

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION

RESOLUTION R7-2024-0024

Amending Water Quality Control Plan for the Colorado River Basin to Establish the Total Maximum Daily Load and Implementation Plan for Pyrethroid Pesticides in Alamo River and New River, Imperial County

WHEREAS, the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Water Board), finds that:

1. The operative Water Quality Control Plan for the Colorado River Basin (Basin Plan), which was most recently updated on March 30, 2023: designates beneficial uses; establishes water quality objectives (WQOs); sets forth implementation plans to achieve WQOs addressing point source and nonpoint source discharges; includes discharge prohibitions; and incorporates statewide plans and policies.
2. Section 303(d) of the federal Clean Water Act (CWA) (33 U.S.C. § 1313(d)) requires states to identify and list impaired water bodies, and develop water pollution control plans, or Total Maximum Daily Loads (TMDLs), for pollutants that are causing impairments. The U.S. Environmental Protection Agency (USEPA) has oversight of the CWA section 303(d) program and must approve or disapprove the State's 303(d) List and each TMDL. USEPA is ultimately responsible for issuing a TMDL when the state fails to do so in a timely manner.
3. The Regional Water Board is presently proposing to amend the Basin Plan to establish a TMDL for Pyrethroid Pesticides in Alamo River and New River, Imperial County (Basin Plan Amendment). The proposed Basin Plan Amendment is set forth in **Attachment A**, and incorporated herein.
4. The Imperial Valley covers approximately 500,000 acres south of the Salton Sea, and is mostly irrigated agricultural land. Although generally applicable to all surface waters in the area, the Basin Plan Amendment is focused on the Alamo River and the New River.
5. For the purposes of Clean Water Act section 303(d), the Alamo River and the New River in Imperial Valley are considered impaired with respect to the pyrethroid compounds—specifically, bifenthrin, cyfluthrin, cypermethrin, esfenvalerate, lambda-cyhalothrin, and permethrin.
6. The Regional Water Board's goal is to establish TMDLs addressing these impairments. The Basin Plan Amendment will therefore include numeric targets, waste load allocations, load allocations, and implementation plans to control discharges of pyrethroid pesticides to the Alamo River and New River.

7. Water quality standards (WQs) consist of designated beneficial uses, numeric and narrative water quality criteria (referred to as “water quality objectives” or “WQOs” under state law; see Wat. Code, § 13241) that protect beneficial uses, as well as the state and federal antidegradation policies. (See State Water Resources Control Board Resolution 68-16 [state policy]; 40 C.F.R. § 131.12 [federal policy].)
8. Under the Basin Plan, both the Alamo River and the New River are designated for the following beneficial uses:
 - a. Warm Freshwater Habitat (WARM);
 - b. Wildlife Habitat (WILD);
 - c. Preservation of Rare, Threatened, or Endangered Species (RARE);
 - d. Water Contact Recreation (REC-I);
 - e. Noncontact Water Recreation (REC-II); and
 - f. Freshwater Replenishment (FRSH).
 - g. Hydropower Generation (POW; Potential Use for Alamo River Only)
 - h. Industrial Service Supply (IND; Potential Use for New River Only)
9. Beneficial uses are regarded as existing whether the waterbody is perennial or ephemeral, and whether the flow is intermittent or continuous.
10. Pyrethroids have been identified as causing impairments in the water column as well as in sediments. WQOs and the numerical targets for the pyrethroid compounds are currently unmet in the Alamo and New Rivers.
11. While the exact sources of pyrethroid pesticides in the Imperial Valley are currently unknown, both nonpoint source and point source discharges could be contributing to the impairment of the New and Alamo Rivers. Agricultural runoff is a known possible non-point source of pyrethroids, and they are often bound to sediments and particulate matter in runoff. Wastewater treatment plant (WWTP) effluents have also been identified as a possible point source of pyrethroids to surface waters.
12. The Implementation Plan set forth in Waste Discharge Requirements Order R7-2021-0050 (*General Waste Discharge Requirements for Discharges of Waste from Irrigated Lands for Dischargers that are Members of a Coalition Group in the Imperial Valley*) (Imperial Agricultural Order) and its associated Monitoring and Reporting Program (MRP) will provide the information sufficient to

confirm that the TMDL is being implemented and numeric targets and allocations will be achieved.

