

Appendix F

Testimony Hearing Transcript

Transcript of April 9, 2008 Testimony
Hearing before the California
Regional Water Quality Control
Board, San Francisco Bay Region

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN FRANCISCO BAY REGION

1515 Clay Street, Suite 1400

Oakland, California 94612

BOARD MEETING

April 9, 2008

Item 6:

Proposed Amendment to the Water Quality Control Plan
(Basin Plan) for the San Francisco Bay Region to
Establish a Total Maximum Daily Load (TMDL) and
Implementation Plan for Pathogens in Richardson Bay.

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1 This is the first of two planned hearings
2 on the proposed Richardson Bay TMDL Basin Plan
3 amendment. Today is the public testimony hearing,
4 which provides an opportunity for stakeholders to
5 communicate their interest directly to you and for
6 you to ask questions of staff and the stakeholders.

7 In February, we public noticed the Basin
8 Plan Amendment Package that when adopted will
9 establish a TMDL and implementation plan to control
10 pathogen discharges in Richardson Bay and to protect
11 the public from exposure to waterborne diseases.
12 This TMDL is similar to the Tomales Bay, Napa River,
13 and Sonoma Creek pathogen TMDLs that you have
14 adopted in the past.

15 To orient you geographically, here is a map
16 of Richardson Bay. She is a small arm of San
17 Francisco Bay located just northeast of the Golden
18 Gate in Southern Marin County. The Bay provides an
19 important habitat for aquatic species and wildlife
20 and is widely used for recreational activities
21 including boating, kayaking, windsurfing, swimming,
22 and fishing. It also has a number of marinas and
23 has the largest number of houseboats in all of San
24 Francisco Bay.

25 Because of its shallow waters, enclosed

1 shape, and limited tidal flushing, Richardson Bay is
2 particularly susceptible to pollutant contamination.
3 This and the heavy recreational use of Richardson
4 Bay led to this Board passing a resolution in 1986
5 to prohibit the discharge of sewage from vessels and
6 led to a designation of the Bay as a no-vessel waste
7 discharge zone by the EPA in 1987. The Richardson
8 Bay Regional Agency, or RBRA, was formed to, among
9 other things, enforce the vessel waste discharge
10 prohibition. RBRA is a joint powers agency made up
11 of five municipal jurisdictions: The County of
12 Marin, and the Cities of Sausalito, Mill Valley,
13 Tiburon, and Belvedere.

14 Since the designation of the Bay as a no-
15 vessel waste discharge zone and the creation of
16 Richardson Bay Regional Agency, a number of measures
17 have been taken to address vessel waste discharges.
18 For example, all unconnected houseboats have now
19 been connected to municipal sewer lines, and a
20 mobile sewage pump-out service has been provided.
21 However, Richardson Bay remains listed as an
22 impaired water body because it exceeds the water
23 quality objectives for water contact recreation and
24 shellfish harvesting, two Basin Plan designated
25 beneficial uses of the Bay.

1 Water quality monitoring results from as
2 far back as the 1970s to the present have shown that
3 certain parts of Richardson Bay have higher pathogen
4 levels than are considered safe for these beneficial
5 uses. Because of this impairment, the Clean Water
6 Act requires us to establish a TMDL for this water
7 body.

8 Before I go any further, I would like to
9 define what we mean by pathogens or more
10 specifically about waterborne pathogens. Basically,
11 any microorganism that can make you sick is broadly
12 speaking a pathogen. Waterborne pathogens almost
13 always enter the water through fecal contamination
14 from either humans or other warm-blooded animals.
15 There are hundreds of potential waterborne
16 pathogens. Some of the more notorious ones are
17 Hepatitis A, E. coli, Salmonella, Cryptosporidium,
18 and Giardia.

19 Waterborne pathogens make up a diverse
20 group of organisms and many are difficult or
21 impossible to detect in the environment. For this
22 reason, we monitor for pathogen indicators. These
23 are easily identified bacteria found in the
24 intestine of warm-blooded animals including humans
25 and thus indicate the presence of fecal

1 contamination and the potential presence of
2 pathogenic organisms. Fecal Coliforms, E. coli, and
3 Enterococcus are the primary bacteria group used as
4 pathogen indicators. For simplicity, the terms
5 pathogens and pathogen indicators are often used
6 interchangeably. So when someone says he or she
7 monitored for pathogens, they almost always mean
8 pathogen indicators.

9 This is a graph of the most recent data we
10 collected from summer 2006 and winter 2007. In this
11 graph, the light blue flat line at the top shows the
12 water quality objective for the water contact
13 recreation beneficial use. And the yellow flat line
14 shows the water quality objective for shellfish
15 harvesting beneficial use. The red line shows the
16 concentration of indicator bacteria during the
17 summer, and the dark blue line shows the
18 concentration of indicator bacteria during the
19 winter. As you can see, there are only a couple of
20 sampling locations where Bay waters exceed the water
21 contact recreation objective. On the other hand,
22 the lower shellfish harvesting objective is exceeded
23 at more locations but only significantly at a few
24 locations.

