

**North Coast Regional Water Quality Control Board
Staff Responses to Written Comments
on
Draft Regional Water Board Resolution No. R1-2018-0025
(formerly Resolution No. R1-2017-0027)
and
Draft Water Quality Trading Framework
for the Laguna de Santa Rosa Watershed

Sonoma County**

The North Coast Regional Water Quality Control Board (Regional Water Board) publicly released Draft Resolution No. R1-2017-0027 (Draft Resolution) and the Draft Water Quality Trading Framework for the Laguna de Santa Rosa Watershed (Draft Framework) on June 14, 2017, and held a public workshop on the Draft Resolution and Framework on June 29, 2017 in Santa Rosa, CA. Written public comments on the Draft Resolution and Framework were solicited and accepted by the Regional Water Board between June 14, 2017 and July 21, 2017. Regional Water Board staff timely received 11 unique comment letters and 99 substantively similar duplicate letters from the following parties:

- Gold Ridge Resource Conservation District (RCD)
- Laguna de Santa Rosa Foundation
- Coast Action Group
- Town of Windsor
- The Freshwater Trust
- City of Santa Rosa
- Russian Riverkeeper (RRK)
- Food & Water Watch (FWW)
- 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 and other supporting materials are available on the Regional Water Board's website at:

https://www.waterboards.ca.gov/northcoast/board_info/board_meetings/07_2018/

Regional Water Board staff considered all comments received, prepared written responses as provided in this document, and revised the draft Resolution and Framework accordingly. The Regional Water Board will consider adopting the revised Resolution (which has been re-indexed as Resolution No. R1-2018-0025) and the revised Framework at a public hearing on July 11, 2018. This document is considered part of the administrative record for that hearing.

Staff Responses to Written Comments on Regional Water Board Resolution No. R1-2018-0025
 Approving the Water Quality Trading Framework for the Laguna de Santa Rosa Watershed

Note: The following table contains each public comment received as excerpted or paraphrased from the original comment letter, and staff's written response. For the reader's convenience, each comment has been uniquely indexed with the commenter's name (Comment No.), generally categorized based on topic of interest (Category), and flagged (Y or N) for whether the comment resulted in a revision to the Draft Framework and/or Resolution (Revisions Made?). For purposes of staff's responses in this table, revised Resolution No. R1-2018-0025 is referred to as the 'proposed Resolution' and the revised Water Quality Trading Framework for the Laguna de Santa Rosa Watershed is referred to as the 'proposed Framework.'

Comment No.	Category	Comment	Response	Revisions Made?
RRWPC Form Letter - 1	General Support	"I wish to give my support to the Resolution No. R1-2017-0027 and the attachment entitled Water Quality Trading Framework for the Laguna de Santa Rosa Watershed... We support your effort to control phosphorus pollution in both the Laguna area AND the lower Russian River."	Comment noted.	N
Gold Ridge RCD - 1	General Support	"The Draft Water Quality Trading Framework for the Laguna de Santa Rosa is an excellent opportunity [for us to] partner on our shared missions and build support for locally led conservation."	Comment noted.	N
Gold Ridge RCD - 2	Pre-qualified Practices	The Gold Ridge RCD supports the approval of on-farm practices for credit generation under the Laguna WQT Framework, including those featured in LandSmart plans developed by the RCD. Such practices include those related to storm water management (i.e. installation of roofs, gutters, downspouts), manure management (i.e. construction of manure bunkers, composting manure, proper spreading) and pasture management (i.e. fencing for rotational grazing, water development for improving livestock distribution), which are not currently required under regulatory permits.	Comment noted. Supporting documentation for on-farm practices such as those mentioned may be submitted for review and approval under the proposed Framework's Process for Approving Pre-qualified Practices (Section 2.5.2). Upon approval, those practices will be considered pre-qualified for use on a project scale, and may be included in Credit Project Plans (Section 7.1). (See also RRC Form Letter - 5)	N

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Laguna Foundation - 1	General Support	"The Laguna de Santa Rosa Foundation broadly supports the water quality trading framework proposed by the Regional Water Board."	Comment noted.	N
Laguna Foundation - 2	Incentives for Restoration Projects / Trading Ratios / Credit Banking	The Laguna Foundation would like to see greater incentives in the Laguna WQT Framework for large-scale, long-term restoration projects. Specifically, the Laguna Foundation supports lower trading ratios and extended credit banking for projects that meet one or more of the following descriptions: long-term, large-scale, open to public scrutiny, multi-benefit (for both water quality and other environmental values), and direct measurement.	In consideration of this and similar expressions of support for providing greater incentives in the proposed Framework for large-scale, long-term restoration projects, credit banking provisions in Section 6.3 have been revised, and Finding 29 has been added to the proposed Resolution. However, trading ratio provisions in Section 5 of the proposed Framework remain unchanged. (See also Coast Action Group - 4, Windsor - 4, Windsor - 6, RRK Form Letter - 8, FWW - 15, FWW - 16, RRK - 10, RRK - 20, Santa Rosa - 22, Santa Rosa - 23, Santa Rosa - 24 and RRWPC - 22)	Y
Laguna Foundation - 3	Pre-qualified Practices	The development of supporting documentation for pre-qualified practices represents a substantial administrative burden for local groups interested in participating in the Laguna WQT Framework. The Regional Water Board should consider making funding available to such groups to help expedite the approval of pre-qualified practices and credit-generating projects.	Comment noted.	N
Coast Action Group - 1	General Support	Coast Action Group is generally very pleased and supportive of the changes to the existing Santa Rosa Nutrient Offset Program that staff has proposed in the Laguna WQT Framework. However, there are some issues that need consideration.	Comment noted.	N

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Coast Action Group - 2	Trading Eligibility Criteria / Baseline Requirements	"Succinct and enforceable language must be put in place to ensure that offsets will not be considered for actions or conditions that are otherwise regulated. Offset credit should not be available for conditions that are currently in violation of State Water Code or the Basin Plan."	<p>Agreed. Succinct and enforceable language addressing the commenter's concerns appears in Finding 23 in the proposed Resolution, as well as in Sections 3.2 and 3.2.2 (as revised) of the proposed Framework, which describe eligibility criteria and baseline requirements for credit generating projects, respectively.</p> <p>(See also RRR Form Letter - 5, Freshwater Trust - 4, FWW - 17 and RRR - 9 and RRR - 13)</p>	Y
Coast Action Group - 3	Credit Quantification Methods	"In the assessment of offset projects – analysis should be provided that demonstrates assurance, with a margin of safety, that the pollution reduction and related benefits be attained (or expected to be attained) is commensurate with the offset credit allowed."	<p>Agreed. The proposed Framework contains multiple provisions related to credit quantification, including requirements for supporting documentation of credit quantification methods (Section 2.5.1), requirements for detailed credit estimates in Credit Project Plans (Section 7.1), and requirements for ongoing project verification activities to ensure that credit estimates continue to accurately reflect conditions at credit project sites (Section 8.3).</p> <p>The proposed Framework utilizes trading ratios (Section 5) to account for sources of uncertainty, and to provide a margin of safety that reasonably ensures the phosphorus reductions (as well as other benefits) generated by a project are commensurate with the credits that are ultimately certified for that project.</p> <p>(See also RRR Form Letter 7, FWW - 10 and RRR - 12)</p>	N
Coast Action Group - 4	Credit Banking	"Credit Banking should be permissible (if all standards are met) – with some flexibility allowed for the expiration term of the banked credits. Your customers (City of Santa Rosa, and Windsor to date) will be more available to enter into projects if the term of the credits can be extended for some reasonable period (greater than 3 years)."	<p>In consideration of this and similar expressions of support for more flexible credit banking provisions, Section 6.3 of the proposed Framework has been revised, and Finding 29 has been added to the proposed Resolution.</p> <p>(See also Laguna Foundation - 2, Windsor - 6, RRR Form Letter - 8, FWW - 15, FWW - 16, Santa Rosa - 22, Santa Rosa - 23, Santa Rosa - 24 and RRWPC - 22)</p>	Y

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Windsor - 1	General Support	"Overall, the Town of Windsor (Town) supports the Draft WQT Framework and believes there are many components to the program that support a successful implementation."	Comment noted.	N
Windsor - 2	Credit Stacking	"The limitation on credit stacking (p.11) should be restrictive only for other nutrient offset projects. If a project generates credits for phosphorus in addition to another environmental benefit, those credits should be permitted to be applied to both credit applications with no detriment to the overall value as long as their environmental markets are different."	<p>Section 3.2.7 of the proposed Framework does not prohibit credit stacking, but requires that proportional accounting be used for any project that generates multiple types of credits, including water quality credits that may be used by an eligible NPDES permittee to meet an effluent limitation. This provision ensures that the environmental benefits of credit-generating projects are not double-counted, and is consistent with provisions that appear in most trading programs across the country.</p> <p>Considering the number of incentives already included in the proposed Framework for the implementation of multi-benefit projects, such as reduced trading ratios, longer project lives, and extended credit banking allowances, staff contends that the proposed requirement for proportional accounting in cases of credit stacking remains appropriate at this time.</p> <p>(See also FWW - 23, RRK - 18 and Santa Rosa - 18)</p>	N
Windsor - 3	Credit Quantification Methods / Monitoring	The Town supports the use of pre-established pollution reduction rates and models as appropriate means for quantifying water quality credits, as opposed to direct measurement of pollutant reductions via water quality monitoring, which is burdensome.	<p>Comment noted. Section 4 of the proposed Framework describes appropriate methods for credit quantification. All methods to be utilized under the proposed Framework must be described in supporting documentation for pre-qualified practices (Section 2.5.1), and shall be subject to public review and approval (Section 2.5.2) prior to being incorporated into a Credit Project Plan (Section 7.1)</p> <p>(See also RRK Form Letter - 7, FWW - 10, RRK - 9, RRK - 12, RRK - 19 and RRK - 23)</p>	N

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Windsor - 4	Incentives for Restoration Projects / Trading Ratios	"The Town is very supportive of the authority granted to the Regional Water Board Executive Officer to allow retirement and/or uncertainty ratios to be adjusted downward (p.11)." The Town supports expanding that authority in cases where the applicant can demonstrate that uncertainty is lower than typically expected, and in cases where the Regional Water Board would like to provide additional incentives for pursuing high-priority projects.	<p>In staff's judgement, the cases cited by the Town are already appropriately considered under the proposed Framework. Section 5 allows the Regional Water Board Executive Officer to reduce the retirement ratio multiplier from 0.5 to 0 to incentivize high-priority project types, and to reduce the uncertainty ratio multiplier from 2.0 to 1.5 when an applicant can demonstrate that uncertainty is lower than usual.</p> <p>(See also Laguna Foundation - 2, Freshwater Trust - 2, Freshwater Trust - 3, FWW - 24, RRK - 20 and Santa Rosa - 19)</p>	N
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Windsor - 5	Project Verification / Third-Party Verifiers	<p>"The Town has concerns that the third-party verifier qualifications and role are not clear (p.16). This requirement should be explained in more detail to clarify what characterizes a third-party verifier as qualified, and what the next steps are should there be a discrepancy between the third-party verifier and credit generator's verification reports."</p>	<p>A footnote has been added to Section 8.2.1 of the proposed Framework clarifying the qualifications of third-party verifiers. Language describing the qualifications and roles of third party verifiers in Section 8 of the proposed Framework is intentionally adaptive, due to the broad range and varied nature of practices that may be proposed for water quality credit generation. Recommended verification procedures (which may include conflict resolution procedures) and verifier qualifications must be described in supporting documentation for pre-qualified practices (Section 2.5.1), and shall be subject to public review and approval (Section 2.5.2) prior to being incorporated into a Credit Project Plan (Section 7.1). Thus, the clarity sought by the Town will be provided on a case-by-case basis, through the process for approving pre-qualified practices. As a backstop, the Town retains its right to hire contractors (including third-party verifiers) that it trusts.</p> <p>Ultimately, the Regional Water Board Executive Officer retains the authority to determine the adequacy of verification reports and information provided by a third-party verifier. Section 8.3 of the proposed Framework has been revised to clarify this authority.</p> <p>(See also Freshwater Trust - 12, FWW - 11, FWW - 12, Santa Rosa - 27, RRWPC - 14, RRWPC - 28 and RRWPC - 29)</p>	Y
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Windsor - 6	Incentives for Restoration Projects / Credit Banking	The Town strongly encourages the Regional Water Board to reconsider its proposed credit banking provisions, under which any credit that remains unused by its owner after three years is retired. This three-year limit ultimately puts ratepayers' dollars at risk of being wasted, and discourages credit generators from pursuing large, environmentally-beneficial projects.	In consideration of this and similar expressions of support for providing greater incentives in the proposed Framework for large-scale, environmentally-beneficial projects, credit banking provisions in Section 6.3 have been revised, and Finding 29 has been added to the proposed Resolution. (See also Laguna Foundation - 2, Coast Action Group - 4, RRK Form Letter - 8, FFW - 15, FWW - 16, Santa Rosa - 22, Santa Rosa - 23, Santa Rosa - 24 and RRWPC -21)	Y
RRK Form Letter - 1 (similar from RRK)	Guiding Principles	"I want to see the draft framework strictly adhere to the Guiding Principles of Sound Science, Accountability, Transparency and (public) Accessibility to ensure any transactions are held to the same standards required of NPDES Point Sources in the Federal and State Clean Water Act."	Comment noted.	N
RRK Form Letter - 2 (similar from RRK)	Other	The proposed Water Quality Trading Framework should be renamed a Water Pollution Trading Framework.	Inclusion of the phrase "water quality trading" in the name of the proposed Framework is consistent with the use of that phrase in each of the Foundational References listed in the Introduction Section, including the 2003 USEPA <i>Water Quality Trading Policy</i> . Further, while the only type of water quality credit currently authorized for trading under the proposed Framework happens to be a pollutant credit, future versions of the Framework may include other credit types. Thus, the broader naming convention is most appropriate.	N

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<p>RRK Form Letter - 3 (similar from RRK)</p>	<p>Regulatory Instruments / Opportunities for Public Involvement</p>	<p>"Currently only the two point source dischargers the City of Santa Rosa and the Town of Windsor would be able to use the draft Framework, prior to any new discharger or Permittee enrollments in this program we want to see the adopted Framework re-opened concurrently with the required permit updates for any new enrollees in a public hearing process."</p>	<p>Agreed. Finding 20 in the proposed Resolution and Section 1.2 of the proposed Framework specify that the Framework is only available to dischargers whose NPDES permits explicitly allow the use of nutrient offsets or pollutant credit trading as a means for complying with specific effluent limitations. Section 1.3 has been revised to indicate that the Framework will be re-opened for public review and comment alongside any future NPDES permit that authorizes its use as a compliance option.</p> <p>(See also RRK - 2 and RRWPC - 2)</p>	<p>Y</p>
<p>RRK Form Letter - 4 (similar from RRK)</p>	<p>Pre-qualified Practices / Opportunities for Public Involvement</p>	<p>"I want the Framework to incorporate a 'local advisory group' with a diverse membership including citizens, local water advocates, scientists, engineers and academia that is independent of parties associated with implementing the draft Framework similar to the State of Washington's program to provide input on pre-qualification of eligible trading practices OR a full public hearing process to fully vet any practices proposed for pre-qualification."</p>	<p>The relatively low rate of trading activity expected under the proposed Framework does not justify the level of oversight and administrative burden associated with the commenter's suggested advisory group or full public hearing process. Under a recent federal grant project, a local advisory group was already convened by the Sonoma and Gold Ridge Resource Conservation Districts to develop locally-appropriate recommendations for water quality trading in the Laguna watershed. After three years of work ending in 2015, that group produced the Local Stakeholder Recommendations document referenced in the Introduction Section of the proposed Framework, and cited in Finding 13 in the proposed Resolution. Section 2.5.2 describes the process for approving pre-qualified practices under the proposed Framework, which includes an opportunity for public review and comment. Section 1.3 describes several other opportunities for public involvement.</p> <p>(See also Freshwater Trust - 10, RRWPC - 1 and RRWPC - 7)</p>	<p>N</p>

