

**RESOLUTION NO. R3-2009-0008**

**ATTACHMENT - PROPOSED BASIN PLAN AMENDMENTS**

**Revise the September 8, 1994 Basin Plan, as follows:**

**AMENDMENT NO. 1. ADD TOTAL MAXIMUM DAILY LOADS FOR FECAL COLIFORM IN PAJARO RIVER WATERSHED WATERS (INCLUDING 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)**

*Add the following to Chapter IV. after IX. L.:*

**IX. M. TOTAL MAXIMUM DAILY LOADS FOR FECAL COLIFORM IN PAJARO RIVER WATERSHED WATERS (INCLUDING 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 Regional Water Quality Control Board adopted these TMDLs on March 20, 2009. These TMDLs were approved by:

The State Water Resources Control Board on April 20, 2010.

The California Office of Administrative Law on July 12, 2010.

The U.S. Environmental Protection Agency on August 3, 2010.

**Problem Statement**

The beneficial use of water contact recreation is not being protected in Pajaro River Watershed (including the following water bodies: 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) because fecal coliform concentrations exceed Basin Plan numeric water quality objectives designed to protect this beneficial use.

**Numeric Target**

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 in the Pajaro River Watershed, in decreasing order of contribution are: (1) storm drain discharges to municipally owned and operated storm sewer systems required to be covered by an NPDES permit (MS4s); (2) domestic animal discharges that do not discharge to MS4s; (3) spills and leaks from Sanitary Sewer Collection and Treatment Systems; and (4) private sewer laterals connected to municipal sanitary sewer collection systems. Natural, uncontrollable sources also contribute fecal coliform in the Pajaro River Watershed.

### **TMDLs and Allocations**

The TMDLs for the impaired waters of 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 concentration-based TMDLs applicable to each day of all seasons equal to the following:

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.

The allocations to responsible parties are shown in Table IX-M1.

**Table IX – M - 1. Allocations and Responsible Parties**

<u>Waterbody Assigned Allocation</u>	<u>Responsible Party [NPDES and/or WDR number] (Source)</u>	<u>Receiving Water Fecal Coliform Allocation</u>
<b>WASTE LOAD ALLOCATIONS</b>		
<u>Pajaro River<sup>1</sup></u> <u>San Benito River<sup>2</sup></u> <u>Llagas Creek<sup>3</sup></u> <u>Tequisquita Slough<sup>4</sup></u>	<u>Santa Cruz, Santa Clara, and Monterey Counties, Cities of Hollister, Morgan Hill, Gilroy, and Watsonville [NPDES No. CAS000004]</u> <u>(Storm Drain Discharges To MS4s Required to be covered by an NPDES Permit )</u>	<u>Allocation 1</u>
<u>Pajaro River<sup>1</sup></u> <u>San Benito River<sup>2</sup></u> <u>Llagas Creek<sup>3</sup></u> <u>Tequisquita Slough<sup>4</sup></u>	<u>City of Hollister [WDR 87-47]</u> <u>(Sanitary Sewer Collection and Treatment Systems Spills and Leaks)</u>  <u>City of Watsonville [WDR Order R3-2003-0040, NPDES No. CA0048216]</u> <u>(Sanitary Sewer Collection and Treatment Systems Spills and Leaks)</u>  <u>Cities of Gilroy and Morgan Hill via South County Regional Wastewater Authority (SCRWA) [WDR Order R3-2004-0099, NPDES No. CA0049964]</u> <u>(Sanitary Sewer Collection and Treatment Systems Spills and Leaks)</u>  <u>San Juan Bautista Wastewater Treatment Facility [WDR Order R3-2003-0087, NPDES No. CA0047902]</u> <u>(Sanitary Sewer Collection and Treatment Systems Spills and Leaks)</u>  <u>Sunnyslope County Water District [WDR Order R3-2004-0065]</u> <u>(Sanitary Sewer Collection and Treatment Systems Spills and Leaks)</u>  <u>Tres Pinos County Water District [WDR Order 99-101]</u> <u>(Sanitary Sewer Collection and Treatment Systems Spills and Leaks)</u>  <u>Pajaro County Sanitation District [WDR Order R3-2003-0041]</u> <u>(Sanitary Sewer Collection and Treatment Systems Spills and Leaks)</u>	<u>Allocation 2</u>
<u>Pajaro River<sup>1</sup></u> <u>San Benito River<sup>2</sup></u> <u>Llagas Creek<sup>3</sup></u> <u>Tequisquita Slough<sup>4</sup></u>	<u>Owners of Private Sewer Laterals</u> <u>(Private Laterals Connected to Municipal Sanitary Sewer Collection and Treatment Systems)</u>	<u>Allocation 2</u>
<b>LOAD ALLOCATIONS</b>		
<u>Waterbody</u>	<u>Responsible Party (Source)</u>	
<u>Pajaro River<sup>1</sup></u> <u>San Benito River<sup>2</sup></u> <u>Llagas Creek<sup>3</sup></u> <u>Tequisquita Slough<sup>4</sup></u>	<u>Owners/Operators of Land Used for/Containing Domestic Animals</u>  <u>(Domestic Animal Discharges)</u>	<u>Allocation 1</u>

