

January 29, 2009

Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A, Santa
Rosa, CA 95403
ATTN: Lauren Clyde

LClyde@waterboards.ca.gov

RE: Proposed Amendment to Provide Exceptions to Point Source Prohibitions for Low-Threat Discharges

I am pleased to submit our comments on the Low Threat Discharge Amendment, Proposed Modifications to the Storm Water Action Plan and Proposed Low Threat Discharge Action Plan on behalf of Russian Riverkeeper. Russian Riverkeeper works with the community to advocate, educate, and uphold our environmental laws to ensure the protection and restoration of the Russian River for the health and benefit of all who use and enjoy it. Russian Riverkeeper represents over 1400 members who live or own property in the watershed and our comments primarily pertain to what we see in the Russian River watershed.

In general we support the development of this policy to facilitate the increased use of recycled water for irrigation and regulate other existing discharges provided that surface and groundwater quality is fully protected according to state and federal laws. We believe that given adequate safeguards and enforcement when warranted, this policy will allow use of recycled water, regulate existing discharges and protect our regions beneficial uses. This policy puts off the crucial development of these needed safeguards and updated permit language to the future with no assurance for public participation and that is a cause for great concern.

Our concerns with the policy are based on:

- ***Routine discharges of irrigation water occur at hundreds of locations in the watershed***
- ***BMP's to ensure beneficial use protection not defined***
- ***Current water quality objectives do not assure protection of beneficial uses***
- ***Allowance for pressure washing sidewalks and other areas into stormdrains***
- ***Lack of funding for implementation and enforcement of this policy***

At the same time the policy and in particular the Proposed Modifications to the Storm Water Action Plan have very positive additions to the Basin Plan. We support the recognition of hydromodification caused by stormwater and the strong support for Low Impact Development standards for post construction stormwater control. The proposed language also ties coverage under policy to requiring an NPDES permit and that the discharger be in compliance with their permit and water quality objectives.

PO Box 1335 Healdsburg, CA 95448 ♦707-433-1958 ♦Fax 707-433-1989 ♦info@russianriverkeeper.org

Routine discharges of irrigation water occur at hundreds of locations in the watershed

Current Municipal Stormwater BMP's do not prevent routine discharges from irrigation systems. In the attached pictures WaterIntoGutter.jpg, OverIrrigationDischarge9.jpg, IncidentalIrrigationRunoff5.jpg, it is clearly visible that routine irrigation is discharging significant quantities of irrigation water. These pictures are from Windsor, Santa Rosa and Healdsburg and are a few of dozens we take every summer. As recycled water use is increased we are gravely concerned whether this policy will truly protect against discharges that exceed water quality objectives. How will the updated BMP's assure this type of rampant discharge is avoided? To meet the objective that all reasonable measures will be taken to the *maximum extent practicable* (emphasis added) new BMP's must ensure that routine discharges from over-irrigation are eliminated.

BMP's such as the following can prevent these discharges from impacting water quality:

- Overspray from irrigation to impervious surfaces is prohibited especially for recycled water
- Setbacks from waterways adequate to ensure no discharge and double setbacks for impaired waters
- Zero discharge allowed for landscaped areas treated with herbicides or pesticides
- Coverage under policy only allowed if irrigation does not exceed agronomic rates ie: no discharge!

Certain water quality objectives do not assure protection of beneficial uses

The proposed Policy and Action Plans ability to ensure protection of beneficial uses depends on Policy condition #2, "The discharge shall comply with all applicable water quality objectives". Yet many waters subject to this policy already are seriously impaired despite water quality standards, various stormwater permits and agency enforcement. In addition some water quality objectives (WQO's) are either narrative or vaguely applied due to differing federal or state agency WQO's resulting in difficulty in determining compliance.

As was said in the comments submitted by California Coastkeeper Alliance, "an MS4 cannot regulate recycled water discharges, such as from golf course or soccer fields, at least without significant additional and site specific analysis". A good example is Laguna de Santa Rosa which is severely impaired for nitrogen, phosphate and low dissolved oxygen and used by Steelhead as a migratory and rearing area. Recycled water from the Laguna Treatment Plant can have 5-10 times the amount of nutrients present in Santa Rosa Creek so if discharges reach the creek it will significantly contribute to continuing impairment since summer flows are extremely low. To illustrate the issue, Healdsburg's new wastewater treatment plant effluent contains less than 1.0mg/L of nitrogen and primarily discharges into waters that currently meet Water Quality Objectives but under this policy both would be viewed the same even though impacts to beneficial uses are vastly different.

