

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California**

**RESOLUTION NO. R3-2009-0008
MARCH 20, 2009**

AMENDING THE WATER QUALITY CONTROL PLAN FOR THE CENTRAL COAST BASIN TO (1) ADD TOTAL MAXIMUM DAILY LOADS FOR FECAL COLIFORM IN THE PAJARO RIVER WATERSHED (INCLUDING PAJARO RIVER, SAN BENITO RIVER, LLAGAS CREEK, TEQUISQUITA SLOUGH, SAN JUAN CREEK, CARNADERO/UVAS CREEK, BIRD CREEK, PESCADERO CREEK, TRES PINOS CREEK, FURLONG (JONES) CREEK, SANTA ANA CREEK, AND PACHECHO CREEK); (2) ADD A DOMESTIC ANIMAL WASTE DISCHARGE PROHIBITION; AND (3) ADD A HUMAN FECAL MATERIAL DISCHARGE PROHIBITION

The Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) finds:

1. The Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) adopted the second edition of the Water Quality Control Plan for the Central Coastal Basin (Basin Plan) on September 8, 1994. The Basin Plan designates beneficial uses and water quality objectives, sets forth programs of implementation to achieve water quality objectives addressing point source and nonpoint source discharges, adopts prohibitions, and incorporates statewide plans and policies.
2. The Central Coast Water Board periodically revises and amends the Basin Plan. The Central Coast Water Board has determined the Basin Plan requires further revision and amendment to: (1) incorporate the Total Maximum Daily Loads (TMDLs) and Implementation Program for fecal coliform in the Pajaro River Watershed, including the Pajaro River, San Benito River, Llagas Creek, Tequisquita Slough, San Juan Creek, Carnadero/Uvas Creek, Bird Creek, Pescadero Creek, Tres Pinos Creek, Furlong (Jones) Creek, Santa Ana Creek, and Pachecho Creek, (2) add a Domestic Animal Waste Discharge Prohibition applicable to the Pajaro River Watershed, and (3) add a Human Fecal Material Discharge Prohibition applicable to the Pajaro River Watershed.
3. The Central Coast Water Board proposes to amend the Basin Plan by inserting amendments into the following sections:
 - a. Chapter Four, Section IX (Total Maximum Daily Loads).
 - b. Chapter Five, Section IV.B. (Discharge Prohibitions)

4. On May 20, 2004, the State Water Resources Control Board (State Water Board) adopted the *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy). This Policy requires the Water Boards to regulate all nonpoint sources of pollution using the administrative permitting authorities provided by the California Water Code. This Policy requires Regional Water Boards to regulate nonpoint source discharges with Waste Discharge Requirements, Waivers of Waste Discharge Requirements, Basin Plan Prohibitions, or a combination thereof.
5. Pajaro River, San Benito River, Llagas Creek, and Tequisquita Slough are listed on the Clean Water Act 303(d) list as impaired due to pathogens. Therefore, this Resolution establishes TMDLs and associated allocations for these listed water bodies.
6. San Juan Creek, Carnadero/Uvas Creek, Bird Creek, Pescadero Creek, Tres Pinos Creek, Furlong (Jones) Creek, Pechecho Creek, and Santa Ana Creek are located in the Pajaro River Watershed, are currently not listed on the Clean Water Act 303(d) list of impaired waters, and are not meeting the Basin Plan water quality objectives for fecal indicator bacteria. The Central Coast Water Board finds that these water bodies are impaired due to non-attainment of Basin Plan water quality objectives for fecal coliform. Therefore, this Resolution establishes TMDLs and associated allocations for these water bodies.
7. The Central Coast Water Board's goal for establishing TMDLs in the Pajaro River Watershed is to rectify the impairment due to fecal coliform, thereby providing support for the designated beneficial uses of contact and non-contact water recreation.
8. The mouth of Pajaro River is the receiving water for approximately 1,253 square miles of land. Water from Pajaro River flows into Monterey Bay.
9. The elements of a TMDL are described in 40 CFR 130.2 and 130.7, section 303(d) of the Clean Water Act, and USEPA 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 fecal coliform in the Pajaro River Watershed are set at levels necessary to attain and maintain the applicable numeric water quality objectives taking into account seasonal variations and any lack of knowledge or uncertainty concerning the relationship between effluent limitations and water quality (40 CFR 130.7 (c) (1)). The regulations in 40 CFR 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 these TMDLs as units of concentration is appropriate because an existing concentration-based water quality objective is used as the basis for the TMDL numeric target.

