

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California**

RESOLUTION NO. R3-2009-0024

**Amending The Water Quality Control Plan for the Central Coast Basin to
(1) Remove the Shellfish Harvesting Beneficial Use for Soquel Lagoon,
(2) Add the Soquel Lagoon Watershed to the Human Fecal Material Discharge
Prohibition and the Domestic Animal Waste Discharge Prohibition, and
(3) Adopt Total Maximum Daily Loads for Pathogens in Soquel Lagoon,
Soquel Creek, and Noble Gulch**

The Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) finds:

1. The Central Coast Water Board adopted the Water Quality Control Plan for the Central Coast Basin (Basin Plan), on September 8, 1994. The Basin Plan includes beneficial use designations, water quality objectives, prohibitions, implementation plans for point source and nonpoint source discharges, statewide plans and policies.
2. The Central Coast Water Board periodically revises and amends the Basin Plan. The Central Coast Water Board has determined the Basin Plan requires further revision and amendment to (a) remove the shellfish harvesting beneficial use (SHELL) for Soquel Lagoon; (b) add the Soquel Lagoon Watershed as a named area subject to the Human Fecal Material Discharge Prohibition and the Domestic Animal Waste Discharge Prohibition, and (c) incorporate Total Maximum Daily Loads (TMDLs) and Implementation Plan for pathogens in Soquel Lagoon, Soquel Creek, and Noble Gulch.
3. The Central Coast Water Board proposes to amend the Basin Plan by inserting amendments into the following sections:
 - a. Chapter Two, Table 2-1: "Identified Uses of Inland Surface Waters"
 - b. Chapter Four, section IX (Total Maximum Daily Loads), and
 - c. Chapter Five, section IV.B. (Discharge Prohibitions).
4. The Central Coast Water Board has determined that the shellfish harvesting beneficial use designation should be removed from the Soquel Lagoon.
5. The proposed removal of the shellfish harvesting beneficial use is based on the results of a Use Attainability Analysis (UAA) for shell fishing in the Soquel Lagoon. Central Coast Water Board staff (staff) developed the UAA in 2004 and 2005 to determine the historic, actual, and potential shell fishing activities in Soquel Lagoon. The UAA is necessary to conform to Title 40 of the Code of Federal Regulations (CFR), §131.10(j) because the action involves a designated use specified in section 101(a) (2) of the Clean Water Act. The proposed amendment and the UAA only addresses the fishable goal (protection and propagation of fish, shellfish, and wildlife) as it pertains to shellfish harvesting and does not address other fishable goals or the swimmable goal included in the water contact recreation designation contained in section 101(a)(2) of the Clean Water Act. The fishable goal of the Clean Water Act is also

protected under other beneficial uses (including cold freshwater habitat) designated in the Basin Plan for the Soquel Lagoon.

6. Factors for allowing a state to remove a designated use are listed in 40 CFR section 131.10(g). As determined in the UAA, three factors preclude attainment of the SHELL beneficial use in Soquel Lagoon. These factors are as follows:
 - a. Natural, ephemeral, intermittent, or low flow conditions or water levels prevent the attainment of the beneficial use.
 - b. Diversions, and other types of hydrologic modifications preclude the attainment of the beneficial use, and it is not feasible to restore the water body to its original condition or to operate such modifications in a way that would result in the attainment of the use.
 - c. Physical conditions related to the natural features of the water body, including lack of a proper substrate, preclude attainment of aquatic life protection uses.
7. Pursuant to section 13241 of the California Water Code, the Central Coast Water Board considered several factors in recommending the removal of the shellfish harvesting beneficial use in the Soquel Lagoon. The Central Coast Water Board concluded that shellfish harvesting is not a past, present, or probable future beneficial use of Soquel Lagoon. Additionally, the Central Coast Water Board concluded the following:
 - a. The removed shellfish harvesting beneficial use, adopted TMDLs, and prohibitions will protect past, present, or probable future beneficial uses.
 - b. Environmental characteristics of the waterbodies will not be affected by the removal of the shellfish harvesting beneficial use.
 - c. Water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect water quality in the area will not be affected by the removal of the shellfish harvesting beneficial use.
 - d. Removal of the shellfish harvesting beneficial use does not impose any costs other than the Central Coast Water Board's costs of preparing the amendment.
 - e. The need for developing housing within the region is not relevant.
 - f. The need to develop and use recycled water is not relevant.
8. The Central Coast Water Board's goal in removing the shellfish harvesting beneficial use from the Soquel Lagoon is to assign water quality objectives for indicators of pathogenic organisms that accurately reflect the existing and potential uses of Soquel Lagoon, i.e., those for water-contact and non-contact recreation. For this purpose, "existing uses" mean those uses actually attained on or after November 28, 1975 (40 CFR §131.3(e)).
9. On May 20, 2004, the State Water Resources Control Board (State Board) adopted the *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy). This policy requires the regional water quality control boards to regulate all nonpoint sources of pollution using the administrative permitting authorities provided by the California Water Code. This policy requires the regional water quality control boards to regulate nonpoint source discharges with waste discharge requirements, waivers of waste discharge requirements, Basin Plan prohibitions, or a combination thereof.
10. Soquel Lagoon is listed on the Clean Water Act 303(d) list as impaired due to pathogens. The Soquel Lagoon does not meet the Basin Plan water quality objectives for fecal coliform. This Resolution establishes TMDLs and associated allocations for this listed water body.
11. Soquel Creek and Noble Gulch are located in the Soquel Lagoon Watershed and are not listed on the Clean Water Act section 303(d) list of impaired waters for pathogens, and do not meet the Basin Plan water quality objective for fecal coliform. The Central Coast Water Board