25 So where are these pathogens coming from?

1 We have identified four primary categories of
2 controllable pathogen sources. Sanitary sewer lines
3 are a source of pathogens, which flood the Bay.
4 Sanitary sewer overflows, such as those reported in
5 Richardson Bay in January, usually occur during the
6 wet season, but faulty sanitary sewer lines can
7 flood the Bay during any time of the year.

8 The stormwater runoff, which is a
9 widespread problem in most urban areas during the
10 wet season, is another source. Pathogen sources in
11 the stormwater runoff include pet waste as well as
12 human waste. Additionally, the storm drains are
13 often times a pathway for sanitary sewer overflows
14 to reach the Bay.

15 Houseboats, which stakeholders have pointed
16 out are really technically called floating homes,
17 are another potential source. Richardson Bay has
18 more than 400 floating homes. These floating homes
19 are connected to sanitary sewer lines but may still
20 discharge sewage into the Bay if their sewage
21 systems are not properly checked, repaired, and
22 maintained.

23 Another important source category is
24 vessels, a category which includes recreational
25 liveaboard boats and anchor-out boats. Richardson

1 Bay has more than 2400 recreational vessels with
2 roughly ten percent of them used as long-term
3 residences or liveaboards. In addition, Richardson
4 Bay houses approximately 100 more anchor-out
5 vessels, which 40 of them are used as long-term
6 residences. Obviously, any direct sewage discharge
7 from these vessels into the Bay could be a
8 significant source of pathogens.

9 And finally, wildlife is also a
10 contributing source of pathogens; however, we do not
11 believe wildlife to be a readily controllable
12 source, so we are not including it in the
13 implementation plan.

14 The first step in solving the problem is to
15 establish water quality targets and a TMDL to
16 achieve those targets. The risk of waterborne
17 illness is measured by the number of bacteria per
18 unit volume of water. In other words, it is
19 measured by concentration rather than by number or
20 mass alone; therefore, our targets and TMDL are
21 expressed in terms of bacteria concentration.

22 We have selected three water quality
23 targets. The Basin Plan shellfish harvesting
24 objective, which is media and fecal coliform below
25 14; the Basin Plan's water contact recreation

1 objective, which is fecal coliform below 200 on
2 average; and the U.S. EPA recommended water contact
3 recreation criteria of enterococci below 35 on
4 average. We have selected two different targets for
5 water contact recreation because we are anticipating
6 a future switch from traditionally fecal coliform
7 target to the enterococci target recommended by the
8 EPA.

9 Since the TMDL must be designed to attain
10 all existing water quality objectives, we are
11 proposing the TMDL that is the same as the more
12 stringent objective for shellfish harvesting. With
13 targets established, the next step is to allocate
14 the acceptable level of pathogens to each of the
15 sources we have identified. Allocations tell each
16 source category how much pollutant they can
17 discharge and yet still achieve the target if all
18 other sources meet their allocations.

19 The stormwater runoff and wildlife sources
20 have allocations equal to the shellfish target.
21 Sources of human waste such as sanitary sewer line,
22 houseboats, and vessels have an allocation of zero.
23 This is consistent with the various existing waste
24 discharge prohibitions in the Basin Plan including
25 the no-vessel waste discharge prohibition.

1 To meet the allocations, and thus the
2 targets, the proposed implementation plan requires
3 responsible parties to undertake measures to reduce
4 and eliminate discharges of waste to the Bay. It
5 builds on ongoing actions. The plan capitalizes on
6 existing efforts and relies in part upon regulatory
7 programs that are already in place. For example,
8 the stormwater runoff and sanitary sewer overflows
9 are already regulated by the Water Board. The plan
10 proposes new requirements to control houseboat and
11 vessel waste discharges that are already prohibited
12 by various Basin Plan waste discharge prohibitions.
13 The implementation plan also includes a monitoring
14 program whose results will be used to adaptively
15 manage the TMDL implementation and revise targets if
16 necessary.

17 So what are some of the specific actions
18 proposed in the implementation plan? Municipal
19 runoff sources are required to comply with their
20 existing approved stormwater management plans. They
21 are also required to update those plans as necessary
22 to include specific measures to reduce pet and human
23 waste discharges. Such measures may include public
24 education campaigns, putting up 'pick up after your
25 pet' signs, or providing additional pet waste

1 receptacles.

2 The Basin Plan amendment addresses failures
3 in sanitary sewer collection systems, which refer to
4 incidences where raw sewage is not contained within
5 the collection system by building on the Water
6 Board's existing sanitary sewer overflow program.
7 The sanitary sewer overflow program prohibits
8 sanitary sewer overflows that would reach a water
9 body and would create a nuisance. It also requires
10 responsible agencies to develop a management plan,
11 which includes inspection and repair activities to
12 address problems.

