

August 20, 2012

State Water Quality Control Board
c/o Jeanine Townsend
PO Box 100
Sacramento, CA 95812-2000



Re: Comment Letter-Santa Maria FIB TMDL

Esteemed Members of the State Water Board:

I am writing to alert you to an extremely alarming set of activities performed by Regional Water Board and staff during the development and adoption of the TMDL for Fecal Indicator Bacteria in the Santa Maria River Watershed and implore you to review the relevant scientific information and reject the proposed Central Coast Basin Plan Amendment.

I would like to inform you of: 1) The lack of timely outreach to impacted stakeholders during the TMDL's development and adoption, which precluded the introduction of these comments earlier in the process; 2) Lack of scientific integrity of the CCAMP program, most specifically at site 312ALA Alamo Creek; 3) Inability to achieve water quality standards without an off-stream watering facility, which is, in effect, mandating a specific practice to achieve TMDL compliance; 4) Inadequate and/or incorrect staff responses to oral and written comments.

My family owns and operates the ranch containing the 312ALA Alamo Creek site and has firsthand knowledge of the sampling site and realities of the reach/subwatershed it is purported to represent. This empirical knowledge is the basis of my comments and cause for serious concern about the Regional Water Board staff's inability to perform their fiduciary responsibilities as stewards of the public trust and justly fulfill the important responsibility of protecting the Waters of the State.

These are my specific concerns and, per Requirements for Submitting Comments, a brief explanation of why these comments are being provided to the State Board at this time (additional details follow):

- 1. Lack of adequate outreach to actual stakeholders and opportunity to comment during the development and adoption process.**
 - Explanation: comment raised by C. Wineman via oral comment at adoption hearing, inadequately addressed.
- 2. CCAMP site selection and sampling for Alamo Creek (312ALA) result in load estimations either grossly incompetent or intentionally biased to target livestock operations.**
 - Explanation: comments raised during various oral and written comments, summarily dismissed by Regional Water Board Staff; the specifics of the 312ALA site were unable to be provided previously due to lack of stakeholder outreach.
- 3. In spite of staff claims that the Water Board cannot dictate the manner of achievement of water quality standards, the 312ALA Alamo Creek site exemplifies that compliance under any in-stream livestock watering scenario will be impossible and an off-stream watering facility will be requisite to meeting water quality standards.**
 - Explanation: concern about off-stream facility raised by C. Wineman via oral comment at adoption hearing; specifics of the 312ALA site were unable to be provided previously due to lack of stakeholder outreach.
- 4. Water Board staff have inadequately and/or incorrectly responded to multiple comments. This is but one example of how realistic, scientific details are summarily dismissed by the Regional Water Board.**
 - Explanation: oral and written comments prompted staff to develop a breakdown of which species are contributing to bacterial exceedances. This response, among others, is inadequate, inaccurate, and completely removed from reality of the subwatersheds that would be "addressed" by this TMDL.

1. Lack of adequate outreach to actual stakeholders and opportunity to comment during the development and adoption process.

I was not aware of the TMDL prior to its adoption. My daughter, Claire Wineman, was in attendance at the adoption hearing as an interested party on another agenda item and was shocked to learn of what was being proposed, particularly when photos of the sampling site on our family's ranch were presented. She correctly commented that most ranchers don't equate the phrase "TMDL for fecal indicator bacteria" to a decision that will fundamentally change the way that they operate their ranches.

Since the adoption I have personally contacted some of my neighbors who own and operate over 30,000 acres of the watershed. Zero of these stakeholders have heard *anything* about the TMDL. The stakeholders, especially in areas like the small Alamo Creek subwatershed, are easily identifiable: more of an outreach effort to these impacted parties could and should have been made. As such, claims that this document was vetted through a public process are offensively misleading.

Furthermore, many of the rural ranchers in the watershed have limited computer skills and/or access to high-speed internet. To review the hundreds of pages of documents online seems to be unjustly preventing these parties from reviewing and responding.

2. CCAMP site selection and sampling for Alamo Creek (312ALA) result in load estimations either grossly incompetent or intentionally biased to target livestock operations.