10. Upon establishment of TMDLs by the State or USEPA, the State is required to incorporate the TMDLs, along with appropriate implementation measures, into the State Water Quality Management Plan (40 CFR 130.6 (c)(1) and 130.7; California Water Code sections 13050(j) and 13242). The Basin Plan and applicable statewide plans serve as the State Water Quality Management Plan governing the watersheds under the jurisdiction of the Central Coast Water Board.
11. The Central Coast Water Board may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted pursuant to California Water Code section 13243. This Basin Plan amendment establishes the Human Fecal Material Discharge Prohibition and the Domestic Animal Waste Discharge Prohibition for discharges in the Pajaro River Watershed (Prohibitions). The implementation plan for the TMDLs for the Pajaro River Watershed requires compliance with the Human Fecal Material Discharge Prohibition and the Domestic Animal Waste Discharge Prohibition for discharges in the Pajaro River Watershed. Supporting documentation supporting the establishment of these Prohibitions for the Pajaro River Watershed is provided in the Final Project Report: Total Maximum Daily Loads for Pathogens in the Pajaro River Watershed. Consistent with California Water Code section 13244, the Central Coast Water Board complied with public notice and hearing requirements for establishing the Human Fecal Material Discharge and the Domestic Animal Waste Discharge Prohibitions for the Pajaro River Watershed.
12. Pursuant to California Water Code section 13241, the Central Coast Water Board considered several factors in developing this Basin Plan amendment. The Central Coast Water Board concludes the following.
 - a. The Prohibitions and the TMDLs will protect present and probable future beneficial uses.
 - b. Environmental characteristics of the waterbodies will be protected.
 - c. Improved water quality conditions can reasonably be achieved through the coordinated management of all controllable factors that affect water quality in the area, as provided in the Implementation Plan, including the Prohibitions.
 - d. Costs to achieve compliance with the TMDLs are reasonable relative to the benefit of improved water quality.
 - e. The need for developing housing within the region is not relevant.
 - f. The need to develop and use recycled water is not relevant.
13. Central Coast Water Board staff submitted the Project Report for the TMDLs and the Prohibitions to an external scientific review panel in February 2008. Central Coast Water Board staff edited the Project Report or provided a written response that explained the basis for failing to incorporate the comments, or the comments did not result in any changes to the proposed Basin Plan amendments. The TMDLs and Implementation Program are based on sound scientific knowledge, methods, and practices in accordance with Health & Safety Code section 57004.

14. Central Coast Water Board staff implemented a process to inform interested persons and the public about the TMDLs and Prohibitions. Central Coast Water Board staff's efforts to inform the public and solicit comment included, a scoping meeting, meetings with interested persons, and a public notice and comment period. Public notice of the amendments provided the public a 45-day public comment period in advance of the Central Coast Water Board hearing. Notice of public hearing was given by advertising in newspapers of general circulation within the Region and by mailing a copy of the notice to appropriate government agencies and all persons requesting such notice. Relevant documents and notices were also made available on the Central Coast Water Board website. The Central Coast Water Board responded to oral and written comments received from the public. All public comments were considered.

15. Adoption of these TMDLs and Basin Plan amendment will not result in any degradation of water quality; in fact, they are designed to improve water quality. As such, these TMDLs and Basin Plan amendment comply with all requirements of both State and Federal anti-degradation requirements (State Board Resolution 68-16 "Statement of Policy with Respect to Maintaining High Quality of Waters in California, and 40CFR 131.12).

16. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional Water Quality Control Boards' basin planning process as a "certified regulatory program" that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code, Section 21000 et seq.) requirements for preparing environmental documents (14 Cal. Code Regs. §15251(g); 23 Cal. Code Regs. § 3782.). Central Coast Water Board staff has prepared "substitute environmental documents" for this project that contain the required environmental documentation under the State Water Resources Control Board's (State Board) CEQA regulations (23 Cal. Code Regs. § 3777.). The substitute environmental documents consist of the TMDL Staff Report and Attachments, including: this Resolution with the Basin Plan Amendment Language (Attachment 1), Final Project Report entitled "Total Maximum Daily Loads for Fecal Coliform in the Pajaro River Watershed" (Attachment 2), the CEQA Substitute Document Report containing the Environmental Checklist and Alternatives Analysis (Attachment 3), the comments and responses to comments (Attachment 6),. The Staff Report also includes the Notice of Public Hearing/Notice of Filing (Attachment 4) and the Scientific Peer Review Comment (Attachment 5). The project itself is the establishment of TMDLs for fecal coliform in the Pajaro River Watershed. The Water Board exercises discretion in assigning waste load allocations and load allocations, determining the program of implementation, and setting various milestones in achieving the water quality standards. The CEQA Substitute Document Report (Staff Report Attachment 3) and other portions of the substitute environmental documents contain significant analysis and numerous findings related to environmental impacts and mitigation measures.

