

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN THE**  
**NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD,**  
**THE COUNTY OF SONOMA,**  
**AND THE COMMUNITY DEVELOPMENT COMMISSION**  
**RELATING TO THE REDUCTION OF PATHOGENS IN THE RUSSIAN RIVER WATERSHED**  
**AND IMPLEMENTATION OF**  
**THE RUSSIAN RIVER WATERSHED PATHOGEN INDICATOR BACTERIA TMDL ACTION**  
**PLAN**

December 13, 2016

This Memorandum of Understanding (MOU) is made and entered into by and between the County of Sonoma (County), and the Sonoma County Community Development Commission (CDC) and the Regional Water Quality Control Board, North Coast Region (Regional Board), collectively referred to herein as the "Parties" or individually as "Party."

**I. Introduction and Background**

The Russian River Watershed encompasses a total of 1,484 square miles with approximately 920 in Sonoma County and the remainder in Mendocino County. In addition to supporting beneficial uses such as preservation and enhancement of fish and wildlife resources and public recreation, surface water and groundwater resources in the watershed are important sources of agricultural, industrial, and domestic water supply.

Several surface waters in the Russian River Watershed are identified on the 2012 Clean Water Act section 303(d) List of Impaired Waters due to pathogen indicator bacteria concentrations exceeding water quality standards. High concentrations of pathogen indicator bacteria in ambient waters infer the presence of human or animal fecal waste and associated disease-causing microorganisms (e.g., bacteria, protozoans, and viruses) that pose a risk to human health. To reduce concentrations of pathogen indicator bacteria to levels that minimize human exposure to waterborne disease-causing pathogens and to protect uses of water for recreational activities, the North Coast Regional Water Quality Control Board ("Regional Water Board") is developing a Total Maximum Daily Load (TMDL) Action Plan for pathogen indicator bacteria for the Russian River Watershed (Pathogen TMDL).

Although the Regional Water Board is the lead agency for implementing the Pathogen TMDL, the Pathogen TMDL identifies Bacteria Source Categories of Onsite Wastewater Treatment Systems, Recreational Water Use, and Homeless Encampments in which the County of Sonoma ("County") has existing regulatory authority over or in which the County and/or the Community Development Commission ("CDC") have existing or planned programs.

***Onsite Wastewater Treatment Systems (OWTS)***

Sonoma County's Regulations for Onsite Sewage Disposal in Sonoma County (revised November 2002, et seq.) has been an effective local program to implement Sonoma County

Code and the Water Quality Control Plan for the North Coast Region (Basin Plan) for the Regional Water Board. OWTS that have been installed, repaired, and replaced under these local standards are generally acknowledged to be in good working order and to be protective of public health and water quality. Additionally, the County and the CDC have dedicated considerable resources toward waste management solutions including commissioning the study of new or alternative wastewater system treatment technology, conducting public outreach on discharge standards, and investigating regional sewer system options.

However, it is also acknowledged that there are existing OWTS in several areas of the County that predate County Code and do not conform to local adopted standards for minimum parcel size, OWTS replacement area, or minimum allowable setbacks from structures, water features, and large or abrupt changes in slope. The highest concentration of these older, nonconforming OWTS are in the lower Russian River Watershed, specifically, in the communities of Jenner, Cazadero, Camp Meeker, Guerneville, Rio Nido, Summer Home Park, Hacienda, Mirabel, and Fitch Mountain. Because many of these OWTS are located on small lots, repairs and replacement of nonconforming OWTS is challenging.

The Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy) was adopted by the State Water Resources Control Board on June 19, 2012, and became effective on May 13, 2013. The Regional Board, in accordance with the OWTS Policy, amended the Basin Plan on June 18, 2015, to incorporate requirements of the OWTS Policy into the Basin Plan. The Policy establishes a risk-based, tiered approach for the regulation and management of OWTS installation and replacements and sets the level of performance expected from OWTS. Existing OWTS that are properly functioning, are not failing or otherwise require corrective action, and are not contributing to an impairment of surface waters have minimal additional requirements under the OWTS policy. For local agencies wishing to implement a local program as an alternative to the most protective tier for low risk new or replacement OWTS (Tier 1), the local agency must propose and implement an approved Local Agency Management Program (LAMP) that includes minimum standards for the siting, design, construction, maintenance and management of OWTS within its jurisdiction (Tier 2). Existing, new, and replacement OWTS in areas near impaired water bodies must meet requirements of an adopted TMDL, special protections established in an approved LAMP, or Tier 3 requirements set forth in the OWTS Policy. On May 13, 2016, Sonoma County provided notice of its intent to regulate OWTS using a LAMP under Tier 2 of the OWTS Policy. For areas of the Russian River Watershed that are listed as impaired due to pathogens pursuant to section 303(d) of the Clean Water Act, an Advanced Protection Management Program (APMP) is the minimum required local management program for OWTS.

### ***Recreational Water Use***

Swimming and other water contact recreation in the river can be a source of bacteria and other pathogens through direct human urination or defecation in the water or along the shore. Pathogens may also be washed off the body during immersion. There are many public and private swimming beaches and a number of commercial kayak and canoe outfitters that operate along the mainstem Russian River. River and river-front properties are owned by various entities, including the State, the County, and private property-owners. While the County's authority over many related discharge sources is limited, this MOU outlines the Parties' communication and outreach strategies to reduce contamination by recreational water users.



### ***Homeless Encampments***

As in many communities, homelessness is recognized as a complex problem with multiple underlying causes. In Sonoma County, the Board of Supervisors is committed to a “Housing First” strategy to end homelessness as an alternative to emergency shelters and transitional housing for unsheltered homeless people. The County has identified increasing the amount of affordable housing as the most effective overall approach to end chronic homelessness.

The County’s strategy for ending homelessness is laid out in *Building HOMES: A Policymaker’s Toolbox for Ending Homelessness*. This document seeks to provide an understanding of the needs and opportunities to end homelessness in Sonoma County by 2025. It reviews proven strategies, proposes new initiatives to strengthen and build upon the 10-Year Homeless Action Plan: 2014 Update (Sonoma County Continuum of Care), and acknowledges that hard choices, substantial investments, and committed action will be required.

Sonoma County Board of Supervisors has funded the Homeless Outreach Services Team (HOST), to engage the unsheltered homeless people living near the County’s waterways and trails to connect people to services and mitigate the impacts of homelessness. This program will provide unsheltered homeless people with a variety of services that will move them out of these areas and into housing, and improve their health and well-being. The County and the CDC have also provided other solutions including constructing public restrooms in downtown Guerneville to be used by homeless residents, recreational water users and other visitors and residents.

While ending homelessness is beyond the scope of the Russian River Watershed Pathogen TMDL, this MOU seeks to find common ground in addressing the complex problem of discharges of waste associated with homeless encampments.

## **II. Purpose**

The purpose of this MOU is to establish the mutual understandings of the Parties with respect to their joint efforts and responsibilities related to bacteria source categories of Onsite Wastewater Treatment Systems, Recreational Water Use, and Homeless Encampments.

## **III. Authority to Enter into MOU**

The County has authority to enter into this MOU pursuant to its police powers. The CDC has authority to enter into this MOU pursuant to Health and Safety Code sections 34112, 34141, 34143, and 34149. The Regional Board has authority to enter into this MOU pursuant to California Water Code section 13225, subsection (b) and (j).

## **IV. Goals**

The goals of this MOU are:

- a. To make record of the mutually agreed upon intentions of the Parties to reduce pathogens in the Russian River watershed;
- b. To outline interagency coordination in the sharing of information, management, and outreach related to the Pathogen TMDL; and

- c. To outline respective roles and responsibilities associated with implementation of Pathogen TMDL actions.