<p><u>Pajaro River<sup>1</sup></u> <u>San Benito River<sup>2</sup></u> <u>Llagas Creek<sup>3</sup></u> <u>Tequisquita Slough<sup>4</sup></u></p>	<p><u>Natural Sources</u></p>	<p><u>Allocation 1</u></p>
<p><u>Allocation 1: 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 200/100mL, nor shall more than ten percent of total samples during any 30-day period exceed 400/100 mL.</u></p> <p><u>Allocation 2: Allocation of zero; no loading allowed from this source.</u></p>		

<sup>1</sup> The entire Pajaro River from the Pacific Ocean to San Felipe Lake outflow via the Miller’s Canal drain. Including the entire San Juan Creek tributary from the uppermost reach of the waterbody to the confluence with Pajaro River, and Carnadero/Uvas Creek tributary from Hollister Road crossing to the confluence with Pajaro River.

<sup>2</sup> San Benito River from confluence with Pajaro River to three miles above Old Hernandez Road at Arizona Crossing. Including Bird Creek tributary from the uppermost reach of the waterbody to the confluence with San Benito River, the Pescadero Creek tributary from the uppermost reach of the waterbody to the confluence with San Benito River, and Tres Pinos Creek tributary from the uppermost reach of the waterbody to the confluence with San Benito River.

<sup>3</sup> Llagas Creek from confluence with Pajaro River to Oak Glen Avenue. Including Furlong (Jones) Creek tributary from the uppermost reach of the waterbody to confluence with Llagas Creek.

<sup>4</sup> Tequisquita Slough from confluence with San Felipe Lake to the uppermost reach of the waterbody. Including Santa Ana Creek tributary from the uppermost reach of the waterbody to Tequisquita Slough, and Pechecho Creek tributary from the uppermost reach of the waterbody to San Felipe Lake.

The parties responsible for the allocations to controllable sources are not responsible for the allocation to natural sources.

The TMDLs are considered achieved when the allocations assigned to all individual responsible parties are met, or when the numeric targets are consistently met.

**Margin of Safety**

A margin of safety is incorporated implicitly in the TMDLs through conservative assumptions.

**Implementation Program**

**MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGES**

The Central Coast Water Board will address fecal indicator bacteria (FIB), e.g. fecal coliform and/or other indicators of pathogens, discharged from the Counties of Santa Cruz, Santa Clara, and Monterey, and the Cities of Hollister, Gilroy, Morgan Hill, and Watsonville municipal separate storm sewer systems (MS4 entities) by regulating the MS4 entities under the provisions of the State Water Resource Control Board’s General Permit for the Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems (General Permit) (NPDES No. CAS000004). As enrollees under the General

Permit, the MS4 entities must develop and implement Storm Water Management Plans (SWMPs) that control urban runoff discharges into and from their MS4s. To address the MS4 entities' TMDL wasteload allocations, the Central Coast Water Board will require the MS4 entities to specifically target FIB in urban runoff through incorporation of Wasteload Allocation Attainment Plans in their SWMPs.