13 To address waste discharges from houseboats
14 and vessel source categories, the plan points to
15 various existing waste discharge prohibitions for
16 Richardson Bay. Board staff will work with the main
17 jurisdictional and enforcement authorities for these
18 source categories. We expect that Richardson Bay
19 Regional Agency, Marin County, and local cities will
20 assist with the implementation of these prohibitions
21 by evaluating the adequacy and integrity of waste
22 handling systems for these sources. The houseboats
23 and vessels owners are required to comply with the
24 prohibitions by making any necessary improvements
25 identified in the above evaluation such that they do

1 not discharge any waste into the Bay.

2 Another element of the implementation plan
3 is monitoring an adaptive implementation. Our Basin
4 Plan amendment includes a water quality monitoring
5 plan that would allow us to track pathogen levels in
6 the Bay. This monitoring plan will help evaluate
7 how effective the implementation measures are and
8 which areas need more effort and attention. We
9 intend to work with the stakeholders to refine the
10 monitoring plan as we need to answer specific
11 questions and as we learn more about the sources of
12 pathogens in the Bay. This is consistent with other
13 TMDLs you have adopted, which allows action to take
14 place now while we continue to gather information.

15 In this adaptive process, we will continue
16 to review relevant scientific data and assess while
17 actions, whether it's outreach, technical
18 assistance, or more regulatory oversight, are
19 necessary to achieve our goal of protecting water
20 quality. And with that, I will turn it over to
21 Naomi who will summarize the comments we have
22 received from our stakeholders.

23 CHAIR MULLER: Thank you. Very well.

24 MS. FEGER: Thank you, Farhad. Good
25 morning, Chair Muller and Board Members. My name is

1 Naomi Feger and I'm Supervisor in the TMDL Planning
2 Division. I'm going to be presenting some of the
3 highlights from the ten letters we received during
4 our public comment period, which closed March 24th.

5 The letter from U.S. EPA indicates their
6 support for the TMDL, the targets, the allocations,
7 and specifically calls out their support of the
8 fecal coliform water quality objectives protective
9 of shellfish harvesting that we've included. They
10 urge the Board to adopt the TMDL but also encourage
11 the Board to include additional appropriate measures
12 to improve the maintenance of sanitary sewer
13 collection systems to prevent sanitary sewer
14 overflows.

15 The Baykeepers are also supportive of the
16 TMDL. However, they ask for some changes and more
17 details to the implementation plan including
18 additional requirements for sanitary sewer systems,
19 treatment plants, and collection systems to reduce
20 sewage spills. In light of the recent sewage
21 spills, we'll be closely reviewing the comments
22 related to additional management measures for
23 sanitary sewer systems, and we'll be coming up with
24 some recommendations to address these concerns.

25 The Baykeeper also in their letter

1 requested that we look at stormwater allocations for
2 both the wet and the dry season and that numeric
3 limits be required for the dry season. They
4 reference the example of the Los Angeles Board that
5 incorporated dry weather waste load allocations from
6 their pathogen TMDL for Santa Monica Bay into their
7 stormwater permit in order to protect recreational
8 uses. We'll take a look at that example that the LA
9 Board put together and they adopted and see if it's
10 relevant for Richardson Bay.

11 There are three letters about stormwater
12 management. They were from the Marin County Public
13 Works Department, the City of Sausalito, and
14 Caltrans. They're all supportive of the goals of
15 the TMDL to reduce pathogen loading but raise
16 concerns about the achievability of the allocation
17 for stormwater, which is equal to the shellfish
18 harvesting water quality objective. In addition,
19 some of these stakeholders ask that we look at
20 attainment of the TMDL where the shellfish
21 harvesting beneficial use could potentially and
22 feasibly occur.

23 We acknowledge that through the process of
24 developing the Richardson Bay TMDL a number of
25 issues related to the shellfish harvesting

1 beneficial use have been raised. This TMDL is
2 designed to attain all pathogen-related standards
3 designated for Richardson Bay, and thus, must
4 include the shellfish harvesting beneficial use.

5 The shellfish harvesting beneficial use and
6 associated water quality objectives are receiving
7 more attention here in the region as well as
8 throughout the state. In fact, the State Board is
9 undertaking a statewide survey to evaluate the
10 shellfish harvesting beneficial use along the coast
11 and in our bays and estuaries. The results of this
12 statewide effort could take a couple of years to
13 complete but it will be likely helpful in addressing
14 some of the concerns that our stakeholders are
15 raising about the applicability of a shellfish
16 harvesting beneficial use. Because these concerns
17 cannot be addressed in a short timeframe, we will
18 need to rely on our adaptive implementation
19 framework to resolve these issues.

20 The Marin County Community Development
21 Agency raised some issues about our expectations on
22 the county to enforce implementation requirements
23 for marinas and floating homes; however, they're
24 comments also reflect a commitment to work with us
25 in collaboration with marinas and floating home

1 representatives on these issues and we welcome that.

2 We also received some important input from
3 two marina owners, Sausalito Yacht Club and the
4 Pelican Harbor, as well as the Floating Homes
5 Association. All of these letters state that they
6 are concerned about pathogen loading to Richardson
7 Bay and express collective agreement that contact
8 recreation standards should be met, but they echo
9 the comments we received from other stakeholders
10 about the applicability about the shellfish harvest
11 beneficial use. They also identify wildlife and
12 stormwater runoff as important sources of elevated
13 pathogens. As Farhad mentioned, we intend to
14 collaborate with stakeholders on a monitoring plan
15 for Richardson Bay to address some of these
16 concerns.