17. A CEQA Scoping meeting was conducted on June 20, 2007 at the Gilroy City Hall, Gilroy CA 95020. A notice of the CEQA Scoping meeting was sent to interested persons on May 23, 2007, including to the Cities of Gilroy, Hollister, Morgan Hill, Watsonville and the Counties of Monterey, Santa Clara, San Benito, and Santa Cruz. The notice included a background of the project, the project purpose, a meeting schedule and directions for obtaining more detailed information through the Central Coast Water Board website; the notice and project summary was available at the website or by requesting hard copies via telephone.
18. Public Resources Code section 21159 provides that an agency shall perform, at the time of the adoption of a rule or regulation requiring the installation of pollution control equipment, or a performance standard or treatment requirement, an environmental analysis of the reasonably foreseeable methods of compliance, and an analysis of the reasonably foreseeable environmental impacts of the methods of compliance, an analysis of reasonably foreseeable mitigation measures to lessen the adverse environmental impacts, and an analysis of reasonably foreseeable alternative means of compliance with the rule or regulation that would have less significant adverse impacts, Section 21159(c) requires that the environmental analysis take into account a reasonable range of environmental, economic, and technical factors; population and geographic areas, and specific sites. The Staff Report prepared for this Basin Plan amendment, in particular the CEQA Substitute Document Report (Attachment 3) provides the environmental analysis required by Public Resources Code section 21159 and is, hereby incorporated as findings in this Resolution.
19. In preparing the substitute environmental documents, the Central Coast Water Board has considered the requirements of Public Resources Code section 21159 and California Code of Regulations, title 14, section 15187, and intends those documents to serve as a Tier 1 environmental review. This analysis is not intended to be an exhaustive analysis of every conceivable impact, but an analysis of the reasonably foreseeable consequences of the adoption of this regulation, from a programmatic perspective. Compliance obligations will be undertaken directly by public agencies that may have their own obligations under CEQA. Project level impacts may need to be considered in any subsequent environmental analysis performed by other public agencies, pursuant to Public Resources Code section 21159.2. To the extent applicable, this Tier 1 substitute environmental document may be used to satisfy subsequent CEQA obligations of those agencies.
20. Consistent with the Regional Board's substantive obligations under CEQA, the substitute environmental documents do not engage in speculation or conjecture, and only consider the reasonably foreseeable environmental impacts, including those relating to the methods of compliance, reasonably foreseeable feasible mitigation measures to reduce those impacts, and the reasonably foreseeable

alternative means of compliance, which would avoid or reduce the identified impacts.

21. The proposed amendment will have a less than significant adverse effect on the environment. California Water Code section 13360 precludes the Regional Board from dictating the manner in which responsible agencies comply with any of the Regional Board's regulations or orders. When the agencies responsible for implementing these TMDLs determine how they will proceed, the agencies responsible for those parts of the project can and should incorporate such alternatives and mitigation into any subsequent projects or project approvals. These feasible alternatives and mitigation measures are described in more detail in the substitute environmental documents (14 Cal. Code Regs. § 15091(a)(2)).
22. From a program-level perspective, incorporation of the alternatives and mitigation measures outlined in the substitute environmental documents will foreseeably reduce impacts to no impact, or keep the impact at less than significant levels.
23. The CEQA Substitute Document Report (Staff Report Attachment 3) identifies mitigation approaches that should be considered at the project level.
24. The Central Coast Water Board will request that the State Water Board approve the Basin Plan amendments incorporating: (a) the TMDLs for fecal coliform in the Pajaro River Watershed, and (b) the Domestic Animal Waste Discharge Prohibition and the Human Fecal Material Discharge Prohibition applicable to the Pajaro River Watershed. The TMDLs and Implementation Program for the TMDLs, and Prohibitions, will become effective upon approval by the California Office of Administrative Law. The TMDLs must also be approved by the United States Environmental Protection Agency.
25. The amendments to the Basin Plan may have an effect on fish and wildlife. The Central Coast Water Board will, therefore, forward fee payments to the Department of Fish and Game under the California Fish and Game Code section 711.4.
26. The proposed amendments meet the "Necessity" standard of the Administrative Procedure Act, Government Code, section 11353, subdivision (b). As specified in Finding-10, federal regulations require that TMDLs be incorporated into the water quality management plan. The Central Coast Water Board's Basin Plan is the Central Coast Water Board's component of the water quality management plan, and the Basin Plan is how the Central Coast Water Board takes quasi-legislative, planning actions. Moreover, the TMDL is a program of implementation for existing water quality objectives, and is, therefore, appropriately a component of the Basin Plan under California Water Code section 13242. The necessity of developing TMDLs is established in the TMDL staff report, the section 303(d) list, and the data contained in the administrative record documenting the pathogen impairments of the Pajaro River Watershed. The necessity of adding the

