STATE WATER BOARD
**RESOLUTION NO. 2005-0071**

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO REGION TO ESTABLISH A TOTAL MAXIMUM DAILY LOAD (TMDL) FOR DISSOLVED COPPER IN SHELTER ISLAND YACHT BASIN

**WHEREAS:**

1. The San Diego Regional Water Quality Control Board (San Diego Water Board) adopted a revised Water Quality Control Plan for the San Diego Region (Basin Plan) on September 8, 1994. The adopted Basin Plan was approved by the State Water Resources Control Board (State Water Board) on December 13, 1994 and by the Office of Administrative Law (OAL) on April 26, 1995.

2. On February 9, 2005, the San Diego Water Board adopted Resolution No. R9-2005-0019 (Attachment) amending the Basin Plan to establish a TMDL for dissolved copper in Shelter Island Yacht Basin.

3. San Diego Water Board staff prepared documents and followed procedures satisfying environmental documentation requirements in accordance with the California Environmental Quality Act and other State laws and regulations.

4. San Diego Water Board found that the additions of this amendment would result in no adverse effect on wildlife, and the amendment would be consistent with the State Antidegradation Policy (State Water Board Resolution No. 68-16) and federal antidegradation requirements.

5. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Boards may revise Basin Plans, and section 13242, which requires a program of implementation of water quality objectives. The State Water Board also finds that the TMDL as reflected in the Basin Plan amendment is consistent with the requirements of federal Clean Water Act section 303(d).

6. State Water Board staff determined that provisions of the amendment as adopted warranted minor, non-substantive clarification of the language of various provisions.

7. If and when additional water bodies are listed on the 303(d) list due to copper from the use of antifouling paint on boat hulls, the State Water Board expects similar requirements will be imposed upon all such water bodies to the extent similar conditions exist.

8. The State Water Board finds, in view of increasing impairment of coastal marinas from copper-based antifouling paints, that there is a need for statewide consistency in regulation.

9. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by OAL. The TMDL must also be approved by the U.S. Environmental Protection Agency (USEPA).

**THEREFORE BE IT RESOLVED THAT:**

The State Water Board:

1. Approves the amendment to the Basin Plan to establish a TMDL for dissolved copper in Shelter Island Yacht Basin as adopted in San Diego Water Board Resolution No. R9-2005-0019 and as corrected by the San Diego Water Board Executive Officer.

2. Authorizes the Executive Director to transmit the amendment and administrative record for this action to OAL and the TMDL to USEPA for approval.

3. The State Water Board recognizes that the Department of Pesticide Regulation (DPR) has committed resources to address this issue, including initiating regulatory measures to address copper-based antifouling paints. The State Water Board encourages DPR to expeditiously pursue the appropriate scientific and regulatory avenues to address water quality concerns associated with copper-based antifouling paints. If after two years DPR or USEPA have not taken action to adequately address the impacts of copper-based antifouling paints on water quality, the San Diego Water Board, in conjunction with the State Water Board, shall work with all coastal Regional Water Boards to develop a state policy for water quality control to address water quality impairments in coastal marinas from copper-based antifouling paints.

**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 September 22, 2005.

AYE: Tam M. Doduc
Peter S. Silva
Arthur G. Baggett, Jr.
Richard Katz
Gerald D. Secundy

NO: None.

ABSENT: None.

ABSTAIN: None.

Debbie Irvin
Clerk to the Board