



N C R W Q C B

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<input type="checkbox"/> Reg/NPS	<input type="checkbox"/> Cleanups	<input type="checkbox"/> Date

January 26, 2009

Catherine Kuhlman: Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Blvd. Ste. A
Santa Rosa, CA 95403

Subject: Proposal to Amend the North Coast Basin Plan by Establishing Exception Criteria to the Point Source Waste Discharge Prohibitions

The proposed policy, including a Basin Plan Amendment, is designed to facilitate use of recycled wastewater, and regulate other "Low Threat" incidental discharges, while continuing to implement sufficient controls, including Stormwater runoff controls, to provide ongoing protection of beneficial uses of regional ground and surface waters.

Many of the surface waters, rivers and streams, in the north coast region do not meet Water Quality Standards and are listed as Impaired - for various pollutants including: Sediment, Temperature, Nutrients, lack of DO, and Pathogens. It is recognized that recycled wastewater, and other "Low Threat" point discharges can be a vehicle for these listed pollutants (including currently unregulated pharmaceuticals).

Currently the rivers and streams of the north coast are suffering low flow conditions due to lack of rainfall. This situation amplifies Impaired Status from noted pollutants.

We support use of recycled wastewater for irrigation use. Recycled wastewater, and other "low threat" discharges mentioned in this proposed policy can convey pollutants, including pharmaceuticals and other chemicals, to ground and surface waters. We (water quality advocates and the Regional Board) also recognize the need for ample protection of surface and ground water from potential threats occurring from improper or accidental misuse of recycled water wastewater for irrigation and/or other "Low Threat" discharges from various point sources.

The current policy language in this proposed amendment to the Basin Plan goes a long way in attempts to address significant issue in an effort to control pollution sources and further degradation of surface and ground water. However, there are areas where language improvements can be made to assure the controls necessary in a Basin Plan Amendment meets necessary managerial and legal standards when such policy so implemented. Such policy must assures protections under the Basin Plan Anti-degradation language and also under California Water Code and the State Public Rescues Code (CEQA).

Anti-Degradation Language in the Basin Plan

Anti-Degradation Language speaks to the limitation and control of pollutant source delivery to surface waters that are noted to be impaired. This proposed Basin Plan Amendment should be consistent with the Anti-Degradation Language in the Basin Plan. There should be language contained in the proposed Basin Plan Amendment that speaks to and demonstrates such consistency. Such consistency analysis and language in mandated under CEQA. Consistency analysis must be considered in the process of mitigation of potential impacts, providing a complete and full project description of project, and for legal consistency analysis.

Criteria Under Stormwater Plans/NPDES Permits

Under the current language, allowance, standards, and controls (including BMPs) enabling "Low Threat" discharges are to be used justification criteria based on language contained in currently existing Stormwater Plans/NPDES Permits. Though there is currently language in place in the now currently existing Stormwater Plan/NPDES permits, it has been established that the currently existing language and/or BMPs are not sufficient to protect surface and ground water. The Regional Board has newly proposed Stormwater Plan/NPDES language for the City of Santa Rosa and Sonoma County. Approval and implementation of the newly revised and updated Stormwater/NPDES permits (with updated BMPs) should occur prior to allowing expansion of use of recycled wastewater using any "Low Threat" discharge criteria - as proposed in this Basin Plan Amendment.

If newly revised Stormwater/NPDES are not yet approved, the specific recycling programs should be derived on an individually permitted basis - with adequate control language, and subject to CEQA, Water Code, and Basin Plan Standards - with adequate BMPs attached. This also applies to any individual "Low Threat" discharge plan that is independent (not covered under an adequate Stormwater/NPDES permit).

These processes should be clarified with some revised or additional language in the Basin Plan Amendment process.

A a Basin Plan Amendment, language and controls necessary to maintain and recover Water Quality Standards need to be part of "Implementing Program" (See - Water Code - below).

Control language, and BMPs, must be included ,up front, part of NPDES/Stormwater coverage or later included as part of policy for individual permitting. Thus, permitting "Low Threat" discharge activity without updated NPDES/Stormwater Plans (with BMPs) and/or policy to include updated language (with BMPs) in any individual permitting would necessarily be inconsistent with CEQA (as deferred mitigation) and Cal Water Code .

Basin Plan and Water Code

Basin Plan(s), including amendment to same, are Water Quality Control Plans. Basin Plans, and amendments, are subject to Cal Water Code (Porter-Cologne Act, §13242 Implementing Program)

These Water Code requirements mandate inclusion of descriptions of actions to take place to maintain or recover Water Quality Standards, a timeline for implementation, and monitoring to assure compliance with the stated program. This Water Code mandate suggests that enforceable language to protect surface and ground water, including applicable and sufficient BMPs, must be included in this proposed Basin Plan amendment.

California Environmental Quality Act

The mandates of the California Environmental Quality Act apply to this proposed Basin Plan Amendment and/or any "Low Threat" discharge permits promulgated by the Regional Board.

The proposed Basin Plan amendment, and related language, satisfies the CEQA mandate for project description.

The proposed Basin Plan amendment, and related language, does not go far enough to clarify implementation policy (including BMPs) necessary to mitigate potential degradation of ground and surface waters from proposed policy changes. As stated above, new Stormwater Permits, with appropriate control language (including BMPs), should be in place for the City of Santa Rosa and the County of Sonoma. In cases where the City and/or County Stormwater NPDES permits are not in place (with appropriate control language and BMPs), "Low Threat" discharge permits shall be individually considered and go through a permitting process (that would provide appropriate control language and BMPs) and be subject to CEQA as a project.

Recommendations

It is recommended that proposed Basin Plan language be revised and clarified to address issues presented - above.

In addition, please consider the language presented, below, for revisions to the currently proposed policy.

In order to protect the environment in the summer low flowing streams (this amendment fails to differentiate between high winter flows and summer low flows) we recommend that the following additions be included in this Amendment:

- Monitoring of wastewater water quality should occur near the site and time of application to assure that the quality matches that of the Treatment Plant effluent;
- A maximum numerical amount be defined for "incidental runoff";
- Setbacks from creeks be required, with much greater setbacks in proximity to 303(d) listed creeks (600' would be appropriate as with AB 885);
- City of Santa Rosa proposed pollutant off-set trading not be considered until Stormwater NPDES and BMPs are in place;
- That irrigation only be applied at agronomical rates;
- That multiple violators of wastewater irrigation rules not be allowed to irrigate with wastewater for at least a year, if not cut off entirely;
- That the program be revisited after the second year of implementation and annual reports written in detail to evaluate any problems;
- That a public review process be included with that review;
- Include a re-opener clause as new information about unregulated and other contaminants becomes available and new regulations are needed;

Sincerely,

A handwritten signature in black ink, appearing to be "Al K...".

For Coast Action Group