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Comment Summary and Responses Colorado River: New River Dissolved Oxygen Comment Deadline: October 27, 2011

List of Commenters:

Comment Reference	Company	Representative	Pages
1	Blue Ribbon Environmental Products, Inc.	Gary Snyder	1-2
2	International Boundary and Water Commission United States and Mexico	Gilbert Anaya	2-5

Response to Comments:

No.	Author	Comment	Response
1.1	Gary Snyder	"The attached document requests the necessary information to allow us to develop a comprehensive solution. Our approach is based on cooperation of all parties involved and using our industry leading technology at improving DO levels in rivers and sewage treatment lagoons, while addressing other water chemistry issues as well."	<p>Although the comment letter purports to contain an attached document requesting information, the comment letter did not contain any such document.</p> <p>In any event, the commenter did not submit the information provided in this comment letter, or make any request for information, to the Regional Water Quality Control Board, Colorado River Basin Region (Regional Board). The request for information should have been submitted to the Regional Board while the amendment to the Basin Plan was being developed at which time the methods to address the impairment of low dissolved oxygen (DO) were analyzed and discussed.</p>
1.2	Gary Snyder	Screening, filtration, and other mechanical treatments are not designed to deal with such a complex water stream or inadequate oxygen levels that would help to maintain a healthy aquatic system and are very expensive. Screening is a technique to remove large pieces of debris not microscopic particles of contamination comprised of fecal coliform, blood from a slaughter house, salinity	<p>The specific treatments or management practices discussed by the commenter are not included in the TMDL for controlling the impairment of DO.</p> <p>The New River DO TMDL does not recommend any specific treatments or management practices.</p> <p>The TMDL addresses the sources of low DO in the first 12 mile reach of the New River downstream of the International Boundary</p>

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		<p>or heavy metals just to name a few. The addition of Chlorine is a double-edge sword because it does act as a disinfectant on drinking water but it also kills beneficial microbes that are necessary to a healthy body of water.</p> <p>The most successful and cost effective way to clean up the New River is to treat at the source of contamination. Attempting to treat one complex waste stream is far more challenging when dealing with variable flows, contaminant levels and interactions between contaminants. As flows and contaminant levels fluctuate up or down from day to day or hour by hour adjustments need to be made to the system to react to the changing conditions. A reliable system needs to be based on constant data.</p>	<p>caused mainly by waste discharges from Mexico. Therefore, the TMDL requests among other things that the federal government (USIBWC and USEPA) describes measures taken or proposed to ensure Mexico does not cause or contribute to violations of this TMDL. A constant sampling data system is contingent on available resources.</p>
1.3	Gary Snyder	<p>The remainder of the comment letter is promoting the patented Single Ionic "O" Delivery System as a solution to the New River dissolved oxygen impairment.</p>	<p>The State Water Resources Control Board (State Water Board) appreciates the information provided by the commenter. This information has been passed onto the Regional Board.</p>
2.1	Gilbert Anaya	<p>"The [International Boundary and Water Commission, United States Section (USIBWC)] has reviewed the data collected at this site by USIBWC personnel and our data shows that during the past 5 years the dissolved oxygen has a seasonal occurrence of not meeting the 5.0 mg/L standard; however, our data also shows that the dissolved oxygen levels are improving. During the past two</p>	<p>Significantly, and contrary to this comment, the USIBWC submitted a letter <i>in support</i> of the Regional Board's adoption of the TMDL in a letter dated April 1, 2010. The prior letter supported the Regional Board's adoption of the TMDL as follows:</p> <p>The USIBWC has reviewed the data collected at this site by USIBWC personnel and concurs with the finding based on the dissolved oxygen not achieving a minimum of 5.0 milligrams</p>