The Basin Plan section 3 contains WQO's for nutrients like nitrogen and phosphate and states, "Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses". The basin plan also clearly states in Section 3 that, "Whenever several different objectives exist for the same water quality parameter, the strictest objective applies."

In the CWA 303(d) list of 2002, EPA argued that the Laguna be listed specifically for nutrients instead of just low DO and justified their decision by using a water quality objective of 1.0mg/L for nitrogen and 0.1mg/L for Phosphate. It would seem that any recycled water or other discharge would need to meet the EPA objective to be covered under this permit as per the basin plan language above. Santa Rosas Laguna Treatment Plant rarely if ever meets the EPA objectives used in the listing policy objectives so any discharges should not be covered unless they meet the objective OR all discharges of recycled water should be prohibited under this circumstance. Other plants in the region also do not meet all WQO's and the policy should be clear on whether recycled water that doesn't meet the most stringent WQO should not be covered under this policy unless discharge is completely prevented.

Another WQO issue with "low-threat discharges is sediment, the current WQO is discharges shall not increase turbidity 20% over background levels. Non-stormwater run-off containing sediment from over-irrigation that is caused by irrigation water erosion and not the source water is a good example. The attached picture, SedLawntoGutter.jpg, is a one illustration of this point. A more frightening example is shown by PesticidesOn Walkways.jpg that shows residue immediately after an application of Cypermethrin, a pyrethroid pesticide, sprayed at a local business on landscaping and at perimeter of the building. The next morning we witnessed over-irrigation from landscaped areas discharging to a nearby stormdrain and then the following day we took the picture of the same building being pressure washed and discharging to stormdrain, PressureWashAfterPEsticideApplctn.jpg, and certainly entraining some pesticide residue from the previous day. We do not see that the policy and Action Plans adequately address this issue. The potential for these situations and similar ones to negatively impact beneficial uses is very high and the Policy and Storm Water Action Plan don't seem to provide adequate protections for beneficial uses as is the goal of this policy and Action Plans.

Allowance for pressure washing sidewalks and other areas into stormdrains will threaten beneficial uses.

As illustrated in the above example on pesticides sidewalk rinsing risk exceeding WQO's as the activity is intended to clean pollutants from impervious surfaces and can have many direct and indirect consequences. In one of our stormdrain filter test locations an employee "rinsed" the sidewalk and it rain into the filter leaving a large quantity of pollutants, Sidewalk Rinse Pollutants.jpg. This activity should be reconsidered, as many alternatives are available to using pressure washing equipment to clean impervious surfaces. We often see activities that essentially wash pollutants to stormdrains

Sidewalk rinsing is undertaken to clean pollutants off impervious surfaces and use the stormdrains for disposal. In picture SidewalkRinsing6.jpg the workers are washing moss and dirt off the brick area into the gutter and stormdrain. Since the entire watershed is sediment impaired this seems in direct opposition to the goal of the MS4 program. In picture Sidewalk Rinsing1.jpg workers are pressure washing with high pressure and low volume a private driveway in a retail strip mall and washing any pollutants right into the stormdrain. In picture SidewalkRinsing3.jpg a ready mix company is washing sediment into the gutter as well as back into the plant, the discharge into the gutter seems to be in violation of the low volume requirement but regardless this activity occurs frequently with little enforcement. Sidewalk rinsing needs more definition as it is unclear whether private roads in retail developments are sidewalks. Does this apply to roads or surfaces vehicles use? High pressure rinsing also mobilizes particles and pollutants that even a driving rain might not leading to additions of impairing pollutants. We urge the board to prohibit sidewalk rinsing unless water is captured since even if low volume is used the rinsed pollutants have been launched and will move over time to a waterway.

