

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
Wednesday, August 14, 2019
Regional Water Board Office
Santa Rosa, California

ITEM: 1

SUBJECT: Public Hearing on Resolution No. R1-2019-0038 to consider adoption of an amendment to the *Water Quality Control Plan for the North Coast Region* to include the Action Plan for the Russian River Watershed Pathogen Total Maximum Daily Load (TMDL) and Prohibition against the Discharge of Fecal Waste Materials (*Alydda Mangelsdorf and Charles Reed*)

BOARD ACTION: This is a public hearing for the Regional Water Board to consider adoption of amendments to the *Water Quality Control Plan for the North Coast Region* (Basin Plan).

BACKGROUND: Several reaches of the Russian River Watershed were listed on the 303(d) list of impaired waters for pathogens in 2012. A Total Maximum Daily Load (TMDL) development project has confirmed evidence of water quality impairment and fecal waste discharge at locations throughout the watershed, with concerns about human exposure to pathogens through water contact recreation (REC-1). A draft Action Plan for the Russian River Watershed Pathogen TMDL and staff report (Action Plan and staff report) were released for a 45-day public review on May 9, 2019. This was the third draft Action Plan and staff report to be released for public review. The first two drafts were released in September 2015 and August 2017, respectively. The public comments on the 2015 draft Action Plan and staff report prompted staff to reconsider, among other things, its program of implementation, particularly with respect to requirements associated with Onsite Wastewater Treatment Systems (OWTS). The public comments on the 2017 draft Action Plan and staff report, coupled with revision of the statewide water quality objective for bacteria, prompted revisions to the data assessment and its presentation, as well as further refinements to the program of implementation.

Also in 2012, the State Water Resources Control Board (State Water Board) adopted a statewide OWTS Policy, prompting regional water boards to incorporate the statewide OWTS Policy into their Basin Plan within a given timeframe. The North Coast Board incorporated the statewide OWTS Policy into its Basin Plan in 2014, retaining the pre-existing Regional OWTS Policy to apply only to the Russian River Watershed until such time it adopted an Action Plan for the Russian River Watershed Pathogen TMDL. The OWTS Policy requires the establishment of an Advanced Protection Management Program (APMP) that sets forth standards and requirements for OWTS near impaired water bodies where it has been determined that OWTS are a contributing source of pathogens or nitrogen. Unless established by a local agency as special provisions in an approved Local Agency Management Program (LAMP), the APMP must be defined in an applicable TMDL or be implemented in accordance with requirements in Tier 3 of the OWTS Policy. The Action Plan establishes an APMP for nine HUC-12 subwatersheds in Sonoma County.

DISCUSSION: The actions before the Regional Water Board on August 14, 2019 are to consider adoption of:

1. The Action Plan for the Russian River Watershed Pathogen TMDL, including a Prohibition against the discharge of fecal waste material, to be incorporated into Chapter 4 of the Basin Plan, and
2. An amendment to Chapter 4 of the Basin Plan to remove the pre-existing OWTS Policy retained in 2014 to apply specifically to the Russian River Watershed.

The TMDL Action Plan includes a waste discharge prohibition, which is the basis for the actions identified in the program of implementation. The waste discharge prohibition applies to the Russian River Watershed and is specifically focused on the discharge of fecal waste material. It reads:

“Discharges of waste containing fecal waste material from humans or domestic animals to waters of the state within the Russian River Watershed are prohibited.”

The fecal waste discharge prohibition also includes a list of methods by which compliance with the prohibition can be achieved. These are summarized as: implementation of adequate treatment and best management practices to prevent discharge; compliance with applicable NPDES and WDR permits; implementation of MOUs between the Regional Water Board and local agencies; and for non-dairy livestock operations, implementation of best management practices until an applicable WDR or waiver of WDRs is developed.

