

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING DECEMBER 3, 2004

Prepared on November 8, 2004

ITEM: 26

SUBJECT: ADOPTING THE LOS OSOS CREEK, WARDEN CREEK, AND WARDEN LAKE WETLAND TOTAL MAXIMUM DAILY LOAD FOR NUTRIENTS AND IMPLEMENTATION PLAN

BACKGROUND

Los Osos Creek was included on California's section 303(d) list of impaired waters for nutrients. Section 303(d) requires the Regional Water Quality Control Board (Regional Board) to adopt a Total Maximum Daily Load (TMDL) for listed waterbodies. Regional Board staff recommends approval of a resolution to adopt a TMDL and implementation plan for nutrients in Los Osos Creek, Warden Creek, and Warden Lake Wetland. The TMDL addresses the nitrate portion of the nutrient impairment in the Los Osos Creek watershed and includes follow-up monitoring to address any remaining impairment to ensure that beneficial uses are protected.

The Warden Creek branch of Los Osos Creek exhibits the most consistent nitrate violations supporting the conclusion that the municipal and domestic water supply (MUN) beneficial use is impaired in the Warden Creek branch of Los Osos Creek. The Los Osos Creek branch of Los Osos Creek is not considered impaired for nitrates. Dissolved oxygen water quality objectives are occasionally exceeded, but typically in the lower portions of the creek. Algae is present but data are primarily anecdotal and do not provide consistent documentation on severity and extent of coverage. Insufficient data are available to determine if and when algae is sufficiently dense to be perceived as a nuisance and clearly impacting uses in Los Osos Creek, or to identify an appropriate algal target representing use support.

As such, the TMDL for the Warden Creek branch of Los Osos Creek is set at a maximum concentration for nitrate of 10 mg/l-N in receiving water to protect the MUN beneficial use. Load allocations of 10 mg/l-N are assigned to each

source, including background and all watershed land uses (e.g., cropland and rangeland). Staff determined that the primary source of nitrates is croplands.

Compliance with the Conditional Waiver for Irrigated Agricultural Discharges (conditional waivers) by owners and operators of irrigated agricultural lands and additional monitoring by Regional Board staff will implement the Los Osos Creek Nutrient TMDL.

PUBLIC INVOLVEMENT

Regional Board staff has conducted TMDL outreach by coordinating the TMDL with agencies and individuals in the Los Osos Creek watershed. In addition, public review and comment through the December 3 Regional Board meeting provides another formal opportunity for public input prior to adoption of this TMDL. Notice of public hearing was given by notifying newspapers of general circulation within the Region and a copy of the notice was mailed to all persons requesting such notice and affected government agencies.

The Final Project Report for this proposed Regional Board action is available at the Region 3 website at

<http://www.swrcb.ca.gov/rwqcb3/Board/Meetings/documents/DEC04agn.pdf>. Staff did not include the entire document in the staff report in order to save paper. Paper copies are available upon request.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The attached resolution finds that an existing project makes any further regulatory action (i.e., any "project") unnecessary. Therefore, this action is not a "project" that requires compliance with the California Environmental Quality Act (California

Public Resources Code §21000 et seq.). The Regional Board is not directly undertaking an activity, funding an activity or issuing a permit or other entitlement for use (Public Resources Code section 21065; 14 Cal. Code of Regs. §15378). The Regional Board is not approving any activity; it is merely finding that an ongoing activity also satisfies other legislative requirements.

ANTI-DEGRADATION

This resolution does not allow degradation or a decrease in water quality, and does not approve an activity that produces or may produce a waste or increased volume or concentration of waste or an activity that discharges or proposes to discharge to existing high quality waters. This resolution therefore complies with Resolution 68-16 and 40 CFR §131.12.

COMMENTS

Notice of this item being proposed to the Regional Board was distributed to a list of interested parties and agencies that have indicated interest in the Los Osos Creek area.

The public comment period ends on November 22, 2004. Written comments (via mail, e-mail, and fax) concerning the proposed TMDL for Nutrients in Los Osos Creek, Warden Creek, and Warden Lake Wetland received prior to the Regional Board meeting will be considered prior to the Regional Board's decision on this item.

RECOMMENDATION

Approve the Resolution R3-2004-0165 adopting the TMDL for Nutrients in Los Osos Creek, Warden Creek, and Warden Lake Wetland, finding the conditional waivers for irrigated agriculture and monitoring will achieve the TMDL's goal of nutrient reduction.

ATTACHMENTS:

- A. Resolution R3-2004-0165
- B. Final Project Report - available at the Region 3 website at
<http://www.swrcb.ca.gov/rwqcb3/Board/Meetings/documents/DEC04agn.pdf>

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