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RRK Form Letter - 5 (similar from RRK)	Eligibility for Trading Parties / Baseline Requirements	"I do not support ANY trading activity with unregulated non-point sources, either generators or sellers, who discharge Phosphorous and have no baseline requirements. Any eligible party or credit generation MUST be meeting current EPA Water Quality Standards for Phosphorous for Freshwater bodies in Aggregate Ecoregion III of 0.022mg/L to comply with North Coast Basin Plan requirements."	<p>The proposed Framework seeks to cause phosphorus reductions and other beneficial practices to be implemented on managed and natural lands, regardless of whether regulatory programs for nonpoint sources are in effect on those lands. As indicated in Section 3.2.2, all credit-generating projects will be subject to baseline requirements. Where regulatory programs are in effect, their requirements shall be added to the defined baseline for the practices used. Where they are not in effect, appropriate baseline requirements shall be defined on a case-by-case basis, depending on the proposed practice type and project site, and shall be subject to public review and comment before approval.</p> <p>Staff disagrees with the commenter's suggested numerical baseline. The criterion cited is neither a Basin Plan water quality standard, nor has it been established as an effluent limitation in either of the two NPDES permits for which the proposed Framework is intended (see footnote to Section 1.2). The applicable effluent limitation in the subject permits is "no net loading" of total phosphorus. A detailed rationale supporting the establishment of the "no net loading" effluent limitation (as opposed to the commenter's suggested concentration-based limit) appears in the Fact Sheet for each of the two permits, which can be accessed online at the Regional Water Board's website: https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/</p> <p>(See also Gold Ridge RCD - 2, Coast Action Group - 2, Freshwater Trust - 4, FWW - 17, RRK - 9 and RRK - 15)</p>	N
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<p>RRK Form Letter - 6 (similar from RRK)</p>	<p>Regulatory Instruments</p>	<p>"Prior to any trading commences with parties other than the City of Santa Rosa and Town of Windsor's POTW's, we expect that TMDL's are developed for any new parties like all other trading programs on the West Coast."</p>	<p>The Regional Water Board reserves all its authorities, including the authority to develop TMDLs or alternative restoration plans. USEPA policy and national guidance, including each of the Foundational References listed in the Introduction Section of the proposed Framework, all envision pre-TMDL scenarios for the use of water quality trading.</p> <p>(See also RRK - 8, Santa Rosa - 9 and RRWPC - 2)</p>	<p>N</p>
<p>RRK Form Letter - 7 (similar from RRK)</p>	<p>Credit Quantification Methods / Project Verification / Monitoring</p>	<p>"I expect that when new pre-qualified practices are approved, site specific pre and post project water quality monitoring be conducted during rain events, when pollutants are discharged, to ensure the accuracy of computer models to determine credit quantification amounts generated from actual measured reductions in Phosphorous actually meet estimates provided in the pre-qualified practices process. Once confidence is established to the satisfaction of the local advisory group mentioned above then computer modeling could be used to determine credit generation based on the actual modeling data. Anything less does not meet the strict monitoring and reporting requirements of Point Source NPDES permits and address the high level of uncertainty with certain trading practices in addition to credit ratios to address uncertainty."</p>	<p>Provisions in the proposed Framework related to credit quantification (Section 4), project verification (Section 8), and trading ratios (Section 5) are in place to satisfy NPDES monitoring and reporting requirements. These provisions provide reasonable assurance to project stakeholders and the public that projects approved and implemented under the terms of the proposed Framework are accurately reported. Each credit-generating project will include some form of monitoring and reporting (which will vary based on the pre-qualified practices used) to ensure the credits are reasonably estimated, to verify project performance, and to adjust credit quantification as necessary. Moreover, a trading ratio will also be applied to credits generated by each project to account for sources of uncertainty, thus providing an added margin of safety. Project-specific water quality monitoring may be required when/if appropriate, as the commenter suggests.</p> <p>(See also Coast Action Group - 3, Windsor - 3, FWW - 10, RRK - 9, RRK - 12, RRK - 19, RRK - 23 and RRK - 25)</p>	<p>N</p>

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<p>RRK Form Letter - 8 (similar from RRK)</p>	<p>Incentives for Restoration Projects / Credit Banking</p>	<p>"I strongly support this program providing funds to large long –term restoration projects that either reduce legacy phosphorous in the Laguna or improve the Laguna’s ability to process and sequester nutrients in vegetation such as riparian trees. These projects have a long project life and can generate credits for many years providing a stable credit mechanism to assist Windsor and Santa Rosa in meeting permit limits. In order to encourage such projects we support a more favorable credit-banking scenario than three years for any such restoration projects such as five years, but I don’t support credit banking in perpetuity. In addition, any credit generating practices that provide only an annual benefit should not be allowed to bank beyond one year since those practices do not produce an enduring benefit."</p>	<p>To be clear, the proposed Framework does not provide funds to projects, but it does allow projects (such as restoration and pollutant reduction projects) to generate water quality credits, which may be sold to cover project costs.</p> <p>In consideration of this and similar expressions of support for providing greater incentives in the proposed Framework for large-scale, long-term restoration projects, credit banking provisions in Section 6.3 have been revised, and Finding 29 has been added to the proposed Resolution.</p> <p>(See also Laguna Foundation - 2, Coast Action Group - 4, Windsor - 6, FWW - 15, FWW - 16, Santa Rosa - 22, Santa Rosa - 23, Santa Rosa - 24 and RRWPC - 22)</p>	<p>Y</p>
<p>RRK Form Letter - 9 (similar from RRK)</p>	<p>Publicly Available Information</p>	<p>"I expect that the Water Pollution Trading program credit certification, registration and tracking information as well as all associated documents related to pollution reduction activities to achieve baseline requirements for Phosphorous such as Farm Plans be available to the public via a website to be equivalent to public disclosure requirements for all NPDES point source permittees including all verification data and site specific monitoring and all data associated with any computer modeling along with all raw data and assumptions."</p>	<p>The proposed Framework requires extensive, publicly available documentation related to pre-qualified practices (Section 2.5), Credit Project Plans (Section 7), project implementation & verification (Section 8), and credit certification, registration & tracking (Section 9). Each of these referenced sections specify the type of documents and means by (and conditions under) which they shall be made available. Clarifying revisions have been made to Sections 2.5, 2.5.2, 7.1, 7.2, and 8.3 accordingly.</p> <p>Consistent with the proposed Framework's Guiding Principles (Introduction), it is Regional Water Board staff's intent to make all relevant materials associated with water quality trading activities accountable, transparent, and accessible. Some confidential information (e.g., trade secrets) may be protected from public disclosure by applicable laws that provide for the protection of disclosure of such information.</p>	<p>Y</p>

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Freshwater Trust - 1	Use of Public Conservation Funds	<p>"TFT encourages the Regional Board to more fully consider its proposed authorization of the use of public conservation dollars to fund the cost of generating water quality credits. The use of public conservation funds for credit generation is problematic both legally and practically. To be clear, leveraging public conservation funds to pursue larger and more integrated restoration projects represents an important and useful tool to achieve greater environmental benefit than could be realized with compliance funds alone, but funds specifically earmarked for environmental benefit should not be used to generate credits to meet a regulatory compliance obligation. In particular TFT recommends the Regional Board require the use of a robust accounting system that proportionally discounts credits generated based on the portion public conservation funds used for project implementation. Such a system ensures that the intention of those funds—to generate environmental benefit that would not accrue otherwise—is realized, while providing trading participants with the ability to leverage public dollars for greater ecological gains."</p>	<p>Agreed. Section 3.2.6 of the proposed Framework has been revised to require proportional accounting of credits when public conservation funds are used to implement credit-generating projects. Credits generated using public conservation funds cannot be sold by project developer.</p> <p>(See also FWW - 22)</p>	Y
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Freshwater Trust - 2	Trading Ratios	<p>"[T]he Framework's discussion of trading ratios in Section 5 does not contain a sufficiently detailed explanation of the rational basis underlying the chosen ratios. This lack of explicit technical basis for the chosen ratios is problematic in light of the downward adjustment component of the trading ratios, particularly for the retirement ratio. Including some justification to support the chosen ratios would bolster the defensibility of the Framework."</p>	<p>Finding 28 has been added to the proposed Resolution, clarifying the rationale behind the trading ratios specified in the proposed Framework. Given the relatively low rate of trading activity anticipated during this generation of the proposed Framework (i.e., between when the Framework is approved and when it is likely be re-opened for review, revision, and approval), and given the yet-to-be-defined nature of the specific practices and projects that may be proposed, staff do not at this time recommend special treatment of each possible source of risk and uncertainty associated with credit-generating projects, as the commenter suggests.</p> <p>(See also Freshwater Trust - 3, Laguna Foundation - 2, Windsor - 4, FWW - 24, RRK - 20, Santa Rosa - 19 and RRWPC - 2)</p>	Y
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<p>Freshwater Trust - 3</p>	<p>Trading Ratios</p>	<p>The Freshwater Trust (TFT) does not offer a specific ratio recommendation, but does recommend that special consideration be given to the following sources of risk and uncertainty:</p> <ul style="list-style-type: none"> (1) Project Failure or Underperformance (2) Credit Quantification (3) Attenuation (4) Time to Benefit <p>TFT provides commentary and case-specific suggestions for each source listed. Refer to TFT comment letter for additional details.</p>	<p>For the sources specifically addressed by the commenter, staff offers the following brief responses (See also Freshwater Trust - 2 and RRWPC - 2):</p> <ul style="list-style-type: none"> (1) Under the proposed Framework, all risk associated with project failure or underperformance is borne by the NPDES permittee (i.e., the Credit Buyer). Therefore, a specific or additional trading ratio for this source of uncertainty is not needed. (2) Credit quantification methods will be included in supporting documentation for pre-qualified practices (Section 2.5.1), and can be tailored to address the sources of uncertainty described by the commenter. (3) As suggested by the commenter, staff believes that attenuation is generally not a concern in the Laguna, due to its high pollutant trapping efficiency. Therefore, a specific or increased trading ratio for this source of uncertainty is not needed. (4) As suggested by the commenter, due to the immediate benefits of restoration actions that may be implemented in credit-generating projects, and due to the nature of land management practices that may similarly cause benefits once installed (i.e., beginning with the first runoff event), an increased or specific trading ratio to account for delays in water quality benefits from credit-generation actions is not needed. 	<p>N</p>
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<p>Freshwater Trust - 4</p>	<p>Baseline Requirements</p>	<p>Section 3.2.2 - Baseline Requirements for Credit Generating Projects: "TFT recommends that the Regional Board explicitly identify the sources of baseline that will apply to credit projects covered by the Framework. In the geographic area covered by the Framework, TFT believes that the following sources of baseline, and potentially others not included here, should be added to such a list: NPDES Permit requirements; State laws and regulations, such as the Porter-Cologne Water Quality Act and the California Environmental Quality Act; Requirements of a federal or state land or watershed management plan, or an agreement between a federal agency and the state; Requirements established in a Clean Water Act Section 401 water quality certification, Projects completed as part of compensatory mitigation, or projects required under a permit or approval issued under Clean Water Act section 404, or a supplemental environmental project used to settle a civil penalty; Local zoning ordinances or codes, city and county plans, and any applicable development guidelines; Tribal laws, rules, or permits; Other applicable rules affecting nonpoint source requirements; and Regulatory requirements a designated management agency establishes to comply with any applicable TMDL, basin plan or another water pollution control plan."</p>	<p>Staff agrees with the commenter's characterization of the importance of clearly-specified baseline requirements, and further agrees that the sources of baseline listed by the commenter are all applicable under the proposed Framework. However, staff contends that Finding 23 (as revised) in the proposed Resolution and Section 3.2.2 (as revised) of the proposed Framework provide sufficient clarity to guide the development of detailed practice- and project-specific baseline requirements in supporting documentation for pre-qualified practices (Section 2.5) and in Credit Project Plans (Section 7.1).</p> <p>(See also Coast Action Group - 2, RRK Form Letter - 5, FWW - 17 and RRK - 9)</p>	<p>Y</p>
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Freshwater Trust - 5	Baseline Requirements	"The Framework as currently drafted... contains some potentially confusing discussion in Section 3.2.3— Applied Timing of Baseline Requirements. That provision states, 'All applicable baseline requirements must be met before any approved project is allowed to generate credits under this WQT Framework.' While not technically inaccurate, this provision suggests that satisfaction of baseline obligations must occur prior to implementation of a credit generating project. In actuality, projects commonly satisfy baseline requirements in conjunction with implementation of the credit generating project components. Thus, TFT recommends a revision to clarify..."	Agreed. Section 3.2.3 of the proposed Framework has been revised to clarify that baseline requirements and credit-generating project components may be implemented simultaneously.	Y
Freshwater Trust - 6	Avoiding Localized Impacts	Section 3.2.1 - Avoiding Localized Impacts: "The EPA has stated that water quality trading may not result in the creation of localized impairments to water quality. The inclusion of a provision in the Framework reiterating this point is important. Yet, as currently drafted, the localized impact provision is a source of uncertainty and confusion, particularly the direction that credits offset pollution 'in place, in kind, and in time.' For the specific approved project actions, TFT recommends replacing this ambiguous statement with a much clearer statement that ensures that entities purchasing credits from dispersed nonpoint source projects are not causing localized 'hot spots' through continued discharges of nutrients into the Laguna de Santa Rosa."	Section 3.2.1 of the proposed Framework and Findings 24 through 27 in the proposed Resolution have been revised to clarify the intent and rationale behind the subject Framework provision. (See also FWW - 15, FWW - 21, RRK - 10, RRK - 11, RRK - 14, Santa Rosa - 5, Santa Rosa - 15 and Santa Rosa 16)	Y

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Freshwater Trust - 7	Credit Project Plans	Section 7.1 - Credit Project Plans: "The Project Maintenance Plan, a component of the overarching Project Plan, lacks some of the requirements common in other trading programs that ensure the anticipated environmental benefits accrue... TFT recommends that the Regional Board require an agreement that provides access to and legal protection of the project area against other dissonant land uses for, at minimum, the entire credit life, and ideally, for the maximum projected project life."	Agreed. Section 7.1 has been revised to specify that legal protection agreements must be established for all Credit Project Plans. Section 8.2.1 has been revised to indicate that legal protection agreements must be confirmed during Initial Project Verification.	Y
Freshwater Trust - 8	Credit Project Plans	Section 7.1 - Credit Project Plans: "The Project Design and Credit Information component of the Credit Project Plan lists a number of items that need to be identified in order for a project to garner approval. This list, while relatively encompassing, lacks two important items— the baseline analysis for a particular project (e.g., a description of the applicable baseline requirements and a discussion of how those requirements have been satisfied), and the financial additionality description (if any other public funds have been used at the project). Because doing so would entail a minor amount of additional effort, TFT recommends that the Regional Board add these two items to the list in order to improve the accountability and transparency of any credit generating projects."	Agreed. Section 7.1 of the proposed Framework has been revised to include plan elements similar to what the commenter suggests.	Y

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Freshwater Trust - 9	Adaptive Project Management	Section 7.1 - Credit Project Plans: "The Credit Project Plan component of the Framework does not include any provisions on adaptive management. TFT believes that adaptive management constitutes an important aspect of water quality trading as it helps to guarantee that the projects are evaluated on an ongoing basis and improvements are made as the understanding of those sites develops. Requiring adaptive management of credit project sites and reports to the Regional Board on the status of adaptive management ensures that project sites are improved and maintained as necessary, and that calculation methodologies and assumptions can be improved for future credit sites. This would not require much additional effort as the ongoing evaluations of projects should already be occurring, an adaptive management provision would simply require credit generators to detail and report those findings."	Agreed. Like most sediment and nutrient control projects that occur in natural settings, credit-generating projects approved under the proposed Framework are expected to be adaptively managed. Section 7.1 of the proposed Framework has been revised to explicitly require that procedures for adaptive management be included in Credit Project Plans. Sections 8.2.2 and 8.3 have been revised to explicitly require recommendations for adaptive management be included in project verification reports.	Y
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<p>Freshwater Trust - 10</p>	<p>Credit Project Plans / Opportunities for Public Involvement</p>	<p>Sections 7.2 and 7.3 - Credit Project Plans and Credit Project Plan Approval Process: "It is unclear what the benefit of [the proposed Framework's] pre-qualification process is in light of the later project approval process. If a conservation practice is pre-approved with associated quality standards, then projects designed and implemented consistent with the pre-approved practice should be eligible. As written, however, the pre-qualification process represents an additional burden on regulators and the project developers that does not appear to generate any additional certainty given the need to also go through the credit project plan approval process. TFT recommends that the Regional Board maintain the pre-qualification process, but adjust the project approval process to one that ensures that the individual project has been designed and implemented consistent with the pre-approved practice documentation. This streamlined approach will minimize redundancy, thus reducing the transactional burden and associated costs for both the Regional Board and for project developers. If the Regional Board does see an additional benefit to project plan approval, the Regional Board should clarify what that benefit is in the Framework and detail how the pre-qualification, project pre-screening, and project approval processes efficiently work in conjunction with one another."</p>	<p>Consistent with the proposed Framework's Guiding Principles (Introduction) and with extensive stakeholder input received to date, the Process for Approving Pre-qualified Practices (Section 2.5.2) in the proposed Framework is intended to afford the greatest amount of public review and input on credit-generating projects when it matters most - early, before site-specific project development proceeds in earnest. Projects are indeed eligible under the Framework if they are designed and implemented consistent with pre-qualified practice standards, and thus enjoy a more streamlined Credit Project Approval Process (Section 7.2). The Credit Project Pre-Screening Process (Section 7.3) is optional, and need only be utilized by project developers who feel it will benefit them. Staff's inclusion of these separate processes in the proposed Framework is consistent with the Local Stakeholder Recommendations, which are referenced in the Introduction Section of the proposed Framework, and cited in Finding 13 in the proposed Resolution.</p> <p>(See also RRB Form Letter - 4, RRWPC - 1 and RRWPC - 7)</p>	<p>N</p>
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Freshwater Trust - 11	Project Verification	<p>Section 8.2 - Initial Project Verification: "Section 8.2 of the Framework currently requires initial project verification following the implementation of a credit generating project, TFT supports post-implementation confirmation that a project has been installed properly and is likely [to] achieve the anticipated benefits. However, the Framework calls for this review to be based on the Credit Project Plan. This seems like a redundant step given the other project requirements. Instead, TFT recommends that initial project verification should compare the as-built project against the pre-qualified project standards (as projects often evolve from pre-project planning stages). This would likely improve efficiency for all involved, thereby improving the trading program generally."</p>	<p>Under the proposed Framework the Credit Project Plan Approval Process (Section 7.2) is intended, in part, to confirm that each Credit Project Plan is consistent with pre-qualified practice standards. Initial Project Verification (Section 8.2) is intended to confirm that each credit-generating project is implemented in accordance with the its approved Credit Project Plan. Thus, the commenter's interest in confirming that implemented projects be verified for conformance with pre-qualified practice standards is addressed, albeit in two steps.</p> <p>(See also Santa Rosa - 27)</p>	N
Freshwater Trust - 12	Project Verification	<p>Section 8.3 - Ongoing Project Verification: "[I]t is unclear what 'a failure to meet approved practice standards or other requirements of an approved Credit Project Plan' specifically entails. In particular, TFT recommends that the Regional Board clarify the threshold for the "failure to meet" language. Credit projects are bound to differ in minor ways from the project design due to on-the-ground practicalities and a number of other factors associated with installing credit projects in dynamic riverine environments. If every minor difference could potentially trigger the need to notify the Board and submit a plan for remedy, it would place a serious burden on both trading participants and the agency staff. Therefore, TFT recommends that the Regional Board include a more definitive "materiality" standard. A "material failure to meet" threshold would provide a greater level of predictability to trading participants, and clarify what deviations are within the realm of appropriate adaptive management versus those that are significant enough to warrant Regional Board involvement and remedy."</p>	<p>Comment noted. Staff recognizes that some level of adaptive management will be necessary in the successful implementation of Credit Project Plans. Section 8.3 of the proposed Framework has been revised to indicate that "material" failures trigger notification and remediation planning requirements, and that the Regional Water Board Executive Officer ultimately has the authority to interpret this provision.</p> <p>(See also Windsor - 5, FWW - 12, Santa Rosa - 27 and RRWPC - 29)</p>	Y