Both the TMDL Action Plan and the OWTS Policy-related amendment to Chapter 4 have been reviewed by the public and the public hearing for these actions has been duly noticed. A response to comments document has been prepared, which provides written responses to all the substantive written public comments received in 2015, 2017, and more recently in 2019. The 2017 draft Action Plan and staff report, taken as a whole, are offered as staff’s response to public comments received in 2015; though written responses to individual comments are also offered. Additional revisions to the draft Action Plan and staff report released in May 2019 have been incorporated into the proposed Action Plan to be brought before the Regional Water Board in a hearing on August 14, 2019. The primary revisions incorporated into the proposed Action Plan are as follows:

- a) The public health advisory data has been updated to focus on postings in the period of 2013-2018, resulting in the removal of the Sausal Creek-Russian River HUC-12 subwatershed as impaired;
- b) The findings of the PhyloChip Study (May 2014) have been more fully incorporated as a line of evidence, when assessing fecal waste discharges. Where collected, the PhyloChip™ phylogenetic DNA microarray data provides an indication of which of the HUC-12 subwatersheds within the Russian River Watershed has moderate to strong evidence of human or bovine/grazer fecal waste discharge;

- c) The geographic area within which the APMP applies has been refined by only including those impaired HUC-12 subwatersheds for which there is also moderate to strong evidence of human fecal waste discharge. Oat Valley Creek-Russian River, Sausal Creek-Russian River, Upper Santa Rosa Creek, and Porter Creek-Mark West Creek have been removed from the APMP.
- d) The inspection requirements, including timing of inspections, for OWTS owners within the APMP geographic area have been clarified. Further, the Action Plan clarifies that local agencies with approved LAMPs have flexibility in how they define the professional qualifications of inspectors to accommodate the anticipated increase in demand for OWTS inspections resulting from implementation of the APMP;
- e) Local agencies may approve OWTS repairs and replacements in substantial conformance with the OWTS Policy and the APMP in accordance with conditions and criteria established in an approved LAMP;
- f) The distance from a waterbody to an OWTS that triggers the need for supplemental treatment for replacement OWTS is 600 feet for blueline streams and was reduced to 200 feet for OWTS near small, intermittent waterbodies identified by LIDAR data. OWTS in the APMP located greater than these distances, respectively, can be repaired or replaced in accordance with local requirements;
- g) The need for supplemental treatment for replacement OWTS within 600 feet of blueline streams and within 200 feet of small, intermittent waterbodies may be waived where there is suitable soil and separation to groundwater;
- h) The requirement in Table 5 of the Action Plan for OWTS owners to provide the Regional Water Board with information about their OWTS within five years after the effective date of the Action Plan was removed. Instead, Regional Water Board staff will provide individual OWTS owners a deadline to provide information during the OWTS Assessment Program. Further, it was clarified that the Assessment Program will likely be implemented in phases by geographic area or other appropriate mechanism; and,
- i) Some clarifications have been made relative to the monitoring program.

To address the cost of compliance with the proposed Action Plan, especially as it relates to OWTS, Regional Water Board staff has been coordinating with the State Water Board's Division of Financial Assistance (DFA) to secure funding for community wastewater planning and, ultimately, to provide assistance for individuals to pay for the cost of replacing noncompliant OWTS. As a pilot project, Regional Water Board staff and staff from the County of Sonoma have been participating since June 2018 in a Citizen's Advisory Group (CAG) that is exploring community solutions to wastewater disposal in Monte Rio and Villa Grande, which are two disadvantaged communities located in the lower Russian River. The primary objectives of the Monte Rio/Villa Grande CAG are to facilitate public engagement in the planning process and provide community input into the County of Sonoma's application for funding under the State's Clean Water State Revolving Fund program.

SIGNIFICANT CHANGES: The primary revisions are summarized above and these proposed changes are a natural outgrowth of the public comments received.

SUPPORTING MATERIALS:

1. Resolution No. R1-2019-0038 Amendment to the Water Quality Control Plan for the North Coast Region to Incorporate an Action Plan for the Russian River Watershed Pathogen Total Maximum Daily Load and a Discharge Prohibition
2. Proposed Action Plan for the Russian River Watershed Pathogen TMDL (strikeout/underline copy)
3. Proposed Amendment to Chapter 4, OWTS Policy (strikeout/underline copy)
4. August 2019 Addendum to the Staff Report for the Action Plan for the Russian River Watershed Pathogen Total Maximum Daily Load
5. Staff Report for the Action Plan for the Russian River Watershed Pathogen Total Maximum Daily Load (May 2019) (strikeout/underline copy)
6. Staff Responses to Public Comments Received on the Russian River Watershed Pathogen TMDL in 2015*, 2017*, and 2019

* These documents will not be included in the printed agenda package but are available on the Regional Water Board's August 2019 Agenda webpage at: [Agenda \(https://www.waterboards.ca.gov/northcoast/board_info/board_meetings/08_2019/\)](https://www.waterboards.ca.gov/northcoast/board_info/board_meetings/08_2019/).