BMP's to ensure beneficial use protection not defined and need public participation

At this time the specific BMP's to ensure beneficial uses are protected are not defined in the policy and are deferred to a later process of permit updates. The public and board staff can't evaluate whether the BMP's that are the foundation of protecting beneficial uses are adequate until after the policy is adopted – this seems to be putting the cart in front of the horse and thwarts adequate analysis and public participation under CEQA. A good example of needed BMP's is illustrated in the picture LinebreakAndHydrantFLush.jpg where highly turbid water in large volumes is allowed to flow into the stormdrain and for some reason they also opened a fire hydrant and added that volume and potential pollutants!! Looking at picture Linebreakdischarge.jpg it is obvious that the basin plan WQO's were violated as water upstream was perfectly clear being summertime. It would seem that additional BMP's would be needed to protect beneficial uses but they are yet to be defined leaving us wondering whether this activity would be allowed or whether they would have to take additional steps to reduce to the maximum extent practicable the sediment.

We strongly urge the board to develop BMP's that include setbacks from creeks, streets, stormdrains or other conveyances to waterways OR require additional site specific analysis in a public process if irrigation or other incidental discharges are to be covered under this policy. We also urge that the policy expressly allow for public participation during development and approval of the yet to be defined specific BMP's as they will be the most important part of the Policy. To not allow public participation cuts the public out of the loop for the most vital part of this policy so we urge the board to modify the policy to ensure public participation in development of specific BMP's.

Other Policy Issues

Dredge Spoils dewatering should only be allowed if spoils are tested for pollutants. Bottom sediments in most waterways has a certain amount of organic matter and nutrients and de-watering where it can discharge to an impaired waterway should not be allowed unless it can be proved the discharge will not cause or contribute to continuing impairment.

We are curious what plans the Board has to staff this program as it will require a fair amount of work to develop BMP's and then ensure their implementation and for on-going inspection and enforcement.

NO allowance for discharges that occur from irrigating lands where biosolids have been applied. According to the recently released EPA Targeted National Sewage Sludge Survey Report the following report highlights show why no discharge should be allowed from land where biosolids are applied. The report noted that:

- The four anions were found in every sample.
- 27 metals were found in virtually every sample, with one metal (antimony) found in no less than 72 samples.
- Of the six semivolatile organics and polycyclic aromatic hydrocarbons, four were found in at least 72 samples, one was found in 63 samples, and one was found in 39 samples.
- Of the 72 pharmaceuticals, three (i.e., ciprofloxacin, diphenhydramine, and triclocarban) were found in all 84 samples and nine were found in at least 80 of the samples. However, 15 pharmaceuticals were not found in any sample and 29 were found in fewer than three samples.
- Of the 25 steroids and hormones, three steroids (i.e., campesterol, cholesterol, and coprostanol) were found in all 84 samples and six steroids were found in at least 80 of the samples. One

hormone (i.e., 17a-ethynyl estradiol) was not found in any sample and five hormones were found in fewer than six samples.

- All of the flame retardants except one (BDE-138) were essentially found in every sample; BDE-138 was found in 54 out of 84 samples.

It seems obvious from the information above and the fact that a significant amount of persistent pollutants removed from wastewater end up in biosolids presenting a clear risk to beneficial uses so no discharge from biosolids application areas should be allowed.

In the Stormwater Action Plan on the term “Greatest Extent Possible” is used to describe the level to which pollutants have to be minimized prior to any discharge, we thought the Stormwater Permittees are required to reduce pollutants to the maximum extent practicable. Why isn’t MEP used here?

In closing we appreciate the opportunity to comment on this basin plan amendment and believe that with additional well-defined BMP’s water quality and beneficial uses can be protected. We are concerned those defined BMP’s will not be developed until after the basin plan is amended and that public participation is not ensured. This concern could be addressed by making the future BMP development process open to the public or deferring this policy until those BMP’s are developed to ensure this policy meets it’s stated goals and does not result in significant unmitigated impacts under CEQA.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don McEnhill". The signature is fluid and cursive, with the first name "Don" and last name "McEnhill" clearly distinguishable.

Don McEnhill
Riverkeeper

Attachments:

A: Picture gallery

B: EPA letter on 303(d) listing of 2002

C: EPA Biosolids report

Attachment A: Picture Gallery
WaterIntoGutter.jpg



OverIrrigationDischarge9.jpg



IncidentalIrrigationRunoff5.jpg



SedLawntoGutter.jpg



PesticidesOn Walkways.jpg



PressureWashAfterPEsticideApplctn.jpg



Sidewalk Rinse Pollutants.jpg



SidewalkRinsing6.jpg



SidewalkRinsing3.jpg



Sidewalk Rinsing1.jpg



LinebreakAndHydrantFLush.jpg



Linebreakdischarge.jpg