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		<p>years, dissolved oxygen levels have been meeting the 5.0 mg/L standard and as such do not meet the criteria for a TMDL.”</p>	<p>per liter. Our data shows that this value is not being achieved from 25 to 85 percent of the samples collected for the past 4 years.</p> <p>As a result, the commenter’s rationale and conclusions asserted concerning the State Water Board’s proposed approval of the TMDL are new and were not previously raised with the Regional Board. Furthermore, the USIBWC does not provide any explanation for the manner or method in which it has reached a different conclusion about the need for the TMDL.</p> <p>The commenter correctly observes that the New River dissolved oxygen levels are improving. The TMDL explains (at page 3) that the Las Arenitas Wastewater Treatment Plant, which started operations in March 2007, was designed to prevent Mexicali’s remaining untreated sewage from discharging into the New River. As a result, DO levels in the impaired section of the New River improved significantly, but DO concentrations continue to violate the DO water quality objective of 5.0 milligrams per liter (mg/l) at any time. Therefore, a TMDL is still required to allocate contaminant loads among point and non-point sources that are causing or contributing to the DO impairment.</p>
2.2	Gilbert Anaya	<p>The commenter explains that the USIBWC works with Mexico to recognize and resolve bi-national issues along the international border but asserts that it will not be submitting the implementation report requested under phase I of the TMDL.</p>	<p>Please refer to responses to comments 2.1 and 2.3.</p>

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2.3	Gilbert Anaya	<p>In lieu of a TMDL, the USIBWC would like to recommend the development of a watershed protection plan. This will provide a framework that will lead to achieving the same goals and will allow for stakeholder input and voluntary efforts to reduce the dissolved oxygen problems in the New River. Any TMDL will be unenforceable in the country of Mexico and places undue burden on the regulated stakeholders in the United States.</p>	<p>The authority provided to the State Water Board in Section 13245 of the Porter-Cologne Water Quality Control Act does not provide for the State Water Board to make the change the commenter is requesting, but only to approve or remand the TMDL back to the Regional Board for further consideration and resubmission to the State Water Board. The commenter did not submit this recommendation to the Regional Board. The recommendation should have been submitted to the Regional Board while the amendment to the Basin Plan was being developed at which time the policy and methods to address the impairment of low dissolved oxygen (DO) were analyzed and discussed.</p> <p>In addition, the TMDL doesn't preclude the development of a watershed protection plan. The State Water Board and Regional Board encourage all parties involved to work together in an attempt to reduce the DO impairment. If deemed necessary and appropriate, a watershed protection plan could be considered and developed by staff as part of the Triennial Review process 2 years after the effective date of the EPA approval. Upon the conclusion of that review, staff will present the results in its Triennial Review report to the Regional Board. After approval of the Triennial Review by the Regional Board, staff will then begin its second TMDL review in preparation for the next Triennial Review. The addition of a watershed protection plan could be developed during either of these two Triennial Reviews if deemed necessary.</p> <p>The commenter does not explain the "undue burden" it concludes will fall on the stakeholders in the United States.</p> <p>The State Water Board recognizes the difficulty of attempting to address water quality problems for international water bodies,</p>
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			<p>such as the New River, due to the sovereignty issues noted. Nevertheless, the Clean Water Act requires that impaired water bodies within the jurisdiction of the United States must attain water quality standards regardless of their international character. Thus, because the Regional Board is without authority to enforce the TMDL directly in Mexico, the TMDL requests the USIBWC and the U.S. Environmental Protection Agency, as responsible parties, to take specified actions within their jurisdiction and control, such as submitting the requested New River DO TMDL Implementation Report that describes measures taken or proposed to ensure Mexico does not cause or contribute to violations of this TMDL. While it is understood that the U.S. federal agencies cannot guarantee Mexico's compliance, the Regional Board is statutorily charged with protecting the quality of all waters within its jurisdiction. Towards that goal, the Regional Board supports, and will continue to support, all compliance efforts made by the U.S. federal agencies and their Mexican counterparts to attain the DO water quality standard specified for the U.S. portion of the New River.</p>
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