**V. Onsite Waste Treatment Systems**

- a. **Defining the Geographic Areas of the APMP and Mapping Services:** The Regional Water Board shall determine the precise geographic boundaries for the APMP in addition to other parameters necessary to identify affected parcels. The Sonoma County Permit and Resource Management Department (PRMD) will assist as necessary in developing and mapping the geographic boundary of the APMP identified by the Regional Water Board. The maps and description of the location of the APMP area shall be included in the Pathogen TMDL. The Regional Water Board, with help from the County, will create a list of parcels located with the APMP area and will make it available to the public on the Regional Water Board website.
- b. **Requirements for OWTS in the APMP:** In the Pathogen TMDL, the Regional Water Board, with input from the County, will define the minimum requirements for existing, new and replacement OWTS within the boundaries of the APMP.
- c. **Assessments of OWTS:**
  - i. **Regional Water Board.** In coordination with the County, but relying on its authority under the Porter-Cologne Water Quality Control Act, the Regional Water Board will be the lead organization for issuing informational orders to OWTS owners to obtain targeted information pertaining to existing OWTS to determine if the OWTS is meeting the minimum requirements defined in the Pathogen TMDL.
  - ii. **Sonoma County.** Consistent with the OWTS Policy, Sonoma County will implement a water quality assessment program for OWTS and will share water quality data, reports of complaints, variances, and failures, and any information resulting from inspections with the Regional Water Board.
  - iii. **Regional Water Board and Sonoma County.** The Parties will share and analyze information obtained during the assessment process described in sections V(c)(i) and (ii) to identify OWTS that require additional assessment and/or corrective action.
- d. **Compliance Tools and Authorities.** Property owners with OWTS that do not meet minimum requirements defined in the TMDL may be required to repair or replace the OWTS. Property Owners that are required to upgrade, repair, replace an existing OWTS or acquire a new OWTS must obtain the appropriate County permit in accordance with County ordinances and policies. Should any property owner refuse to obtain the appropriate permit or fail to follow conditions of the permit, the Parties agree to coordinate in necessary actions to gain compliance. The Regional Water Board has jurisdiction to enforce the minimum requirements defined in the Pathogen TMDL. The County and the Regional Water Board intend to coordinate their respective enforcement authorities to attain compliance with the Pathogen TMDL as follows: The Regional Water Board will use its authority, including but not limited to its informational order authority under the Porter-Cologne Water Quality Control Act, to investigate unpermitted or sub-standard systems and require upgrades. The County agrees to coordinate in enforcement actions by supplying the Regional Water Board with available property and owner information. The County will ensure new and upgraded systems are in compliance with the Pathogen TMDL.



- e. **Permitting and Monitoring:** PRMD will be the lead organization for plan review, construction inspection and monitoring of new OWTS and upgrades, and repairs or replacement of existing OWTS. Monitoring of OWTS shall be performed in accordance with Sonoma County's Onsite Wastewater Treatment System Regulations and Technical Standards (OWTS Manual), except when monitoring is required by the Regional Water Board in accordance with individual monitoring requirements or other informational orders.
- f. **Planning, Research, and Funding:**
  - i. The County and its agencies shall fund research of technical solutions for wastewater treatment and planning for community solutions and alternatives, and shall undertake community engagement with regards to planning and research conducted. The Parties shall confer with one another to coordinate this research. The Regional Water Board shall participate in this community engagement and a representative of the Regional Water Board will attend any community meetings on such planning and research.
  - ii. The State Water Resources Control Board (State Water Board) administers funding assistance programs for qualifying wastewater projects. Funding for planning and assessment, technical assistance, and construction of small community wastewater projects is available from the State Water Board's Small Community Grant (SCG) program and through the Clean Water State Revolving Fund (CWSRF) program. Eligible projects include design, construction, upgrade, and repair of centralized wastewater treatment plants and decentralized treatment systems, wastewater collection systems, storm water projects, "septic to sewer" projects and OWTS replacement projects.
  - iii. The Parties will work together to prepare an application to the State Water Board for funding assistance for local actions related to implementation of the Pathogen TMDL. No later than six months after the Regional Water Board's adoption of the Pathogen TMDL, the County and the CDC will submit a completed application to the State Water Board for funding assistance for planning activities related to Pathogen TMDL implementation. Upon completion of a planning study, the Parties will work together to prepare and submit funding application(s) for construction of projects described in the planning study. Thereafter, the Parties will work together to seek funding from the State Water Board and/or other funding entities for qualifying projects identified by the County and the CDC.
  - iv. So long as construction funding is procured, the CDC and/or the County will administer a funding program for qualifying projects. The County and CDC will be responsible for determining qualifying projects and parties for the purposes of providing funding. The Parties will work jointly on outreach and education regarding funding.
- g. **Community Solutions:** The Parties will identify possible community based approaches for OWTS that fail to meet the minimum requirements defined in the Pathogen TMDL. The Parties will facilitate the formation of third party community advisory groups, identify possible sources of funding, and assist in feasibility studies and project implementation, as appropriate.

