

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

STAFF SUMMARY REPORT (Laurent M. Meillier)
MEETING DATE: DECEMBER 11, 2013

ITEM: 7

SUBJECT: **Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Tomales Bay Watershed – Renewal of Conditional Waiver**

CHRONOLOGY: July 2008 – Board adopted Mitigated Negative Declaration (No. R2-2008-0053)
July 2008 – Board adopted Conditional Waiver (No. R2-2008-0054)

DISCUSSION: The Revised Tentative Order (Appendix A) would renew the Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Tomales Bay watershed for a second five-year term. The Conditional Waiver implements the Tomales Bay pathogens (2005), Walker Creek mercury (2007), and Tomales Bay mercury (2012) TMDLs and addresses other water quality impairments for sediment and nutrients in Tomales Bay and in Walker and Lagunitas creeks.

The Tomales Bay and Walker Creek TMDLs identified grazing operations in the Tomales Bay watershed as sources of pollutants requiring additional control. The TMDLs require implementation measures to minimize and control discharges of animal waste and sediment runoff including: evaluation of operating practices; identification of comprehensive site-specific pathogen and sediment control measures; development of a schedule for the implementation of management actions; and annual reporting on actions taken.

Coverage under Conditional Waiver: To date, 97 property owners have submitted a Notice of Intent to obtain coverage under the Conditional Waiver for their grazing parcels. The total acreage of these properties is approximately 68,000 acres. Under the Revised Tentative Order, these property owners would not need to reapply for coverage. Instead they would need to maintain their Ranch Water Quality Plans and continue to implement, adapt, and maintain grazing management actions, as well as inspect their facilities, and report to the Board annually. Those grazing operations in the Tomales Bay watershed that are not yet enrolled would be required to do so under the Revised Tentative Order.

Public Outreach: During the public comment period, Board staff attended meetings at the Marin Farm Bureau on September 11 and the Sonoma County Animal Committee meeting on October 2, and hosted a workshop on October 3 at the Marconi Center in Marshall. Our goal for these meetings was to explain the new requirement to measure and report on residual dry matter (RDM), to discuss progress to date in attaining water quality objectives, and to answer any clarifying questions about the draft tentative order circulated for public comment.

Comments Received: We received nine comment letters, emails, or phone messages (Appendix B) on the draft tentative order. Staff’s responses to the comments received are provided in Appendix C and resulted in minor revisions to the Revised Tentative Order. Staff also initiated some non-substantive edits to the Revised Tentative Order.

One of the issues raised relates to the challenges of measuring and validating RDM and the use of RDM values in a regulatory context. RDM is not a regulatory standard or a stand-alone compliance threshold; it is a threshold used to compare field-measured values to determine the need for management actions. Board staff is committed to working collaboratively to ensure property owners are properly trained in RDM measurement and assessment. We also will continue to provide support for management action implementation through our grant programs.

Concern was also raised about requiring all grazing operations to obtain coverage under the Conditional Waiver. In the Tomales Bay watershed, all grazing operations greater than 50 acres have the potential to discharge to surface waters and are therefore required to obtain coverage under the Conditional Waiver. Property owners or operators may be exempted if they demonstrate that their operations should not be subject to these requirements.

We also received comments about the attainability of the Tomales Bay Pathogens TMDL and concerns that we should be focusing on wildlife as a source of pathogens. These comments are similar to those received and addressed at the time the Board adopted the TMDL in 2005. Once again, we reiterate that our intention is to focus on and address controllable pathogen sources in the watershed.

Additionally, we received comments regarding the effectiveness and sufficiency of the grazing management actions implemented to date. While Board staff recognizes that available water quality data is limited and demonstrating progress is complex, we are committed to working with stakeholders to improve our monitoring program such that we can better answer these questions. After adoption of the waiver in 2008 staff spent a considerable amount of time identifying property owners and operators needing coverage under the waiver. During this permit cycle, we plan to conduct more field inspections and more closely evaluate the effectiveness of management actions.

**RECOMEN-
DATION:**

Adoption of the Revised Tentative Order

APPENDIX A:

Revised Tentative Order - Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Tomales Bay Watershed

APPENDIX B:

Comments Received

APPENDIX C:

Response to Comments