

Change Sheet

Regional Water Quality Control Board
North Coast Region

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)

Regional Water Board staff inadvertently overlooked 5 public comment letters when developing its response to comments document. An addendum to the Appendix A of the Response to Public Comments Received on the Russian River Watershed Pathogen TMDL in 2015, 2017, and 2019 follows, which provides written responses to the comments contained in these additional 5 letters.

Addendum to Appendix A – Responses to 2019 Public Comments

Commenter & Comment No.	Comment Summary	Response
Ruth LeBlanc (SSU-1)	The Regional Water Board has not provided sufficient stakeholder outreach to SSU on the draft TMDL. The first draft of the TMDL published in 2015 and a revised draft in 2017 did not identify SSU's storm water runoff as a source of fecal waste. SSU did not receive any notification or outreach on the process of being included in the 2019 draft TMDL. We would expect, at a minimum, for the Regional Water Board to at least provide notification to SSU directly of being named in the TMDL.	See SCBS-1. The commenter is referring to a revision to Table 4 of the TMDL Action Plan, which updates the named parties in the Municipal Storm Water Runoff fecal waste source category to include entities enrolled or to be enrolled under the MS4 Phase I and Phase II permits. The Regional Water Board has performed extensive and repeated public outreach over the past four years. However, the commenter is correct that MS4 permittees were not contacted individually. All existing and any future enrollees will be required to develop a Pathogen Reduction Plan. We envision opportunities for outreach and coordination with each of the named enrollees during the permit renewal process/13267 order process.
SSU-2	We respectfully disagree that SSU stormwater runoff is a documented source of fecal waste. We do not have failing septic systems, homeless encampments or pet waste. We request further information on the source(s) of fecal waste the Regional Water Board has identified on campus that lead to the determination that SSU should be named in the draft 2019 TMDL.	Each of the Phase I and Phase II MS4 enrollees will be required to develop a Pathogen Reduction Plan. SSU is identified because staff anticipate enrolling it in advance of the anticipated effective date of the TMDL Action Plan. The Regional Water Board has not determined that SSU has sources of fecal waste that require specific action. It has only determined that stormwater runoff as controlled under the MS4 permits is a potential source of pathogens. As part of its inventory, SSU may determine that there are no sources of fecal waste that require specific management and/or control.
Tony Bertolero (Town of Windsor-1)	The Fecal Waste Discharge Prohibition prohibits discharge of the waste containing fecal material from humans or domestic animals. The language in Section 6.3.1.2 of the Staff Report referencing pathogens that risk human illness is vague. It would be more appropriate to use the language in the Fecal Waste Discharge Prohibition, which	The staff report was revised to provide some guidance to the municipal NPDES dischargers at the request of another commenter. The commenter asked for guidance on what studies would be required to determine the reasonable potential for exceedances. The guidance is to focus on

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	is the foundation for the Action plan, and state that more information is needed to determine if recycled water storage ponds contain pathogens from human or domestic animals, not illness-causing pathogens.	pathogens that are infectious to humans to ensure protection of public health.
Town of Windsor-2	We have concerns with the appropriateness of calculating the GM and STV using stormwater runoff data. To calculate a six-week GM, stormwater runoff samples would need to be collected on a regular basis. Due to the variations of storm events, the collection of stormwater runoff samples cannot be conducted in any type of regularly scheduled routine or frequency.	See RRWA-2
Town of Windsor-3	The definition of “fecal material” in this prohibition is not clear. In an undefined context, it is not clear what measurement the discharge will be measured against for compliance determination. We recommend the TMDL be revised to include a definition of “fecal material” so there is a clear way to determine if the prohibition is being met.	See RRWA-4
Town of Windsor-4	As currently written, there is no qualifier that compliance can be achieved with one of the six actions. We recommend adding qualifying language to clarify only one action is needed for achieving compliance.	See RRWA-5
Town of Windsor-5	The first action for compliance with the discharge prohibition states “Implement adequate treatment and best management practices...” to achieve compliance with the prohibition. As written, this action implies best management practices alone are not adequate to prevent the discharge of fecal waste material in storm water and only discharges of stormwater that are also treated will be effective at meeting compliance requirements. We recommend this be revised to “Implement adequate best management practices.”	See RRWA-6