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Freshwater Trust - 13	General Support	"In the end, TFT congratulates the Regional Water Quality Control Board staff on developing a strong water quality trading framework. This represents a significant step forward for both the environment and the regulated community in California. TFT applauds the efforts of all those involved in developing this Framework, as it is a thorough and robust guidance for water quality trading activities in the Laguna de Santa Rosa."	Comment noted.	N
FWW - 1	General Opposition	"The Board should reject water pollution trading as a mechanism to address phosphorus pollution in the watershed."	Comment noted. Findings 8 through 17 in the proposed Resolution describe the Regional Water Board's rationale for allowing alternative methods to comply with the "no net loading" effluent limitation for total phosphorus established in NPDES permits for the Santa Rosa and Windsor Facilities.	N
FWW - 2	Legal	"The Board relies on various documents in the proposed Framework, including the National Network on Water Quality Trading's ('NNWQT') 'Building a Water Quality Trading Program,' a manual detailing its views on what it called 'successful' pollution trading programs. But the NNWQT report builds off a false foundation, incorrectly claiming that pollution trading is 'guided by the same goals as those set out in the Clean Water Act.' The Board also purports to rely on EPA's trading guidance and permit writers' guide, yet both of these documents themselves deviate from the goals and requirements of the CWA, and both fail to provide a statutory basis for trading."	Comment noted. The references cited provide background information and guidance for the Regional Water Board's consideration of the proposed Framework. These references were not a factor in the Regional Water Board's development of NPDES permits that fulfill its obligation to administer its NPDES permitting program in compliance with the Clean Water Act and the Porter-Cologne Water Quality Control Act. (See also FWW - 8)	N

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FWW - 3	Legal	<p>"The Regional Water Board's attempt to avoid conducting a California Environmental Quality Act ('CEQA') analysis of the Framework as a whole is improper, and its piecemeal approach of conducting environmental review only of individual proposed trades will result in inadequate consideration of the scheme's cumulative impacts. This Framework expands on the existing Santa Rosa offset program that itself raised serious questions about whether the Regional Board has complied with its CEQA obligations. The Board should analyze, based on the entire record before it, whether the proposed Framework would have a significant effect on the environment; since the record as it exists now supports a finding of a probable significant environmental impact, the Board should then conduct an Environmental Impact Report ('EIR') pursuant to CEQA."</p>	<p>Please see Finding 37 (as revised) in the proposed Resolution. The Regional Water Board is not committing to the approval of a specific project or set of projects at this time. It would be premature and speculative to complete an environmental analysis prior to having a definite physical project description. The proposed Framework does not commit the Board to a definite course of action, and project-level CEQA review will be completed when individual credit projects are brought to the Board for consideration.</p>	Y
FWW - 4	Legal	<p>"The Framework is subject to CEQA because the Framework is a 'project'."</p>	<p>Please see Finding 37 (as revised) in the proposed Resolution. The provisions of CEQA do not apply to categories of projects for which the Office of Planning and Research has determined will not have a significant effect on the environment, or are otherwise statutorily exempt. (See Public Resources Code section 21084; California Code of Regulations, title 14, section 15300.)</p>	Y
FWW - 5	Legal	<p>"The Framework does not qualify for the CEQA exemptions cited by the Board."</p>	<p>Please see staff's responses to Comment No. FWW - 4.</p>	Y

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FWW - 6	Legal	"The Framework will likely have significant environmental impacts, and these impacts are not too speculative to consider at this stage."	The proposed Framework provides guidelines for compliance determinations for two NPDES permits that contain a "no-net loading" effluent limitation for total phosphorus. The adoption of NPDES permits is statutorily exempt from CEQA (California Water Code section 13389.) In addition, as noted in staff's responses to Comment Nos. FWW - 3 and FWW - 4, the Regional Water Board retains its full authority to approve or disapprove an individual project, impose project-specific mitigation measures, and is not committed to any definite action with respect to future project proposals. (See <i>Save Tara v. City of West Hollywood</i> (2008) 45 Cal. 4th 116.) The proposed Framework and adopting Resolution require project-level CEQA review prior to any specific project approval.	N
FWW - 7	Legal	"The Regional Board's failure to review the Framework as a whole is contrary to the purpose of CEQA and poor public policy."	Comment noted.	N

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FWW - 8	Legal	<p>"The proposed trading program is illegal under the Clean Water Act."</p>	<p>The Clean Water Act does not prohibit water quality credit trading. USEPA has stated that credit trading can be an important tool in promoting greater efficiency in restoring and protecting water quality and "Water Quality Trading under the Clean Water Act is an option for compliance with a water quality based effluent limitation in a NPDES permit." (USEPA Water Quality Trading Guidance available at: https://www.epa.gov/npdes/water-quality-trading)</p> <p>See also 68 Fed. Reg. 1611; USEPA's published notice regarding its Water Quality Trading Policy describing ways that water quality credit trading programs can be aligned with the Clean Water Act and implementing regulations. Since USEPA developed its Water Quality Trading Policy a number of states have developed their own water quality credit trading programs (Oregon, Virginia, Ohio, Idaho, and Minnesota among them.)</p> <p>Further, while not a precedential decision for California permitting purposes, the Minnesota Supreme Court held that water quality credit trading that allowed a wastewater treatment facility to continue to discharge phosphorus to an impaired water body was acceptable as a state must balance difficult policy issues with its broad delegated authority under the Clean Water Act to develop long-range, area-wide programs for water quality. (In Re Cities of Annandale & Maple Lake, (2007) 731 N.W. 2d 502.)</p> <p>(See also RRK - 7)</p>	N
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FWW - 9	Legal / Regulatory Instruments	"Credit purchasers may use credits in lieu of meeting 'specific effluent limitations' as authorized in the NPDES permit. This impermissibly leaves the door open to allow trading to meet any phosphorus limit in a permit, including TBELs."	<p>Section 301(b)(1)(B) of the Clean Water Act requires that all publicly owned treatment works must, as a minimum, meet effluent limitations based on secondary treatment as defined by the USEPA Administrator. These technology-based effluent limitations (TBELs) apply to all municipal wastewater treatment facilities and identify the minimum level of effluent quality attainable by secondary treatment in terms of BOD5, TSS, and pH. The effluent limitations established in both NPDES permits referenced in the proposed Framework exceed the technology-based requirements for secondary treatment set forth in 40 CFR section 133.102.</p> <p>Additionally, both permits establish water quality-based effluent limitations (WQBELs) for total phosphorus in accordance with federal regulations at 40 CFR section 122.44(d). The established WQBELs in both permits are not "any phosphorus limit" as the commenter suggests, but rather, specifically established "no net loading" effluent limitations. Under the terms of the proposed Framework, compliance with the "no net loading" effluent limitations will always require an annual overall reduction of phosphorus discharged to the Laguna de Santa Rosa.</p>	N
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FWW - 10	Credit Quantification Methods / Project Verification / Monitoring	"Alleged nonpoint source reductions are not verified through required monitoring programs. The Framework authorizes credit generators to quantify pollution reduction credits using 'models (mechanistic or empirical), pre-established pollution reduction rates (from experimentation or scientific literature), direct monitoring, or a combination of the above.' This violates the CWA, which requires that NPDES permits contain conditions to 'assure compliance' with NPDES permit effluent limitations, water quality standards, and other requirements of the Act. The federal CWA regulations further specify that 'each NPDES permit shall include' monitoring requirements '[t]o assure compliance with permit limitations,' including '[t]he mass (or other measurement specified in the permit) for each pollutant limited in the permit; [t]he volume of effluent discharged from each outfall; or [o]ther measurements as appropriate."	Sections 4 and 8 of the proposed Framework describe appropriate methods for credit quantification and project verification requirements, respectively. All quantification methods and verification procedures to be utilized under the proposed Framework, including monitoring requirements for both, must be described in supporting documentation for pre-qualified practices (Section 2.5.1), and shall be subject to public review and approval (Section 2.5.2) prior to being incorporated into a Credit Project Plan (Section 7.1). (See also FWW - 13, FWW - 16, Windsor - 3, RRK Form Letter - 7, RRK - 12, RRK - 19, RRK - 23 and RRK - 25)	N
FWW - 11	Project Verification / Third-Party Verifiers	"The use of third-party 'verifiers' makes the pollution trading program highly unreliable. The Framework proposes to rely on third-party verifiers to document the implementation of credit generating practices. This amounts to an abdication of the Board's responsibility to conduct enforcement and compliance oversight, and removes much of the program from meaningful public scrutiny."	Please see Sections 1.4 and 8.3 (as revised) of the proposed Framework. As with all permits issued by the Regional Water Board, the Board retains all of its authorities to enforce permit terms and conditions and to make compliance determinations. The proposed Framework provides for the Regional Water Board Executive Officer to audit credit verification reports and to determine on a case-by-case basis whether additional information is needed to ensure that a project is implemented in accordance with its approved Credit Project Plan. (See also Windsor - 5, RRWPC - 4, RRWPC - 27 and RRWPC - 28)	Y

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FWW - 12	Project Verification	"Any deviations between the approved [Credit Project Plan] and the as-built project that are observed by verifiers should be deemed unauthorized and subjected to additional review."	Please see staff's response to Comment No. FWW - 11. (See also Windsor - 5, Freshwater Trust - 12, Santa Rosa - 27 and RRWPC - 29)	N
FWW - 13	Publicly Available Information / Project Verification	"The Framework is also extremely vague in describing how rigorous ongoing verification activities will need to be. It does not establish minimum verification frequencies or reporting requirements, stating these 'will vary' project-to-project. This makes it practically impossible for the public to assess whether the Framework will result in adequate ongoing oversight of practices that require ongoing maintenance."	The proposed Framework is designed to be transparent, and provides opportunities for public involvement and oversight on several occasions outlined in Section 1.3. Additionally, as mentioned in staff's responses to Comment Nos. FWW - 3 and FWW - 6, credit-generating projects that require additional CEQA review will need to comply with all public participation requirements pursuant CEQA. Section 8 of the proposed Framework describes project verification requirements. All verification procedures to be utilized under the proposed Framework, including verification frequencies and reporting requirements, must be described in supporting documentation for pre-qualified practices (Section 2.5.1), and shall be subject to public review and approval (Section 2.5.2) prior to being incorporated into a Credit Project Plan (Section 7.1). (See also FWW - 10, RRK - 21, RRWPC - 27 and RRWPC - 28)	N

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FWW - 14	Eligibility for Trading Parties	<p>"Point sources should never be able to generate water pollution credits. The Framework allows point sources to generate, as well as purchase, pollution credits. Allowing point sources to generate and sell credits undermines the CWA's technology-forcing principles and its goals of strengthening permits and continually reducing pollution over time. Point sources are required to use the best available technology to reduce their discharges, and their permits should reflect that by imposing the most stringent effluent limits that the industry's technology can achieve, or the most stringent limits required to maintain water quality standards. If a point source is discharging less than the allowed amount or concentration of a pollutant, this indicates that the permitting authority must strengthen the permit limits accordingly, rather than allowing the discharger to continue complying with lax, outdated standards and profiting from the difference."</p>	<p>The proposed Framework accounts for the possibility that a municipal entity with multiple departments could trade water quality credits between those departments, provided all other eligibility criteria and Framework requirements are met. (See Sections 2.2 and 3.1.2.) Further, an entity that generates more credits than it needs to meet its compliance obligations in any given year may sell those credits to another party. The fact that an NPDES permit holder is capable of funding nutrient reduction actions and restoration work at sites other than its facility does not oblige it to provide such funding or offsets in increasingly high amounts that go beyond its requirement to meet its "no net loading" effluent limitation.</p> <p>(See also Santa Rosa - 14)</p>	Y
FWW - 15	Avoiding Localized Impacts / Credit Banking	<p>"Credits should never be able to be used in a different compliance period than the one in which they were generated. The Framework proposes to allow 'banking' of credits for up to three years, meaning a point source could purchase and use credits to continue its phosphorus discharges even if the claimed reductions took place years prior. This practice will lead to pollution spikes and hot spots that the Framework purports to prohibit..."</p>	<p>Finding 27 has been added to the proposed Resolution, clarifying that allowances for credit banking under the proposed Framework are consistent with staff's understanding of the nature of nutrient transport and availability, and of biostimulatory dynamics in the Laguna watershed. By their nature, phosphorus discharges within the allowable discharge season (i.e., Oct 1 - May 14) do not create harmful spikes or hotspots, unlike those that could be generated by other types of pollutants (e.g., toxins) if not otherwise regulated.</p> <p>(See also FWW - 10, FWW - 16, Laguna Foundation - 2, Coast Action Group - 4, Windsor - 6, RRK Form Letter - 8, Freshwater Trust - 6, Santa Rosa - 5, Santa Rosa - 15, Santa Rosa - 16, Santa Rosa - 22, Santa Rosa - 23, Santa Rosa - 24 and RRWPC - 22)</p>	Y

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FWW - 16	Legal / Regulatory Instruments / Credit Banking	"If a permittee has a monthly or annual limit, and the pollution reductions are generated outside of that compliance period, the NPDES program does not authorize those earlier reductions to count towards meeting a future limit. To the contrary, this would be an exceedance of an effluent limit and a permit violation. The Board lacks authority to allow credit banking and essentially strip the temporal requirements from existing permit effluent limits."	Under NPDES regulations and the Porter-Cologne Water Quality Control Act, monitoring is required on a case by case basis to ensure compliance with permit effluent limitations with frequency dependent on the nature and effect of the discharge. (40 CFR sections 122.44, 122.48.) Under the proposed Framework, compliance reports are required and compliance determinations are performed on an annual basis. For each compliance period, the discharger is required to have reduced or removed more phosphorus from the receiving water than it has discharged, or it will be in violation of its "not net loading" effluent limitation. (See also FWW - 15, Laguna Foundation - 2, Coast Action Group - 4, Windsor - 6, RRK Form Letter - 8, Santa Rosa - 22, Santa Rosa - 23, Santa Rosa - 24 and RRWPC - 22)	N
FWW - 17 (similar from RRK)	Baseline Require- ments	"The Framework lacks meaningful baseline requirements for credit generators. The Framework allows nonpoint sources that have adopted essentially no best management practices to sell credits, using current practices, regardless how polluting, as the baseline. This approach will not improve water quality or establish a fair, accountable cleanup plan for the watershed. Instead, it rewards those sources that are currently using the least beneficial practices to reduce phosphorus, as these sources will have the most opportunity to reduce loadings through low-cost practices that should already be required. Nonpoint sources generating credits should be required to meet a consistent baseline, which should require adoption of best management practices and a demonstration of their efficacy through water quality monitoring. The proposed status quo baseline is bad public policy that will not improve water quality."	Contrary to the commenter's suggestion, and as indicated in Section 3.2.2 of the proposed Framework, all credit-generating projects will be subject to baseline requirements. Where regulatory programs are in effect, their requirements shall be added to the defined baseline for the practices used. Where they are not in effect, appropriate baseline requirements shall be defined on a case-by-case basis, depending on the proposed practice type and project site, and shall be subject to public review and comment before approval. (See also Coast Action Group - 2, RRK Form Letter - 5, Freshwater Trust - 4, RRK - 9 and RRK - 15)	N

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FWW - 18	Baseline Requirements	"[R]egulated sources should not be allowed to generate credits from simply complying with a compliance schedule earlier than required. The very point of a compliance schedule is that a facility is out of compliance with existing requirements; simply beginning to comply with the law is not grounds to award a point source with sellable credits."	Agreed. In consideration of this and similar comments regarding project life and the applied timing of baseline requirements, Sections 3.2.2 and 6.2 of the proposed Framework have been revised. (See also RRK - 16)	Y
FWW - 19 (similar from RRK)	Project Life / Baseline Requirements	"[C]redits for practices that become baseline requirements should not be grandfathered for the entire project life. The Framework does not even define or put a limit on project life, meaning that credits based on practices that become mandatory could persist indefinitely. This will slow water quality progress and create an incentive to seek approval for unreasonably long-term projects that will generate credits for standard, but voluntary, practices. The Board's priority should be establishing nonpoint source requirements to reduce phosphorus discharges, rather than implementing a voluntary trading scheme."	In contrast to the Santa Rosa Nutrient Offset Program, Section 3.2.2 of the proposed Framework specifies that any project approved under the terms of the Framework will be allowed to generate credits for its approved project life, regardless of whether the pre-qualified practices used later become subject to regulatory requirements. This provision encourages parties to participate in water quality trading activities by providing them with regulatory certainty. That said, the Regional Water Board Executive Officer has the discretion to approve Credit Project Plans with relatively short project lives when practices used in credit-generating projects are likely to become required in the future under emerging regulatory programs. Section 6.2 of the proposed Framework has been revised to indicate that shorter project lives are appropriate for practices that may soon become subject to regulatory requirements. Maximum project life must be specified in supporting documentation for all pre-qualified practices (Section 2.5.1), and shall be subject to public review and approval (Section 2.5.2) prior to being incorporated into a Credit Project Plan (Section 7.1). (See also RRWPC - 18)	Y