The Central Coast Water Board will require the Wasteload Allocation Attainment Plans describe the actions that will be taken by the MS4 entities to attain the TMDL wasteload allocations, and specifically address:

1. Development of an implementation and assessment strategy;
2. Source identification and prioritization;
3. Best management practice identification, prioritization, implementation, analysis, and effectiveness assessment;
4. Monitoring program development and implementation;
5. Reporting; including evaluation whether current best management practices are progressing towards achieving the wasteload allocations by thirteen years after the TMDLs are approved by the Office of Administrative Law.
6. Coordination with stakeholders; and
7. Other pertinent factors.

The Wasteload Allocation Attainment Plans will be required by the Central Coast Water Board to address each of these TMDLs that occur within the MS4 entities' jurisdictions.

The Central Coast Water Board will require the Wasteload Allocation Attainment Plans to be submitted at one of the following milestones, whichever occurs first:

1. Within one year of approval of the TMDLs by the Office of Administrative Law;
2. When required by any other Water Board-issued storm water requirements (e.g., when the Phase II Municipal Storm Water Permit is renewed).

For an MS4 that is enrolled under the General Permit at the time of Wasteload Allocation Attainment Plan submittal, the Wasteload Allocation Attainment Plan must be incorporated into the SWMP when the Wasteload Allocation Attainment Plan is submitted. For an MS4 entity that is not enrolled under the General Permit at the time of the Wasteload Allocation Plan submittal, the Wasteload Allocation Attainment Plan must be incorporated into the SWMP when the SWMP is approved by the Central Coast Water Board.

The Executive Officer or the Central Coast Water Board will require information that demonstrates implementation of the actions described above, pursuant to applicable sections of the California Water Code and/or pursuant to authorities provided in the General Permit for storm water discharges.

**SANITARY SEWER COLLECTION AND TREATMENT SYSTEMS SPILLS AND LEAKS**

Entities with jurisdiction over sewer collection systems in the Pajaro River Watershed must comply with the Human Fecal Material Discharge Prohibition; compliance with the Human Fecal Material Discharge Prohibition implies compliance with their load allocation for this TMDL.

To comply with the Human Fecal Material Discharge Prohibition, the Hollister Domestic Wastewater Treatment Facility (WDR Order 87-47), Sunnyslope County Water District, Ridgemark Estates Subdivision, Wastewater Treatment Plant (WDR Order R3-2004-0065), Tres Pinos County Water District (WDR Order 99-101), San Juan Bautista Wastewater Treatment Facility (WDR Order R3-2003-0087, NPDES CA0047902), South County Regional Wastewater Authority (SCRWA), Cities of Gilroy and Morgan Hill, (WDR Order R3-2004-0099, NPDES CA0049964), City of Watsonville Wastewater Treatment Facility (WDR Order R3-2003-0040, NPDES CA0048216), and Pajaro County Sanitation District (WDR Order R3-2003-0041) (herein referred to as sanitary collection system jurisdictions) must continue to implement their Collection System Management Plans, as required by their Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) permits.

In addition, the sanitary collection system jurisdictions identified above and in Table IX-M-1 are required to improve maintenance of their sewage collection systems, including identification, correction, and prevention of sewage leaks in portions of the collection systems that run through or adjacent to, impaired surface waters within the Pajaro River Watershed.

To this end, within six months following approval of this TMDL by the Office of Administrative Law, the Executive Officer will issue a letter pursuant to Section 13267 of the CWC requiring: 1) submittal within one-year, a technical report that describes how and when the jurisdictions of the collection systems will conduct improved collection system maintenance in portions of the collection system most likely to affect impaired surface water bodies, with the end result being compliance with the Human Fecal Material Discharge Prohibition, and 2) stream monitoring for fecal coliform or another fecal indicator bacteria, and reporting of these monitoring activities, and 3) annual reporting of self-assessment as to whether the sanitary collection system jurisdiction is in compliance with the Human Fecal Material Discharge Prohibition.

