

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

STAFF SUMMARY REPORT (Farhad Ghodrati)  
MEETING DATE: May 11, 2016

ITEM: 5C

SUBJECT: **Resolution to Support a Water Quality Improvement Plan for Bacteria in San Vicente Creek, and Recommend Delisting the Fitzgerald Marine Reserve Beach for Bacteria - Hearing to Consider Adoption of Tentative Resolution**

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

DISCUSSION: The attached Tentative Resolution (Appendix A) supports implementation of a Water Quality Improvement Plan (Plan) that addresses impairment of water quality by bacteria in San Vicente Creek (Creek) and recommends delisting of waters in the Pacific Ocean adjacent to the James V. Fitzgerald Marine Reserve (Reserve). The Staff Report (Appendix B) contains the Plan for the Creek and documentation for delisting the Reserve.

### **Background**

Clean Water Act section 303(d) requires states to identify water bodies that do not meet water quality standards and are considered impaired for one or more pollutants, called the “303 (d) list”. The Creek and Reserve were placed on the State’s 303(d) list in 2002, due to high fecal indicator bacteria (FIB) concentrations, exceeding levels protective of water contact recreation. The Creek discharges, when it is flowing, into the Reserve, which is one of our region’s areas of special biological significance.

As part of developing a Total Maximum Daily Load (TMDL) to address the impairment, we evaluated beach monitoring data collected since the listing and found that levels of FIB at the Reserve are attaining water quality objectives but that levels at the Creek mouth remain above the objectives. As a result of these evaluations, we recommend delisting the Reserve as impaired. Rather than completing a TMDL and Basin Plan amendment for the Creek, we have developed a Water Quality Improvement Plan.

### **Water Quality Improvement Plan for San Vicente Creek**

Our approach to develop an alternative plan rather than a TMDL is different than what we have done in the past. Support for developing an alternative plan rather than a TMDL comes from U.S. EPA’s “Long-Term Vision for Assessment, Restoration, and Protection under the Clean Water Act Section 303(d) Program,” which allows states to have more flexibility in addressing water quality impairments. Given the small size of the Creek’s watershed and flow, the general cooperation of the implementing parties, and our ability to rely on our existing regulatory authorities, we decided this alternative approach more appropriately addresses the impairment to the

Creek. However, this approach does not remove our obligation to develop a TMDL if implementation of the Plan is unsuccessful at addressing the impairment.

The Plan describes bacteria sources in the San Vicente Creek watershed, proposes high-priority implementation actions to reduce loading from horse waste, dog waste, human waste from onsite wastewater treatment systems, and stormwater runoff and identifies the regulatory mechanisms for the actions. The Plan also includes water quality monitoring to evaluate effectiveness of the corrective actions and assess attainment of standards.

### **Delisting Fitzgerald Marine Reserve**

The State's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List ("Listing Policy") governs the State's approach to the listing process for impaired water bodies, including delisting of such water bodies when they are no longer impaired. The Staff Report presents the data evaluation to support delisting and removal of the Reserve from the 303(d) list.

The improved water quality observed at the Reserve is likely due to factors such as existing efforts to implement best management practices, identification and removal of illicit septic system connections, and education and outreach activities. We expect water quality conditions at the Reserve to continue to improve as bacteria discharges in the watershed are further reduced according to the Plan for San Vicente Creek.

The Listing Policy requires that the Board consider and approve each proposed change to the 303(d) list. The State Board and U.S. EPA will have to approve the recommendation to delist the Reserve.

### **Comments from Stakeholders and Staff Responses**

We circulated, for a 30-day public comment period, the Tentative Resolution and the Staff Report. We only received one comment letter during the 30-day public comment period. That letter, from the County of San Mateo (Appendix C) supports the delisting recommendation and provides comments on the Plan portion of the Staff Report. In response, we made some minor edits to the Staff Report as described below.

The County's letter states that the County plans to implement cost-effective BMPs to control bacteria discharges to the Creek, to the extent practicable and feasible, over a reasonable time period. The County provided some specific feedback about implementation actions identified in the Plan to control pet waste. We have advised County staff that we will work with them on developing the required BMPs plans to ensure feasibility. The County also suggested that we prioritize implementation tasks based on the application of the results of genetic microbial source tracking study (MST) and identification of dominant sources. We disagree that MST results can be used to determine dominant sources and, in fact, the State Board's Microbial Source Identification Manual states that it should not be used in this way.

The County is also concerned that bacteria water quality objectives are too conservative and that non-wildlife animal sources, such as horses and domestic pets do not pose the same health risk as human sources of FIB. If water quality objectives are not met, it suggests that site-specific objectives be developed as part of a potential future TMDL.

These concerns are similar to what we heard last month during the adoption hearing for the San Francisco Bay Beaches TMDL. We expect to learn more about newer techniques for source identification and microbial risk assessment as we continue to work on bacteria-related water quality impairments in the region. If all controllable sources are addressed in the watershed and water quality objectives are still not attained, development of site-specific objectives could be considered.

The proposed Plan represents a reasonable and flexible approach to protect water quality in the San Vicente Creek watershed in an efficient and effective manner, identifies feasible implementation actions, and provides the Board and our stakeholders with opportunities for adaptive implementation, as needed.

RECOMMEN-      Adopt the Tentative Resolution  
DATION:

Appendices:      A. Tentative Resolution  
                         B. Staff Report  
                         C. Comment Letter

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