finds that Soquel Creek and Noble Gulch are impaired for fecal coliform. Therefore, this Resolution establishes TMDLs and associated allocations for Soquel Creek and Noble Gulch.

12. The Central Coast Water Board's goal for establishing TMDLs in Soquel Lagoon, Soquel Creek, and Noble Gulch is to rectify the fecal coliform impairment, thereby maintaining the water for the beneficial uses of contact and non-contact water recreation.
13. The Soquel Lagoon drains a watershed area of approximately 27,188 acres. Soquel Creek is a tributary to Soquel Lagoon, and Noble Gulch is a tributary to Soquel Creek. Soquel Lagoon drains into northern Monterey Bay.
14. The elements of a TMDL are described in 40 CFR 130.2 and 130.7, section 303(d) of the Clean Water Act, and USEPA guidance documents. A TMDL is defined as "the sum of individual waste load allocations for point sources and load allocations for nonpoint sources and natural background" (40 CFR 130.2). The Central Coast Water Board has determined that the Soquel Lagoon Watershed TMDLs are set at levels necessary to attain and maintain the applicable numeric water quality objectives, taking into account seasonal variations and any lack of knowledge concerning the relationship between effluent limitations and water quality (40 CFR 130.7 (c) (1)). The regulations in 40 CFR 130.7 also state that TMDLs shall take into account critical conditions for stream flow, loading, and water quality parameters. TMDLs are often expressed as a mass load of the pollutant but can be expressed as a unit of concentration if appropriate (40 CFR 130.2(i)). Expressing these TMDLs as units of concentration is appropriate because an existing concentration-based water quality objective is used as the basis for the TMDL numeric target.
15. Upon establishment of TMDLs by the State or USEPA, the State is required to incorporate the TMDLs, along with appropriate implementation measures, into the State Water Quality Management Plan (40 CFR 130.6 (c)(1) and 130.7 and California Water Code sections 13050(j) and 13242). The Basin Plan and applicable statewide plans serve as the State Water Quality Management Plan governing the watersheds under the jurisdiction of the Central Coast Water Board.
16. The Central Coast Water Board may, pursuant to California Water Code section 13243, specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted (i.e., prohibitions) . The Implementation Plan for the TMDLs for the Soquel Lagoon Watershed requires compliance with the Human Fecal Material Discharge Prohibition and the Domestic Animal Waste Discharge Prohibition (proposed Amendment No. 2 contained herein) for discharges in the Soquel Lagoon Watershed. Supporting documentation for adding the Soquel Lagoon Watershed to the above-named prohibitions is provided in the Final Project Reports for Total Maximum Daily Loads for Pathogens in Soquel Lagoon, Soquel Creek, and Noble Gulch. Consistent with California Water Code section 13244, the Central Coast Water Board complied with public notice and hearing requirements for adding the Soquel Lagoon Watershed to the Human Fecal Material Discharge and the Domestic Animal Waste Discharge Prohibitions.
17. Central Coast Water Board staff submitted a Use Attainability Analysis to an external scientific review panel in March 2006 as required by Health & Safety Code section 57004. Central Coast Water Board staff also submitted the Project Report for the TMDLs to an external scientific review panel in July 2007. Staff received comments from the scientific review panel. Water Board staff edited the Project Report or provided a written response that explained the basis for failing to incorporate the comments, or the comments did not result in any changes to the proposed Basin Plan Amendments. The scientific portions of the proposed removal of