17 So what are our next steps? At this
18 testimony hearing, we're not fully responding to all
19 the comments we received. We intend to develop a
20 formal response to all comments as our next step in
21 preparation for the adoption hearing. We intend to
22 work with stakeholders on these issues and may
23 revise the amendment and staff report as necessary.

24 It's important to note that the goal of
25 this TMDL has to been to seek continuous improvement

1 in our ability to control pathogens discharging to
2 Richardson Bay. There have been many improvements
3 since the no-vessel discharge zone was established
4 and this TMDL builds on some of those improvements.
5 The adoption hearing has been publicly noticed for
6 June 2008 and we anticipate being ready to bring
7 this TMDL back to you then ready for adoption.
8 We're happy to answer any questions you may have.

9 CHAIR MULLER: Thank you, Naomi. Jim? I'm
10 going to start there.

11 BOARD MEMBER MCGRATH: I have two
12 questions. If you could go back to the map of the
13 Bay and the time series that showed the spikes,
14 there were two spikes in those. And what I --

15 MS. FEGER: Do you want the map or the
16 data?

17 BOARD MEMBER MCGRATH: Well, start with the
18 data.

19 MS. FEGER: Okay.

20 BOARD MEMBER MCGRATH: As a time series,
21 and the question I have is you've got two really
22 clear locations where there's a -- there's seems to
23 be a spike, and so eventually I'd like to see the
24 staff report dig a little bit into what the probably
25 causes of that are geographically.

1 So the first question is to orient the
2 Board as to where those spikes are physically on the
3 map, and then the second part of that question is in
4 the staff report there's a list of the sewer
5 overflows -- the sewer system and sanitary system
6 overflows and there's quite a few from about four of
7 them, 47 and the like. This is on page, I think, 28
8 of the staff report. I'd like to see those located
9 on the map so we could have a physical orientation
10 towards where the spikes are and where the sewer
11 overflows are.

12 MR. GHODRATI: Right.

13 BOARD MEMBER MCGRATH: So those are two
14 spikes. You've got that.

15 MR. GHODRATI: Right. Let's go back to the
16 map.

17 BOARD MEMBER MCGRATH: Let's go back to the
18 map.

19 MR. GHODRATI: Okay, so the two spikes.
20 The larger of the two is -- Okay.

21 CHAIR MULLER: We don't -- We don't want to
22 pick out someone's specific boat there.

23 MR. GHODRATI: Okay. The larger of the two
24 is roughly in this area here.

25 BOARD MEMBER MCGRATH: Okay.

1 MR. GHODRATI: And the smaller of the two
2 is this area here. This one is easy to determine
3 what's causing it. There are some of --

4 MS. DICKEY: Just for the record, Farhad,
5 can you say in words what you're pointing to. It
6 looks to me like you're pointing to the two areas
7 that stick out near Clipper Point Harbor.

8 MR. GHODRATI: Right. It's not actually
9 labeled on this map, but the area is called Waldo
10 Point Harbor. It's a small section of Waldo Point
11 Harbor called Gates Coop and that has some of the
12 oldest houseboats or floating homes.

13 BOARD MEMBER MCGRATH: And it's a near
14 shore monitoring location?

15 MR. GHODRATI: Yes, it's in the near shore.
16 And that's been a problem since the '70s and '80s
17 and continuing on. There is a project in place.
18 There's a plan to build new docks for those boats
19 and move them (inaudible) location so they have
20 proper sewage hookups and all. It's been, again,
21 that plan has been in the works for decades, and the
22 good news is that finally seems to be moving
23 forward, and hopefully within the next couple of
24 years it may happen.

25 The second spike you saw is in this area of

1 Sausalito Marina, Yacht Harbor, and Pelican Harbor.
2 That one is more difficult to determine what's
3 causing it. The water quality monitoring that we
4 do, as I mentioned, we use pathogen indicators, but
5 they're not specific unfortunately. They detect
6 bacteria from all warm-blooded animals, so it could
7 be some wildlife. It could be human sewage. That
8 may need a little more refinement.

9 CHAIR MULLER: Is that specific enough,
10 Jim?

11 BOARD MEMBER MCGRATH: Yeah. And then the
12 second questions, as long as we've got this map, is
13 where are -- there were quite a few sanitary
14 overflows that got press last year.

