

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

STAFF REPORT FOR REGULAR MEETING MAY 16, 2003

Prepared on March 25, 2003

ITEM: 34

SUBJECT: Readopting the Morro Bay Total Maximum Daily Load (TMDL) for Sediment (Including Chorro Creek, Los Osos Creek, and the Morro Bay Estuary) as a Basin Plan Amendment

BACKGROUND

On May 31, 2002 the Regional Board adopted Resolution R3-2002-0051, amending the Morro Bay TMDL for Sediment to the Basin Plan.

In preparing to present this Basin Plan Amendment to the State Board, State Board technical and legal staff reviewed the resolution and identified concerns that Regional Board staff subsequently addressed in changes to Resolution RB3-2002-0051 on February 7, 2003.

Public Resources Code Section 3777 of Title 23 of the California Code of Regulation requires the Regional Board to consider alternatives when adopting Basin Plan Amendments and to document the alternatives considered in the staff report that proposes the amendments. Staff did not explicitly include documentation of alternatives considered in the staff reports for this TDML, although staff did consider alternatives as part of the process of preparing the recommendations for the amendment.

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 February 2003, staff transmitted the Resolution and the associated Administrative Record to the State

Board. In preparing to present this Basin Plan Amendment to the State Board, State Board staff indicated the need for an explicit alternatives analysis for the TMDL. Regional Board and State Board legal counsel concurred 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 has prepared the alternatives analysis for this TMDL and it is included in Attachment C, California Environmental Quality Act Functional Equivalent Report, behind the Checklist for Environmental Impacts. The Resolution language has been changed to reflect this with the addition only of findings 28 and 29.

The technical supporting documentation for the resolutions (unchanged portions) is the same as that presented with the previous recommendation and adoption of the TMDL. These documents can be accessed at the Region Three website: <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 revised Resolution No. R3-2002-0051 contained in Attachment A, as proposed, to amend the Basin Plan to include this TMDL.

ATTACHMENTS:

- A. Resolution No. R3-2002-0051 with revisions.
- B. Total Maximum Daily Load for Sediment (Including Chorro Creek, Los Osos Creek, and the Morro Bay Estuary)—Technical Support Document- available at the Region 3 website:
<http://www.swrcb.ca.gov/rwqcb3/tmdl/Participation.htm>
- C. California Environmental Quality Act “Functional Equivalent” Report for Basin Plan Amendment (Resolution No. R3-2002-0051)
- D. Notice of Public Hearing/Notice of Filing
- E. Certificate of Fee Exemption/De Minimis Impact Finding