the SHELL beneficial use, the prohibitions, the TMDLs and implementation plan, are based on sound scientific knowledge, methods, and practices in accordance with Health & Safety Code section 57004.

18. Central Coast Water Board staff implemented a process to inform interested persons and the public about the removal of the SHELL beneficial use designation for Soquel Lagoon, adding the Soquel Lagoon Watershed to the Human Fecal Material Discharge Prohibition and the Domestic Animal Waste Discharge Prohibition, and adoption of the TMDLs. Central Coast Water Board staff's efforts to inform the public and solicit comment included a public meeting with interested parties and a public notice and comment period. Public notification of the amendment to the Basin Plan provided the public a 45-day public comment period preceding the Central Coast Water Board hearing. Notice of the public hearing was given by advertising in newspapers of general circulation within the Region and by mailing a copy of the notice to all persons requesting such notice and applicable government agencies. Relevant documents and notices were also made available on the Central Coast Water Board website. Central Coast Water Board staff responded to oral and written comments received from the public. All public comments were considered.
19. The removal of the shellfish harvesting beneficial use from Soquel Lagoon and adoption of these TMDLs and Basin Plan amendments will not result in any degradation of water quality; in fact, they are designed to improve water quality. As such, these TMDLs and basin plan amendment comply with all requirements of both State and Federal anti-degradation requirements (State Board Resolution 68-16 "Statement of Policy with Respect to Maintaining High Quality of Waters in California, and 40CFR 131.12).
20. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional Water Boards' basin planning process as a "certified regulatory program" that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code, Section 21000 et seq.) requirements for preparing environmental documents (14 Cal. Code Regs. §15251(g); 23 Cal. Code Regs. § 3782.). Central Coast Water Board staff has prepared "substitute environmental documents" for this project that contain the required environmental documentation as set forth in the State Water Resources Control Board's (State Board) CEQA regulations (23 Cal. Code Regs. § 3777.). The substitute environmental documents include the TMDL Staff Report and several of its Attachments, including: 1) this Resolution and the Basin Plan Amendment Language (Attachment 1 of the Staff Report); 2) "Total Maximum Daily Loads for Pathogens in Soquel Lagoon, Soquel Creek, and Noble Gulch, Santa Cruz County, California" (Attachment 2 of the Staff Report), 3) the CEQA Substitute Document with environmental checklist (Attachment 3 of the Staff Report), and 4) the comments and responses to comments (Attachment 6 of the Staff Report). The Staff Report also includes the Notice of Public Hearing/Notice of Filing (Attachment 4) and the Scientific Peer Review Comment (Attachment 5).The project itself is the establishment of TMDLs for fecal coliform in the Soquel Lagoon Watershed. The Board exercises discretion in assigning waste load allocations and load allocations, determining the program of implementation, and setting various milestones in achieving the water quality standards. The CEQA checklist and other portions of the substitute environmental documents contain significant analysis and numerous findings related to impacts and mitigation measures.
21. A CEQA Scoping meeting was conducted on June 26, 2006 at the Capitola City Hall Community Room, 420 Capitola Avenue, Capitola, Santa Cruz County. A notice of the CEQA Scoping meeting was sent to interested persons on May 30, 2006, including to the City of Capitola and the County of Santa Cruz. The notice included a background of the project, the project purpose, a meeting schedule and directions for obtaining more detailed information

through the Central Coast Water Board website; the notice and project summary were available at the website or by requesting hard copies via telephone.