15 MR. GHODRATI: Right.

16 BOARD MEMBER MCGRATH: There's a quite a
17 number. Where are they?

18 MR. GHODRATI: Yeah. Unfortunately, this
19 map doesn't show it. We probably have to --

20 MS. FEGER: Yeah. I don't think we could
21 (inaudible).

22 MR. GHODRATI: Right. No, we have not
23 plotted those.

24 BOARD MEMBER MCGRATH: Okay.

25 MR. GHODRATI: That's not something that we

1 have to --

2 BOARD MEMBER MCGRATH: That can be done?

3 MR. GHODRATI: Yes.

4 CHAIR MULLER: Okay. Excuse me one second.

5 We'll come up for Bill. Are you all right, Shalom?

6 BOARD MEMBER ELIAHU: Yeah. I just have
7 here also a question. I understand from this in
8 here that the main contributor for the pathogens is
9 from the vessels and the houseboats. Actually, the
10 houseboats are the main ones and the sewer may be
11 something also. We can control this, I think, very
12 easy. The question is how do we control wildlife
13 and urban runoff. If you have too much pathogen in
14 the urban runoff, how do you remove it?

15 CHAIR MULLER: We have a speaker that will
16 speak to that soon here possibly.

17 MR. WOLFE: Well, I think that also goes to
18 you saw the allocations that for those things we
19 feel that already we have a prohibition or that are
20 appropriately controlled, there is a zero
21 allocation, the human waste --

22 BOARD MEMBER ELIAHU: Right.

23 MR. WOLFE: -- through sanitary waste.

24 BOARD MEMBER ELIAHU: Yeah, we can control
25 that.

1 MR. WOLFE: Whereas through stormwater,
2 which is obviously pet waste and other animal waste
3 is the predominant pathogen source, that's where we
4 have the allocation at the shellfish objective.
5 Likewise, the wildlife is that shellfish objective.
6 This is why it's going to be important to continue
7 doing monitoring and adaptive implementation to see,
8 as we ideally get the levels at the sanitary waste
9 as close to zero as possible and have some controls,
10 as Farhad said, outreach or other controls on pet
11 waste and other approaches, how close are we coming
12 overall to meeting that shellfish objective. And
13 then look are there other methods that can be put in
14 place.

15 BOARD MEMBER ELIAHU: Actually, then we are
16 not asking today to remove the pathogens from
17 stormwater runoff.

18 MR. WOLFE: We're not advocating a
19 treatment system per se in stormwater. We're
20 looking at more the actions that might make people
21 aware of the contributions say of pet waste and
22 others and to keep those out of the stormwater
23 system.

24 BOARD MEMBER ELIAHU: Okay.

25 CHAIR MULLER: Okay. Dr. Singh?

1 BOARD MEMBER SINGH: In fact, I have a
2 similar kind of question to what Mr. James McGrath
3 has. When I look at this chart, it seems like in
4 one area the water contact sports is violated within
5 the summer time. And I guess that when you took the
6 samples from there, most of the problem is from the
7 houseboats and vessels in that particular area. I'm
8 not saying about shellfish. Shellfish is a bigger
9 question to me, that requirement, but everywhere
10 else almost you meet the water contact requirement.
11 I think inspecting and some kind of setting up a
12 standard for these boats and vessels might solve the
13 problem and make the whole area water contact
14 acceptable.

15 Now as far as stormwater is concerned, it
16 is a bigger concern I tell you. And the only way I
17 know to control it right now is the basin
18 management. We can put -- return some basin --
19 return some basins, turf strips to intercept the
20 water before it gets into the storm system and all
21 these things. And people have to modify where the
22 water is coming from in those houses which are all
23 already in place. And new development we put these
24 requirements, the BMP requirement, basin management
25 requirements.

1 But the houses which are already in place
2 to modify the water coming from the roof and coming
3 from the imperviable areas, if they go through a
4 strip of lawn or some of those requirements, they
5 will need some money, and I don't know what your
6 plan calls for to give some incentives, or tax
7 benefits, or something to the people who can modify
8 those areas. I think commercial areas, industrial
9 areas probably can impose them and the industry can
10 modify the existing land and the runoff system they
11 have from the parking lots and other areas. But the
12 homes, the people have to modify that. I don't know
13 how to -- The Basin Management Plan have not studied
14 it all.

15 MR. WOLFE: Well, I think you addressed the
16 area that we're trying to look at on the broad base
17 control of urban runoff and recognize that a lot of
18 opportunities and measures that can put be put in
19 place that either slow the flow or infiltrate the
20 flow can have multiple benefits on controlling
21 sediment runoff or controlling pathogen and other
22 materials.

23 What we're saying here is that we want the
24 stormwater programs to continue taking that approach
25 of looking for the opportunities to address new

1 development to do all their other controls and to
2 make sure that we're maximizing our outreach
3 specific to issues such as pet waste.

4 But on the other hand, we're not saying, at
5 this point at least, that we want to put in a whole
6 new system of structures that would be specific to
7 controlling just pathogens, so that we're looking at
8 how the stormwater program as it evolves and
9 addresses all types of contaminants that might be in
10 stormwater runoff and how that can also address the
11 pathogens in the runoff.

12 CHAIR MULLER: Thank you. Terry? We have
13 a couple of cards and then you can -- we can
14 respond. I think we'll start with Brooke first,
15 please. She's the Executive Director of Richardson
16 Bay Audubon Center, so she might be the bird lady
17 expert.

