

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

STAFF REPORT FOR REGULAR MEETING OF MARCH 19-20, 2009

Final Prepared on February 24, 2009

ITEM NUMBER: 16

SUBJECT: Amending the Water Quality Control Plan for the Central Coast Basin to Adopt Total Maximum Daily Loads for Fecal Coliform in the Pajaro River Watershed and Adopt two Discharge Prohibitions, one for Human Fecal Material, and the other for Domestic Animal Waste.

KEY INFORMATION

Staff recommends adoption of proposed Total Maximum Daily Loads (TMDLs) 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.

Staff also recommends adoption of two prohibitions; the Domestic Animal Waste Discharge Prohibition and the Human Fecal Material Discharge Prohibition. If established, discharges of domestic animal waste and human fecal material would be prohibited in the Pajaro River Watershed. Staff is proposing that these two prohibitions be used to reduce or eliminate these sources of fecal coliform to waterbodies in the Pajaro River Watershed. The TMDL implementation plan will authorize the Executive Officer or the Central Coast Water Board to require implementation actions for parties responsible for domestic animal waste and human fecal material discharges to comply with the prohibitions.

The Pajaro River Watershed encompasses approximately 1,263 square miles of Santa Cruz, Santa Clara, San Benito, and Monterey Counties. The watershed is almost 90 miles in length and varies from 7 to 20 miles in width. The Pajaro River watershed drains into the Pacific Ocean at Monterey Bay.

These TMDLs establish the acceptable total load and allocations to parties responsible for sources of fecal coliform that protect the water contact recreation beneficial use in Pajaro River Watershed. Central Coast Water Board staff (staff) has identified sources of fecal coliform that are causing or contributing to impairment, has identified parties responsible for these sources, has proposed waste load and load allocations necessary to achieve the TMDLs, and has identified implementation and regulatory mechanisms to achieve the TMDLs. The proposed allocations to non-human sources of fecal coliform are equal to existing water quality objectives for fecal coliform protective of the water contact recreation beneficial use; allocations for human sources of fecal coliform are zero-no loading from these sources are allowed.

SUMMARY

Pajaro River, San Benito River, Llagas Creek, and Tequisquita Slough were placed on the Clean Water Act section 303(d) list of impaired waters in 1994. These waters were listed as impaired due to fecal coliform. Staff investigated the impairment of other waterbodies within the Pajaro River Watershed and concluded that San Juan Creek, Carnadero/Uvas Creek, Bird Creek, Pescadero Creek, Tres Pinos Creek, Furlong (Jones) Creek, Santa Ana Creek, and Pachecho Creek are also impaired; staff is proposing TMDLs for these waterbodies that are not currently listed on the 303(d) List of impaired waters as well.

Staff recommends the Central Coast Water Board adopt the fecal coliform TMDLs and an Implementation Plan to restore the water-contact recreation beneficial use to 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. Staff also recommends the Central Coast Water Board add the Domestic Animal Waste Discharge Prohibition and the Human Fecal Material Discharge Prohibition for the Pajaro River Watershed to restore and protect the beneficial uses of the above-named waterbodies.

This staff report summarizes the TMDL elements and explains how responsible parties will comply with the new discharge prohibitions. The attachments support summary statements made in this staff report. The technical report that supports the Basin Plan Amendments is the Project Report for the TMDLs. The Project Report (listed as Attachment 2 to this staff report) is available at the Central Coast Water Board website at:

http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2009/2009_agendas.shtml

Please click on "view agenda" for the March 19-20, 2009 meeting, then click on Item 16, TMDLs for Pajaro River Watershed. Staff did not include the document in the staff report to save paper. Paper copies are available upon request.

Staff recommends that the Central Coast Water Board use existing waste discharge requirements and National Pollutant Discharge Elimination System (NPDES) permits for sanitary sewer collection and treatment systems, the NPDES General Permit for stormwater discharges, and the Human Waste Discharge Prohibition and Domestic Animal Waste Discharge (proposed as part of this item) as the implementation mechanisms to achieve the TMDLs.

Central Coast Water Board staff concluded approval of these TMDLs and addition of the discharge prohibitions for the Pajaro River Watershed will result in reduction of fecal coliform loading to impaired waterbodies in the watershed, resulting in improved water quality and prevention of future fecal coliform loading causing exceedance of water quality objectives.

DICUSSION**Project Development for TMDLs**

Staff used water quality data collected by the Central Coast Ambient Monitoring Program (CCAMP) and by Water Board staff to assess fecal coliform conditions in surface waters. Staff also used discharger data and reports, land use data, field reconnaissance work, and conversations with Water Board staff and staff from other agencies to complete the source analysis.

