasionally during its approval process, Regional Water Board staff, the State Water Board or OAL determines that minor, non-substantive corrections to the language of the amendments are needed for clarity or consistency. Under such circumstances, the Executive Officer should be authorized to make such changes, provided she informs the Board of any such changes.

THEREFORE, be it resolved that pursuant to sections 13240, 13241, and 13242 of the Water Code, the Regional Water Board hereby amends the Basin Plan as follows:

1. Pursuant to Sections 13240, 13241, and 13242 of the California Water Code, the Regional Water Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendments to Chapter 3 and Chapter 7 of the Water Quality Control Plan for the Los Angeles Region as set forth in Attachments A and B hereto.
2. The Executive Officer is directed to forward copies of the Basin Plan amendments to the State Water Board in accordance with the requirements of section 13245 of the California Water Code.
3. The Regional Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of sections 13245 and 13246 of the Water Code and forward the approved amendment and record to OAL and finally, for review and approval pursuant to CWA section 303(d), and section 303(c) as appropriate, to the U.S. EPA.

4. If during its approval process, Regional Water Board staff, the State Water Board or State Water Board staff, or OAL determine that minor, non-substantive corrections to the language of the amendments are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Regional Water Board of any such changes.
5. The Executive Officer is authorized to request a "No Effect Determination" from the Department of Fish and Wildlife, and/or transmit payment of the applicable fee as may be required to the Department of Fish and Wildlife.

I, Samuel Unger, 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, Los Angeles Region, on April 9, 2015.


Samuel Unger
Executive Officer