22. Public Resources Code section 21159 provides that an agency shall perform, at the time of the adoption of a rule or regulation requiring the installation of pollution control equipment, or a performance standard or treatment requirement, an environmental analysis of the reasonably foreseeable methods of compliance, and an analysis of the reasonably foreseeable environmental impacts of the methods of compliance, an analysis of reasonably foreseeable mitigation measures to lessen the adverse environmental impacts, and an analysis of reasonably foreseeable alternative means of compliance with the rule or regulation that would have less significant adverse impacts. Section 21159(c) requires that the environmental analysis take into account a reasonable range of environmental, economic, and technical factors; population and geographic areas; and specific sites. The Staff Report prepared for this Basin Plan amendment, in particular the CEQA Substitute Document Report (Attachment 3), provides the environmental analysis required by Public Resources Code section 21159 and is hereby incorporated as findings in this Resolution.
23. In preparing the substitute environmental documents, the Central Coast Water Board has considered the requirements of Public Resources Code section 21159 and California Code of Regulations, title 14, section 15187, and intends those documents to serve as a Tier 1 environmental review. This analysis is not intended to be an exhaustive analysis of every conceivable impact, but an analysis of the reasonably foreseeable consequences of the adoption of this regulation, from a programmatic perspective. Compliance obligations will be undertaken directly by public agencies that may have their own obligations under CEQA. Project level impacts may need to be considered in any subsequent environmental analysis performed by other public agencies, pursuant to Public Resources Code section 21159.2. To the extent applicable, this Tier 1 substitute environmental document may be used to satisfy subsequent CEQA obligations of those agencies.
24. Consistent with the Water Board's substantive obligations under CEQA, the substitute environmental documents do not engage in speculation or conjecture, and only consider the reasonably foreseeable environmental impacts, including those relating to the methods of compliance, reasonably foreseeable feasible mitigation measures to reduce those impacts, and the reasonably foreseeable alternative means of compliance, which would avoid or reduce the identified impacts.
25. The proposed amendment will have a less than significant adverse effect on the environment. California Water Code section 13360 precludes the Regional Board from dictating the manner in which responsible agencies comply with any of the Regional Board's regulations or orders. When the agencies responsible for implementing these TMDLs determine how they will proceed, the agencies responsible for those parts of the project can and should incorporate such alternatives and mitigation into any subsequent projects or project approvals. These feasible alternatives and mitigation measures are described in more detail in the substitute environmental documents (14 Cal. Code Regs. § 15091(a) (2)).
26. From a program-level perspective, incorporation of the alternatives and mitigation measures outlined in the substitute environmental documents will foreseeably reduce impacts to no impact, or keep the impact at less than significant levels.
27. The substitute documents for these TMDLs, and in particular the CEQA Substitute Document and Environmental Checklist (Attachment 3 of the Staff Report), identify mitigation approaches that should be considered at the project level.

28. The Central Coast Water Board will request that the State Water Board approve the Basin Plan amendments incorporating: a) the removal the SHELL beneficial use for Soquel Lagoon, b) Soquel Lagoon Watershed as subject to the Human Fecal Material Discharge Prohibition and the Domestic Animal Waste Discharge Prohibition, and c) TMDLs for pathogens in the Soquel Lagoon Watershed.. The TMDLs and associated Implementation Plan for the TMDLs will become effective upon approval by the California Office of Administrative Law. Removal of the shellfish harvesting beneficial use will become effective upon approval by USEPA.
29. The amendments to the Basin Plan may have an effect on fish and wildlife. The Central Coast Water Board will, therefore, forward fee payments to the Department of Fish and Game under the California Fish and Game Code section 711.4.
30. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b). As specified in Finding-15, federal regulations require that TMDLs be incorporated into the Water Quality Management Plan. The Central Coast Water Board's Basin Plan is the Central Coast Water Board's component of the Water Quality Management Plan, and the Basin Plan is how the Central Coast Water Board takes quasi-legislative, planning actions. Moreover, the TMDL is a program of implementation for existing water quality objectives, and is, therefore, appropriately a component of the Basin Plan under California Water Code section 13242. The necessity of developing a TMDL is established in the TMDL staff report, the Clean Water Act section 303(d) list, and the data contained in the administrative record documenting the pathogen impairments of the Soquel Lagoon, Soquel Creek, and Noble Gulch.
31. On March 21, 2008, in Salinas, California, the Central Coast Water Board held a public hearing and heard and considered all public comments and evidence in the record.
32. On March 21, 2008, the Central Coast Water Board adopted resolution no. R3-2008-0002 and forwarded the record to the State Water Board for adoption.
33. On November 6, 2008, the Central Coast Water Board's Executive Officer withdrew the Total Maximum Daily Loads for Pathogens in Soquel Lagoon, Soquel Creek, and Trout Gulch from consideration for adoption by the State Water Board. The Executive Officer withdrew the TMDLs for consideration due to State Board staff's recommendation to clarify language in the TMDLs and corresponding amendments before submittal to the State Water Resources Control Board for approval; this Resolution includes the recommended clarifications.
34. On May 8, 2009, in San Luis Obispo, California, the Central Coast Water Board held a public hearing and heard and considered all public comments and evidence in the record.

