

CENTENNIAL RANCHES
652 W. Cromwell, Suite 103
Fresno, CA 93711



Respond to:
William J. Thomas
500 Capitol Mall, Suite 1700
Sacramento, CA 95814
William.thomas@bbklaw.com

January 23, 2015

Via Email: commentletters@waterboards.ca.gov

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Fl.
Sacramento, CA 95814

Re: **Comment Letter – Statewide Bacteria Objectives – Scoping Comments**

Dear Ms. Townsend:

I. BACKGROUND

I write on behalf of our Centennial Ranch operations concerning the notice of a possible statewide bacteria standard to be subsequently included in the basin plans. We graze cattle on our various ranch operations, which spread between four Regional Boards areas (Central Valley, Central Coast, Lahontan and Los Angeles).

In each of the other three basins, we deal with the pathogen (bacteria standard) of 200 col fecal coliform per 100 milliliters water, (200 col. FC/100 mL); however, in the Lahontan region we face the unjustified and unreasonable objective of 20 col FC/100 mL. This extraordinarily low level was included in the Lahontan Basin Plan many years ago to deal with Lake Tahoe without any basis or consideration as to its possible application to the agricultural or other areas of the region. In fact, when 20 col. FC/100mL was originally promulgated, it was considered the average of all the Lake Tahoe waters as the shore areas were in excess of that level even at that time. Nonetheless, that has been the level in the Basin Plan without amendment, and that over the last 10-15 years the Lahontan staff has steadfastly resisted any change thereto, notwithstanding our efforts to amend it. Over the last ten years we ranchers have been intensively regulated across the Bridgeport Valley; however, the Lahontan Regional Board has been temporarily utilizing an interim level of 200 col FC/100 mL.

We have long supported moving to a statewide standard so as to avoid the unreasonable low objective in Lahontan, and to provide statewide conformity throughout our operational areas.

Throughout our efforts to comply with the Bridgeport Valley regulatory program, we have fully coordinated with the University of California on our monitoring, reporting and management practices. In the course of those discussions, the University has advised us that the

pathogen/bacteria indicator species would be more appropriate if it was switched to E.coli rather than fecal coliform. Therefore, as outlined below, we generally support the development of a statewide bacteria/pathogen objective using E.coli as the indicator species for fresh water and setting an appropriate objective thereto.

II. RESPONSE TO THE JANUARY 9, 2015 NOTICE AND INFORMATIONAL DOCUMENT

1. Response to Introduction and Background Sections

The Lahontan Board's 303(d) triennial review process has proven to be ineffective in making reasonable amendments to the basin plan pathogen objective. Therefore, we have supported US/EPA's review of the bacteria standard nationally and their published bacteria criteria recommendation when issued. We also understand that US/EPA since 1986 has generally and since 2012 directly encouraged the states to utilize E.coli for fresh water and enterococci for coastal waters as the proper indicator species rather than fecal coliform to protect persons from direct exposure/ingestion. US/EPA in 2012 recommended water quality criteria as follows:

Table 1.

	Recommendation 1	Recommendation 2
	NGI illness rate of 36/1000	NGI illness rate of 32/1000
E.coli	Mean / threshold 26 / 410	Mean / threshold 100 / 320

The US EPA 2012 RWQC guidance document identified either the 32 or 36 level illness criteria as adequately protective of human health. Because either is adequately protective, it stands to reason that the 36 illness level is lawful and appropriate, and the more strict level (32) is overly protective and therefore too restrictive. We therefore advocate that the State Board not over regulate and instead utilize the health protection level of 36. This position is further supported in our irrigated agricultural grazing context by the following considerations.

Each of these levels are deemed protective for recreational direct exposure and ingestion (i.e., swimming). Allow me to describe our situation in the Bridgeport Valley where we are regulated by the Lahontan Board. The eastern Sierra waters fall into our Bridgeport Valley from the steep eastern Sierra face. As they reach the valley and our pastures, our ranches are fenced, locked, signed as private, and we, along with the Sheriff's office, strictly prevent trespass. The only possible access to the valley streams would be if any of our neighbors allowed fishing. Our streams (i.e., Buckeye, Robinson) directly dump into Bridgeport Reservoir from the private ranch lands. The reservoir has limited fishing, which is the only recreational use in the Valley.

As the waters leave the Bridgeport Reservoir, water quality monitoring has demonstrated that there are no pathogens present as the reservoir itself serves as a settling basin. Therefore,

the limited boat fishing in the reservoir, which is not contact recreation, and the clean waters below the reservoir (East Walker River) are each without risk. See also our discussion as to Element 11. Consequently, we believe the REC-1 beneficial use classification should not be applied to our valley, in any case. This certainly further compels utilizing the 36 illness condition, because the pathogen levels where there is public access are nonexistent, or well below critical levels, and again, fishing is not contact recreation.

The State Board document expressly states on page 3: "Either estimated illness rate is protective of REC1." It also states that the REC1 levels "protect swimmers from exposure to water containing organisms." Consequently, the illness level of 36 is appropriate and none of our ranches have direct or swimming exposure.

III. BELOW ARE OUR RESPONSES TO THE 11 ELEMENTS.

Element 1. Bacteria Indicators.

We support the recommendation (Option 3) to utilize E.coli as the fresh water indicator species.

Element 2. Level of Health Protection.

We appreciate that either the illness rates of 32 or 36 are appropriate and protective and that staff has recommended using 32 rather than 36. We, however, believe that is unnecessarily over protective and suggest using the 36 level, which EPA finds is appropriately protective, as the state's directive. Therefore, we support Option 2 rather than Option 3.

Element 3. Natural Sources.

In areas where we graze and monitor water quality coming out of the mountains and onto our ranches, we find considerable inflow of pathogens in waters which largely source from natural sources. We therefore support the staff recommendation of Option 2, which is working with the State and Regional Boards to discount the natural pathogen sources.

Element 4. High Flow Suspension.

Each winter and spring produces incredibly high flood flows. In low elevations these are winter rain storm runoff events. In the higher elevations, there are no cattle in the winter snow zones, but the spring melt produces flood flows for more extensive periods.

We therefore support the staff recommendation of suspension of bacteria objectives during such periods as suggested by Option 2.

Element 5. Compliance Schedules.

Regional boards presently have the authority to phase compliance over at least ten years or more; therefore we do not see much difference in Option 1 or Option 2; however, Option 2 may more clearly identify the process.

Element 6. Effluent Limits for POTWs.

We have no comment.

Element 7. Mixing Zones.

We have no comment.

Element 8. Averaging Periods to Determine Compliance.

We support the staff recommendation in Option 3, which identifies an averaging period and further guidance of using "a minimum number of samples over a maximum period of time."

Element 9. Effluent Monitoring.

We have no comment.

Element 10. Analytical.

We have no comment.

Element 11. Variance or Seasonal Suspension.

As explained above, all of our ranches are fenced with restricted entry, and there is no recreational swimming use, or other direct water contact. We, therefore, support the staff recommendation to allow some variance or seasonal suspension for a limited REC 1 class of water usage.

Sincerely,



William J. Thomas

WJT:lmg

Cc: Felicia Marcus, SWRCB Chair
Fran Spivy-Weber, SWRCB Member
Tam Doduc, SWRCB Member
Steven Moore, SWRCB Member
Dorene D'Adamo, SWRCB Member
Stacy Gillespie, SWRCB Counsel