Around 2000 I granted Water Board staff permission to access my family's ranch in Alamo Creek to conduct CCAMP sampling. The site that Water Board staff chose to sample from was a 100 foot section of creek easily accessible to wildlife, cattle, and staff. The remaining 3,000 feet of the ranch's creek is fenced to limit cattle's access to the creek year-round. This is in accordance to BMPs described throughout natural resource literature. Visual observations consistently indicate that this water access point is strongly preferred by wildlife such as deer, ducks, bears, beavers and other rodents, and wild pigs, all of which are regularly observed in the Alamo. **The staff's choice of a sampling site is in absolutely no way representative of the Alamo Creek, nor the quality of water discharged to the downstream receiving body.** Several SWAMP/CCAMP Monitoring Program Work Plan documents (2008 and 2012-2017) indicate that:

"Watershed [monitoring] site selection targets the primary discharge point of the watershed, the discharge of major tributary which drains the watershed.... Some sites are also located above and below areas of significant human activity, including urban development, agriculture, and point source discharges."

None of these conditions are true of the site selected for 312ALA. There are other downstream sites that could be safely accessed and would more closely represent the subwatershed's discharges.

We tried to gather additional information on the CCAMP sampling results, but after originally verbally consenting, Water Board staff ultimately withheld information related to this site prior to the comment submission deadline.

At best, staff's selection for the site of 312ALA constitutes gross scientific negligence. At worst this action is the scientific and environmental equivalent of profiling against agriculture. Bad science informs bad policy.

This skewed sample resulted in placing Alamo Creek on the 303(d) list and contributed to the development of the TMDL for FIB. I have submitted a Revocation of Permission to Access to Private Property for Water Monitoring due to concerns about the scientific integrity of the Water Board and its implications for stakeholders throughout the region. Furthermore:

- 3. In spite of staff claims that the Water Board cannot dictate the manner of achievement of water quality standards, the 312ALA Alamo Creek site exemplifies that compliance under any in-stream livestock watering scenario will be impossible, and an off-stream watering facility will be requisite to meeting water quality standards.**

The water quality results at 312ALA prove staff's assertion is false and misleading to stakeholders and the Water Board(s). In essence, the sampling site demonstrates that ranchers will, in fact, need to create off-site watering facilities in order to achieve the regulatory standards set forth in the TMDL. This will have an associated ecological and financial cost in terms of the flow diversions that will be required throughout the watershed. My daughter expressed concern about the impact of off-stream watering facilities and how technical failures of these facilities could result in catastrophic deaths of livestock.

Based on staff and Regional Water Board responses to that comment, it is my understanding that the mandate of a specific practice is beyond the regulatory powers of the Water Board; however, the case of Alamo Creek conveys important information that should be considered before dismissive and misleading rhetoric about the multitude of options that ranchers would have to comply is perpetuated.

- 4. Water Board staff have inadequately and/or incorrectly responded to multiple comments. This is but one example of how realistic, scientific details are summarily dismissed by the Regional Water Board.**

These responses, both individually and collectively, illustrate how comments raised by the public that "ground-truth" staff claims are ignored and/or inappropriately dismissed.

Staff Response to Comment 1.3, regarding the contact recreation beneficial use designation for all waterbodies in the report. **Reality:** many rural areas in the Santa Maria Watershed are on private property and not accessible to the public.

Staff Response to Comment 1.3, regarding if domestic sources can be economically handled. Staff did not respond to this issue. **Reality:** domestic sources cannot be economically handled. Furthermore, the TMDL will reduce production of food and income from ranches. The UN's 2011 World Livestock Report states that by decade's end the world will need to produce 20% more meat and poultry than today. The TMDL will reduce production of meat.

Staff Response to Comment 6.2, regarding estimated population of livestock. **Reality:** Table 16 in the Final Project Report estimated 2,659 cattle and 370 horses in the Alamo Creek subwatershed. Through conversations with my neighbors I estimate the true numbers to be some 100 cattle and 10 horses.

Do not approve adoption of this Basin Plan Amendment! The water quality results are misleading, the implementation impacts are misleading, and the description of public participation is misleading.

We ask that you direct staff, as public servants, to work with actual stakeholders to inform the TMDL process and its implications in a way that will positively impact long-term water quality.

Sincerely,

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