THEREFORE, be it resolved that:

1. Pursuant to sections 13240, 13241, 13242, 13243, and 13244 of the California Water Code, the Central Coast Water Board, after considering the entire record, including the oral testimony at the hearing, hereby adopts the amendments in "Attachment-Proposed Basin Plan Amendments".
2. The Executive Officer is directed to forward copies of the Basin Plan amendments to the State Board in accordance with the requirements of section 13245 of the California Water Code.

Attachment 1

3. The Central Coast Water Board requests that the State Board approve the Basin Plan amendments in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward them to the California Office of Administrative Law and the USEPA for approval.
4. The Executive Officer is authorized to sign a Certificate of Fee Exemption or transmit payment of the applicable fee as may be required to the Resources Agency.
5. If, during the approval process, Central Coast Water Board staff, State Board staff, the State Board or Office of Administrative Law determines that minor, non-substantive corrections to the language of the amendments are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Central Coast Water Board of any such changes.
6. The substitute environmental documents prepared by the Central Coast Water Board staff pursuant to Public Resources Code 21080.5 are hereby certified.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of the resolution adopted by the California Regional Water Quality Control Board, Central Coastal Region, on May 8, 2009.

Roger W. Briggs
Executive Officer

RESOLUTION NO. R3-2009-0024

ATTACHMENT - PROPOSED BASIN PLAN AMENDMENTS

Revise the September 8, 1994 Basin Plan as follows:

AMENDMENT NO. 1.

Amend Chapter 2, Table 2-1. Identified Uses of Inland Surface Waters

Waterbody Names	MUN	AGR	PRO	IND	GWR	REC1	REC2	WILD	COLD	WARM	MIGR	SPWN	BIOL	RARE	EST	FRESH	NAV	POW	COMM	AQUA	SAL	SHELL
Soquel Lagoon						X	X	X	X		X	X		X	X			X			X	

AMENDMENT NO. 2. Revise the September 8, 1994 Basin Plan, Chapter Five, as follows:

Amend Chapter Five, section IV.B. as follows:

Add the following watershed to the end of the bulleted list of applicable areas of the Human Fecal Material Discharge Prohibition and the Domesticated Animal Waste Discharge Prohibition.

- Soquel Lagoon Watershed

AMENDMENT NO. 3. ADOPT THE TOTAL MAXIMUM DAILY LOADS FOR PATHOGENS IN SOQUEL LAGOON, SOQUEL CREEK, AND NOBLE GULCH

Add the following to Chapter 4 after IX. J.:

IX. K. TOTAL MAXIMUM DAILY LOADS FOR PATHOGENS IN SOQUEL LAGOON, SOQUEL CREEK, AND NOBLE GULCH

The Regional Water Quality Control Board adopted these TMDLs on May 8, 2009.
These TMDLs were approved by:

The State Water Resources Control Board on: _____ (insert date).

The California Office of Administrative Law on: _____ (insert date).
The U.S. Environmental Protection Agency on: _____ (insert date).

Problem Statement

The beneficial use of water contact recreation is not protected in the impaired reaches of Soquel Lagoon, Soquel Creek, and Noble Gulch because fecal coliform concentrations exceed water quality objectives protecting this beneficial use. The impaired reaches are:

- 1) Soquel Lagoon and Soquel Creek: beginning from the mouth of Soquel Lagoon, upstream and along Soquel Creek to the bridge at Porter Street.
- 2) All reaches of Noble Gulch.

