

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
Wednesday, July 11, 2018
Regional Water Board Office
Santa Rosa, California

ITEM: 5

SUBJECT: Public Hearing on Proposed Resolution No. R1-2018-0025 Approving the Water Quality Trading Framework for the Laguna de Santa Rosa Watershed (*David Kuszmar*).

BOARD ACTION: The North Coast Regional Water Quality Control Board (Regional Water Board) will consider adopting proposed Resolution No. R1-2018-0025.

INTRODUCTION: Attached to the proposed Resolution is the Water Quality Trading Framework (WQT Framework) for the Laguna de Santa Rosa Watershed, which provides the City of Santa Rosa (City) and the Town of Windsor (Town) with an optional means for complying with “no net loading” effluent limitations for total phosphorus established in National Pollutant Discharge Elimination System (NPDES) permits for their wastewater treatment facilities. Proposed Resolution No. R1-2018-0025 approves the WQT Framework and officially makes it available to the City and the Town.

The Regional Water Board held a public workshop on June 29, 2017 to hear a presentation from staff on the draft Resolution and WQT Framework, and to allow Board members and interested parties to ask questions and provide comments and feedback.¹ The draft documents (and supporting materials) were made available for public review beginning June 14, 2017. Written comments on the public review drafts were accepted by the Regional Water Board through July 21, 2017. Regional Water Board staff considered all comments received, prepared written responses to those comments, and revised the draft Resolution and WQT Framework accordingly. All comments, staff's written responses, and the proposed (i.e., revised) Resolution and WQT Framework are attached to this Executive Officer's Summary Report (EOSR).²

¹ Audio recordings and written materials from the June 29, 2017 workshop are available online at: https://www.waterboards.ca.gov/northcoast/board_info/board_meetings/06_2017/index.html

² Comments appear as excerpted and/or paraphrased in the attached Staff Responses to Comments document. Complete copies of all timely received comment letters are available online (duplicates omitted) at: https://www.waterboards.ca.gov/northcoast/board_info/board_meetings/07_2018/

BACKGROUND: The Laguna de Santa Rosa is the largest tributary to the Russian River, draining approximately 254 square miles of watershed area in Sonoma County. The watershed consists of three primary sub-basins (the Laguna de Santa Rosa, Santa Rosa Creek, and Mark West Creek) and contains densely populated urban areas, recreational areas, and economically important agricultural lands. The watershed also contains the largest freshwater wetland complex on the northern California coast and is home to a variety of threatened and endangered plant and animal species, including threatened steelhead trout and endangered coho salmon. A map of the Laguna watershed is featured in Figure 2.3 of the proposed WQT Framework.

Since the arrival of European settlers in the mid-1800s, the unique lands and waterways of the Laguna watershed have been subject to major alterations, such as deforestation, channel creation and realignment, draining and filling, and agricultural and urban development. Over the years, these alterations (and ongoing pollutant discharges associated with them) have led to declines in ecosystem functions and water quality.

Today, beneficial uses of the Laguna de Santa Rosa are impaired due to a variety of interconnected pollutant discharges and other controllable factors, including but not limited to: excess sediment and nutrients, high water temperatures, low dissolved oxygen levels, indicator bacteria, mercury, and the spread of invasive macrophytes.³ In combination, these factors contribute to ongoing exceedances of the Basin Plan's narrative water quality objective for biostimulatory substances, as well as water quality objectives for sediment, temperature, dissolved oxygen, bacteria, and mercury.⁴

Regional Water Board staff is currently developing Total Maximum Daily Loads (TMDLs) and/or equivalent alternative restoration plans for nutrients, dissolved oxygen, temperature, and sediment to address many of the factors contributing to ongoing water quality degradation and beneficial use impairment in the Laguna de Santa Rosa. Preliminary TMDL analyses suggest that recovery of the beneficial uses of the Laguna cannot be achieved via source controls alone. Rather, a combination of source controls (focusing on current pollutant loads) and restoration actions (focusing on legacy pollutant loads and landscape alterations) will be required to bring function and equilibrium back to the Laguna ecosystem, and ultimately to provide supporting conditions for sensitive species.