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FWW - 20	Baseline Requirements / Regulatory Instruments	<p>"The Framework lacks any baseline requirements for credit purchasers. The Framework's eligibility criteria for credit purchasers are even weaker than for credit generators. In fact, there are no eligibility requirements for these facilities other than having trading allowed in the terms of the permit itself. Common sense baseline requirements must at a minimum include complete NPDES permit compliance with all other permit limits and terms. As noted above, the Town of Windsor, one of the two point sources the Board has already authorized to purchase trading credits in their NPDES permits, has a recent history of noncompliance with various effluent limitations. The lack of eligibility criteria for participating in the Framework's trading program further undermines any assertions that the trading program will have positive outcomes for water quality."</p>	<p>The proposed Framework only addresses compliance options for phosphorus effluent limitations in NPDES permits for the City of Santa Rosa and the Town of Windsor. The City and Town are required to comply with all other effluent limitations in their permits and are subject to enforcement for non-compliance. The proposed Framework does not relieve the City or the Town from complying with all permit terms and conditions regardless of their election to participate in the water quality trading.</p>	N
FWW - 21	Avoiding Localized Impacts / Trading Area	<p>"Trading across the entire proposed trading area will fail to prevent hotspots of pollution and is contrary to EPA's guidance."</p>	<p>Finding 25 has been added to the proposed Resolution, clarifying the rationale behind the trading area specified in the proposed Framework. Based on staff's understanding of sediment and nutrient trapping characteristics in the Laguna de Santa Rosa, and of the timing of critical conditions, staff disagrees with the commenter's assertion that water quality trading activities conducted under the proposed Framework will result in localized water quality degradation.</p> <p>(See also Freshwater Trust - 6, RRK - 10, RRK - 14, Santa Rosa - 5, Santa Rosa - 15 and Santa Rosa - 16)</p>	Y

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FWW - 22	Use of Public Conservation Funds	"The Framework should not allow double-dipping with public conservation funding. The Framework effectively allows for public subsidization of private credit generating projects, by allowing credit generators to use conservation funding or other grants to pay for projects, and then sell the credits for profit. The only restrictions imposed on this double-dipping are those imposed by the funding entity itself on the use of the funding. This compounds the problem of lax baseline requirements in the Framework; nonpoint sources can not only profit off of practices that should already be required, but can profit off of practices implemented with public financing."	<p>Agreed. Section 3.2.6 of the proposed Framework has been revised to require proportional accounting of credits when public conservation funds are used to implement credit-generating projects. Credits generated using public conservation funds cannot be sold by project developer.</p> <p>(See also Freshwater Trust -1)</p>	Y
FWW - 23	Credit Stacking	"The Framework states that credit 'stacking' will be allowed, such that projects may be able to generate multiply types of credits. It goes on to require that the credits be used 'proportionally.' This concept is explained in an extremely cursory way, and is not defined. The Framework does not even describe all of the possible types of credits contemplated. This type of complex multi-market credit generation needs to be analyzed and explained much more thoroughly and transparently before any such practices are approved."	<p>Staff cannot predict all the possible types of credits that may be proposed under future credit stacking scenarios. Nationally, the topic of credit staking has attracted substantial interest. However, for most water quality trading program developers, discussions regarding credit stacking have been (and remain) purely speculative, as specific project proposals have yet to be brought forward by program participants.</p> <p>Sections 3.2.7 and 7.1 of the proposed Framework have been revised to clarify that any proposal for credit stacking must be documented in the approved Credit Project Plan (Section 7.1) and subsequently verified pursuant to the provisions in Sections 8.2 and 8.3. This ensures that the thorough and transparent analysis sought by the commenter will take place, both before and after project approval.</p> <p>(See also Windsor - 2, RRK - 18 and Santa Rosa - 18)</p>	Y

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<p>FWW - 24 (similar from RRK)</p>	<p>Trading Ratios</p>	<p>"Trading ratios will not address the uncertainties and deficiencies in the Framework. The use of trading ratios for uncertainty and retirement cannot adequately mitigate the many deficiencies and problems in the proposed Framework. The Framework proposes a maximum 2.5:1 trading ratio, allowing for a smaller ratio in certain circumstances, such as where the generator actually monitors of pollutant reductions. The Framework asserts that "a factor of 2.0 accounts for all potential sources of variability and uncertainty," without providing any analysis or justification for this claim. Agricultural practices lead to extremely variable pollution reductions, and a 2.5:1 ratio falls far short of accounting for the inherent uncertainty in the proposed Framework. There should not be provisions for allowing an even lower ratio in any circumstances."</p>	<p>Finding 28 has been added to the proposed Resolution, clarifying the rationale behind the trading ratios specified in the proposed Framework.</p> <p>Trading ratios are not the only means by which sources of uncertainty are addressed in the proposed Framework. For example, credit quantification methods and verification procedures for pre-qualified practices (Section 2.5.1) may incorporate specific measures to address sources of uncertainty associated with those practices, and must be subject to public review and approval (Section 2.5.2). Moreover, project-specific adaptive management procedures and verification requirements in Credit Project Plans (Section 7.1) may incorporate additional protections against the uncertain performance of credit-generating projects, and must be subject to review and approval by the Regional Water Board Executive Officer (Section 7.2).</p> <p>(See also Laguna Foundation - 2, Windsor - 4, Freshwater Trust - 2, Freshwater Trust - 3, RRK - 20 and Santa Rosa - 19)</p>	<p>Y</p>
<p>FWW - 25</p>	<p>General Opposition</p>	<p>"Water pollution trading will not solve the Laguna de Santa Rosa's phosphorus problem, and will very likely make this and other water pollution problems worse. The proposed Framework warrants CEQA review, lacks accountability, would introduce significant uncertainty about what pollution reductions are actually taking place, and, most importantly, is contrary to the CWA's requirements for NPDES permits. We urge the Board to reject the proposed Framework and focus on imposing enforceable and transparent pollution reduction requirements on all sources of phosphorus in the watershed."</p>	<p>Comment noted.</p>	<p>N</p>

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RRK - 1	General Opposition	"In its current form we do NOT support the draft Framework without the recommended changes in our letter that address our concerns and help improve the Framework in meeting the goals of sound science, accountability, transparency and accessibility."	Comment Noted.	N
RRK - 2	Opportunities for Public Involvement	Section 1.3 - Public Involvement: "Please list in this Framework AND on a web page as well as send this information out via listserve so as to inform the public of the dates of ANY and ALL NPDES Permit Renewals or permits that are scheduled to be reopened where pollutant credit trading will be authorized for use as a means of compliance with effluent limits. We expect at least a 30 day comment period, a written response from staff and a public hearing prior to the approval of ANY permits where pollutant credit trading will be involved. In addition, the Framework should be re-opened when any new credit buyers request to be added to the program in a public process, ideally one that parallels the permit renewal or re-opener public processes."	The Regional Water Board has and will continue to properly notice all NPDES permitting actions consistent with federal regulations and California Water Code requirements, including those permits within which nutrient offsets and/or water quality trading will be allowed as a means of compliance. Section 1.3 of the proposed Framework has been revised to indicate that the Framework will be re-opened for public review and comment alongside any new permit authorizing its use, thus triggering the usual webpage updates, email list notifications, and a minimum 30-day public comment period. (See also RRK Form Letter - 3, RRWPC - 2)	Y
RRK - 3	Publicly Available Information	Section 1.3 - Public Involvement: "[P]lease add to the framework that in order to be considered for approval of any credit generating practices, those supplying credits must be willing to allow the public access to places and practices where phosphorus credits are to be generated. As with publicly owned treatment works (POTW) where the public can arrange for a visit to see how their rate payer dollars are spent, the same principle should apply here. In fact, the Regional Board should require it with reasonable notice."	The proposed Framework specifies several informational items that will be made publicly available related to the development, implementation, and verification of Credit Project Plans, as well as notices and reports related to credit certification and tracking. Under the terms of the Framework, third-party verifiers and Regional Water Board staff are authorized to inspect credit project sites. Members of the public interested in visiting a project site must request and be granted permission to do so from the site property owners.	N

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RRK - 4	Publicly Available Information	<p>Section 1.3 - Public Involvement: "Provide estimates of the number of pounds each buyer needs to purchase in public documents. We are still unclear as to how many pounds of Phosphorus both the City of Santa Rosa and the Town of Windsor will be required to offset every year under this trading program. We understand this number is variable and depends upon several factors, but please provide the public with an estimation based upon the last five to ten years of annual NPDES reporting data as well as the POTW's future projection rates over the next five to ten years. We recommend staff creates an easy to read table (or ledger) that specifically enumerates what the loading has been and is expected to be in the future for SR and Windsor POTWs within the publicly available program documents. As credit-generating projects are approved, please include these practices, as well as the credits they are expected to generate, on this table. Also provide any other phosphorus loading information you have from any other sources and what estimation or monitoring data you used to arrive at these figures. Please include this information/loading amounts in the framework and/or the Resolution (No. R1-2017-0027, Page 2, Numbers 6 & 7) so the public can be made aware of just how many pounds of phosphorus will be considered to be offset under trading."</p>	<p>Much of the requested information is already publicly available on the Regional Water Board's website (https://www.waterboards.ca.gov/northcoast/) in documents related to NPDES permits for the City of Santa Rosa and Town of Windsor Facilities; technical memoranda and nutrient source analyses for development of the Laguna de Santa Rosa TMDLs; and project, verification, and compliance reports for the existing Santa Rosa Nutrient Offset Program.</p> <p>For the commenter's convenience, Finding 18 has been added to the proposed Resolution, clarifying the relative importance of the Santa Rosa and Windsor Facilities' average annual phosphorus discharges, as compared to staff's estimate of annual phosphorus loads from all sources in the Laguna watershed.</p> <p>Lastly, the proposed Framework requires extensive, publicly available documentation related to pre-qualified practices (Section 2.5), Credit Project Plans (Section 7), project implementation & verification (Section 8), and credit certification, registration & tracking (Section 9). Each of these referenced sections specify the type of documents and means by (and conditions under) which they shall be made available.</p> <p>(See also RRK - 17 and RRWPC - 9)</p>	Y
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RRK - 5	Adaptive Program Management	Section 1.4 - Regional Water Board Authority to Audit: "As this will be the first phosphorus pollutant trading program on the west coast, please include a third party independent auditor in addition to your own staff that would have the ability to audit and inspect ANY/ALL activities conducted under the terms of framework – separate from the paid verifier to remove any profit motive. In fact, we would think it prudent and in the public's best interest as this would assist in attainment of Guiding Principle #2, similar to hiring Tetra Tech to conduct compliance inspections at local MS4 facilities that provided very useful impartial data on compliance. We are recommending that you include in the framework that after a period of (x) amount of credits traded or (x) amount of years (whichever occurs first) that you will allow that a third party audit be conducted and that the findings from such audit will be released to the public. Periodic audits will not significantly increase costs and would provide a valuable science based feedback loop to improve the program, unlike reliance upon computer models."	<p>The relatively low rate of trading activity expected under the proposed Framework does not justify the level of oversight and administrative burden associated with the commenter's suggested audit process. Moreover, as with all permits issued by the Regional Water Board, the Board retains all its authorities to enforce permit terms and conditions and is responsible for making compliance determinations.</p> <p>The proposed Framework specifies several informational items that will be made publicly available related to the development, implementation, and verification of Credit Project Plans, as well as notices and reports related to credit certification and tracking. Interested members of the public may review these items and provide comments and suggestions to the Regional Water Board about the implementation of the Framework at any time.</p> <p>(See also RRWPC - 2 and RRWPC - 3)</p>	N
RRK - 6	Types of Credits to be Traded	Section 2.1 - Types of Trades: "If, and when, any other pollutant [besides phosphorus] is considered for trading, we would expect that this framework will then be re-circulated and the same public participation elements be made available."	<p>Agreed. The proposed Framework is only available for use by the City of Santa Rosa and Town of Windsor to comply with effluent limitations for total phosphorus in their NPDES permits. Any future changes to the types of credits to be traded under the proposed Framework will be adopted consistent with applicable state and federal public participation and hearing requirements.</p> <p>(See also RRK - 2, RRK Form Letter - 3 and RRWPC - 2)</p>	N
RRK - 7	Legal	The proposed Framework does not meet the legal requirements of the Federal Water Pollution Control Act and does not provide reasonable assurances that the water quality standards for pollutants will be met.	Please see staff's responses to Comment Nos. FWW - 2 and FWW - 8. Additionally, please see Findings 30 through 36 in the proposed Resolution for further description of how the Framework complies with applicable state and federal requirements.	N