#### **PRIVATE SEWER LATERAL DISCHARGES**

Individual owners and operators of private laterals to sanitary sewer collection systems are ultimately responsible for maintenance of their private laterals and are, therefore, responsible for complying with the Human Fecal Material Discharge Prohibition; compliance with the Human Fecal Material Discharge Prohibition implies compliance with their load allocation for these TMDLs.

Within three years of approval of these TMDLs by the Office of Administrative Law, the Executive Officer will notify owners and/or operators of private laterals to sanitary sewer collection systems (owners/operators of private laterals) of the requirement to comply

with the Human Fecal Material Discharge Prohibition. In his notification, the Executive Officer will also describe the owner's/operator's of private laterals options for demonstrating compliance with the Human Fecal Material Discharge Prohibition; pursuant to California Water Code section 13267 and within six months of the notification by the Executive Officer, owners/operators of private laterals will be required to submit the following for approval by the Executive Officer or the Water Board:

- 1) Clear evidence that the owner/operator of the private lateral is and will continue to be in compliance with the Human Fecal Material Discharge Prohibition; clear evidence could be certification by a sanitary collection system jurisdiction that the owner/operator of the private lateral is in compliance with the Human Fecal Material Discharge Prohibition, or
- 2) A schedule for compliance with the Human Fecal Material Discharge Prohibition. The compliance schedule must include a monitoring and reporting program and milestone dates demonstrating progress towards compliance with the Human Fecal Material Discharge Prohibition, with the ultimate milestone being compliance with the Human Fecal Material Discharge Prohibition no later than three years from the date of the Executive Officer's notification to the owner/operator requiring compliance, or
- 3) Submittal of a Report of Waste Discharge pursuant to California Water Code Section 13260 (as an application for waste discharge requirements; WDRs or National Pollutant Discharge Elimination System (NPDES permit)), or
- 4) Clear evidence of current or scheduled compliance with the Human Fecal Material Discharge Prohibition (as described in number-1 and number-2 above, respectively) through the submittal of the required information by a sanitary collection system jurisdiction, acting as the voluntary agents of owners/operators of private laterals. Note that an owner/operator of a private lateral cannot demonstrate compliance with the Human Fecal Material Discharge Prohibition through this option if: 1) a sanitary collection system jurisdiction is not their voluntary agent, or 2) if the owner/operator of the private lateral does not choose the sanitary collection system jurisdiction as their agent, or, 3) the Executive Officer or Water Board does not approve the evidence submitted by the sanitary collection system jurisdictions on behalf of the owners/operators of private laterals.

#### **DOMESTIC ANIMAL DISCHARGES NOT REGULATED BY A PERMIT FOR STORM WATER DISCHARGES**

Owners and/or operators of lands containing domestic animals in the Pajaro River Watershed must comply with the Domestic Animal Waste Discharge Prohibition; compliance with the Domestic Animal Waste Discharge Prohibition implies compliance with the load allocation for these TMDLs.

Within three years of approval of these TMDLs by the Office of Administrative Law, the Executive Officer will notify owners and/or operators of lands used for/containing domestic animals of the requirement to comply with the Domestic Animal Waste Discharge Prohibition. In his notification, the Executive Officer will also describe the owner's/operator's of lands containing domestic animals options for demonstrating

compliance with the Domestic Animal Waste Discharge Prohibition; pursuant to California Water Code section 13267 and within six months of the notification by the Executive Officer, owners/operators of lands containing domestic animals will be required to submit the following for approval by the Executive Officer or the Water Board:

- 1) Clear evidence that the owner/operator of lands containing domestic animals is and will continue to be in compliance with the Domestic Animal Waste Discharge Prohibition; clear evidence could be documentation submitted by the owner/operator to the Executive Officer validating current and continued compliance with the Prohibition, or
- 2) A plan for compliance with the Domestic Animal Waste Discharge Prohibition. Such a plan must include a list of specific management practices that will be implemented to control discharges containing fecal material from domestic animals. The plan must also describe how implementing the identified management practices is likely to progressively achieve the load allocations to domestic animals, with the ultimate goal achieving the load allocations no later than thirteen years after Office of Administrative Law approval of these TMDLs. The plan must include monitoring and reporting to the Central Coast Water Board, demonstrating the progressive progress toward achieving load allocations for discharges from domestic animals, and a self-assessment of this progress. The plan may be developed by an individual discharger or by or for a coalition of dischargers in cooperation with a third-party representative, organization, or government agency acting as the agents of owners/operators of lands containing domestic animals, or
- 3) Submittal of a Report of Waste Discharge pursuant to California Water Code Section 13260 (as an application for waste discharge requirements; WDRs or National Pollutant Discharge Elimination System (NPDES permit).

For the control of livestock and domesticated animals wastes, potential measures include barriers, bunkers, corrals, and professional stabling. The cost estimates for these measures range from \$2,500-\$4,000 per mile for barriers, \$3,000-\$15,000 per structure for bunkers, \$3,000-\$7,000 per gate for corrals, and \$50-\$550 per month per horse for professional stabling. Potential sources of financing include grant and loan sources from state and federal agencies, including resource conservation districts, University of California Cooperative Extension and the Natural Resources Conservation Service.

#### TRACKING AND EVALUATION

Every three years, beginning three years after TMDLs are approved by the Office of Administrative Law, the Central Coast Water Board will perform a review of implementation actions, monitoring results, and evaluations submitted by responsible parties of their progress towards achieving their allocations. The Central Coast Water Board will use annual reports, nonpoint source pollution control implementation programs, evaluations submitted by responsible parties, and other available information

to determine progress toward implementing required actions and achieving the allocations and the numeric target.

Responsible parties will continue monitoring and reporting according to this plan for at least three years, at which time the Central Coast Water Board will determine the need for continuing or otherwise modifying the monitoring requirements. Responsible parties may also demonstrate that although water quality objectives are not being achieved in receiving waters, controllable sources of pathogens are not contributing to the exceedance. If this is the case, the Central Coast Water Board may re-evaluate the numeric target and allocations. For example, the Central Coast Water Board may pursue and approve a site-specific objective. The site-specific objective would be based on evidence that natural, or background sources alone were the cause of exceedances of the Basin Plan water quality objective for fecal indicator bacteria.

Three-year reviews will continue until the water quality objectives are achieved. The compliance schedule for achieving the TMDLs and numeric target is 13 years after the date of approval by the Office of Administrative Law.

**AMENDMENT NO. 2. ADD THE DOMESTIC ANIMAL WASTE DISCHARGE PROHIBITION**

**Add the following prohibition to the Basin Plan at the top of Section IV.B, Chapter V, page V-8:**

Domestic Animal Waste Discharge Prohibition:

Discharges containing fecal material from domestic animals to the waters of the State that cause or contribute to exceedance of water quality objectives in the areas listed below are prohibited. Examples of domestic animals include, but are not limited to, horses, cattle, goats, sheep, dogs, cats or any other animal(s) in the care of any person(s).

1. Pajaro River Watershed

**AMENDMENT NO. 3. ADD THE HUMAN WASTE DISCHARGE PROHIBITION**

**Add the following prohibition to the Basin Plan at the top of Section IV.B, Chapter V, page V-8:**

Human Fecal Material Discharge Prohibition:

Discharges containing fecal material from humans to the waters of the State in the areas listed below are prohibited. Exceptions to this prohibition include discharges in accordance with Waste Discharge Requirements or other provisions of the California Water Code, Division 7, as amended:

1. Pajaro River Watershed