To achieve this goal, Regional Water Board staff has designed a program of TMDL implementation for the Laguna de Santa Rosa that relies on a comprehensive suite of initiatives, such as those illustrated in Figure 1 below. These initiatives, including point and nonpoint source controls, restoration planning and implementation actions, and regionally-coordinated monitoring, will be integrated through an adaptively managed watershed stewardship framework.

³ Portions of the Laguna de Santa Rosa and its tributaries are currently listed under section 303(d) of the federal Clean Water Act as impaired for phosphorus, sediment, temperature, dissolved oxygen, indicator bacteria, aluminum, manganese, and mercury.

⁴ "Basin Plan" refers to the Water Quality Control Plan for the North Coast Region, available at: www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/

One important and promising element of the comprehensive program of TMDL implementation for the Laguna de Santa Rosa is a water quality trading (WQT) framework that allows regulated entities (such as NPDES permit holders) to meet their compliance obligations by investing in priority source control and ecosystem restoration actions in lieu of potentially less effective and more expensive facility upgrades.

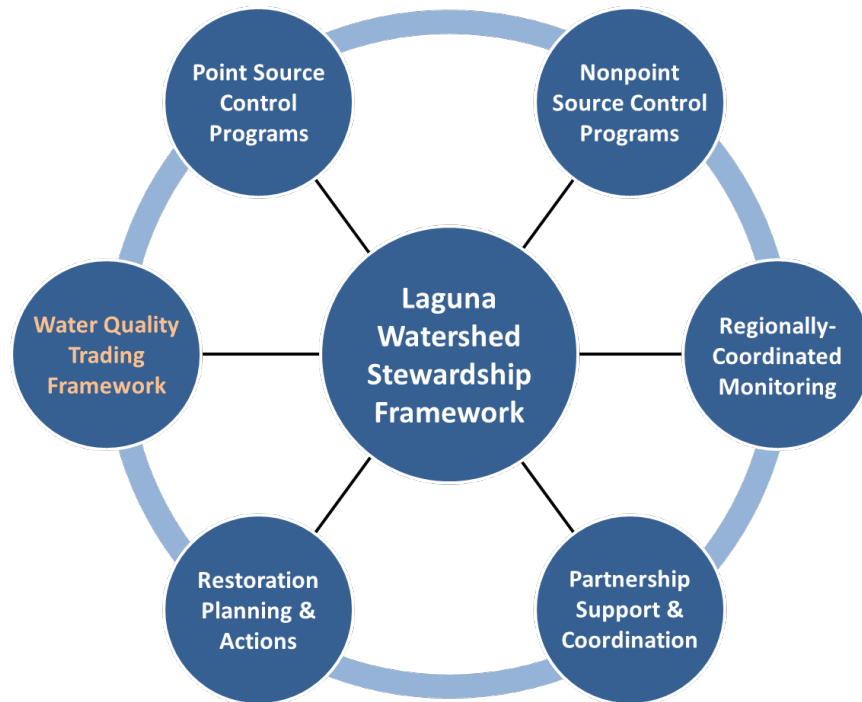


Figure 1. Comprehensive Program of TMDL Implementation for the Laguna de Santa Rosa

Although TMDLs for the Laguna de Santa Rosa have yet to be completed, Regional Water Board permitting actions and program development efforts related to WQT have been in effect and underway for many years.

In 2006, due to recognized exceedances of water quality standards in the Laguna de Santa Rosa, the Board adopted “no net loading” effluent limitations for total nitrogen and total phosphorus in a NPDES permit for the City of Santa Rosa (Order No. R1-2006-0045, NPDES No. CA0022764). Two years later, the Board approved by resolution the Santa Rosa Nutrient Offset Program, outlining the means by which the City could meet those effluent limitations by implementing nutrient offset projects within the Laguna watershed (Resolution No. R1-2008-0061). Since then, Regional Water Board staff has approved, and the City has successfully implemented, three nutrient offset projects: two on low-lying dairy properties and one on an upland nature preserve. In 2013, the Board renewed the City’s NPDES permit (Order No. R1-2013-0001, NPDES No. CA0022764) with a “no net loading” effluent limitation for total phosphorus, and incorporated similar requirements into a NPDES permit for the Town of Windsor (R1-2013-0042, NPDES No. CA0023345), the only other wastewater treatment facility with a point source discharge to the Laguna de Santa Rosa.