18 MS. LANGSTON: Good morning, Board. Thank
19 you for hearing me this morning and thank you to
20 staff for your support in the work that we're doing.
21 I'm Brooke Langston. I'm the Director of the
22 Richardson Bay Audubon Center, which is a 50-year-
23 old organization, which has lease or fee title to
24 900 acres of Richardson Bay subtidal lands
25 encompassing all of the land that you see on the

1 map, the subtidal land that you see on the map from
2 Strawberry Point over to the town of -- to the
3 island of Belvedere, the peninsula of Belvedere, and
4 everything within -- up to mean high tide line
5 within the main basin of Richardson Bay.

6 We have been there for 50 years as a
7 steward and as a protector of the land and water.
8 And for the last two years, we've been doing oyster
9 -- native oyster and eelgrass restoration within
10 those 900 acres and partnering with other agencies
11 and NGOs around the greater San Francisco Bay
12 looking at oyster and eelgrass within San Francisco
13 and San Pablo Bays as well.

14 We are Audubon California, of which I'm a
15 part, is in support and favors the increased water
16 quality measures, the TMDL loads that staff is
17 working on, and we think those are good for the Bay
18 and, regardless of shellfish harvest or not, we're
19 excited about the improved water quality. And we,
20 as you see by where the monitoring has been done,
21 we're not included in that. We would be interested
22 in working with staff and doing -- implementing your
23 water quality measures up with the water quality
24 work that we're doing. We're not testing for
25 pathogens currently, but we'd be interested in

1 figuring out how we could find the funding to
2 implement that along with the work that we are
3 doing.

4 And I'm sorry to say I can't address the
5 Chair's issues on how to reduce wildlife impacts to
6 pathogen load of the Bay. What I would be
7 interested in doing is starting to test there on a
8 regular basis because as you see in our section of
9 the Bay there are no marinas or anchor-outs or
10 anything such as that, so we could -- testing up
11 there would show what the wildlife impacts -- could
12 show what the wildlife impacts are since that's
13 about the only impacts that are within Richardson
14 Bay would be storm runoff maybe from the towns of
15 Tiburon and Belvedere and Strawberry, but also what
16 the wildlife load is doing to the Bay.

17 CHAIR MULLER: Thank you. Any questions of
18 Brooke? I think this is the first time you've
19 testified here, is it not?

20 MS. LANGSTON: This is my first time being
21 here. I've been at this position for about two and
22 a half years and have been.

23 CHAIR MULLER: Thank you for coming over
24 and giving us this testimony. And I know you've
25 submitted the written testimony also.

1 MS. LANGSTON: I have not but I'm here
2 instead --

3 CHAIR MULLER: Okay.

4 MS. LANGSTON: -- since I did not submit
5 written testimony.

6 CHAIR MULLER: Sorry about that.

7 MS. LANGSTON: Thank you.

8 CHAIR MULLER: All right. Amy, please.
9 Mary, did we receive any other cards on this item?
10 Okay, thank you.

11 MS. CHASTAIN: Good morning, Chair Muller
12 and Members of the Board. Ms. Feger did such a good
13 job summarizing my comments I'm almost reluctant to
14 go into detail here, but the two points that she hit
15 are the two issues that I'd like to raise before you
16 today in terms of what we're asking to be changed.

17 In general, we do support this TMDL and
18 especially the 14 MPN, Most Probably Number, per 100
19 mils target. It's the TMDL; the actual load itself
20 as well as targets. We believe that having the
21 Total Maximum Daily Load set at that level is
22 necessary to ensure that all of Richardson Bay's
23 beneficial uses are protected.

24 The two issues that I want to discuss in a
25 little bit more detail, again, Ms. Feger already

1 went in to, and the first is that we've asked that
2 the dry weather waste load allocation for municipal
3 storm sewer systems be set at zero and be
4 incorporated into the stormwater permit, be it the
5 Municipal Regional Permit when it's adopted by this
6 Board or the current permits, in order to ensure
7 that are no -- that there's no dry weather loading
8 of fecal indicator bacteria to Richardson Bay. We
9 think this makes sense because any fecal indicator
10 bacteria loading coming during the dry weather is
11 going to be from sanitary sewer overflows or from
12 illicit discharges, both of which are prohibited.

13 The second thing that we've asked is that
14 the TMDL implementation plan more specifically
15 address some of the flaws that have been identified
16 or some of the problems that have been identified
17 with the sanitary sewer collection systems for
18 Southern Marin. Specifically, there are two sources
19 that you can look to for more specific
20 implementation measures. One is the inspection
21 reports that were recently released by the
22 Environmental Protection Agency. Those are the
23 results of their inspections of, I think, it was
24 seven of the collection systems that feed into the
25 Sewage Agency of Southern Marin's Treatment Plant.

1 They identified a number of problems with how these
2 collection systems are currently being operated and
3 maintained. And also there was a Marin Grand Jury
4 report, which I believe was 2003/2004, that had some
5 specific recommendations intended to address the
6 collection -- some of the collection systems
7 problems that exist in Southern Marin.