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RRK - 8	Regulatory Instruments	"TMDL development should be required before trading commences."	<p>TMDLs are not required to utilize nutrient offsets or water quality trading.</p> <p>Regional Water Board staff is currently developing TMDLs for the Laguna de Santa Rosa, along with a comprehensive program of TMDL implementation designed to restore the beneficial uses of the Laguna. While TMDLs are under development, the proposed Framework serves as an optional means for complying with one effluent limitation in two NPDES permits.</p> <p>By itself, the proposed Framework is not intended as a comprehensive beneficial use recovery strategy, but a component of one. Future expansion and revision of the proposed Framework (as the commenter suggests) may be appropriate once TMDLs are completed and load allocations are assigned to all sources.</p> <p>(See also RRK - 26, RRK Form Letter - 6, Santa Rosa - 9 and RRWPC - 2)</p>	N
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RRK - 9	Eligibility for Trading Parties / Baseline Requirements / Project Verification / Monitoring	<p>Section 2.2 - Trading Parties: "Acceptable Requirements for Trading with Unregulated Dischargers of Phosphorus: While we remain apprehensive and skeptical of most all trades that would occur between point sources and unregulated non-point sources we would be open to one condition where it may be acceptable—this would be where:</p> <p>"(a) there would be a baseline that would have to be met in order for a trade to occur. This baseline must be derived via pre –project water quality monitoring specifically for Total Phosphorus that is conducted during wet weather runoff conditions (at the very least Federal EPA Criteria based on Aggregate Ecoregion III [0.022mg/L] for Total Phosphorus would have to be met in order to be pre-qualified as a credit generating practice).</p> <p>"(b) Before the credit generation occurs and is registered as complete, post-project water quality monitoring (specifically for Total Phosphorus) in wet weather runoff conditions should confirm and verify that credits were actually generated (NOT ESTIMATED) and the project accomplished an improvement in water quality (i.e. 'ensure that promised water quality improvements are delivered' [guiding principle 2])."</p>	<p>The proposed Framework does not establish specific baseline or project verification requirements because they may vary significantly based on practice type and project site.</p> <p>Section 3.2.2 (as revised) of the proposed Framework provides sufficient clarity to guide the development of detailed practice- and project-specific baseline requirements in supporting documentation for pre-qualified practices (Section 2.5) and in Credit Project Plans (Section 7.1). Likewise, Sections 8.2 and 8.3 provide sufficient clarity to guide the development of project verification requirements.</p> <p>Pre- and post-project water quality monitoring for purposes of establishing baseline or for verifying project results is neither required nor prohibited under the proposed Framework. Water quality monitoring may be proposed in supporting documentation for pre-qualified practices and/or in Credit Project Plans, as appropriate and feasible for the type of practice or project under consideration.</p> <p>(See also RRK - 12, RRK - 19, RRK - 23, Coast Action Group - 2, RRK Form Letter - 5, Freshwater Trust - 4 and FWW - 17)</p>	N
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RRK - 10	Avoiding Localized Impacts / Trading Area	Section 2.3 - Trading Area: In order to prevent localized water quality degradation and to promote restoration of smaller impaired waterways, please re-define the trading area for each NPDES discharge location to include only those areas that drain to points upstream of that location. The only exception to this rule should be for the implementation of large, multi-benefit, "green infrastructure" credit-generating projects.	<p>Finding 25 has been added to the proposed Resolution, clarifying the rationale behind the trading area specified in the proposed Framework. Based on staff's understanding of sediment and nutrient trapping characteristics in the Laguna de Santa Rosa, and of the timing of critical conditions, staff disagrees with the commenter's assertion that water quality trading activities conducted under the proposed Framework will result in localized water quality degradation.</p> <p>(See also Freshwater Trust - 6, FWW - 21, Santa Rosa - 5, Santa Rosa - 15 and Santa Rosa - 16)</p>	Y
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RRK - 11	Types of Credits to be Traded	<p>Section 2.4 - Types of Credits to be Traded: "The impaired condition in the Laguna de Santa Rosa relates to biostimulatory substances yet not all forms of Phosphorus are biostimulatory. We think in the interests of sound science that we need to focus on reactive, dissolved Phosphorus rather than just Total P if that is the fraction that drives the plant growth, low DO issues in Laguna. That said, sound science would dictate that we focus control efforts on the forms of phosphorus that stimulate plant growth as opposed to Total P. Some discharge sources like Sediment laden runoff has higher fractions of un-dissolved phosphorus while the treatment plants might have higher fractions of dissolved Phosphorus so we are not trading equivalent pollutants if one produces a higher biostimulatory effect.</p> <p>"Laguna tributaries are each unique, each type of effluent or runoff to be traded has different biostimulatory characteristics and responses. RRK implores staff that the differences in the waterbodies and the phosphorus loading constituents must be studied and evaluated beyond our current understanding before even considering such a trading program, especially in a pre-TMDL environment."</p>	<p>The applicable effluent limitation in the two NPDES permits for which the proposed Framework is intended (see Footnote to Section 1.2) is "no net loading" of total phosphorus. A detailed rationale supporting the establishment of the "no net loading" effluent limitation for total phosphorus appears in the Fact Sheet for each of the two permits, which can be accessed online at the Regional Water Board's website: https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/</p> <p>Staff's understanding of nutrient dynamics in the Laguna watershed is characterized in the aforementioned Fact Sheets, as well as in a recently released nutrient analysis prepared by staff's consultant (Tetra Tech), which can also be accessed online (along with other preliminary TMDL analyses) at the Regional Water Board's website: https://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/laguna_de_santa_rosa/</p> <p>The above references support the use of total phosphorus as an appropriate basis for water quality trading. Finding 26 has been added to the proposed Resolution, clarifying the rationale behind the type of credits to be traded under the proposed Framework.</p> <p>(See also Freshwater Trust - 6, Santa Rosa - 5, Santa Rosa - 15 and Santa Rosa - 16)</p>	Y
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RRK - 12	Credit Quantification Methods / Project Verification / Monitoring	<p>Section 2.5.1 - Supporting Documentation for Pre-qualified Practices: RRK is completely opposed to the use of models for calculating water quality credits generated by pre-qualified practices and for verifying the performance of approved Credit Project Plans, because model results are biased, inaccurate, highly variable, and fail to predict real world variability.</p> <p>The only acceptable method for calculating credits and for verifying project performance is direct measurement of actual phosphorus reductions, specifically via pre- and post-project water quality monitoring. Such monitoring should be required for all practices and projects approved under the proposed Framework - at least until models can be reliably calibrated and tuned to local practices and site conditions.</p> <p>Water quality credit estimates for practices and projects approved under the proposed Framework should be held to the same standard as measured discharges from NPDES facilities.</p>	<p>Credit quantification and project verification methods to be used under the proposed Framework are to be proposed by practice and project proponents in supporting documentation for pre-approved practices (Section 2.5.1) and in Credit Project Plans (Section 7.1). Staff cannot predict the practice types and project proposals that it may receive. However, the Framework offers a process by which quantification methods will be made available to the public for review prior to the Regional Water Board Executive Officer's approval or denial (Section 2.5.2).</p> <p>The Foundational References upon which the proposed Framework is based (Introduction Section) contain commentary on available quantification methods, and the appropriate use of models, estimates, and measurements for calculating water quality credits and for verifying project performance.</p> <p>Prohibiting the use of modeling in the proposed Framework as a basis for quantifying pollutant reductions from credit-generating projects is not appropriate, especially considering that specific proposals for the use of models have yet to be made, and considering that discharge data reported by NPDES dischargers are in many cases the results of models themselves (e.g., phosphorus discharge estimates required in the City of Santa Rosa's NPDES permit are based on weekly sampling, not continuous monitoring).</p> <p>(See also RRK - 9, RRK - 19, RRK - 23, RRK - 25, Windsor - 3, RRK Form Letter - 7 and FWW - 10)</p>	N
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RRK - 13	Eligibility for Trading Parties	Section 3.1.2 - Credit Sellers: "[A]ny and all [credit] sellers must be in good standing with the Waterboard in terms of complying with any applicable rules, regulations and have no outstanding enforcement issues."	<p>Agreed. Language in the subject section implies that credit sellers must be in good standing with the Regional Water Board in order to participate in water quality trading activities.</p> <p>(See also Coast Action Group - 2)</p>	N
RRK - 14	Avoiding Localized Impacts / Pre-qualified Practices	Section 3.2.1 - Avoiding Localized Impacts: "How can anyone be sure if localized impacts are occurring when we have no idea how phosphorus reductions are going to be measured? RRK asks that you include a process for making sure the 'standard methodology' you rely upon is peer reviewed. This would fulfill guiding principles 1, 2, & 3."	<p>Phosphorus reductions will be measured and or estimated for every credit-generating project approved under the proposed Framework, and independently verified, consistent with supporting documentation for pre-qualified practices, and with approved Credit Project Plans. Section 2.5.1 requires that supporting documentation for all practices contain extensive details relating to performance standards, baseline requirements, credit quantification, trading ratios, project verification, and more. Supporting documentation for all practices must be submitted for review and approval under the Process for Approving Pre-qualified Practices (Section 2.5.2). Upon approval, those practices will be considered pre-qualified for use on a project scale, and may be included in Credit Project Plans (Section 7.1).</p> <p>Section 3.2.1 of the proposed Framework allows the public and ultimately the Regional Water Board Executive Officer to determine on a case-by-case basis whether there is reasonable potential for adverse localized impacts, such that a proposed practice type or project should be denied.</p> <p>The proposed Framework serves as an optional means for complying with one effluent limitation in two NPDES permits. Peer review is not required for NPDES compliance determinations.</p> <p>(See also Freshwater - 6 and Santa Rosa - 16)</p>	N

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RRK - 15	Baseline Requirements	Section 3.2.2 - Baseline Requirements for Credit-Generating Projects: Baseline requirements for credit-generating projects should be based on TMDL load allocations to ensure that unregulated non-point source dischargers (i.e., credit sellers) are not unfairly and preferentially treated under the terms of the proposed Framework.	Please see staff's responses to Comment Nos. RRK - 8, RRK Form Letter - 6 and FWW - 17.	N
RRK - 16	Baseline Requirements	Section 3.2.2 - Baseline Requirements for Credit-Generating Projects: "And where the 'action takes place ahead of a regulatory compliance schedule' the credits should be short lived and minimized."	Agreed. In consideration of this and similar comments regarding project life and the applied timing of baseline requirements, Sections 3.2.2 and 6.2 of the proposed Framework have been revised. (See also FWW - 18)	Y
RRK - 17	Publicly Available Information	Section 3.2.5 - Timing of Framework Applicability: "Please create an appendix to the framework where all projects previously approved under the Santa Rosa Nutrient Offset Program (RWBO No. R1-2008-0061) that will continue to generate credits according to their terms under which those projects were originally approved, are listed, how many credits they are generating and when their terms will expire."	The information sought by the commenter is available on the Regional Water Board's website, in the City of Santa Rosa's Annual Compliance Reports and in Credit Verification Reports for each of the three projects approved to date under the Santa Rosa Nutrient Offset Program, at: https://www.waterboards.ca.gov/northcoast/water_issues/programs/nutrient_offset_program/ Because future credits to generated by these three projects are subject to change based on the results of ongoing project verification, including information about them in an appendix to the proposed Framework is inappropriate. (See also RRK - 4 and RRWPC - 9)	N

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RRK - 18	Credit Stacking	Section 3.2.7 - Credit Stacking: "Please explain the concept in more detail. What is a 'Wetland Credit'? What program are these generated under? Please provide some references and where we can find more information on any other credit generating activities considered for 'Credit Stacking'."	<p>The subject provision refers to compensatory mitigation credits as one example of a credit type that would require proportional accounting under the terms of the proposed Framework.</p> <p>For more information on credit stacking, please refer to the brief commentary and references cited in Section 3.2.7 of the National Network's <i>Options and Considerations</i> document, which is referenced in the Introduction Section of the proposed Framework. Several additional references are available online through the Electric Power Research Institute at: http://wqt.epri.com/credit-stacking.html</p> <p>(See also Windsor - 2, FWW - 23 and Santa Rosa - 18)</p>	Y
RRK - 19	Credit Quantification Methods	Section 4 - Quantifying Pollutant Reductions for Water Quality Credits: "RRK recommends that any methods 'for quantifying WQ Credits' (unless they rely upon direct monitoring) be peer reviewed and that these reviews are shared with the public and we are allowed to comment on these reviews and methods before they are accepted by staff as being appropriate. Appropriate methods for Quantifying Water Quality Credits may NOT include the use of MODELS. Models sidestep NPDES Enforcement. Models based upon literature review are not equivalent to Laboratory analysis of discharge samples and do not meet mandates for Monitoring and Reporting."	<p>Please see staff's responses to Comment Nos. RRK - 9 and RRK - 12.</p> <p>Section 4 of the proposed Framework describes a variety of scientifically-appropriate methods by which to model, estimate, or measure pollutant reductions from pre-qualified practices. Section 5 contains trading ratios that will be used to account for sources of risk and uncertainty in those methods (such as measurement errors and/or differences in estimated project performance), thus providing a margin of safety to ensure that project and program goals are met.</p> <p>The proposed Framework serves as an optional means for complying with one effluent limitation in two NPDES permits. Peer review is not required for NPDES compliance determinations.</p> <p>(See also RRK - 9, RRK - 12, RRK - 23, Windsor - 3, RRK Form Letter - 7 and FWW - 10)</p>	N

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RRK - 20	Trading Ratios	Section 5 - Trading Ratios: "RRK advocates for a default of 3:1 (includes uncertainty and retirement) not 2.5:1. All trades should be required to directly measure their pollutant reductions. Under Table 5.1, Staff advances that "a reduced uncertainty ratio may be applied when a credit-generating project includes direct measurement of pollutant reductions". This should not be offered as something that if provided will get incentivized by lowering the uncertainty ratio of the credit, this should be a mandatory practice and should be a requirement of all credit generating practices."	Staff received comments from multiple parties advocating for both increases and decreases in the trading ratios specified in Section 5 of the proposed Framework, as well as increases and decreases in the allowable downward adjustments to those ratios. Finding 28 has been added to the proposed Resolution, clarifying the rationale behind the trading ratios specified in the proposed Framework. (See also Laguna Foundation - 2, Windsor - 4, Freshwater Trust - 2, Freshwater Trust - 3, FWW - 24 and Santa Rosa - 19)	Y
RRK - 21	Project Verification / Publicly Available Documents	Section 8.0 - Project Implementation & Verification: "Please refer to our comments in section 2.5 on pre-qualified practices since they all apply here. Simply put, we expect all project verification to have an initial period where pre and post project discharges are monitored to capture real world data for future model calibration. We also expect that any and all documents related to activities conducted under this Framework or future iterations as well as all documents related to that party's water quality compliance and nutrient management efforts (including farm plan sections on nutrient management and water quality) be public to meet the transparency and accessibility principles and be equivalent with NPDES point source permits. We expect verification sampling to be conducted in moderate to heavy rain events when sediment and pollutants are mobilized to waterways especially for NPS runoff."	Please see staff's responses to Comment Nos. RRK - 12 and RRK Form Letter - 9.	N

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RRK - 22	Project Verification	Section 8.1 - Documenting Pre- and Post-Project Site Conditions: "We repeat our comments from section 2.5 and 8.0 again here, we expect actual water quality data to accurately portray pre and post project discharge characteristics as well as photo documentation of pre and post project conditions with no initial reliance on computer modeling to document pre and post discharge characteristics."	Please see staff's responses to Comment Nos, RRK - 12 and RRK - 21.	N
RRK - 23	Credit Quantification Methods / Project Verification / Monitoring	Section 8.3 - Ongoing Project Verification: "Credits generated are to be accurately 'estimated' using 'appropriate quantification methods and procedures' (sect 8.3, pg 17). This completely obfuscates the guiding principles of 'the framework'. This trading program must not accept 'estimations'. Require site-specific pollution monitoring by credit generators to demonstrate that claimed pollution reductions are actually taking place. Allowing farms and other nonpoint sources to create credits based on modeling and research estimates of pollution reductions from various practices is incompatible with the CWA basic requirements that all permits contain monitoring provisions to ensure compliance with permit limits."	<p>Permit compliance monitoring provisions under the CWA and implementing regulations can take a variety of forms, ranging from pollutant-specific laboratory analysis to photo documentation of overall site conditions, as long as monitoring is sufficient to determine compliance with effluent limitations.</p> <p>The proposed Framework is intended as a means for determining compliance with "no net loading" effluent limitations for total phosphorus in two NPDES permits. Each practice type and credit-generating project approved under the Framework will include some form of monitoring to ensure credits are accurately quantified, and to verify project performance.</p> <p>Please see staff's responses to Comment Nos. RRK - 9, RRK - 12, RRK - 19, RRK Form Letter - 7 and FWW - 10.</p>	N
RRK - 24	Publicly Available Information	Section 8.3 - Ongoing Project Verification: "Where a report identifies a failure to meet approved practice standards or other requirements of an approved 'Credit Project Plan'. Please insert into the framework that this information will be made available to the public along with the remedies proposed and what action, if any was taken by Staff (suspension or cancellation of credits)."	Agreed. Section 8.3 has been revised accordingly.	Y

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RRK - 25	Monitoring	<p>Section 11.2 - Monitoring / Evaluating Framework Effectiveness: "First, remove 'modeling' from this section unless you have the model peer reviewed and sent out for comment. 'Ambient WQ monitoring is not required under this framework, rather it is 'anticipated' that a Russian River Regional Monitoring program will be conducted (sect 11, pg 20).' This is statement is too ambiguous, will not provide assurance that trades are actually reducing Phosphorus as claimed, nor provide any meaningful data on how trading is improving WQ standards or protecting Beneficial Uses.</p> <p>"By not relying upon site specific and/or ambient monitoring, this section of the framework is contradictory to your guiding principle 'The benefits of WQT must be realized without allowing water quality impacts associated with credit-generating actions to occur in place, in kind, or in time'."</p>	<p>The term "modeling" does not appear in the subject section as the commenter suggests.</p> <p>Because the proposed Framework represents one small element of a much larger, comprehensive beneficial use recovery strategy for the Laguna de Santa Rosa, ambient water quality monitoring (i.e., surface water status and trends monitoring) is not proposed. Rather, project-specific monitoring is proposed to support credit quantification methods, and to verify project performance, as outlined in Section 11.2.</p> <p>(See also RRK - 8, RRK - 12, RRK Form Letter - 7 and FWW - 10)</p>	Y
RRK - 26	Regulatory Instruments	<p>"In the opinion of Russian Riverkeeper, the ideal mix required to address the Laguna impairment for P/biostimulatory substances is a mix of strong regulatory permits, TMDL's and robust enforcement... Remaining infeasible load reductions should be addressed via considerations written into the Framework that would fund large scale [multi-benefit] projects to reduce legacy nutrient cycling and improve the Laguna's ability to process nutrients."</p>	<p>Comment Noted.</p> <p>(See also RRK - 8, RRK Form Letter - 6, Santa Rosa - 9 and RRWPC - 2)</p>	N

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<p>Santa Rosa - 1</p>	<p>General Support</p>	<p>"The City appreciates Regional Water Board staff working with stakeholders in preparation of the proposed Resolution and Framework, an innovative expansion of the initial program that the City has been implementing via the Santa Rosa Nutrient Offset Program." However, the City remains concerned about the technical validity and appropriateness of the "no net loading" effluent limitation for total phosphorus in its NPDES permit, which is the basis of the Santa Rosa Nutrient Offset Program and of the proposed Laguna WQT Framework. "Nonetheless, the City fully supports that water quality trading and nutrient offsets can be an important compliance tool pre- and post TMDL. Therefore, the City seeks to secure beneficial changes to the Framework and Resolution to ensure that the proposed program can be a success."</p>	<p>The Regional Water Board will continue to work with stakeholders and interested persons to develop and implement programs that are scientifically defensible and will improve water quality and support beneficial uses in impaired waters.</p>	<p>N</p>
<p>Santa Rosa - 2</p>	<p>Resolution</p>	<p>Findings 6-14: Given the purpose of the proposed Framework, as expressed in the Introduction Section, "the Resolution and Framework should be written in such a way as to promote the program beyond just the City [of Santa Rosa] and the Town of Windsor's currently adopted NPDES permits, and avoid any perception that the program is limited in its application." Therefore, remove Findings 6-14 in the Draft Resolution and replace with language suggested by the commenter.</p>	<p>The subject findings contain relevant facts regarding the history of the NPDES permits for which the proposed Framework is originally intended. Additional findings pertaining to other NPDES permits adopted by the Regional Water Board in the future that explicitly allow trading under the Framework will be added if/when that occurs. It is staff's opinion that Findings 19 and 20 (as revised) in the proposed Resolution reasonably reflect the potential for future program expansion.</p>	<p>Y</p>
<p>Santa Rosa - 3</p>	<p>Resolution</p>	<p>Finding 8: The City does not support the Regional Water Board's use of "recognized exceedances of water quality standards and an apparent lack of assimilative capacity for additional nutrient loads" as an appropriate basis for the "no net loading" effluent limitations established in its two previous NPDES permits, and requests that this finding be altered.</p>	<p>The subject finding reflects the Regional Water Board's justification for establishing the "no net loading" effluent limitations in the NPDES permits previously adopted by the Regional Water Board. The basis of those effluent limitations are not the subject the proposed Regional Water Board action under consideration. When the NPDES permits are renewed, permittees will have an opportunity to comment on proposed permit conditions for the next permit cycle.</p>	<p>N</p>

