

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Farhad Ghodrati)
MEETING DATE: November 14, 2012

ITEM: 7

SUBJECT: **Proposed Amendment to the Water Quality Control Plan (Basin Plan) to establish a Total Maximum Daily Load (TMDL) and Implementation Plan for Bacteria in San Pedro Creek and at Pacifica State Beach, and New Implementation Provisions for Bacteria Water Quality Objectives - Hearing to Consider Adoption of Proposed Basin Plan Amendment**

CHRONOLOGY: There has been no previous action by the Board on this matter.

DISCUSSION: The Tentative Resolution (Appendix A) would amend the Basin Plan to establish the San Pedro Creek and Pacifica State Beach Bacteria TMDL and establish new implementation provisions to allow a “reference system and antidegradation approach” for existing bacteria water quality objectives.

The other appendices to this item include the Basin Plan amendment (Appendix B) and supporting Staff Report (Appendix C) showing revisions made to the public noticed versions, staff responses to comments received during the comment period (Appendix D), and all written comments received during a 45-day public comment period (Appendix E).

Background

San Pedro Creek and waters at Pacifica State Beach are listed as impaired by bacteria at levels above water quality objectives for water contact recreation (e.g., swimming, wading, and surfing). The TMDL would require measures to reduce discharges of bacteria from controllable sources to meet water quality standards.

Controllable, or anthropogenic, sources of bacteria in the San Pedro Creek watershed include sanitary sewer overflows, municipal stormwater runoff and dry-weather flows, and horse facilities. Uncontrollable, or natural, sources of bacteria include wildlife, vegetation, soil, and sediment. Natural sources can cause exceedances of bacteria objectives on their own without contributions from anthropogenic sources. We are accounting for these natural sources of bacteria by applying a “reference system and antidegradation approach” to determine exceedances of bacteria water quality objectives in waters in a similar but undeveloped watershed. However, to apply this approach, the Implementation Provisions for Water Contact Recreation Bacteria Objectives section of the Basin Plan must also be amended to allow its use. The proposed new implementation provisions would apply to future bacteria TMDLs in addition to this TMDL.

Solving the Problem

The proposed Basin Plan amendment will establish the following:

- Numeric targets, TMDLs, and allocations for bacteria, expressed as a number of allowable exceedances of the bacteria objectives, to protect water contact recreational uses of San Pedro Creek and Pacifica State Beach;
- A plan to implement the TMDLs;
- A monitoring program to evaluate progress in meeting the targets, TMDLs, and allocations, and to help guide the implementation actions; and
- An adaptive implementation strategy to track and evaluate implementation actions.

The Basin Plan amendment would require implementing parties to act to reduce or eliminate discharges of bacteria to San Pedro Creek and Pacifica State Beach. The proposed implementation plan relies significantly on regulatory programs that are already in place and actions that are already required, such as eliminating discharges from sanitary sewer systems, existing actions to manage municipal stormwater runoff and dry weather flow discharges from storm drains, and ensuring horse facilities operate in a clean manner. It also includes some additional requirements for iterative improvements of municipal stormwater best management practices and a creek monitoring plan.

Comments from Stakeholders and Staff Responses

We received four comment letters prior to the close of the comment period on October 8, 2012. These included comments from the City of Pacifica (City), the San Mateo County Department of Public Works and Parks (County Parks), the San Mateo County Water Pollution Prevention Program (County), and U.S. EPA. The comments support the water quality improvement goals of the TMDL, but some express concerns about the ability to attain the TMDL and allocations. Comments also raised questions about whether the “reference system and antidegradation approach” adequately addresses the background natural sources of bacteria. Comments included concerns about the cost and need for additional actions to address bacteria in municipal stormwater runoff and the cost of monitoring.

We revised the Basin Plan amendment and staff report in response to many of the specific concerns raised by the commenters. For example, in response to concerns about the time frames for compliance, we extended the proposed date to meet the bacteria TMDL in San Pedro Creek to 15 years from 12, and extended by one year the proposed date for submittal of the required monitoring plan. Extending the compliance time frames should allow adequate time for the implementing parties to plan, fund, and implement appropriate corrective actions. We also addressed concerns about the water quality monitoring requirements and clarified our cost estimates for certain best management practices and monitoring. In addition, we made some staff-initiated editorial and clarification changes. We also made clarification revisions to the Basin Plan amendment and staff report in response to requests from U.S. EPA, which otherwise supports the proposed TMDLs and Implementation Plan.

County Parks raised concerns about requiring them to take actions for parklands they manage in the upper watershed of San Pedro Creek that they do not consider a significant source of bacteria. We agree that these areas may not be significant sources. Proposed TMDL monitoring will help confirm that the areas managed by the County do not require further implementation actions.

We were not able to resolve all concerns raised by the commenters. For example, on the question of achievability of the TMDL targets and allocations, we do not have evidence that the targets or allocations, including the allowable exceedances due to background sources, are unachievable. The TMDL relies on many existing actions that are already required, e.g., private sewer lateral replacement, and will continue to be implemented over the next 8-15 years. These actions are expected to help attain the TMDL.

The City contends the existing baseline requirements of the Municipal Regional Stormwater Permit should be sufficient to satisfy municipal stormwater and dry weather flow requirements. However, this has yet to be demonstrated. The TMDL relies on existing permit requirements and iterative improvements of current practices to attain allocations if needed.

The City and County question the appropriateness of applying Southern California reference systems to develop numeric targets for San Pedro Creek and Pacifica State Beach. However, U.S. EPA and State Water Board staff support applying the available reference systems to address natural sources of bacteria. There are, at present, no local reference systems that have been identified in Northern California. We will review and propose revisions to the TMDL if data become available in the future that indicate there is a better, more appropriate reference system. For now, the only alternative available would be to develop TMDL targets based on bacteria objectives, without consideration of natural background sources, which is the approach the Water Board has taken in other bacteria TMDLs it has adopted.

The proposed Basin Plan amendment represents our best effort to address stakeholder concerns, protect water quality, and meet all federal and State requirements. The overall proposed approach for solving this water quality problem requires proper management of controllable sources of bacteria. The TMDL also provides the Board and our stakeholders with opportunities for future, constructive, adaptive changes to the TMDL and implementation plan.

RECOMMEN-
DATION: Adopt the Tentative Resolution

Appendices: A. Tentative Resolution with Exhibit A, Proposed Basin Plan amendment
B. Revised Basin Plan amendment
C. Revised Staff Report
D. Responses to Comments
E. Comment Letters