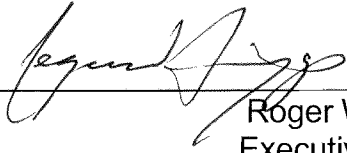
Prohibitions as implementation mechanisms to achieve the TMDL is established in the administrative record documenting the pathogen sources, the load allocations that responsible parties must meet to reduce or eliminate pathogen loading, and implementation strategies that comply with the NPS Policy.

27. On March 20, 2009, in Watsonville, California, the Central Coast Water Board held a public hearing and heard and considered all public comments and evidence in the record.

THEREFORE, be it resolved that:

1. Pursuant to sections 13240, 13241, 13242, 13243, and 13244 of the California Water Code, the Central Coast Water Board, after considering the entire record, including the oral testimony at the hearing, hereby adopts the amendments in "Attachment-Proposed Basin Plan Amendments."
2. The Executive Officer is directed to forward copies of the Basin Plan amendments to the State Water Board in accordance with the requirements of section 13245 of the California Water Code.
3. The Central Coast Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward them to the California Office Of Administrative Law and the USEPA for approval.
4. The Executive Officer is authorized to transmit payment of the applicable fee as may be required to the Resources Agency.
5. If, during its approval process, Central Coast Water Board staff, State Water Board staff, the State Water Board or the California Office of Administrative Law determines that minor, non-substantive corrections to the language of the amendments are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Central Coast Water Board of any such changes.
6. The environmental documents prepared by the Central Coast Water Board staff pursuant to Public Resources Code 21080.5 are hereby certified.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of the resolution adopted by the California Regional Water Quality Control Board, Central Coastal Region, on March 20, 2009.



Roger W. Briggs
Executive Officer

RESOLUTION NO. R3-2009-0008

ATTACHMENT - PROPOSED BASIN PLAN AMENDMENTS

Revise the September 8, 1994 Basin Plan, as follows:

AMENDMENT NO. 1. ADD TOTAL MAXIMUM DAILY LOADS FOR FECAL COLIFORM IN PAJARO RIVER WATERSHED WATERS (INCLUDING PAJARO RIVER, SAN BENITO RIVER, LLAGAS CREEK, TEQUISQUITA SLOUGH, SAN JUAN CREEK, CARNADERO/UVAS CREEK, BIRD CREEK, PESCADERO CREEK, TRES PINOS CREEK, FURLONG (JONES) CREEK, SANTA ANA CREEK, AND PACHECHO CREEK)

Add the following to Chapter IV. after IX. L.:

IX. M. TOTAL MAXIMUM DAILY LOADS FOR FECAL COLIFORM IN PAJARO RIVER WATERSHED WATERS (INCLUDING PAJARO RIVER, SAN BENITO RIVER, LLAGAS CREEK, TEQUISQUITA SLOUGH, SAN JUAN CREEK, CARNADERO/UVAS CREEK, BIRD CREEK, PESCADERO CREEK, TRES PINOS CREEK, FURLONG (JONES) CREEK, SANTA ANA CREEK, AND PACHECHO CREEK)

The Regional Water Quality Control Board adopted these TMDLs on March 20, 2009. These TMDLs were approved by:

The State Water Resources Control Board on April 20, 2010.

The California Office of Administrative Law on July 12, 2010. (date)

The U.S. Environmental Protection Agency on August 3, 2010. (date)

Problem Statement

The beneficial use of water contact recreation is not being protected in Pajaro River Watershed (including the following water bodies: Pajaro River, San Benito River, Llagas Creek, Tequisquita Slough, San Juan Creek, Carnadero/Uvas Creek, Bird Creek, Pescadero Creek, Tres Pinos Creek, Furlong (Jones) Creek, Santa Ana Creek, and Pachecho Creek) because fecal coliform concentrations exceed Basin Plan numeric water quality objectives designed to protect this beneficial use.

Numeric Target

Fecal coliform concentration, based on a minimum of not less than five samples for any 30-day period, shall not exceed a log mean of 200 MPN per 100 mL, nor shall more than 10 percent of samples collected during any 30-day period exceed 400 MPN per 100 mL.