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<p>Santa Rosa - 4</p>	<p>Resolution / Regulatory Instruments</p>	<p>Finding 16: "The Nutrient Offset Program was a result of negotiations between the Regional Water Board and the City to resolve the City's legal challenge to the 2006 NPDES permit's initial inclusion of 'no net loading' provision for nitrogen and phosphorus. [See <i>City of Santa Rosa v. Regional Water Quality Control Board, North Coast Region, Sonoma County Superior Court Case No. SCV241194.</i>] Key aspects of the existing Nutrient Offset Program are not fully captured in the proposed Framework. Therefore, unless relevant aspects of the existing program are incorporated in the Framework and the City consents otherwise, the Nutrient Offset Program must remain available to the City as an avenue for compliance with the Permit's 'no net loading' requirement for phosphorus. For this reason, the City requests the phrase 'replace the existing Santa Rosa Nutrient Offset Program and to' be removed from this Finding. Consistent with the City's first comment above, the City also requests that the last phrase be modified to state, 'as an approved method for complying with final effluent limitations that are in each of their NPDES permits.'"</p>	<p>The subject finding (which now appears as Finding 17 in the proposed Resolution) indicates that the new Framework is available as a compliance option to the City of Santa Rosa and the Town of Windsor. Nothing in the proposed Framework or adopting Resolution affects the City's existing NPDES permit or the Santa Rosa Nutrient Offset Program attached to that permit as a compliance option.</p> <p>(See also Santa Rosa - 8)</p>	<p>Y</p>
<p>Santa Rosa - 5</p>	<p>Resolution/ Avoiding Localized Impacts</p>	<p>Finding 22: The Resolution states that "actions taken to generate credits under the Laguna WQT Framework must provide water quality benefits that are equal to or greater than the pollutant discharges they are meant to offset in place, in kind, and in time." The City asks that this language be substantially clarified for its intent.</p>	<p>Section 3.2.1 of the proposed Framework and Findings 24 through 27 in the proposed Resolution have been revised to clarify the intent and rationale behind the subject language.</p> <p>(See also Santa Rosa - 15, Santa Rosa - 16, Freshwater Trust - 6, FWW - 15, FWW - 21, RRK - 10, RRK - 11 and RRK - 14)</p>	<p>Y</p>

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<p>Santa Rosa - 6</p>	<p>Resolution</p>	<p>Finding 26: Please clarify the intent of the final sentence in this finding: "Regional Water Board Executive Officer retains discretion to...deny a proposal altogether to ensure that an effluent limitation established in an NPDES permit is met."</p>	<p>The intent of the final sentence is to reflect the Regional Water Board Executive Officer's authority to determine whether a project will meet the terms of the Framework and conditions of the NPDES permit. For example, the Executive Officer may modify trading ratios (as described in Section 5 of the proposed Framework), or deny a Credit Project Plan that in his/her judgement would be inconsistent with federal and state anti-degradation policies.</p>	<p>N</p>
<p>Santa Rosa - 7</p>	<p>Resolution</p>	<p>Finding 27: Insert the word "ultimately" between the words "does not" and "cause."</p>	<p>Agreed. The subject finding (which now appears as Finding 34 in the proposed Resolution) has been revised as suggested.</p>	<p>Y</p>
<p>Santa Rosa - 8</p>	<p>Regulatory Instruments</p>	<p>General Comment: "The Nutrient Offset Program currently utilized by the City to comply with the 'no net loading' provision in the Permit (and that is incorporated into the Permit) was the result of a negotiations between the Regional Water Board and the City. Without modification of that agreement (and the Permit), the Nutrient Offset Program must remain available to the City, in addition to the Framework, as a mechanism for compliance with the Permit's "no net loading" requirement for phosphorus. Further, the City seeks to conform certain elements of the Framework with the existing provisions of the Nutrient Offset Program so as to maximize the opportunity to use the Framework in place of the Nutrient Offset Program, and to expand both programs regarding the duration of credit banking. A few of our specific concerns are incorporated below."</p>	<p>Please see staff's response to Comment No. Santa Rosa - 4. The Regional Water Board encourages the City to continue to coordinate with staff to implement the Santa Rosa Nutrient Offset Program consistent with the City's NPDES permit and with the measures in the proposed Framework.</p>	<p>N</p>

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Santa Rosa - 9	Regulatory Instruments	Introduction: "The City requests that the Introduction be amended to note that the Framework may also be applicable under a future TMDL or other comprehensive beneficial use recovery or water quality attainment strategy."	<p>The suggested language is consistent with staff's understanding of the possible evolution of water quality trading in the Laguna watershed. However, such language need not appear in the proposed Framework until and unless a future TMDL or comprehensive beneficial use recovery strategy is being considered for adoption by the Regional Water Board, likely as an amendment to the Basin Plan for the North Coast Region.</p> <p>(See also responses to RRK Form Letter - 6, RRK - 8, RRK - 26 and RRWPC - 2)</p>	N
Santa Rosa - 10	Trading Parties	Section 2.2 - Trading Parties: "In the second sentence to this section, please add language to add non-point source dischargers: 'However, nothing prohibits point or <i>non-point</i> source dischargers...'"	<p>Under this generation of the proposed Framework (i.e., between when the Framework is approved and when it is likely be re-opened for review, revision, and approval), it is difficult to imagine a scenario where credits would be exchanged in the manner suggested by the commenter. The current Framework is not available as a compliance option to entities that are subject to nonpoint source waste discharge requirements.</p> <p>(See also Santa Rosa - 13, RRWPC - 2 and RRWPC - 31)</p>	N
Santa Rosa - 11	Pre-qualified Practices	Section 2.5 - Approved / Pre-qualified Practices: Remove the word "first" from the first sentence to allow for parallel / simultaneous review and approval of pre-qualified practices and Credit Project Plans.	<p>The subject sentence is technically accurate as written. Nothing in this or any other section of the proposed Framework prohibits the simultaneous review and approval of pre-qualified practices and Credit Project Plans.</p>	N

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<p>Santa Rosa - 12</p>	<p>Pre-qualified Practices</p>	<p>Section 2.5.2 - Process for Approving Pre-qualified Practices: "The existing Nutrient Offset Resolution provides specific timelines for acceptance or rejection of proposed projects. The City requests that the proposed resolution provide the same time certainty for proposed project consideration."</p>	<p>Section 7.2 (Step 4) of the proposed Framework has been revised to indicate that the Regional Water Board Executive Officer's final decision on a proposed Credit Project Plan shall be made no later than 60 days following staff's determination that the proposed Credit Project Plan is complete. This timeframe is consistent with the timeframe specified in the existing Santa Rosa Nutrient Offset Program. However, unlike the Santa Rosa Nutrient Offset Program, Section 7.2 of the proposed Framework does not stipulate that a Credit Project Plan shall be automatically deemed approved if the Executive Officer fails to act within the 60-day period.</p> <p>Staff notes that the commenter's suggestion references Section 2.5.2, which describes the process for approving pre-qualified practices, not the process for approving Credit Project Plans.</p> <p>(See also Santa Rosa - 26)</p>	<p>Y</p>
<p>Santa Rosa - 13</p>	<p>Eligibility for Trading Parties</p>	<p>Section 3.1.1 - Credit Buyers: "Regional Water Board staff may want to consider amending the language in this section now or in the future to support the potential for a water quality trading market based approach where third party entities could buy and sell offset credits."</p>	<p>During this generation of the proposed Framework (i.e., between when the Framework is approved and when it is likely be re-opened for review, revision, and approval), it is difficult to imagine a scenario where credits would be bought and sold in the manner suggested by the commenter. Staff do not recommend at this time amending the subject language per the commenter's suggestion.</p> <p>(See also Santa Rosa - 10, RRWPC - 2 and RRWPC - 31)</p>	<p>N</p>

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<p>Santa Rosa - 14</p>	<p>Eligibility for Trading Parties</p>	<p>Section 3.1.2 - Credit Sellers: "As is noted earlier in the Framework (Section 2.2), a credit seller and credit buyer may be the same NPDES-permitted entity. The City requests that this section be amended to include the following sentence as the third sentence of this section, 'A <i>credit seller</i> and <i>credit buyer</i> may be the same entity.'"</p>	<p>Language in the subject section and in Section 2.2 (as revised) sufficiently accounts for scenarios in which a credit buyer may generate water quality credits for its own use.</p> <p>(See also FWW - 14)</p>	<p>Y</p>
<p>Santa Rosa - 15</p>	<p>Avoiding Localized Impacts</p>	<p>Section 3.2.1 - Avoiding Localized Impacts: "The section requires that actions taken to generate credits must 'provide water quality benefits that are equal to or greater than the pollutant discharges they are meant to offset in place, in kind, and in time.' As noted above, the City asks that this language be removed or, substantially clarified to identify what is intended with the 'in place, in kind, and in time' reference especially here given the additional 'equal to or greater than' requirement...</p> <p>"If interpreted narrowly, such restriction could obviate any progress under the Framework. Further, multiple projects may be needed to offset the City's seasonal discharges (because each offset project may not provide benefit 'equal to or greater than' the pollutant discharges they are intended to offset. The City asks that this section indicate that projects can acceptably partially offset discharges."</p>	<p>Section 3.2.1 of the proposed Framework and Findings 24 through 27 in the proposed Resolution have been revised to clarify the intent and rationale behind the subject language.</p> <p>Use of the terms "In general" and "these general criteria" in the revised language indicates that the provisions of Section 3.2.1 are not intended to be interpreted narrowly, as the commenter suggests.</p> <p>Further, staff acknowledges that multiple projects may be needed to offset the City's seasonal discharges, and that the phrase "actions taken" in Section 3.2.1 is interpreted to include multiple projects.</p> <p>(See also Santa Rosa - 5, Santa Rosa 16, and Freshwater Trust - 6, FWW - 15, FWW - 21, RRK - 10, RRK - 11 and RRK - 14)</p>	<p>Y</p>

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<p>Santa Rosa - 16</p>	<p>Avoiding Localized Impacts</p>	<p>Section 3.2.1 - Avoiding Localized Impacts: "This section also states, 'There can be no localized impacts as a result of a credit trade.' The City seeks clarification as to what is meant by this prohibition. It is important to consider that nutrient impairments within the Laguna are watershed based and that water quality improvements will occur collectively. Nutrient impacts are unlike toxics impacts which can be localized in nature. The City asks that the Framework inherently consider and assess water quality improvements within the entire Laguna waterbody instead of at specific project locations. The City believes that water quality trading concerns related to localized impacts don't really apply to nutrients and therefore would prefer that the associated language relevant to 'localized impacts' be removed. At a minimum, please [amend] the language to state, 'There can be no significant, detrimental localized impacts as a result of a credit trade.'"</p>	<p>Section 3.2.1 of the proposed Framework and Findings 24 through 27 in the proposed Resolution have been revised to clarify the intent and rationale behind the subject language.</p> <p>As evidenced by the recommended Trading Area (Section 2.3) and Types of Credits to be Traded (Section 2.4) in the proposed Framework, staff agrees that nutrient impacts in the Laguna de Santa Rosa are unlike toxic impacts, which can be localized in nature. The subject provision is simply meant to ensure that potentially significant, adverse localized impacts (including those not related to nutrients) associated with credit-generating projects are appropriately accounted for in the Credit Project Plan Approval Process (Section 7.2).</p> <p>(See also Santa Rosa - 5, Santa Rosa - 15, Freshwater Trust - 6, FWW - 15, FWW - 21, RRK - 10, RRK - 11 and RRWPC - 17)</p>	<p>Y</p>
<p>Santa Rosa - 17</p>	<p>Use of Public Conservation Funds / Credit Banking</p>	<p>Section 3.2.6 - Use of Public Conservation Funds: "In this section, the Framework specifies that credits generated by projects using public conservation or other grant funds can be used 'only one time.' Given credit banking, the City seeks clarification as to the meaning of this phrase, and recommends the language be modified so that any banked credits from such projects can be applied over time."</p>	<p>The subject phrase simply refers to the fact that a credit can only be applied against a permit limitation one time, as the provisions in Section 9 of the proposed Framework make clear. Regardless, Section 3.2.6 has been revised in response to other comments received, and the subject phrase has been removed."</p> <p>(See also Freshwater Trust - 1 and FWW - 22)</p>	<p>Y</p>

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<p>Santa Rosa - 18</p>	<p>Credit Stacking</p>	<p>Section 3.2.7 - Credit Stacking: "The City has concern about the credit stacking restrictions in the Framework. Projects that have multiple types of environmental benefits including offsets within the Water Quality Trading Program are exactly the types of projects that should be pursued. Wetland or endangered species or rare plant mitigation credit provided by a project should not be the basis for proportionally reducing separate water quality related phosphorus credits that are generated. For example, wetlands offer multiple benefits like establishing or protecting habitat and nutrient trapping and a site set aside for mitigation could fully achieve its mitigation purpose without requiring any phosphorus removal benefits. This would not represent stacking and an offset credit should be allowed.</p> <p>"Not all mitigation credit types are overlapping, and the proposed proportional credit reduction may inhibit the City's ability to maximize beneficial project objectives. This limitation does not appear in other similar programs (Nutrient Offset Program, Resource Conservation District programs). Allowing other projects to generate a range of environmental credits supports implementation of restoration projects in the watershed that provide multiple environmental benefits and draw on multiple funding sources. Thus, the City requests this provision be removed."</p>	<p>Section 3.2.7 of the proposed Framework does not prohibit credit stacking, but requires that proportional accounting be used for any project that generates multiple types of credits, including water quality credits that may be used by an eligible NPDES permittee to meet an effluent limitation. This provision ensures that the environmental benefits of credit-generating projects are not double-counted, and (contrary to what the commenter suggests) is indeed consistent with provisions that appear in most trading programs across the country.</p> <p>Considering the number of incentives already included in the proposed Framework for the implementation of multi-benefit projects, such as reduced trading ratios, longer project lives, and extended credit banking allowances, staff contends that the proposed requirement for proportional accounting in cases of credit stacking remains appropriate at this time.</p> <p>(See also Windsor - 2, FWW - 23 and RRK - 18)</p>	<p>N</p>
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<p>Santa Rosa - 19</p>	<p>Trading Ratios</p>	<p>Section 5 - Trading Ratios: "The default trading ratio of 2.5:1 is too restrictive, and may detrimentally impact the ability of the City to successfully offset its discharges. An application of a 2.0 multiplier to address 'uncertainty' where in some cases, phosphorus reductions from a project will be measured directly seems overly conservative, unreasonable and not technically supportable. Essentially, trading ratios should be qualitative, based on the uncertainty of water quality benefits resulting from a project.</p> <p>"The proposed trading ratios are inconsistent with projects implemented to date. The existing Nutrient Offset Program provides a 1:1 ratio where direct measurement of nutrient reduction is possible, and a more flexible, literature-based ratio is authorized where estimated nutrient reduction is necessary. The City requests the default trading ratio be more akin to that provided in the Nutrient Offset Program to allow more flexibility in determining ratios for uncertainty. This could be accomplished by eliminating the 0.5 trading ratio reduction limit. In addition, enhancement ratios could be incorporated into the Framework in order to promote implementation of targeted and/or prioritized watershed actions that may be too expensive to implement otherwise."</p>	<p>Finding 28 has been added to the proposed Resolution, clarifying the rationale behind the trading ratios specified in the proposed Framework.</p> <p>Contrary to the commenter's suggestion, the Santa Rosa Nutrient Offset Program requires that margins of safety be used when estimating credits from individual projects, and authorizes the Regional Water Board Executive Officer to request modifications to trading ratios or to deny projects when uncertainties have not been sufficiently accounted for. Based on information presented by the commenter's consultant (Keiser & Associates), credit quantification methods used for projects implemented to date under the Santa Rosa Nutrient Offset Program have incorporated margins of safety resulting in trading ratios between 1.5:1 and 2.67:1.</p> <p>(See also Laguna Foundation - 2, Windsor - 4, Freshwater Trust - 2, Freshwater Trust - 3, FWW - 24 and RRK - 20)</p>	<p>Y</p>
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Santa Rosa - 20	Credit Character- istics	Sections 6.1 and 6.2 - Credit Life and Project Life: "The proposed Framework states that the 'life of all credits generated under this WQT Framework shall be one year, beginning Oct. 1 (i.e., the beginning of the NPDES discharge season) and ending September 30.' Please clarify how this provision will be implemented."	Section 6.3 has been revised to clarify (by way of example) that credit accounting under the proposed Framework will be keyed to discharge seasons (i.e., not calendar years), and that credit generating actions must take place before the discharges they are used to offset occur. In general, staff assumes that most credit generating projects will be implemented during the summer months, thus making the first credits available for use during the subsequent discharge seasons. (See also Santa Rosa - 21)	Y
Santa Rosa - 21	Credit Character- istics / Credit Banking	Section 6.3 - Banking Credits for Later Use: "Similar to concern expressed with the Nutrient Offset Program, is the proposed continuation of the credit expiration term of three (3) years prescribed in Section 6.3. Illustrating our concern is language that indicates 'a water quality credit generated in 2017 may be used to offset a discharge in the 2017, 2018, or 2019 discharge season.' This will further limit the use of credits, in that the year they are generated 'counts' towards the three years for which they can be used. The City asks that this provision be changed to avoid limiting the use of credits."	Please see staff's response to Comment No. Santa Rosa - 20.	Y