Numeric Targets

The numeric targets used to develop the TMDLs and allocations are as follows:

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

Attachment 1

The controllable sources of fecal coliform contributing to impairment in Soquel Lagoon, Soquel Creek, and Noble Gulch are, in decreasing order of contribution:

1. Storm drain discharges to municipally owned and operated separate storm sewer systems (MS4s) required to be covered by an NPDES permit (including but not limited to discharges from fecal material from domestic animals and humans).
2. Sanitary sewer collection system spills and leaks (including but not limited to discharges from private laterals connected to municipal sanitary sewer collection systems).
3. Domestic animal waste discharges in areas that do not drain to MS4s (including but not limited to farm animals, livestock and pets).
4. Homeless person/encampment discharges in areas that do not drain to MS4s.

Total Maximum Daily Load (TMDL)

The TMDLs for the impaired reaches of the following water bodies are concentration based TMDLs applicable for each day for all seasons and are equal to the following:

Soquel Lagoon, Soquel Creek, and Noble Gulch:

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.

Allocations and Responsible Parties

The allocations to responsible parties are shown in Table IX K-1.

Attachment 1

Table IX K-1. Allocations to Responsible Parties

Waste Load Allocations		
<u>Waterbody Subject to Allocation</u>	<u>Responsible Party (Source)</u> <u>NPDES/ORDER Number</u>	<u>Receiving Water Fecal Coliform (MPN/100mL)</u>
<u>Soquel Lagoon</u> ¹	<u>City of Capitola</u> (Storm drain discharges to MS4s required to be covered by and NPDES permit) Storm Water General Permit NPDES No. CAS000004	<u>Allocation-1^a</u>
<u>Soquel Creek</u> ² <u>Noble Gulch</u> ³	<u>County of Santa Cruz and City of Capitola</u> (Storm drain discharges to MS4s required to be covered by and NPDES permit) Storm Water General Permit NPDES No. CAS000004	<u>Allocation-1^a</u>
<u>Soquel Lagoon</u> ¹ <u>Soquel Creek</u> ² <u>Noble Gulch</u> ³	<u>Santa Cruz County Sanitation District</u> <u>(Sanitary sewer collection system spills and leaks)</u> Order No. R3-2005-0043	<u>Allocation-2^b</u>
Load Allocations		
<u>Waterbody Subject to Allocation</u>	<u>Responsible Party (Source)</u>	<u>Receiving Water Fecal Coliform (MPN/100mL)</u>
<u>Soquel Lagoon</u> ¹ <u>Soquel Creek</u> ² <u>Noble Gulch</u> ³	<u>Owners and operators of land used for/containing pets</u> (Pet waste not draining to MS4s)	<u>Allocation-1^a</u>
<u>Noble Gulch</u> ³	<u>Owners and operators of land used for/containing farm animals and livestock</u> (Farm Animals and Livestock discharges)	<u>Allocation-1^a</u>
<u>Soquel Lagoon</u> ¹ <u>Soquel Creek</u> ² <u>Noble Gulch</u> ³	<u>Owners/operators of land that include homeless persons/encampments</u> <u>(Homeless person/encampment discharges not draining to MS4s)</u>	<u>Allocation-2^b</u>
<u>Soquel Lagoon</u> ¹ <u>Soquel Creek</u> ² <u>Noble Gulch</u> ³	<u>No responsible party</u> <u>(Natural sources)</u>	<u>Allocation-1^a</u>

Attachment 1

¹ All waters of the Soquel Lagoon

² Beginning and including the downstream most reach of Soquel Creek, up to and including Soquel Creek at the bridge crossing at Porter Street.

³ All reaches of Noble Gulch.

^a 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 MPN per 100 mL, nor shall more than 10 percent of samples collected during any 30-day period exceed 400 MPN per 100 mL.

^b Allocation 2: Allocation of zero; no loading allowed from this source.

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 numeric target is consistently met in the impaired waters of Soquel Lagoon, Soquel Creek, and Noble Gulch.

Margin of Safety

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

Implementation Plan**STORM DRAIN 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 County of Santa Cruz and the City of Capitola 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 Programs in their SWMPs.

The Central Coast Water Board will require the Wasteload Allocation Attainment Programs to include descriptions of 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 schedule, 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 within thirteen years of the date that the TMDLs are approved by the Office of Administrative Law;
6. Coordination with stakeholders; and
7. Other pertinent factors.