Source Analysis

The relative order of controllable sources contributing fecal coliform in the Pajaro River Watershed, in decreasing order of contribution are: (1) storm drain discharges to municipally owned and operated storm sewer systems required to be covered by an NPDES permit (MS4s); (2) domestic animal discharges that do not discharge to MS4s; (3) spills and leaks from Sanitary Sewer Collection and Treatment Systems; and (4) private sewer laterals connected to municipal sanitary sewer collection systems. Natural, uncontrollable sources also contribute fecal coliform in the Pajaro River Watershed.

TMDLs and Allocations

The TMDLs for the impaired waters of Pajaro River, San Benito River, Llagas Creek, Tequisquita Slough, San Juan Creek, Carnadero/Uvas Creek, Bird Creek, Pescadero Creek, Tres Pinos Creek, Furlong (Jones) Creek, Santa Ana Creek, and Pachecho Creek are concentration-based TMDLs applicable to each day of all seasons equal to the following:

Fecal coliform concentration, based on a minimum of not less than five samples for any 30-day period, shall not exceed a log mean of 200 MPN per 100 mL, nor shall more than 10 percent of samples collected during any 30-day period exceed 400 MPN per 100 mL.

The allocations to responsible parties are shown in Table IX-M1.

Table IX – M - 1. Allocations and Responsible Parties

<u>Waterbody Assigned Allocation</u>	<u>Responsible Party [NPDES and/or WDR number] (Source)</u>	<u>Receiving Water Fecal Coliform Allocation</u>
WASTE LOAD ALLOCATIONS		
<u>Pajaro River¹</u> <u>San Benito River²</u> <u>Llagas Creek³</u> <u>Tequisquita Slough⁴</u>	Santa Cruz, Santa Clara, and Monterey Counties. Cities of Hollister, Morgan Hill, Gilroy, and Watsonville [NPDES No. CAS000004] (Storm Drain Discharges To MS4s Required to be covered by an NPDES Permit)	<u>Allocation 1</u>
<u>Pajaro River¹</u> <u>San Benito River²</u> <u>Llagas Creek³</u> <u>Tequisquita Slough⁴</u>	<u>City of Hollister [WDR 87-47]</u> (Sanitary Sewer Collection and Treatment Systems Spills and Leaks) <u>City of Watsonville [WDR Order R3-2003-0040, NPDES No. CA0048216]</u> (Sanitary Sewer Collection and Treatment Systems Spills and Leaks) <u>Cities of Gilroy and Morgan Hill via South County Regional Wastewater Authority (SCRWA) [WDR Order R3-2004-0099, NPDES No. CA0049964]</u> (Sanitary Sewer Collection and Treatment Systems Spills and Leaks) <u>San Juan Bautista Wastewater Treatment Facility [WDR Order R3-2003-0087, NPDES No. CA0047902]</u> (Sanitary Sewer Collection and Treatment Systems Spills and Leaks) <u>Sunnyslope County Water District [WDR Order R3-2004-0065]</u> (Sanitary Sewer Collection and Treatment Systems Spills and Leaks) <u>Tres Pinos County Water District [WDR Order 99-101]</u> (Sanitary Sewer Collection and Treatment Systems Spills and Leaks) <u>Pajaro County Sanitation District [WDR Order R3-2003-0041]</u> (Sanitary Sewer Collection and Treatment Systems Spills and Leaks)	<u>Allocation 2</u>
<u>Pajaro River¹</u> <u>San Benito River²</u> <u>Llagas Creek³</u> <u>Tequisquita Slough⁴</u>	<u>Owners of Private Sewer Laterals</u> (Private Laterals Connected to Municipal Sanitary Sewer Collection and Treatment Systems)	<u>Allocation 2</u>
LOAD ALLOCATIONS		
<u>Waterbody</u>	<u>Responsible Party (Source)</u>	
<u>Pajaro River¹</u> <u>San Benito River²</u> <u>Llagas Creek³</u> <u>Tequisquita Slough⁴</u>	<u>Owners/Operators of Land Used for/Containing Domestic Animals</u> (Domestic Animal Discharges)	<u>Allocation 1</u>

<u>Pajaro River¹</u> <u>San Benito River²</u> <u>Llagas Creek³</u> <u>Tequisquita Slough⁴</u>	<u>Natural Sources</u>	<u>Allocation 1</u>
<p><u>Allocation 1: Fecal coliform concentration, based on a minimum of not less than five samples for any 30-day period, shall not exceed a log mean of 200/100mL, nor shall more than ten percent of total samples during any 30-day period exceed 400/100 mL.</u></p> <p><u>Allocation 2: Allocation of zero; no loading allowed from this source.</u></p>		

¹ The entire Pajaro River from the Pacific Ocean to San Felipe Lake outflow via the Miller’s Canal drain. Including the entire San Juan Creek tributary from the uppermost reach of the waterbody to the confluence with Pajaro River, and Carnadero/Uvas Creek tributary from Hollister Road crossing to the confluence with Pajaro River.