8 Specifically, I just want to call out a few
9 of the items that were identified in the inspection
10 reports and the Marin Grand Jury report. One is to
11 require collection systems to undertake an inflow
12 and infiltration study. We know that inflow and
13 infiltration was probably a significant contributor
14 to the SASM spill. Also to require these collection
15 system agencies to develop and implement formal
16 sewage spill response, containment procedures, and
17 reporting procedures.

18 It's kind of interesting to read the
19 reports. I guess most of these agencies currently
20 rely on Roto-Rooter to contain and respond to
21 spills, and so there's significant room for
22 improvement in terms of response and also reporting.
23 Also require the collection system agencies to
24 undertake a comprehensive evaluation of their CMOM,
25 which are Capacity Management Operations and

1 Maintenance.

2 And finally, one of the points that was
3 raised in the Grand Jury report, which is
4 interesting, is this idea that it would be
5 beneficial to establish a forum to facilitate
6 communication, information sharing, and dispute
7 resolution amongst all of these agencies.

8 And I just want to emphasize that, in
9 recommending that the TMDL more specifically address
10 sanitary sewer overflows, I don't mean to deflect
11 attention from the obvious need to address illegal
12 discharges from houseboats and vessels. Thanks for
13 your time.

14 CHAIR MULLER: Thanks, Amy. At this time,
15 I have no further cards. EPA is not in the room, I
16 don't believe. They're not represented here to
17 comment, so this is again we will continue to
18 compile information. I'll come back to the Board,
19 so we are not voting to move this forward. There's
20 no --

21 MR. WOLFE: Correct.

22 CHAIR MULLER: -- action necessary. This
23 is strictly receiving more testimony.

24 MR. WOLFE: Yeah. As Naomi pointed out
25 that legally we must respond to all comment, not

1 only written, but what we've received today. With
2 that in our mind, provides the opportunity then to
3 work with all stakeholders to address the concerns
4 raised, and address the issues and come up with a
5 mechanism for moving forward before we come back to
6 you for adoption.

7 CHAIR MULLER: Okay. All right. I'll go
8 to the Vice Chair.

9 VICE CHAIR YOUNG: Yes. The staff asked
10 for our thoughts going forward as you go into this
11 next phase and I have some thoughts, so I'm always
12 happy to oblige.

13 First of all, the shellfish harvesting
14 beneficial use and associated water quality
15 standards seem totally appropriate to me, and -- so
16 I hope there is no big controversy with that.
17 Secondly, the allocations seem very appropriate
18 particularly the zero allocations. That's just as
19 it should be.

20 I was impressed with Baykeeper's
21 recommendations specifically with respect to the
22 additional implementation measures for the sanitary
23 sewer systems and the houseboat and vessel
24 implementation measures. And I hope that staff will
25 have a chance to take a look at those closely. It

1 seems to me that, based on our recent experience, we
2 can do -- as a community we can do a lot better with
3 these sanitary sewer overflows.

4 And the recommendations that were in the
5 EPA study -- that came out of the EPA study and out
6 of the Grand Jury report, I think, deserve a lot of
7 very, you know, serious study. I noticed that EPA
8 made a very similar recommendation in their comment
9 letter and that seemed to be a very good point that
10 they made also. That was their Item 6 relating to
11 sanitary sewer systems.

12 Finally, to the extent that we know that
13 pet waste are a big issue here and I'm not sure to
14 what extent we're completely confident about that,
15 but to the extent that we are, perhaps we could be a
16 little bit more aggressive than we -- than I sense
17 we were in the draft about requirements relating to
18 pet waste, and I offer that for your consideration
19 as well. Thank you.

20 CHAIR MULLER: Jim?

21 BOARD MEMBER MCGRATH: First of all, let me
22 agree with everything that Terry said and not repeat
23 it. Three things I think. I'd like a sense of
24 priorities in the next round and in particular what
25 to do about anchor-outs. As anybody that's been

1 around a marina knows, that anchor-outs tend to be
2 the most libertarian and least subject to
3 regulation. So I guess the question that I've got
4 of you, they're difficult to deal with, how
5 important is it? So that's the first question that
6 I would have and hopefully monitoring information.
7 I mean that's why I'm digging around is what are the
8 biggest sources and where should we put most of our
9 resources.

10 Second, I found the slide on the time
11 series and the locations to be extremely valuable.
12 I'd love to see some more data about the longer time
13 particularly in the hot spots so we can get some
14 idea of what's the rate of recovery and those
15 things.

16 And then in response to some of the
17 questions that I inherently have about where the
18 problems are and the comments of the City of
19 Sausalito, maybe a little bit of time on monitoring
20 in the past and how maybe it should be changed in
21 the future so we'd have a little better idea. I
22 found the offer of the Audubon Society to help with
23 that by providing a far field to be useful. So put
24 some thought into how we might want to change
25 monitoring so we've got a more powerful tool, but it

1 was an excellent staff report.