13. On February 25, 2022, Regional Water Board staff conducted a CEQA Scoping Meeting for the proposed Basin Plan Amendment. (See Pub. Resources Code, § 21083.9, subd. (a)(2) [requiring meetings for projects of regional significance]).
14. On February 26, 2024, the Regional Water Board staff released a report, titled “Total Maximum Daily Load for Pyrethroid Pesticides in Alamo River and New River, Imperial County” (Staff Report) in support of the proposed Basin Plan Amendment.
15. In accordance with Health and Safety Code section 57004, the Staff Report was submitted for scientific peer review. Regional Water Board staff have provided responses to the comments of peer reviewers.
16. The Staff Report was updated to conform to the recommendations of the peer reviewers or staff has provided an explanation of why specific changes were not made. The Staff Report is attached hereto as **Attachment B** and incorporated herein.
17. The Regional Water Board has determined that the scientific portions of the Staff Report are based on sound scientific knowledge, methods, and practices, in accordance with Health and Safety Code section 57004.
18. The Staff Report (Attachment B) and the proposed Basin Plan Amendment (Attachment A) meet the applicable requirements of CWA section 303(d).
19. The proposed Basin Plan Amendment is part of a certified regulatory program that is exempt from the procedural requirements of the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq. (Cal. Code Regs., tit. 14, § 15251, subd. (g).)
20. The Staff Report constitutes a Substitute Environmental Document (SED) for the purposes of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15252; *id.*, tit. 23, § 3777.). In accordance with California Code of Regulations, title 23 (Title 23), section 3777, the Staff Report includes an Environmental Checklist that identifies any reasonably foreseeable environmental impacts resulting from Basin Plan Amendment implementation (§ 3777, subd. (b)(2)), and also analyzes reasonably foreseeable means of compliance (§ 3777, subd. (b)(4)). The impact analysis considers reasonable range of environmental, economic, and technical factors, population and geographic areas, and specific sites (§ 3777, subd. (c).). Additionally, the Staff Report contains a determination that the proposed Basin Plan Amendment will have no potential for adverse effects. (§ 3777, subds. (b)(2), (e).)

21. The Regional Water Board has reviewed the contents of the Staff Report, including all attachments thereto.
22. The proposed Basin Plan Amendment is consistent with the state and federal antidegradation policies, as well as with all applicable state policies for water quality control.
23. As reflected in the Staff Report, the proposed Basin Plan Amendment will not have any significant or potentially significant effects on the environment. Accordingly, no alternatives or mitigation measures are included in the Staff Report. (Cal. Code Regs., tit. 23, § 3777, subd. (e).)
24. The Regional Water Board has considered the cost of implementing the proposed Basin Plan Amendment, and find them reasonable relative to the water quality benefits derived from implementation.
25. Upon adoption by the Regional Water Board, the proposed Basin Plan Amendment will be submitted for approval by the State Water Resources Control Board (State Water Board), the California Office of Administrative Law (OAL), and the U.S. Environmental Protection Agency (USEPA). The Basin Plan Amendment will not take effect until these three separate approvals occur.
26. This regulatory action meets the “necessity” standard of the Administrative Procedure Act. (See Gov. Code, § 11353, subd. (b)(1)(C).)
27. On March 12, 2024, the Regional Water Board held a Public Hearing to consider the TMDL Staff Report, Basin Plan Amendment, and other supporting Substitute Environmental Documents. Notice of a Public Hearing was given to all interested persons and published for review and comment in accordance with state and federal environmental laws. (Wat. Code, § 13244; Cal. Code Regs., tit. 23, § 3775; 40 CFR parts 25, 131.)

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to Water Code section 13240 et seq., the Regional Water Board, after considering the whole of the record, including oral testimony at the hearing, hereby adopts the Staff Report attached hereto as Attachment B, and adopts the proposed Basin Plant Amendment set forth in Attachment A.
2. The Executive Officer is hereby directed to submit the Amendment to the State Water Board in accordance with Water Code section 13245.
3. The Regional Water Board hereby requests that the State Water Board approve the Amendment in accordance with the requirements of Water Code sections 13245 and 13246.

4. The Executive Officer is further directed to transmit the required filing to the California Department of Fish and Wildlife (CDFW). (Fish & G. Code, § 711.4; Cal. Code Regs., tit. 14, § 753.5.)
5. Upon USEPA approval of the Basin Plan Amendment, the Executive Officer is directed to file a Notice Of Decision (NOD) with the Natural Resources Secretary in accordance with Public Resources Code section 21080.5, subdivision (d)(2)(E), and California Code of Regulations, title 23, section 3781. The Executive Officer's transmittal to the Secretary shall include a copy of the fee paid to CDWF.
6. If during the agency approval process, Regional Water Board staff, the State Water Board, or the OAL determines that minor, non-substantive modifications to the language of the Amendment are needed for clarity or consistency, the Executive Officer is hereby authorized to make such changes, provided that the Regional Water Board is notified in any manner appropriate under the circumstances.

CERTIFICATION

I, PAULA RASMUSSEN, Executive Officer, hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on July 9, 2024.

Original signed by

PAULA RASMUSSEN
Executive Officer