Problem Statement and Numeric Target

The Basin Plan contains fecal coliform water quality objectives to protect water contact recreation. Current levels of fecal coliform are not supportive of the water contact recreation beneficial use in 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 numeric target for the TMDLs is equal to the water quality objectives protecting water contact recreation, which are:

“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 to Pajaro River Watershed (from largest to smallest source) is: (1) storm drain discharges to municipally owned and operated storm sewer systems required to be covered by an NPDES permit (MS4s), (2) domestic animal waste in areas that do not drain to MS4s, (3) municipal sanitary sewer collection and treatment system spills and leaks, and (4) private sewer laterals that connect to municipal sanitary sewer system collection and treatment systems. Natural sources also contribute fecal coliform to the Pajaro River Watershed.

TMDLs and Allocations

The TMDLs for fecal coliform in 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 equal to the Basin Plan water quality objectives for fecal coliform.

The allocations for fecal coliform not containing human fecal material are equal to the water quality objectives for fecal coliform. The allocations for fecal coliform for sources containing human fecal material are zero.

The responsible parties for controllable sources are the counties of Santa Cruz, Santa Clara, and Monterey, and the cities of Hollister, Morgan Hill, Gilroy, and Watsonville (storm drain discharges to municipally owned and operated storm sewer systems required to be covered by an NPDES permit); owners of land used for/containing domestic animals; City of Hollister, City of Watsonville, Cities of Gilroy and Morgan Hill via South County Regional Wastewater Authority (SCRWA), San Juan Bautista, Sunnyslope County Water District, Tres Pinos County Water District, and Pajaro County Sanitation District (Sanitary Sewer Collection and Treatment Systems Spills and Leaks); and, owners of private sewer laterals.

Responsible parties that must comply with the Human Fecal Material Discharge Prohibition are assigned a waste load allocation of zero; no discharge. Natural sources are also assigned an allocation equal to the water quality objective for fecal coliform.

The parties responsible for allocations to controllable sources are not responsible for the allocation to natural sources. Table IX – M – 1 in the Resolution, contained within Attachment 1, shows these allocations to the responsible parties.

Implementation Plan

The proposed Implementation Plan, described in Attachment 1 and Attachment 2, outlines the responsibilities of each responsible party and the steps the Central Coast Water Board or the Executive Officer will take to require actions by the responsible parties.

Central Coast Water Board staff developed an implementation strategy (Plan) to implement these TMDLs that reflects our current understanding of fecal coliform loading in the Pajaro River Watershed. The Plan establishes that the Executive Officer or the Central Coast Water Board will

require responsible parties to implement identified actions that will reduce fecal coliform loading, monitor fecal coliform source reductions, and report progress and results of monitoring to the Central Coast Water Board pursuant to an NPDES permit, Waste Discharge Requirements, or demonstration of compliance with discharge prohibitions.

The Implementation Plan explains that if natural sources are found to cause the impairment, and/or if responsible parties demonstrate that controllable sources of fecal coliform are not contributing to the exceedance of water quality objectives in receiving waters, staff will re-evaluate the TMDL, targets and allocations and propose revisions to the Central Coast Water Board. For example, staff may propose a site-specific objective for Pajaro River Watershed waterbodies. A site-specific objective would be proposed as a Basin Plan Amendment through the appropriate adoption and public review procedures required by the Central Coast Water Board, State Water Resources Control Board, and United States Environmental Protection Agency.

Monitoring Plan

The Implementation Plan establishes that the Executive Officer will require responsible parties to monitor fecal coliform source reductions, and report progress and results of monitoring to the Central Coast Water Board. Staff developed a recommended set of locations and will work with responsible parties to establish on-going monitoring at these locations, or at alternate locations from which responsible parties can efficiently collect relevant water quality data. Responsible parties will conduct the monitoring and submit results to the Central Coast Water Board. Staff will evaluate the monitoring data on an on-going basis, as well as during three year assessments to determine progress towards achieving the allocations and TMDLs. The implementation plan also requires responsible parties to evaluate and report their progress toward achieving their allocations.

Time-Schedule For Tracking Progress and Achieving the TMDLs

The target date to achieve the TMDLs is 13 years after the effective date of the TMDLs which is the date of approval by the California Office of Administrative Law.

ENVIRONMENTAL SUMMARY

The California Resources Agency has certified the basin planning process in accordance with section 21080.5 of the Public Resources Code. The process is therefore exempt from Chapter 3 of the California Environmental Quality Act (CEQA). The analysis contained in the Final Project Report (Attachment 2), the CEQA Substitute Environmental Document (Attachment 3), this staff report, and the responses to comments (Attachment 6) complies with the requirements of the State Water Board's certified regulatory CEQA process, as set forth in California Code of Regulations, Title 23, section 3775 et seq. Furthermore, the analysis fulfills the Central Coast Water Board's obligations attendant with the adoption of regulations "requiring the installation of pollution control equipment, or a performance standard or treatment requirement," as set forth in section 21159 of the Public Resources Code. All public comments were considered.