² San Benito River from confluence with Pajaro River to three miles above Old Hernandez Road at Arizona Crossing. Including Bird Creek tributary from the uppermost reach of the waterbody to the confluence with San Benito River, the Pescadero Creek tributary from the uppermost reach of the waterbody to the confluence with San Benito River, and Tres Pinos Creek tributary from the uppermost reach of the waterbody to the confluence with San Benito River.

³ Llagas Creek from confluence with Pajaro River to Oak Glen Avenue. Including Furlong (Jones) Creek tributary from the uppermost reach of the waterbody to confluence with Llagas Creek.

⁴ Tequisquita Slough from confluence with San Felipe Lake to the uppermost reach of the waterbody. Including Santa Ana Creek tributary from the uppermost reach of the waterbody to Tequisquita Slough, and Pechecho Creek tributary from the uppermost reach of the waterbody to San Felipe Lake.

The parties responsible for the allocations to controllable sources are not responsible for the allocation to natural sources.

The TMDLs are considered achieved when the allocations assigned to all individual responsible parties are met, or when the numeric targets are consistently met.

Margin of Safety

A margin of safety is incorporated implicitly in the TMDLs through conservative assumptions.

Implementation Program

MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGES

The Central Coast Water Board will address fecal indicator bacteria (FIB), e.g. fecal coliform and/or other indicators of pathogens, discharged from the Counties of Santa Cruz, Santa Clara, and Monterey, and the Cities of Hollister, Gilroy, Morgan Hill, and Watsonville municipal separate storm sewer systems (MS4 entities) by regulating the MS4 entities under the provisions of the State Water Resource Control Board’s General Permit for the Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems (General Permit) (NPDES No. CAS000004). As enrollees under the General

Permit, the MS4 entities must develop and implement Storm Water Management Program (SWMPs) that control urban runoff discharges into and from their MS4s. To address the MS4 entities' TMDL wasteload allocations, the Central Coast Water Board will require the MS4 entities to specifically target FIB in urban runoff through incorporation of Wasteload Allocation Attainment Program in their SWMPs.

The Central Coast Water Board will require the Wasteload Allocation Attainment Program describe the actions that will be taken by the MS4 entities to attain the TMDL wasteload allocations, and specifically address:

1. Development of an implementation and assessment strategy;
2. Source identification and prioritization;
3. Best management practice identification, prioritization, implementation, analysis, and effectiveness assessment;
4. Monitoring program development and implementation;
5. Reporting; including evaluation whether current best management practices are progressing towards achieving the wasteload allocations by thirteen years after the TMDLs are approved by the Office of Administrative Law.
6. Coordination with stakeholders; and
7. Other pertinent factors.

The Wasteload Allocation Attainment Program will be required by the Central Coast Water Board to address each of these TMDLs that occur within the MS4 entities' jurisdictions.

The Central Coast Water Board will require the Wasteload Allocation Attainment Program to be submitted at one of the following milestones, whichever occurs first:

1. Within one year of approval of the TMDLs by the Office of Administrative Law;
2. When required by any other Water Board-issued storm water requirements (e.g., when the Phase II Municipal Storm Water Permit is renewed).

For an MS4 that is enrolled under the General Permit at the time of Wasteload Allocation Attainment Program submittal, the Wasteload Allocation Attainment Program must be incorporated into the SWMP when the Wasteload Allocation Attainment Program is submitted. For an MS4 entity that is not enrolled under the General Permit at the time of the Wasteload Allocation Program submittal, the Wasteload Allocation Attainment Program must be incorporated into the SWMP when the SWMP is approved by the Central Coast Water Board.

The Executive Officer or the Central Coast Water Board will require information that demonstrates implementation of the actions described above, pursuant to applicable sections of the California Water Code and/or pursuant to authorities provided in the General Permit for storm water discharges.

SANITARY SEWER COLLECTION AND TREATMENT SYSTEMS SPILLS AND LEAKS

Entities with jurisdiction over sewer collection systems in the Pajaro River Watershed must comply with the Human Fecal Material Discharge Prohibition; compliance with the Human Fecal Material Discharge Prohibition implies compliance with their load allocation for this TMDL.