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<p>Santa Rosa - 22</p>	<p>Credit Banking</p>	<p>Section 6.3 - Banking Credits for Later Use: "To enhance the Board's consideration of the City's concern about credit expiration, the Regional Water Board is asked to recognize that the City's discharge conditions are exceptionally unique and not typical within water quality trading program scenarios. Our well-established and successful recycled water program re-uses most, and in average to dry years all of the recycled water that the City produces, resulting in years where the City has no discharge. Before the 2016-2017 record rainfall, the City's last significant discharge occurred more than six years ago during the 2010/2011 discharge season.</p> <p>"Because the City's discharges are episodic, offset credit expiration has been and will remain penalizing with an ongoing potential liability to the City's ratepayers. In circumstances where the most influential factor for discharge is unpredictable weather patterns, the City is in the untenable position of having to ensure sufficient credits exist to offset what may only be a potential discharge. With short credit expiration periods, the City will be required to invest in projects to earn and verify a statistically derived number of credits every year and having many expire before they're used. The City requests that its unique discharge situation be considered further within the Framework, especially given the City's history and the Regional Water Board staff's experience under the Nutrient Offset Program."</p>	<p>Comment noted. The three-year averaging period for compliance determinations under the existing Santa Rosa Nutrient Offset Program was established in recognition of the City's unique discharge conditions. The proposed Framework carries forward the same provision in the form of a three-year credit banking allowance.</p> <p>In recognition of the City's persistent concerns, Section 6.3 of the proposed Framework has been revised to allow a five-year banking period for certain project types.</p> <p>Staff notes that much like the City's discharge conditions, the credit banking provisions in the proposed Framework are unique and not typical amongst other water quality trading programs across the country.</p> <p>(See also Santa Rosa - 23, Santa Rosa - 24, Laguna Foundation - 2, Coast Action Group - 4, Windsor - 6, RRK Form Letter - 8, FWW - 15, FWW - 16 and RRWPC - 22)</p>	<p>Y</p>
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<p>Santa Rosa - 23</p>	<p>Credit Banking</p>	<p>Section 6.3 - Banking Credits for Later Use: "[C]reating a Framework with such perishable credits invariably increases risk and cost, and unnecessarily reduces projects, environmental benefits, and availability, and increases credit cost. If water quality benefits have occurred and accrued, the credit should not necessarily expire. The City does not need short-term offset credits each year to attain compliance as much as the City needs certainty regarding the use of accrued offset credits over a longer term. Nutrient impairments in the Laguna have taken decades to accumulate and will take decades to resolve. Short term expiration of credits inhibits participation in the program and is inconsistent with the timeframe required for long term successful clean-up of the watershed."</p>	<p>Nothing in the proposed Framework prohibits the City from increasing the certainty of its long-term compliance status or the efficiency of its compliance expenditures. Such certainty can be gained by: 1) proposing credit-generating projects with relatively long project lives, 2) proposing projects that qualify for the five-year credit banking allowance, and 3) by specifying credit release schedules in its Credit Project Plans that best suit the City's projected need for credits over time. Further, given that the Town of Windsor may also utilize the proposed Framework to meet the "no net loading" effluent limitation for total phosphorus in its NPDES permit, the City has the option to trade credits with the Town to avoid credit retirement.</p> <p>Staff disagrees that short-term credit banking allowances discourage trading activity (and thus water quality improvements), as the commenter suggests. Logic suggests the opposite is true. In fact, shorter credit banking periods drive higher rates of trading activity, due to the ongoing retirement of credits. All credits that are not applied by a discharger to meet a compliance obligation within the allowable banking period are retired for environmental benefit.</p> <p>(See also Santa Rosa - 22, Santa Rosa - 24, Laguna Foundation - 2, Coast Action Group - 4, Windsor - 6, RRK Form Letter - 8, FWW - 15, FWW - 16 and RRWPC - 22)</p>	<p>N</p>
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<p>Santa Rosa - 24</p>	<p>Credit Banking</p>	<p>Section 6.3 - Banking Credits for Later Use: "The City requests that the Regional Water Board incorporate the concept that earned credits be allowed to accumulate, extend, and not expire. While we appreciate the three-year banking provision being carried forward from the Nutrient Offset Policy, the existing policy has already proved problematic for the City with respect to credit expiration. The water quality benefits resulting from the City's projects don't expire."</p>	<p>Finding 27 has been added to proposed Resolution, clarifying the rationale behind the credit banking provisions specified in the proposed Framework. The credit banking provisions are based on sound (albeit simplified) assumptions about nutrient fate, transport, and biostimulatory conditions in the Laguna de Santa Rosa. Allowing banking in perpetuity as the commenter suggests cannot be justified at this time, and would be inconsistent with the 2003 USEPA Trading Policy and with other trading programs across the country.</p> <p>(See also Santa Rosa - 22, Santa Rosa - 23, Laguna Foundation - 2, Coast Action Group - 4, Windsor - 6, RRK Form Letter - 8, FWW - 15, FWW - 16 and RRWPC - 22)</p>	<p>Y</p>
<p>Santa Rosa - 25</p>	<p>Project Renewal</p>	<p>Section 6.4 - Project Expiration and Renewal: "The City requests that this provision pertain to the projects approved under the existing Nutrient Offset Program as well as those projects approved under the proposed framework."</p>	<p>Section 3.2.5 of the proposed Framework states: "Projects previously approved under the Santa Rosa Nutrient Offset Program... shall be considered eligible under this Framework to continue generating credits according to terms under which those projects were originally approved and for their approved project lives."</p> <p>Once their project lives expire, projects originally approved under the existing Santa Rosa Nutrient Offset Program will not be eligible for renewal under the proposed Framework, because supporting documentation and verification protocols for those projects do not satisfy the terms of the proposed Framework.</p>	<p>N</p>

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<p>Santa Rosa - 26</p>	<p>Credit Project Plans</p>	<p>Section 7.2 - Credit Project Plan Approval Process: "While some elements of the project plan approval process mirror the process developed and previously implemented under the Nutrient Offset Program, the Nutrient Offset Program includes provisions that were not carried over to the Framework regarding the timing of approval of proposed projects. For example, under the Nutrient Offset Program, the Executive Officer of the Regional Water Board has sixty (60) days to accept or reject a nutrient offset project or the project is deemed approved... In order for the City to have some certainty that it can implement sufficient projects to offset its predicted discharge, so as to maintain compliance with the imposed effluent limitation, it is critical to have some indication of the timing of Regional Water Board action."</p>	<p>Section 7.2 (Step 4) has been revised to indicate that the Regional Water Board Executive Officer's final decision on a proposed Credit Project Plan shall be made no later than 60 days following staff's determination that the proposed Credit Project Plan is complete. This timeframe is consistent with the timeframe specified in the existing Santa Rosa Nutrient Offset Program. However, unlike the Santa Rosa Nutrient Offset Program, Section 7.2 of the proposed Framework does not stipulate that a Credit Project Plan shall be automatically deemed approved if the Executive Officer fails to act within the 60-day period.</p> <p>(See also Santa Rosa -12)</p>	<p>Y</p>
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<p>Santa Rosa - 27</p>	<p>Project Verification</p>	<p>Section 8.2.1 - Required Elements of Initial Verification: "The City is concerned that the proposed language related to the initial verification process improperly allows for a retrospective finding of ineligibility. The verification process is intended to confirm that a project, which has already been found to be credit-eligible, was implemented consistent with the project plan that was the basis of the eligibility finding. Please consider describing the Administrative Review to 'Confirmation of project eligibility based on as-built conditions and consistency with approved Credit Project Plan' and Technical Review to 'Adjustment of preliminary credit calculations to reflect as-built project conditions and confirmation that all required documentation (e.g., data files, sampling results, model parameters) are complete and correct.'"</p>	<p>As indicated in Section 8.2 of the proposed Framework, the purpose of initial verification is to review and confirm whether a credit-generating project has been implemented in accordance with its approved Credit Project Plan. The required elements of initial verification outlined in Section 8.2.1 are consistent with this purpose. Because the administrative review focuses on available documentation (i.e., an approved Credit Project Plan) and as-built conditions, a retrospective finding of project ineligibility is highly unlikely. Moreover, the technical review focuses on credit calculations for the project as-built. A discovery that preliminary credit calculations (which have already been reviewed and approved) are inaccurate is also unlikely. Any redundancies between the Regional Water Board's review and approval of a Credit Project Plan and the third-party verifier's initial verification of an implemented project are welcomed by staff, as they provide additional assurance to the public and to the parties involved in a credit trade that the provisions of the proposed Framework are truly being met.</p> <p>(See also Freshwater Trust - 11)</p>	<p>N</p>
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RRWPC - 1	Opportunities for Public Involvement	<p>"[I]t is essential that this program have a healthy and vigorous public involvement component."</p> <p>"We believe that the biggest failing of this proposal (water quality trading) is the lack of public involvement after initial framework is approved."</p>	<p>As listed in Section 1.3, the proposed Framework provides for several opportunities for public involvement, including the following after the Framework has been approved: 30-day public review and opportunity to comment on supporting documentation for all practices to be pre-qualified under the Framework (as described in Section 2.5.2), public notification and release (online) of the Regional Water Board Executive Officer's approval or denial of Credit Project Plans (as described in Section 7.2), and public notification and release of information and reports related to project implementation and verification activities (as described in Section 8) and related to credit certification and tracking activities (Section 9).</p> <p>(See also RRWPC - 7, RRK Form Letter - 4, Freshwater Trust - 10)</p>	N
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RRWPC - 2	Adaptive Program Management	<p>"RRWPC feels there should be a three or four-year trial period where this program is considered an experiment and that there should be an annual report to the Regional Board where public comment can occur on measured progress, details of the program and accomplishments, if any, and reports from traders if desired, etc. Also, new measures may be proposed and considered that were not originally anticipated. The Board should have an opportunity to make changes to the program on an annual basis during this trial period."</p>	<p>Staff agrees with the commenter's characterization of the proposed Framework as a "trial" or "experiment," in that the Framework is intended to demonstrate proof-of-concept for the possible expanded use of water quality trading within staff's vision for a comprehensive program of TMDL implementation in the Laguna watershed. However, staff contends that the frequency of its reports to the Regional Water Board and the public on the implementation of the Framework should not be hard-wired as the commenter suggests, but rather should be based on expressions of interest in such reports from the Board and members of the public as they occur, and as the rate of trading activity under the Framework warrants. As specified in several sections of the proposed Framework, extensive information and reports related to water quality trading activities will be available on the Regional Water Board's website, including but not limited to: a list of pre-qualified practices with supporting documentation, Credit Project Plan documents, verification reports, annual compliance reports, and credit certification and tracking information.</p> <p>Furthermore, at a minimum, staff anticipates the Framework will be re-opened for public review and comment on the following occasions in the near future: renewal of NPDES permits for the Santa Rosa and Windsor Facilities in 2019, and consideration of TMDLs for the Laguna de Santa Rosa in 2021.</p> <p>(See also RRK Form Letter - 6, Freshwater Trust - 2, RRK - 8, RRK - 5 and Santa Rosa - 9)</p>	N
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RRWPC - 3	Adaptive Program Management	"The goals of the program should be spelled out and the measurement of success defined. The circumstances under which ending the program (or not moving forward) should be considered and addressed. Also, if problems arise that were not initially foreseen, information should be available to describe how and whether they were resolved or if changes have become necessary."	<p>The general purpose, goals, and guiding principles for the proposed Framework are spelled out in the Introduction Section of the Framework and in Finding 19 (as revised) in the proposed Resolution. Success of the Framework will be determined by the City of Santa Rosa's and Town of Windsor's records of compliance with the "no net loading" effluent limitations for total phosphorus established in their NPDES permits. If either permittee consistently fails to comply with its "no net loading" effluent limitation, chooses not to utilize water quality trading as a compliance option, or if problems arise during the implementation of the Framework that were not initially foreseen, the Framework may be re-opened by the Regional Water Board for necessary revisions, or may be eliminated as an available compliance option altogether.</p> <p>(See also RRWPC - 2 and RRK - 5)</p>	N
RRWPC - 4	Enforcement	"There is little stated about the circumstances under which enforcement will occur. If credit trades don't occur in a timely manner, at what point will enforcement actions begin to occur? What happens if appropriate projects don't come forward, or an inadequate number of credits obtained?"	<p>As with all waste discharge requirement permits, compliance with the NPDES permit terms and conditions, including the condition that allows use of a credit offset program, will be evaluated consistent with the Statewide Enforcement Policy and enforced under applicable provisions of the Water Code as necessary. Section 10 of the proposed Framework and Finding 21 in the proposed Resolution address compliance determination and enforcement. Utilization of the Framework does not reduce the responsibility of these dischargers to comply with the terms of their permits. If either discharger fails to comply with its "no net loading" effluent limitation, the Regional Water Board will evaluate permit compliance for possible enforcement action.</p> <p>(See also RRWPC - 25, RRWPC - 26 and FWW - 11)</p>	N

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RRWPC - 5	Pre-qualified Practices	"We wish to see more details about how non-point source credits will be developed and enforced. This has been a sticky wicket in other locales. This should not be treated the same as point source discharges."	<p>The details about how water quality credits will be generated and verified will become available in the future through the pre-qualification process outlined in Section 2.5 of the proposed Framework. Due to the wide variety of practices which may be proposed for credit generation, Section 2.5.1 requires that supporting documentation for all practices contain extensive details relating to performance standards, baseline requirements, credit quantification, trading ratios, project verification, and more. Supporting documentation for all practices must be submitted for review and approval under the Process for Approving Pre-qualified Practices (Section 2.5.2). Upon approval, those practices will be considered pre-qualified for use on a project scale, and may be included in Credit Project Plans (Section 7.1).</p> <p>(See also FWW - 10, FWW - 13, RRK - 12, RRK - 14)</p>	N
RRWPC - 6	Guiding Principles	"Last bullet on page 3: Do you mean to say: The benefits of WQT must be realized without allowing <i>negative</i> water quality impacts associated with credit-generating actions to occur in place, in kind, or in time?"	Yes. The subject language has been revised as suggested.	Y

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RRWPC - 7	Opportunities for Public Involvement / Publicly Available Information	Section 1.3 - Public Involvement: "It appears as though the only public comment allowed on trading project is right before Executive Officer's approval of supporting documentation for practices to be prequalified under Framework. Is there any circumstance, such as subsequent to major revisions, where public review process can be reopened for additional comment? Also, will there be an announcement to the public if the project is denied?"	<p>As indicated in the final paragraph of Section 2.5.2 of the proposed Framework, any significant updates or major revisions to pre-qualified practices will follow the same process as for adding a new practice, which means the updated or revised practices will be re-opened for a new round of public review and comment.</p> <p>(See also RRWPC - 1, RRK Form Letter - 4 and Freshwater Trust - 10)</p> <p>Also, Section 2.5.2 (Step 5) has been revised to clarify that notices of denial for proposed practices will be made publicly available. Likewise, Section 7.2 (Step 4) has been revised to clarify that notices of denial for proposed Credit Project Plans will be made publicly available.</p>	Y
RRWPC - 8	Other	Section 2.3 - Trading Area: "Can you provide a larger colored map of the area where credits will be traded?"	Yes. The width of Figure 2.3 has been increased for easier viewing.	Y

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RRWPC - 9	Publicly Available Information	Section 2.4 - Types of Credits to be Traded: "It would be nice to have a note here saying how many credit obligations Santa Rosa and Windsor have already accrued. Does Santa Rosa's wastewater have the same amount of phosphorus in every gallon of treated wastewater? Can you estimate how much phosphorus is in the 1.1 billion gallons of wastewater discharged this last water year? (I realize this information is probably not essential for the "Framework", but it would be interesting to have a little contextual information to illustrate program.)"	<p>For the commenter's convenience, Finding 18 has been added to the proposed Resolution, characterizing the average magnitudes and concentrations of recent phosphorus discharges from the City of Santa Rosa and Town of Windsor Facilities. Additional detailed information about the Santa Rosa Facility's phosphorus discharges and available credits can be found in the City's annual compliance reports, which are available on the Regional Water Board's website at: https://www.waterboards.ca.gov/northcoast/water_issues/programs/nutrient_offset_program/</p> <p>Based on information provided in the City of Santa Rosa's 2017 Annual Compliance Report, during the 2016/17 discharge season the City discharged a total of 1.23 billion gallons of treated wastewater to the Laguna de Santa Rosa, with an average total phosphorus concentration of 1.5 mg/L, for a total phosphorus discharge of over 15,438 lbs.</p> <p>(See also RRK - 4 and RRK - 17)</p>	Y
RRWPC - 10	Pre-qualified Practices	Section 2.5 - Approved / Pre-qualified Practices: "Can SR or Windsor utilize ONLY pre-qualified practices? What if they propose NEW practices for pre-qualification, or is there only one opportunity to qualify practices? If new practices are proposed, would they go through the same public review process that allows public input?"	Section 7.1 has been revised to clarify that only pre-qualified practices may be used to generate water quality credits under the proposed Framework. Section 2.5.2 (Step 1) indicates that new and/or updated practices may be proposed by any entity at any time for pre-qualification. The opening sentence of Section 2.5 indicates that supporting documentation for all such practices must first be subject to public review and be approved by the Regional Water Board Executive Officer.	Y