## **VI. Homeless Issues**

- a. **Joint Policy:** Recognizing that homelessness and homeless encampments on public and private land present a complex and dynamic problem, and recognizing that uninformed actions and actions focused solely on the short term can be counter-productive, the Parties wish to work together to reduce associated water quality impacts in a manner that, to the extent feasible, gains the trust of the homeless and prevents unintended consequences.
- b. **Joint Protocol:** To respond to dynamic conditions, the parties are adopting a Joint Protocol. It is the intent of the Parties that this Joint Protocol will address water quality impacts relative to homeless encampments. Nothing in this provision shall be construed to limit the Regional Water Board's authority.
  - i. **Communication:** Each Party shall designate a contact to exchange information and concerns regarding homeless issues, including but not limited to issues with encampments. The CDC project contact shall serve as the designated contact for CDC and the County.
  - ii. **Quarterly Meetings:** The Parties shall meet quarterly to discuss activities and programs addressing homeless issues in the Russian River areas.
  - iii. **Technical Assistance:** The Regional Water Board will provide technical assistance as necessary to support the County's HOST program efforts.
  - iv. **Notice:** For any encampment on County land, the Regional Water Board shall provide written notification to the designated contacts for homeless issues at the CDC and the County prior to initiating any enforcement action based on a homeless encampment or other homeless-related issue.
- c. **Funding for Clean-up Efforts and Sanitary Facilities:** The Parties will work proactively to find funding for clean-up efforts, installation and location of sanitary facilities along the Russian River to address homeless impacts.
- d. **Prioritization of Permitting for Homeless and Affordable Housing:** Throughout implementation of the Pathogen TMDL, the Regional Water Board will prioritize permitting for homeless-dedicated and affordable housing projects in the Russian River area for which Regional Water Board permits are required. These projects may include, but are not limited to, the Homeless Day Services Center planned in Guerneville.

## **VII. Recreational Water Use**

- a. **Joint Policy:** The Parties have a joint interest in maintaining water quality for the benefit of the public and the environment, and further recognize that the goal of the Pathogen TMDL is to protect contact recreation. The Parties agree to meet and work together in good faith to evaluate means to reduce the pathogen load from recreational uses of the Russian River.
- b. **Access:** The Parties recognize that access issues to the river can implicate the public trust doctrine (and the jurisdiction of the State Lands Commission), civil rights, and in some cases property disputes. The Parties further recognize that many recreational users of the river do not use lands that are within County jurisdiction, and that both the County and the Regional Water Board may need to engage private landowners or other river users through educational or regulatory activities designed to reduce pathogen load from recreational activities.



- c. **Funding for Sanitary Facilities:** The Parties will work proactively to find funding for installation and location of sanitary facilities along the Russian River to address sanitation needs by the recreational water users. The Parties will work proactively to find funding for education and outreach to recreational users on available sanitary facilities.