To comply with the Human Fecal Material Discharge Prohibition, the Hollister Domestic Wastewater Treatment Facility (WDR Order 87-47), Sunnyslope County Water District, Ridgemark Estates Subdivision, Wastewater Treatment Plant (WDR Order R3-2004-0065), Tres Pinos County Water District (WDR Order 99-101), San Juan Bautista Wastewater Treatment Facility (WDR Order R3-2003-0087, NPDES CA0047902), South County Regional Wastewater Authority (SCRWA), Cities of Gilroy and Morgan Hill, (WDR Order R3-2004-0099, NPDES CA0049964), City of Watsonville Wastewater Treatment Facility (WDR Order R3-2003-0040, NPDES CA0048216), and Pajaro County Sanitation District (WDR Order R3-2003-0041) (herein referred to as sanitary collection system jurisdictions) must continue to implement their Collection System Management Plans, as required by their Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) permits.

In addition, the sanitary collection system jurisdictions identified above and in Table IX-M-1 are required to improve maintenance of their sewage collection systems, including identification, correction, and prevention of sewage leaks in portions of the collection systems that run through or adjacent to, impaired surface waters within the Pajaro River Watershed.

To this end, within six months following adoption of this TMDL by the Office of Administrative Law, the Executive Officer will issue a letter pursuant to Section 13267 of the CWC requiring: 1) submittal within one-year, a technical report that describes how and when the jurisdictions of the collection systems will conduct improved collection system maintenance in portions of the collection system most likely to affect impaired surface water bodies, with the end result being compliance with the Human Fecal Material Discharge Prohibition, and 2) stream monitoring for fecal coliform or another fecal indicator bacteria, and reporting of these monitoring activities, and 3) annual reporting of self-assessment as to whether the sanitary collection system jurisdiction is in compliance with the Human Fecal Material Discharge Prohibition.

PRIVATE SEWER LATERAL DISCHARGES

Individual owners and operators of private laterals to sanitary sewer collection systems are ultimately responsible for maintenance of their private laterals and are, therefore, responsible for complying with the Human Fecal Material Discharge Prohibition; compliance with the Human Fecal Material Discharge Prohibition implies compliance with their load allocation for these TMDLs.

The Central Coast Water Board requires immediate cessation of spills from private laterals. Within three years of approval of these TMDLs by the Office of Administrative Law, the Executive Officer will notify owners and/or operators of private laterals to sanitary sewer

collection systems (owners/operators of private laterals), in suspected problem areas, of this requirement and of the requirement to comply with the Human Fecal Material Discharge Prohibition. In his notification, the Executive Officer will also describe the owner's/operator's of private laterals options for demonstrating compliance with the Human Fecal Material Discharge Prohibition; pursuant to California Water Code section 13267 and within six months of the notification by the Executive Officer, owners/operators of private laterals will be required to submit the following for approval by the Executive Officer or the Water Board:

- 1) Clear evidence that the owner/operator of private lateral is and will continue to be in compliance with the Human Fecal Material Discharge Prohibition; clear evidence could be certification by a sanitary collection system jurisdiction that owner/operator of private lateral is in compliance with the Human Fecal Material Discharge Prohibition, or
- 2) A schedule for compliance with the Human Fecal Material Discharge Prohibition. The compliance schedule must include a monitoring and reporting program and milestone dates demonstrating progress towards compliance with the Human Fecal Material Discharge Prohibition, with the ultimate milestone being compliance with the Human Fecal Material Discharge Prohibition no later than three years (the exact timeframe at the discretion of the Executive Officer) from the date of the Executive Officer's notification to the owner/operator requiring compliance, or
- 3) Submittal of a Report of Waste Discharge pursuant to California Water Code Section 13260 (as an application for waste discharge requirements; WDRs or National Pollutant Discharge Elimination System (NPDES permit)), or
- 4) Clear evidence of current or scheduled compliance with the Human Fecal Material Discharge Prohibition (as described in number-1 and number-2 above, respectively) through the submittal of the required information by a sanitary collection system jurisdiction, acting as the voluntary agents of owners/operators of private laterals. Note that an owner/operator of a private lateral cannot demonstrate compliance with the Human Fecal Material Discharge Prohibition through this option if: 1) a sanitary collection system jurisdiction is not their voluntary agent, or 2) if the owner/operator of the private lateral does not choose the sanitary collection system jurisdiction as their agent, or, 3) the Executive Officer or Water Board does not approve the evidence submitted by the sanitary collection system jurisdictions on behalf of the owners/operators of private laterals.