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RRWPC - 11	Pre-qualified Practices	2.5.1 - Supporting Documentation for Pre-qualified Practices (Practice Standards): "Do all of these apply?"	The introductory paragraph to Section 2.5.1 has been revised to clarify that supporting documentation for each practice may vary based on the nature of the practice, but should generally include all of the items listed in that section. This includes all items listed under the heading "Practice Standards."	Y
RRWPC - 12	Pre-qualified Practices	2.5.1 - Supporting Documentation for Pre-qualified Practices (Practice Standards): "Can you describe term 'practice'? Is it the same as a project? (Some examples would be helpful here.)"	<p>Under the conventions used in the proposed Framework, a "practice" is considered any eligible action that may be taken to reduce phosphorus loads to the Laguna de Santa Rosa, whose phosphorus reductions can be reliably quantified and verified. For example, practices may include: installation of vegetative buffers or filter strips adjacent to managed lands, channel bank stabilization or riparian planting, rural road upgrades, or legacy instream sediment removal. Several other examples of potential practices are provided in Appendix C to the Local Stakeholder Recommendations, which are referenced in the Introduction Section of the proposed Framework, and cited in Finding 13 in the proposed Resolution.</p> <p>Under the proposed Framework, a "project" is not the same as a "practice." A "project" is a collection of eligible actions which, when taken together, can be used to generate credits under the proposed Framework. Credit-generating projects may include one or more practices, as well as other site-specific actions that are necessary to satisfy all applicable provisions of the Framework. Under the proposed Framework, projects are described in Credit Project Plans. The contents of Credit Project Plans are specified in Section 7.1.</p>	Y

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RRWPC - 13	Pre-qualified Practices	2.5.1 - Supporting Documentation for Pre-qualified Practices (Credit Quantification Methods): "Do all of these apply or can they pick and choose?"	The introductory paragraph to Section 2.5.1 has been revised to clarify that supporting documentation for each practice may vary based on the nature of the practice, but should generally include all of the items listed in that section. This includes all items listed under the heading "Credit Quantification Methods."	Y
RRWPC - 14	Pre-qualified Practices / Third-party Verifiers	Section 2.5.1 - Supporting Documentation for Pre-qualified Practices (Project Review / Verification Procedures): "Who verifies practices, projects and procedures for each project? Also, how is it determined whether professional certification or special expertise is necessary for design, installation, maintenance, credit quantification, or verification of a particular practice? What type of expertise (qualification level and standards) should be provided? I think this Framework needs to be more explicit here about Board expectations. I realize you refer to other sections where you do this. I will also note comments in those sections, if inadequate in our view."	<p>Detailed provisions related to project assessment and verification appear in Section 8 of the proposed Framework.</p> <p>As indicated in Section 2.5.1, where professional certification or special expertise is necessary for the design, installation, maintenance, credit quantification, or verification of a particular practice, the supporting documentation for that practice should describe such requirements. Supporting documentation for all practices shall be subject to public review and approval (Section 2.5.2) prior to being incorporated into any Credit Project Plan (Section 7.1).</p> <p>(See also RRWPC - 28, Windsor - 5 and FWW - 11)</p>	N
RRWPC - 15	Pre-qualified Practices	Section 2.5.2 - Process for Approving Pre-qualified Practices: "If there is a credit project proposed to plant hundreds of riparian trees, is that termed a 'practice'? At the top of page 8, the approval process is equated with the pre-qualifying process. If practices are pre-qualified, why do they need approval? This is confusing."	<p>Under the conventions used in the proposed Framework, a "practice" is considered any eligible action that may be taken to reduce phosphorus loads to the Laguna de Santa Rosa, whose phosphorus reductions can be reliably quantified and verified. Riparian planting is an example of such a practice.</p> <p>As indicated in Section 5 of the proposed Framework, once practices have been approved by the Regional Water Board Executive Officer (following the process spelled out in Section 2.5.2), those practices shall be considered "pre-qualified" for future use on a project scale.</p>	N

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RRWPC - 16	Pre-qualified Practices	Section 2.5.2 - Process for Approving Pre-qualified Practices: "Bottom of page 8 states that 'significant' updates and/or revisions to practices that had received prior approval shall also be subjected to public review. How would the word 'significant' be interpreted here? Can you give a few examples?"	The subject section of the proposed Framework has been revised to clarify that the Regional Water Board Executive Officer has the discretion to determine what constitutes a significant update or revision. Examples of significant changes to pre-qualified practices may include: changes to practice standards, such as those that are occasionally issued by the U.S. Department of Agriculture; changes to credit quantification methods, such as those driven by newly released models; and/or changes to verification procedures, such as those altering sampling requirements or the contents of verification reports.	Y
RRWPC - 17	Guiding Principles	Section 3.2.1 - Avoiding Localized Impacts: Consider clarifying there can be no negative localized impacts as a result of a credit trade.	Agreed. The subject language has been revised. (See also Santa Rosa - 16)	Y
RRWPC - 18	Project Life / Baseline Requirements	Section 3.2.5 - Timing of Framework Applicability: "Does this section apply if any activities that were given prior approval, currently come under regulatory requirements? If so, that would seem to contradict prior statements and be illegal."	The subject section states that projects approved to date under the existing Santa Rosa Nutrient Offset Program are eligible to generate credits under the proposed Framework according to the terms under which those projects were originally approved. Those terms, as specified in Finding 7 in Regional Water Board Resolution No. R1-2008-0061 and in the Santa Rosa Nutrient Offset Program itself (Attachment 1 to that Resolution), prohibit the generation of credits from projects that later become subject to regulatory controls. (See also FWW - 19)	N

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RRWPC - 19	Credit Quantification Methods / Adaptive Program Management	Section 4 - Quantifying Pollutant Reductions for Water Quality Credits: "I have concerns about the sentence (page 11) stating: 'Once approved, credit quantification methods for those practices shall be considered pre-qualified for future use.' I have concerns about the 'forevermore' aspect of this. Surely there may be circumstances where conditions change and the methods are no longer appropriate. We suggest revisiting these methods, and other aspects of the program, every five years. This should also include a public comment component. There will be a learning curve with this program and it is very important to leave a pathway to revisions."	<p>The final paragraph of Section 2.5.2 of the proposed Framework indicates that significant updates or revisions to supporting documentation for pre-qualified practices (including credit quantification methods) can be triggered by a variety of events, and will follow the same process for adding a new practice. Thus, under the circumstances characterized by the commenter, revised credit quantification methods would be subject to public review and comment according to the approval process spelled out in Section 2.5.2.</p> <p>Regarding the frequency at which the proposed Framework may be re-opened for public review and revisions, please see staff's response to Comment No. RRWPC - 2.</p>	N
RRWPC - 20	Trading Ratios	Section 5 - Trading Ratios: The third circumstance presented for reducing a trading ratio needs more explanation and an example. "What is meant by: 'Reduced uncertainty ratio' and how are 'direct measurement of pollutant reductions' conveyed?"	<p>The subject provision states the following: "A reduced uncertainty ratio may be applied when a credit-generating project includes direct measurement of pollutant reductions." The uncertainty ratio to which this statement refers is the 2.0 uncertainty ratio specified in Table 5.1 in the proposed Framework. The referenced reduction is the allowable 0.5 reduction described in the paragraph that follows the table. A reduced uncertainty ratio would thus be 1.5. Circumstances under which direct measurement of pollutant reductions may be possible will vary by practice type and project location. Examples may include: systematic sampling and characterization of the phosphorus content of dredged instream sediments, edge-of-field monitoring of flow and phosphorus concentrations where site conditions allow, or monitoring of the same at the outlet of a treatment wetland or drainage network.</p> <p>(See also Windsor - 4, Freshwater Trust - 2, FWW - 24, RRK - 20 and Santa Rosa - 19)</p>	N

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RRWPC - 21	Credit Characteristics / Credit Banking	Section 6.1 - Credit Life: "I am a bit unclear about how the Credit life, Project life, and Banking Credits for future use life interweave with one another. The credit life is for one year only. Does that mean it must connect to a project before the year ends, but the project life can be varying amounts of time depending on the project? It seems as though immediately after the year is up, they can also decide to bank the credit for up to three years if no project has been discovered before the year ends."	<p>The provisions in Section 6 detail how credit accounting will be conducted under the proposed Framework. Every credit (i.e., every pound of phosphorus reduced) has a one-year "credit life," which corresponds to the frequency of staff's annual determinations of compliance with "no net loading" effluent limitations for total phosphorus. Credit projects approved under the Framework may generate new credits every year for several consecutive years, up to the approved "project life." If a credit remains unused (i.e., if it has not been used to offset a phosphorus discharge) in any given year, it may be "banked" for use in a subsequent year, provided credit banking allowances in Section 6.3 have not been exceeded.</p> <p>Section 6.3 has been revised to clarify (by way of example) how credit banking works under the proposed Framework. In general, staff assumes that most credit-generating projects will be implemented during the summer months, thus making the first credits available for use during the subsequent discharge seasons.</p>	Y
RRWPC - 22	Credit Banking	Section 6.1 - Credit Life: "The three-year limit for banking credits seems very controversial. We would suggest extending it to 5 years ONLY for this first round when Frame-work is in its initial phases and then go back to three years after that."	<p>In consideration of this and similar expressions of support for more flexible credit banking provisions, Section 6.3 of the proposed Framework has been revised, and Finding 29 has been added to the proposed Resolution.</p> <p>(See also Coast Action Group - 4, Laguna Foundation - 2, Windsor - 6, RRK Form Letter - 8, FWW - 15, FWW - 16, Santa Rosa - 22, Santa Rosa - 23 and Santa Rosa - 24)</p>	Y

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RRWPC - 23	Credit Project Plans	Section 7.1 - Credit Project Plans: "The statement is made that projects should be designed with the primary goal of Improving water quality. This is general and vague. Shouldn't there be some kind of ranking of water quality improvements? Or could it be specified that improvements should address Laguna, Santa Rosa, and Mark West Creek impairments? It seems that addressing creek impairments should take a higher priority. Furthermore, this section says nothing about required offsets of phosphorus. How can that be? We thought the whole point of this process was no net increase of phosphorus."	<p>The subject statement is purposefully general. While the proposed Framework is specifically designed to allow the generation and trading of phosphorus credits, it also allows for (and encourages) projects that are designed to produce other environmental benefits, including ancillary water quality and habitat improvements.</p> <p>The following items in the subject list of Credit Project Plan elements specifically relate to the number of phosphorus credits to be generated by the project: preliminary water quality credit calculations, proposed trading ratio, and proposed project life and credit release schedule.</p>	N
RRWPC - 24	Credit Project Plans	Section 7.1 - Credit Project Plans: Under what circumstances would providing a declaration of project eligibility with supporting documentation or discussion in a Credit Project Plan not be necessary?	Under no circumstance should a declaration of project eligibility be absent from a Credit Project Plan. The parenthetical phrase "(if necessary)" has been deleted from the referenced language.	Y
RRWPC - 25	Credit Project Plans / Enforcement	Section 7.1 - Credit Project Plans: "Will there be a maintenance term attached to this plan? Will Regional Board retain oversight during term of maintenance or if there is no term? Would there be any enforcement if maintenance plan not adhered to? (see other comments for 8.3)"	<p>As specified in Section 7.1 of the proposed Framework, the maintenance term for each credit-generating project will be specified in a Project Maintenance Plan, which is a required element of a Credit Project Plan. In order for credits to be generated for the entire life of a project, the maintenance term will need to be equal to or greater than the approved project life.</p> <p>Section 1.4 indicates that all activities conducted under the terms of the Framework (including project maintenance and verification activities) shall be subject to audit and inspection by Regional Water Board staff. Lastly, regarding the enforcement of Credit Project Plans, please see staff's response to Comment No. RRWPC - 4.</p>	N

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RRWPC - 26	Credit Project Plans / Opportunities for Public Involvement	Section 7.2 - Credit Project Plan Approval Process: "It is disturbing that there is no public review of this process and we believe that there should be. It is especially disturbing because the main impetus for this project appears to be ignored and dismissed: that is, the control of phosphorus in the Laguna and the supposed credit trade to limit the amount that gets circulated in the waterways. (Footnote on bottom of page: What happens if parties do not provide adequate maintenance of credit projects? At what point might Regional Board enforcement measures be taken?)"	Please see staff's responses to Comment Nos. RRWPC - 1, RRWPC - 4, RRWPC - 23 and RRWPC - 25.	N
RRWPC - 27	Project Verification	Section 8.1 - Documenting Pre- and Post-Project Site Conditions: "This is very vague. What kind of site conditions, and to what level of detail would you expect to see this? Does RB staff definitely check this or maybe check it?"	<p>The site conditions and level of detail to be included in an initial verification report (Section 8.2.2) will vary based on the pre-qualified practices used and on the project site itself. In general, site conditions may include topography and grading elevations, soil conditions, types and densities of vegetative cover, and the locations of roads, drainage features, and other installed/removed elements.</p> <p>All site assessment procedures and reporting requirements to be utilized under the proposed Framework must be described in supporting documentation for pre-qualified practices (Section 2.5.1), and shall be subject to public review and approval (Section 2.5.2) prior to being incorporated into a Credit Project Plan (Section 7.1). (See also FWW - 13)</p> <p>To date, Regional Water Board staff have made pre- and/or post-project implementation site visits to most (but not all) of the three projects implemented under the existing Santa Rosa Nutrient Offset Program. Given that the proposed Framework (once approved) will be relatively new, it is expected that staff will not continue this practice. (See also FWW - 11)</p>	N

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RRWPC - 28	Project Verification / Third-Party Verifiers	Section 8.2.1 - Required Elements of Initial Verification: "How does Regional Board staff assure that verification is unbiased and accurate? Is there a list of third party companies who are trusted and qualified to conduct verification that credit seller is required to use?"	<p>There currently is not a list. A footnote has been added to Section 8.2.1 of the proposed Framework clarifying the qualifications of third-party verifiers. The Regional Water Board Executive Officer will utilize his/her discretion to approve qualified third-party verifiers as they are needed. Ultimately, Regional Water Board staff retains its authority to audit all phases of credit project design, implementation, and verification. If inaccuracies are detected, they will be reflected in staff's decision to certify credits.</p> <p>(See also RRWPC - 14, Windsor - 5 and FWW - 11 and FWW - 13)</p>	Y
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RRWPC - 29	Project Verification	Section 8.2.1 - Required Elements of Initial Verification: "It states in this section that: 'Any discrepancies between the approved Credit Project Plan and as-built conditions must be noted'. And then what? Will someone take action on such a notation? What will that be (in general)?"	<p>The subject section has been slightly revised for clarity. In general, the only actions that need to be taken when a project verifier notes that as-built conditions vary from those described in an approved Credit Project Plan are:</p> <ol style="list-style-type: none"> 1) The credit seller or its agent must submit to Regional Water Board staff and the project verifier any revisions or updates to the approved Credit Project Plan as necessary to reflect as-built conditions (Section 8.2.2), 2) The project verifier must review the as-built Credit Project Plan to confirm it accurately reflects the project as implemented, and to confirm that any adjustments to the preliminary credit calculations have been made, and are complete and accurate (Section 8.2.1), and 3) Any unresolved discrepancies or disagreements between the credit seller and the project verifier will be addressed during the credit certification process described in Section 9.1. <p>As indicated in Sections 8.2.2 and 9.1, as-built Credit Project Plans, initial verification reports, and copies of all Credit Certificates issued by Regional Water Board staff will be made publicly available for all projects implemented under the proposed Framework.</p> <p>(See also Windsor - 5, Freshwater Trust - 12, FWW - 12 and Santa Rosa - 27)</p>	Y
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RRWPC - 30	Credit Tracking / Credit Banking	Section 9.3 - Changes in Credit Status: "Retired: Why wouldn't a credit be used? What are the circumstances? Would drought be the only circumstance? Would there be any circumstances where an extension might be allowed? If the credit is developed, and all steps are followed, what other purpose might it be used for, if not for offset of wastewater discharges by City and Town?"	Section 6.3 has been revised to clarify credit banking provisions, which apply to all credits generated under the proposed Framework. As collectively explained in Sections 6.3 and 9.3, if a credit remains unused (for any reason) beyond the allowable credit banking period, the credit shall be retired for environmental benefit. (See also RRWPC - 31 and RRWPC - 32)	Y
RRWPC - 31	Credit Tracking	Section 9.4 - Changes in Credit Ownership: "If a project is completed and appropriate numbers of credits are received by City or Town, and this is the only purpose for which credits can be issued, how can others end up with the credits? Who else might end up with the credits and for what purpose? This seems incredibly complicated. Why would credits be needed for any other entities? Can you give some examples so a layperson can understand? "	Under this generation of the proposed Framework (i.e., between when the Framework is approved and when it is likely be re-opened for review, revision, and approval), there are only two scenarios under which credits would be exchanged between parties: 1) Initial exchanges between credit sellers (i.e., entities who implement credit-generating projects) and credit buyers (i.e., the City of Santa Rosa or Town of Windsor), in cases when the initial owner of the credits is not already specified in the Credit Project Plan (Section 7.1) as the City or Town, and 2) Exchanges between the City and the Town, who are the only NPDES permittees authorized to utilize water quality credits to meet their compliance obligations, and therefore are the only ones to whom credits have any value. (See also Santa Rosa - 10, Santa Rosa - 13, RRWPC - 30 and RRWPC - 32)	N

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RRWPC - 32	Credit Tracking / Credit Banking	Section 9.4 - Changes in Credit Ownership: "Why are credits subject to change over time? Are credits ever good for over 3 years?"	<p>As detailed in Section 9.4 of the proposed Framework, a certified credit's status is considered "active" until it is either used, retired, suspended or cancelled.</p> <p>The ownership of an active credit may change over time if, for instance, the Town of Windsor is in need of credits to meet its compliance obligations for a given year, and the City of Santa Rosa has more credits than it needs for that year (which may be close to being retired) and chooses to sell those credits to the Town. (See also RRWPC - 30 and RRWPC - 31)</p> <p>Under some circumstances, certified credits may be banked for a period of greater than 3 years. Please see staff's response to Comment No. Windsor - 6, as well as other responses to other comments referenced therein.</p>	N
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