2 CHAIR MULLER: Thank you. Bill? Shalom?

3 BOARD MEMBER ELIAHU: No. Just one thing
4 in here, the priorities really should be the
5 houseboats and the vessels, and this is the main
6 source of the pathogens. And I think we should put
7 more emphasis on controlling these. There's no
8 reason why we cannot control that 100 percent maybe.

9 CHAIR MULLER: Thank you. Dr. Singh?

10 BOARD MEMBER SINGH: I would like to say
11 that this is the planning phase. This is the
12 planning phase and we are getting inputs from
13 everybody, but one thing I like what Eliahu says.
14 Something which can be easily done and can be
15 implemented, we can regulate and check those
16 houseboats because they are discharging sanitary
17 sewer and creating local deterioration in the
18 quality of the water over there. That probably can
19 be easily prevented.

20 As far as stormwater management is
21 concerned, that's the bigger question and a long-
22 term effort. It needs the basin modification and
23 there could be some costs to that, so that should be
24 tried and should be encouraged. People should be
25 educated. And local government agencies, cities,

1 and other agencies should be encouraged to try to
2 manage their stormwater runoff problem.

3 But I think one other thing we can achieve
4 and make the contact level of sports easily
5 available in the entire Richardson Bay is by
6 controlling the houseboats and regulating them, and
7 so I agree with Eliahu.

8 CHAIR MULLER: Thank you. My brief comment
9 would be that this area has a long history of a
10 unique lifestyle to the whole San Francisco Bay, and
11 so I'm not, you know, out to move all of these
12 people around, but I think we have to enforce the
13 Water Code regulations to the best of our ability
14 there.

15 And I agree with the shellfish, I can't
16 even say it, monitoring, and I think I'm sure the
17 community is stepping up as best as they can in this
18 whole process there, and I appreciate the Audubon
19 and Baykeeper's comments. But I think this is a
20 unique part of our San Francisco Bay and I don't
21 think we're going to change it and move it around.
22 It's just we have to ensure that whatever is there
23 is done properly when it comes to waste water, and
24 so I would support that we listen to the
25 recommendations of the Board and move forward with

1 this.

2 MR. WOLFE: Yeah. I think your points are
3 well taken especially those about the sanitary sewer
4 overflows. You'll note that we circulated this
5 report essentially at the beginning of February,
6 which was about at the time some of our significant
7 overflows occurred, and that EPA was initially
8 coming out with its reports. So we recognize and in
9 fact we want to go back and look at what is there
10 and see how we can, as Naomi said, how we can
11 incorporate that better in here.

12 I think Mr. McGrath's points on the
13 monitoring and how can we make sure that we have
14 moving forward the appropriate monitoring locations
15 and times of year represented. And I was very
16 pleased to hear the comments about Audubon because
17 that is an area of the Bay that we do have less data
18 on and also less vessels and houseboats up there, so
19 it will be very useful to be able to use that
20 information or to get more information from that
21 area.

22 And certainly, as Chair Muller notes, the
23 houseboat situation in this area has tremendous
24 history. All the parties, in fact I think the
25 commenters, recognize that certainly, if they're

1 living there on houseboats or other vessels, at one
2 level this is their backyard. They want the water
3 quality to be high, so they do support that. It's
4 just how it is done.

5 And likewise, we fully support moving
6 forward with robust urban runoff controls. I think
7 it's worth noting that last month when we were
8 talking about the Regional Permit that that permit
9 does not include Marin County because that was not
10 historically part of the phase one programs.

11 Nonetheless, the Marin County program has
12 been a member of the Bay Area Stormwater Management
13 Association and they are implementing a lot of
14 measures consistent with those phase one permits but
15 are under the quote/unquote phase two permit. So
16 they're at a little different level regulatory-wise,
17 but they have been very proactive over the years at
18 implementing measures that get good bang for the
19 buck, as you were. And I think this is an area
20 where we definitely want to see that continued and
21 that there is more opportunities for that bang for
22 the buck.

23 CHAIR MULLER: Good. Thank you, staff.
24 Shalom?

25 BOARD MEMBER ELIAHU: One question. Do

1 they still give permits to put houseboats? I want
2 to put one there now.

3 CHAIR MULLER: We're not in the land use
4 business, Shalom.

5 MR. WOLFE: Yeah. That's more of a land
6 use issue and I think there's a lot of --

7 CHAIR MULLER: We all want in.

8 MR. WOLFE: -- fathering in. You may want
9 to talk with your representative on BCDC, Mr.
10 McGrath, because I know this has been issue in front
11 BCDC for a long time so.

12 CHAIR MULLER: Pretty soon we'll be
13 monitoring those windsurfers, too, out there, you
14 know.

15 MR. WOLFE: Oh, those rogue windsurfers we
16 do have to watch out for.

17 BOARD MEMBER MCGRATH: You don't want to
18 know what we do in our wetsuits.

19 CHAIR MULLER: So what we're going to do --
20 So what we're going to do right now is Ray is going
21 to pass out envelopes for a quick fill out of the
22 lunch. We're going to take quick break and then we
23 will come back and handle Item 7, please.

24 MR. WOLFE: Good.

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