ANTI-DEGRADATION

Adoption of these TMDLs and prohibitions as basin plan amendments will not result in any degradation of water quality; in fact, they are designed to improve water quality. As such, these TMDLs and prohibitions 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).

SCIENTIFIC PEER REVIEW

The Peer reviewer provided comments to staff on August 10, 2008. Staff prepared responses and revised the TMDL report in response to these comments in August 2008, prior to distributing for Public Comments. Peer Review comments and staff responses are included in Attachment 5.

PUBLIC INVOLVEMENT

Staff conducted a California Environmental Quality Act (CEQA) stakeholder scoping meeting on June 20, 2007 which presented the Phase 4 Preliminary Project Report. At this meeting, staff announced that staff would accept (1) verbal comments at the public workshop and (2) written comments. Staff also told stakeholders that written responses to individual comments submitted during the formal public comment period would be prepared. Staff responded to comments by making changes, where appropriate, to draft documents subsequent to this meeting.

Staff held phone meetings and communicated via e-mail with key personnel from municipal storm water management departments, health agencies and Farm Bureaus from the Counties of Santa Clara, San Benito, Santa Cruz, and Monterey, and other stakeholders and individuals from water quality associated entities including ranching and farming organizations, septic system installation, and sewer collection system facilities.

Staff held an informational project status meeting with interested parties in Gilroy on October 15, 2008 and discussed the status of the project and answered questions from attendees.

This Staff Report, Resolution, and other attachments were made available for formal public comment associated with this Central Coast Water Board Hearing on March 20, 2009. Comments were received by:

1. Kari Fisher, California Farm Bureau. in a letter dated January 23, 2009
2. Justin Oldfield, California Cattlemen's Association in a letter dated January 23, 2009.
3. James Bogart, Grower-Shipper Association of Central California in a letter dated January 23, 2009.
4. Darlene Din, Agricultural Land Use Consultant, in a letter dated January 20, 2009.
5. Jacqueline Bretschneider, City of Gilroy, in a letter dated January 23, 2009.
6. Shawn and Jennifer Kuchta, S/K Cattle Co., in a letter dated January 21, 2009.
7. Jody Hall Esser, County of Santa Clara, in a letter dated January 23, 2009.
8. Greg Swett, San Benito County Farm Bureau, in a letter dated January 23, 2009.
9. Joeseph Morris, San Benito County Cattlemen's Association, in a letter dated January 22, 2009.
10. Allan Renz, AGCO Hay Company, in a letter dated January 22, 2009.
11. Richard Morris, Central Coast Rangeland Coalition, in an email dated January 23, 2009.

Staff made minor changes to Basin Plan Amendment Documents as a result of these comments. Staff added more detail to the source analysis to address several of the comments. Staff also added a technical appendix to the project report to more comprehensively address existing baseline environmental conditions as a result of several public comments.

Public comments and staff responses are included in Attachment 6 to this Staff Report.

RECOMMENDATION

Adopt Resolution No. R3-2009-0008 contained in Attachment 1, as proposed to amend the Basin Plan to Adopt Total Maximum Daily Loads for Fecal Coliform in the Pajaro River Watershed, and Adopt two Discharge Prohibitions; one for Human Fecal Material, and the other for Domestic Animal

Waste Adopt. Adopting this resolution will result in actions that reduce fecal coliform loading to waterbodies in the Pajaro River Watershed, thereby improving water quality and adequately protecting beneficial uses of these waterbodies.

ATTACHMENTS:

The attachments are available at:

http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2009/2009_agendas.shtml Click on "view agenda" for March 19-20, 2009; then click on Item 16, TMDLs for Fecal Coliform in Pajaro River Watershed

1. Resolution No. R3-2009-0008
2. Final Project Report: "Total Maximum Daily Loads for Fecal Coliform in Pajaro River Watershed Including, San Benito River, Llagas Creek, and Tequisquita Slough, Including San Juan Creek, Carnadero/Uvas Creek, Bird Creek, Pescadero Creek, Tres Pinos Creek, Furlong (Jones) Creek, Santa Ana Creek, and Pachecho Creek, in Santa Cruz, Santa Clara, San Benito, and Monterey Counties, California, For the March XX, 200x Water Board Meeting.
3. CEQA Substitute Document
4. Notice of Public Hearing / Notice of Filing
5. Scientific Peer Review Comment
6. Public Comment and Staff Response

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