

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

DEC 21 2010

Mr. Thomas Howard
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Dear Mr. Howard:

The Environmental Protection Agency has reviewed the California State Water Resources Control Board Resolution No. 2010-0043, the Amendment to the Water Quality Control Plan for the North Coast Region (Basin Plan), to adopt Site-Specific Objectives (SSO) for Dissolved Oxygen for the Klamath River. This action addresses only the dissolved oxygen SSO portion of the amendment. The portion regarding the Action Plan for the Klamath River Total Maximum Daily Loads (TMDLs) will be addressed separately. I am pleased to inform you we are approving the dissolved oxygen SSO portion of the amendment.

The amendment addressing the SSO for dissolved oxygen was adopted by the North Coast Regional Water Quality Control Board on March 24, 2010 under Resolution No. R1-2010-0025, and approved by the State Water Resources Control Board on September 7, 2010 as part of Resolution No. 2010-0043. The complete submission package was received by EPA on December 8, 2010. Supporting documentation to the amendment is presented in *The Staff Report for the Proposed Site Specific Dissolved Oxygen Objectives for the Klamath River in California*, which is Appendix 1 to the "Final Staff Report for the Klamath River Total Maximum Daily Loads (TMDLs) Addressing Temperature, Dissolved Oxygen, Nutrient and Microcystin Impairments In California the Proposed Site Specific Dissolved Oxygen Objectives For the Klamath River in California and the Klamath River and Lost River Implementation Plans".

The Amendment

The amendment strikes six separate dissolved oxygen objectives in Table 3.1 from Chapter 3 of the Basin Plan and replaces them with a footnote directing the reader to the new Table 3-1a, which includes site specific objectives for dissolved oxygen in the mainstem Klamath River based on natural receiving water conditions and are reflected as percent saturation of dissolved oxygen.

Today's Action

Section 303(c) of the Clean Water Act (CWA) requires EPA to approve or disapprove new or revised state-adopted water quality standards. The State regulatory provisions which are subject to EPA's approval authority under Section 303(c) are those addressing antidegradation, beneficial uses, water quality criteria, and implementation of water quality standards for surface waters. EPA has determined the above Basin Plan Amendment is subject to EPA's section 303(c) approval authority. EPA finds the DO criteria are protective of the downstream beneficial uses of the Klamath River as defined in the Hoopa Valley Tribal Water Quality Control Plan. Pursuant to CWA section 303(c) and the implementing federal regulations at 40 CFR 131, EPA hereby approves this amendment. EPA's approval is based on our finding that the amendment is consistent with the requirements of the CWA and EPA's regulations at 40 CFR 131.5, 131.6 and 131.10(b).

Public Participation

EPA compliments the State on its efforts to include the public in the development and review of new and revised water quality standards. Public involvement is an integral component of a successful water quality program. Based upon our review of the administrative record for the subject amendment, the public review procedures followed by the State in the development of Regional Board Resolution No. R1-2010-0025 and State Board Resolution No. 2010-0043 were consistent with the procedural requirements for public participation in triennial reviews, adoption, and revision of state water quality standards.

ESA Consultation with the Services on EPA's Action

Section 7(a)(2) of the Endangered Species Act states that each federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species (listed species) or result in the destruction or adverse modification of critical habitat. EPA has determined that today's action may affect but is not likely to adversely affect federally listed threatened or endangered species or critical habitat. In September, 2009, EPA initiated informal consultation with the NMFS and FWS concerning the proposed revised dissolved oxygen criteria for the Klamath River. On December 13, 2010, EPA submitted a Biological Evaluation and requests for concurrence to NMFS and FWS. We anticipate concluding consultation in the near future. Consistent with ESA section 7(d), we find that our approval of the revisions to the dissolved oxygen criteria for the Klamath River will not make any irreversible or irretrievable commitment of resources by federal agencies or applicants that have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives which would not violate section 7(a)(2) of the ESA.

EPA commends the North Coast Regional Water Quality Control Board staff for its thorough work in developing the site specific objectives for dissolved oxygen in this amendment to the Basin Plan. If there are any questions regarding EPA's action, please contact Suesan Saucerman at 415-972-3522. As always, EPA looks forward to continued cooperation with the State in achieving our mutual environmental goals.

Sincerely,

 21 Dec. 2010
Alexis Strauss
Director, Water Division

Cc: Holly Lundborg (NCRWQCB)
Michael Buckman (SWRCB)
Ken Norton (HVT)
Rodney McInnis (NMFS)
Trisha Roninger (FWS)
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