Attachment 1

The Wasteload Allocation Attainment Program 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 Program 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 those MS4 entities that are enrolled under the General Permit at the time of Wasteload Allocation Attainment Plan submittal, the Wasteload Allocation Attainment Program must be incorporated into the SWMPs when they are submitted. For those MS4 entities that are not enrolled under the General Permit at the time of Wasteload Allocation Attainment Program submittal, the Wasteload Allocation Attainment Program must be incorporated into the SWMPs when the SWMPs are 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.

COUNTY OF SANTA CRUZ SANITARY SEWER COLLECTION SYSTEM SPILLS AND LEAKS:

Entities with jurisdiction over sewer collection systems can demonstrate compliance with these TMDL load allocations through Waste Discharge Requirements and/or NPDES permits.

The Santa Cruz County Sanitation District (SCCSD) must continue to implement their Collection System Management Plan, as required by Waste Discharge Requirements (WDRs) (Order No. R3-2005-0043).

In addition, the SCCSD is required to improve maintenance of their sewage collection system, 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 Soquel Creek Watershed.

To this end, within six months following adoption of these TMDLs by the Office of Administrative Law, the Executive Officer will issue a letter pursuant to Section 13267 of the California Water Code requiring: 1) submittal within one year of, a technical report that describes how and when the SCCSD 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 its TMDL allocation, 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 SCCSD is in compliance with the TMDL allocation.

PRIVATE LATERALS TO THE SANITARY SEWER COLLECTION SYSTEM:

The Central Coast Water Board has identified leaks from private laterals located in the City of Capitola and County of Santa Cruz as a source of fecal indicator bacteria in municipal separate storm sewer systems (MS4s). Therefore, enrollees for the City of Capitola and County of Santa

Attachment 1

Cruz General Permit for the Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems will address fecal indicator bacteria from private lateral leaks in the Wasteload Allocation Attainment Program (as described in the Storm Drain Discharges section).

DOMESTIC ANIMALS NOT REGULATED BY WQ ORDER NO. 2003-0005-DWQ [STORM WATER GENERAL PERMIT]:

Owners and/or operators of lands containing domestic animals (including pets, farm animals, and livestock) in the Soquel Creek Watershed and Noble Gulch 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 options owners/operators of lands containing domestic animals have 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 are 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 towards 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).

HOMELESS PERSON/ENCAMPMENT DISCHARGES NOT REGULATED BY WQ ORDER NO. 2003-0005-DWQ [STORM WATER GENERAL PERMIT]:

Owners of land that contain homeless persons and/or homeless encampments in the Soquel Lagoon Watershed must comply with the Human Fecal Material Discharge Prohibition.

Owners of land with homeless persons must demonstrate to the satisfaction of the Executive Officer or the Water Board that they are in compliance with the Human Fecal Material Discharge Prohibition; compliance with the Human Fecal Material Discharge Prohibition implies compliance with the load allocation for these TMDLs.

Attachment 1

Within three years of approval of these TMDLs by the Office of Administrative Law, the Executive Officer will notify owners of land containing homeless persons of the requirement to comply with the Human Fecal Material Discharge Prohibition. In his notification, the Executive Officer will also describe owner's options for demonstrating compliance with the Human Fecal Material Discharge Prohibition; pursuant to California Water Code 13267 and within six months of the notification by the Executive Officer, owners will be required to submit the following for approval by the Executive Officer or the Water Board:

- 1) Clear evidence that the owner is and will continue to be in compliance with the Human Fecal Material Discharge Prohibition; clear evidence could be documentation submitted by the owner to the Executive Officer validating current and continued compliance with the Prohibition, or
- 2) A plan for compliance with the Human Fecal Material Discharge Prohibition. Such a plan must include a list of specific management practices that will be implemented to control discharges containing fecal material from homeless persons. The Plan must also describe how implementing the identified management practices are likely to progressively achieve the load allocation for homeless persons, with the ultimate goal achieving the load allocation no later than three years from the date of the Executive Officer's notification to the owner requiring compliance. The plan must include monitoring and reporting to the Central Coast Water Board, demonstrating the progressive progress towards achieving load allocations for discharges from homeless persons, and self-assessment of this progress, or
- 3) Submittal of a Report of Waste Discharge pursuant to California Water Code Section 13260 (as an application for waste discharge requirements).

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 allocations and numeric target required under these TMDLs is 13 years after the date of approval by the Office of Administrative Law.