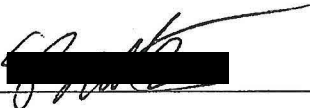
#### VIII. General Implementation

- a. **Information Sharing:** As necessary to maintain a record of OWTS within the APMP area, the Parties will share parcel-specific information for properties within the boundaries of the APMP area. As necessary to assess the impact of OWTS on groundwater quality and surface water quality, the Parties will share information related to water quality monitoring, inspection results, and other relevant information.
- b. **Revisions to Pathogen TMDL:** The Regional Water Board shall consult with the County and the CDC prior to revising the Pathogen TMDL when the revision is expected to have an impact on the County or the CDC.
- c. **Updates:** The Parties agree to provide periodic updates on the progress of this MOU to the Sonoma County Board of Supervisors, the CDC Board of Directors and the Regional Water Board.
- d. **Community Engagement and Education:** The Parties will work together on ongoing public engagement and education opportunities related to funding for OWTS repair and replacement, sanitation facilities for homeless encampments, sanitation facilities and related signage for recreational users of the Russian River and any other issues related to Pathogen TMDL implementation. The Parties will coordinate so that a representative of the Regional Water Board, the County, and the CDC will attend community events related to Pathogen TMDL implementation and Russian River water quality hosted by the Regional Water Board, the County, or the CDC.
- e. **Timeline and Schedule.** The Parties recognize that attainment of water quality standards for bacteria will take time and staff resources from all Parties and the Parties agree to make a good faith effort to make timely progress in these actions. The Parties shall work together to meet actions and the timeline delineated in the Pathogen TMDL Action Plan.
- f. **Project Coordination and Communication:** The Sonoma County Administrator's Office will provide overall coordination on behalf of the County. Additionally, there will be designated departmental contacts at the Permit and Resource Management Department, Community Development Commission, and Regional Parks. The sharing of information regarding OWTS, homeless encampments and reports of complaints pertaining to recreational users of the Russian River and its tributaries is critical to the effective regulation of these sources of pathogenic bacteria, and the Parties agree to make a good faith effort to cooperate in information collection, sharing, and dissemination.
- g. **Project Contacts:** The parties' project contacts are designated as follows. Each Party may change its designated contacts.
  - i. County Administrator's Office: Sita Kuteira
  - ii. Permit & Resource Management Department (OWTS): Tennis Wick
  - iii. Community Development Commission (homeless issues): Jim Leddy
  - iv. Regional Parks Department (recreational water use issues): Bert Whitaker
  - v. Regional Water Board: Matthias St. John

**IX. Terms**

- a. **Good Faith Effort:** The Parties agree to make a good faith effort to fulfill commitments in this MOU. Examples of good faith efforts include the consideration of new policies, appropriate enforcement action, or programs that promote the goals and objectives of this MOU.
- b. **Severability:** In the event that individual and severable portions of this MOU are found to be in conflict with either State or federal law, regulations or policies, and, therefore, of no effect, the MOU will remain in effect without those provisions unless one Party notifies the other Parties in writing that the entire MOU is terminated.
- c. **Modification/Termination of MOU:** This MOU may be amended by the Sonoma County Administrator and the Regional Water Board, or persons to whom this authority is delegated by them, through a written, signed amendment hereto. This MOU may be terminated by the Sonoma County Administrator or Regional Water Board, or persons to whom this authority is delegated by them, at any time following thirty (30) days written notice of such termination to the other Party.
- d. **Reservation of Rights:** For purposes of this MOU, the relationship of the parties is that of independent entities and not as agents of each other or as joint venturers or partners. The parties shall maintain sole and exclusive control over their personnel, agents, consultants, and operations. Nothing in this MOU is intended to limit the legal authority or responsibilities of the Parties, except as agreed to herein.
- e. **Legal Authority:** Nothing in this MOU is intended to give any signatory, agency, entity or organization expansion of any existing authority.
- f. **Third Parties:** Nothing in this MOU is intended to create duties or obligations to or rights in third parties to this MOU.

This Memorandum of Understanding is hereby approved by the following parties:

  
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Sheryl Bratton  
County Administrative Officer  
County of Sonoma County

12-21-16  
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Date

Digitally signed  
Matthias St. John  
by Matthias St. John  
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Matthias St. John  
Executive Officer  
Regional Water Board

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Date