Additional details about these and subsequent permitting actions in the Laguna de Santa Rosa watershed are presented in the findings of the proposed Resolution (Attachment 1). Additional information about key advances in WQT program development at both the local and national levels, and about the timing of the Board's consideration of this item was presented in the EOSR for the June 29, 2017 public workshop, which is available on the Regional Water Board's website at the link provided in Footnote 1 above.

DISCUSSION: Staff received a total of 11 unique comment letters on the public review drafts of the Resolution and WQT Framework from the following parties:

- Gold Ridge Resource Conservation District
- Laguna de Santa Rosa Foundation
- Coast Action Group
- Town of Windsor
- The Freshwater Trust
- City of Santa Rosa
- Russian Riverkeeper (RRK)
- Food & Water Watch
- Russian River Watershed Protection Committee (RRWPC)
- RRK Form Letter (60 substantively similar copies received)
- RRWPC Form Letter (41 substantively similar copies received)

Complete copies of each unique comment letter are included in the Board member agenda packages and are available on the Regional Water Board's website at the link provided in Footnote 2 above. In total, staff identified 148 unique comments in the letters received; extracted, indexed and categorized them in tabular form; and prepared written responses to each. All are presented in the attached Staff Responses to Comments document (Attachment 5), and are considered part of the administrative record for this hearing item.

A number of public comments were addressed by revising the draft Resolution and WQT Framework. Those revisions are highlighted in the strikeout-underline versions of the proposed documents (Attachments 3 and 4). The most notable changes fall under the following general categories:

- Increased justification in the proposed Resolution for specific provisions of the WQT Framework (multiple findings)
- Increased clarification of specific provisions in the proposed WQT Framework (multiple sections)
- Added requirements in the proposed WQT Framework for proportional accounting, when a credit-generating project uses public conservation funds for certain phases of work (Section 3.2.6)
- Added guidance encouraging the use of the longer project lives for more permanent, longer-lasting practices, such as riparian restoration or upgrades to roads, fences, and drainage facilities (Section 6.2)

- Expanded credit banking allowances for projects that include habitat or ecosystem restoration, recognized priority or multi-benefit actions (Section 6.3)
- Added required elements for the contents of Credit Project Plans (Section 7.1)
- Added 60-day limit on the Regional Water Board Executive Officer's approval or denial of a proposed Credit Project Plan (Section 7.2)
- Expanded public access to documents and reports related to credit-generating projects and determinations made by the Regional Water Board Executive Officer (multiple sections)

At the hearing, Regional Water Board staff will present a history of staff's stakeholder outreach and WQT Framework development efforts; a review of the proposed Resolution and WQT Framework; a review of the public comments received and staff's responses to those comments; and discussion of key areas of stakeholder interest, agreement and disagreement related to the proposed Resolution and WQT Framework provisions.

RECOMMENDATION: Adopt proposed Resolution No. R1-2018-0025 Approving the Water Quality Trading Framework for the Laguna de Santa Rosa Watershed.

SUPPORTING DOCUMENTS:

1. Proposed Resolution No. R1-2018-0025 (clean version)
2. Proposed Water Quality Trading Framework for the Laguna de Santa Rosa Watershed (Attachment 1 to the proposed Resolution) (clean version)
3. Proposed Resolution No. R1-2018-0025 (strikeout-underline version, reflecting changes made to the public review draft)
4. Proposed Water Quality Trading Framework for the Laguna de Santa Rosa Watershed (Attachment 1 to the proposed Resolution) (strikeout-underline version, reflecting changes made to the public review draft)
5. Staff Responses to Comments on the Draft Resolution and Water Quality Trading Framework for the Laguna de Santa Rosa Watershed
6. Unique comment letters received (11 total)
7. Notice of Public Hearing
8. Links to foundational references and other relevant materials are available at: https://www.waterboards.ca.gov/northcoast/water_issues/programs/nutrient_offset_program/