DOMESTIC ANIMAL DISCHARGES NOT REGULATED BY A PERMIT FOR STORM WATER DISCHARGES

Owners and/or operators of lands containing domestic animals in the Pajaro River Watershed must comply with the Domestic Animal Waste Discharge Prohibition; compliance with the Domestic Animal Waste Discharge Prohibition implies compliance with the load allocation for these TMDLs.

Within three years of approval of these TMDLs by the Office of Administrative Law, the Executive Officer will notify owners and/or operators of lands used for/containing

domestic animals of the requirement to comply with the Domestic Animal Waste Discharge Prohibition. In his notification, the Executive Officer will also describe the owner's/operator's of lands containing domestic animals options for demonstrating compliance with the Domestic Animal Waste Discharge Prohibition; pursuant to California Water Code section 13267 and within six months of the notification by the Executive Officer, owners/operators of lands containing domestic animals will be required to submit the following for approval by the Executive Officer or the Water Board:

- 1) Clear evidence that the owner/operator of lands containing domestic animals is and will continue to be in compliance with the Domestic Animal Waste Discharge Prohibition; clear evidence could be documentation submitted by the owner/operator to the Executive Officer validating current and continued compliance with the Prohibition, or
- 2) A plan for compliance with the Domestic Animal Waste Discharge Prohibition. Such a plan must include a list of specific management practices that will be implemented to control discharges containing fecal material from domestic animals. The plan must also describe how implementing the identified management practices is likely to progressively achieve the load allocations to domestic animals, with the ultimate goal achieving the load allocations no later than thirteen years after Office of Administrative Law approval of these TMDLs. The plan must include monitoring and reporting to the Central Coast Water Board, demonstrating the progressive progress toward achieving load allocations for discharges from domestic animals, and a self-assessment of this progress. The plan may be developed by an individual discharger or by or for a coalition of dischargers in cooperation with a third-party representative, organization, or government agency acting as the agents of owners/operators of lands containing domestic animals, or
- 3) Submittal of a Report of Waste Discharge pursuant to California Water Code Section 13260 (as an application for waste discharge requirements; WDRs or National Pollutant Discharge Elimination System (NPDES permit).

TRACKING AND EVALUATION

Every three years, beginning three years after TMDLs are approved by the Office of Administrative Law, the Central Coast Water Board will perform a review of implementation actions, monitoring results, and evaluations submitted by responsible parties of their progress towards achieving their allocations. The Central Coast Water Board will use annual reports, nonpoint source pollution control implementation programs, evaluations submitted by responsible parties, and other available information to determine progress toward implementing required actions and achieving the allocations and the numeric target.

Responsible parties will continue monitoring and reporting according to this plan for at least three years, at which time the Central Coast Water Board will determine the need for continuing or otherwise modifying the monitoring requirements. Responsible parties

may also demonstrate that although water quality objectives are not being achieved in receiving waters, controllable sources of pathogens are not contributing to the exceedance. If this is the case, the Central Coast Water Board may re-evaluate the numeric target and allocations. For example, the Central Coast Water Board may pursue and approve a site-specific objective. The site-specific objective would be based on evidence that natural, or background sources alone were the cause of exceedances of the Basin Plan water quality objective for fecal indicator bacteria.

Three-year reviews will continue until the water quality objectives are achieved. The compliance schedule for achieving the TMDLs and numeric target is 13 years after the date of approval by the Office of Administrative Law.

AMENDMENT NO. 2. ADD THE DOMESTIC ANIMAL WASTE DISCHARGE PROHIBITON

Add the following prohibition to the Basin Plan at the top of Section IV.B, Chapter V, page V-8:

Domestic Animal Waste Discharge Prohibition:

Discharges containing fecal material from domestic animals to the waters of the State that cause or contribute to exceedance of water quality objectives in the areas listed below are prohibited. Examples of domestic animals include, but are not limited to, horses, cattle, goats, sheep, dogs, cats or any other animal(s) in the care of any person(s).

1. Pajaro River Watershed

AMENDMENT NO. 3. ADD THE HUMAN WASTE DISCHARGE PROHIBITON

Add the following prohibition to the Basin Plan at the top of Section IV.B, Chapter V, page V-8:

Human Fecal Material Discharge Prohibition:

Discharges containing fecal material from humans to the waters of the State in the areas listed below are prohibited. Exceptions to this prohibition include discharges in accordance with Waste Discharge Requirements or other provisions of the California Water Code, Division 7, as amended:

1. Pajaro River Watershed