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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2016-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE CENTRAL COASTAL BASIN (BASIN PLAN) TO ADOPT TOTAL MAXIMUM DAILY LOADS FOR NITROGEN COMPOUNDS AND ORTHOPHOSPHATE IN STREAMS OF THE PAJARO RIVER BASIN

WHEREAS:

1. On July 30, 2015, the Central Coast Regional Water Quality Control Board (Central Coast Water Board) adopted [Resolution No. R3-2015-0004](#) amending the Water Quality Control Plan for the Central Coastal Basin (Basin Plan) to establish total maximum daily loads (TMDLs) and an associated implementation plan for nitrogen compounds and orthophosphate in streams of the Pajaro River basin.
2. The Central Coast Water Board found the Basin Plan amendment was consistent with the provisions of the State Water Resources Control Board (State Water Board) [Resolution No. 68-16](#), "Statement of Policy with Respect to Maintaining High Quality of Waters in California" and 40 CFR section 131.12.
3. The elements of a TMDL are described in 40 CFR sections 130.2 and 130.7 and section 303(d) of the federal Clean Water Act and U.S. Environmental Protection Agency guidance documents. A TMDL is defined as "the sum of individual waste load allocations for point sources and load allocations for nonpoint sources and natural background" (40 CFR §130.2). The Central Coast Water Board has determined that the TMDLs for nitrogen compounds and orthophosphate in streams of the Pajaro River basin are set at levels necessary to attain and maintain the applicable water quality objectives taking into account seasonal variations and any lack of knowledge concerning the relationship between effluent limitations and water quality (40 CFR §130.7(c)(1)). The regulations in 40 CFR section 130.7 also state that TMDLs shall take into account critical conditions for stream flow, loading, and water quality parameters. TMDLs are often expressed as a mass load of the pollutant but can be expressed as a unit of concentration if appropriate (40 CFR §130.2(i)). Expressing the nitrogen compounds and orthophosphate TMDLs as units of concentration in this Basin Plan amendment is appropriate because attaining concentration-based water quality targets will result in the restoration and protection of relevant beneficial uses.
4. The Central Coast Water Board concurred with the analyses contained in the final TMDL Report, the California Environmental Quality Act (CEQA) "Substitute Environmental Documents" for the Basin Plan amendments (including the CEQA Checklist and Analysis), the staff report, and responses to comments, and found that these analyses comply with the requirements of the State Water Board's certified regulatory CEQA process, as set forth in California Code of Regulations, Title 23, section 3775 et seq. Furthermore, the Central Coast Water Board found that these analyses fulfill the Central Coast Water Board's obligations attendant with the adoption of regulations "requiring the installation of pollution control equipment, or a performance standard or treatment requirement," as set forth in section 21159 of the Public Resources Code. The Central Coast Water Board's environmental analysis has taken into account a reasonable range of environmental, economic, and technical factors.

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5. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that regional water quality control boards may revise water quality control plans; with section 13242, which requires a program of implementation to achieve water quality objectives; and with section 13243, which authorizes regional water quality control boards to specify certain conditions or areas where the discharges of certain types of waste will not be permitted. The State Water Board also finds that the TMDLs, as reflected in the Basin Plan amendment, are consistent with the requirements of CLEAN WATER ACT section 303(d).
6. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subd. (b). The necessity of developing these TMDLs is established in the TMDL project report, the section 303(d) list, and the data contained in the administrative record documenting nutrient-related water quality impairments of the Pajaro River basin.
7. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the California Office of Administrative Law. The TMDLs must also receive approval from the U.S. Environmental Protection Agency.

THEREFORE BE IT RESOLVED THAT:

The State Water Resources Control Board:

1. Approves the amendment to the Basin Plan adopted under Central Coast Water Board Resolution No. R3-2015-0004.
2. Authorizes and directs the Executive Director or designee to submit the amendment adopted under Central Coast Water Board Resolution No. R3-2015-0004 and the administrative record for this action to the California Office of Administrative Law and the TMDLs to the U.S. Environmental Protection Agency for approval.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 5, 2016.

Jeanine Townsend
Clerk to the Board