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Town of Windsor-6	It is our understanding that the Regional Water Board Executive Officer will likely issue a separate 13267 Order to request the Pathogen Reduction Plan of stormwater entities. In this event, the compliance actions associated with the discharge prohibition should be revised to say “Comply with all fecal waste/pathogen-related provisions of an applicable NPDES permit and other relevant regulatory Orders.”	See RRWA-7
Town of Windsor-7	The Town has concerns regarding specific monitoring requirements. It requests that the next adopted NPDES permit include language for the Town to submit a sampling study proposal to be approved by the Regional Water Board, to address concerns regarding surface water discharges from recycled water holding ponds. Further, the timelines associated with the development of a reasonable potential analysis are unclear. There is no stated deadline to conclude the RPA. The Town is concerned they may be obligated to collect data for 7 years following adoption of the Action Plan. A sampling plan designed by the Town with approval by the Regional Water Board provide clarity.	See Santa Rosa-1
Town of Windsor-8	The term “Recycled Water Holding Ponds” should be the standard terminology used in the staff report and action plan. It should not be used interchangeably with Wastewater Holding Ponds.”	It is appropriate to use both terms. While the same physical ponds may be used to store highly treated wastewater, that water may be disposed of as wastewater or recycled.
Phil Grosse (Grosse-1)	The Russian River in the Hacienda is not contaminated. It is free of <i>E. coli</i> , which is the sole indicator allowed to be used to determine if a stream is impaired. Hacienda is placed in an artificial watershed and claim that the presence of <i>E. coli</i> in Dutch Bill Creek means that Hacienda is affected, 9 or 10 miles downstream. The costs to	See Holmer-7, NOBAR-2, and NOBAR-5. Hacienda is a neighborhood with a high density of OWTS, comparable to those determined in the Regional Water Board’s OWTS Study to present a risk to water quality. Only OWTS within the APMP boundary that are cesspools, failing, or operating

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	residents are excessive compared to the poor evidence of harm.	over the design capacity to treat waste will require repair or replacement.
Grosse-2	Beach closures almost always happen on holiday weekends. Enterococci is not supposed to be used as a decision-making parameter. Requiring Fitch Mountain residents to build new septic systems 600' up Fitch Mountain is not supported by this kind of data and will not result in water quality improvements, as long as people are pooping in the bushes on the beach on the Fourth of July.	See Grosse-1, ORRR-2 and SCBS-6.
Gross-3	<p>A much more straight-forward program to addressing the key pathogen problems in the Russian River is to:</p> <ol style="list-style-type: none"> 1. Go get the money; request funds from the windfall of taxes on internet sales. 2. When a cesspool fails, require it to be replaced by a septic system. 3. Figure out what really is happening in Dutch Bill Creek. A local biologist suggests more extensive <i>E. coli</i> monitoring. 4. When a property with a cesspool goes on the market, require that it be upgraded to a septic system. 5. Build public toilets up and down the River. 	See ORRR-6, RRWPC-9, SCBS-8, and RRWPC-2. Cesspools are not allowed under the statewide OWTS Policy and must be replaced. The TMDL establishes a generous timeframe for their replacement. The establishment of sanitation facilities for recreational users of the river and the homeless are likely potential solutions but will be assessed under the MOU with Sonoma County and an agreement to be developed with Mendocino County.
Grosse-4	The Board is currently headed in a disastrous direction; it should be better collaborating with the OWTS group.	The Regional Water Board has engaged in considerable outreach with numerous groups of stakeholders. Staff have valued all input, thoughtfully evaluated the input, and responsively made numerous revisions to the proposed approach based on that input.
James Christian (Christian-1)	The adopted freshwater indicator bacterium is <i>E. coli</i> . The data have shown that the mainstem is not impaired for <i>E. coli</i> at any sampled locations, through a couple of	See Holmer-7, NOBAR-2, NOBAR-5, and Grosse-1.

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	tributaries are. There is no support, nor REC-1 reasoning, for the TMDL's Staff Report to find the main stem impaired.	
Christian-2	Attempting to treat enterococci plus beach alerts as the equivalent of E. coli impairment is not defensible. Beach alerts may be advisory only, may be posted for any number of reasons and are short-term (usually a day or two). Impairment under the Clean Water Act and Porter-Cologne is carefully defined to be associated with on-going water conditions, not occasional, short-lived conditions.	See ORRR-2.
Christian-3	Unless and until E. coli impairment is shown on a specific stretch of the mainstem, AND it is established through source analysis that septage is a significant contributor to that impairment, there is no REC-1 justification for requiring expensive pretreatment or advanced dispersal for septic systems or seepage pits along the mainstem, or for outlawing seepage pits altogether. County regulations already include a 100' setback from the Russian River. REC-1 provides no basis to require more along the mainstem.	See Homer-7 and SCBS-8.
Christian-4	Including the unimpaired mainstem in the APMP area is a clear regulatory overreach. By any reasonable logic, the APMP area should be limited to waterbodies that are in fact impaired—the tributaries--- and the mainstem should not be included.	See Holmer-7 and Grosse-1.
Christian-5	Any required upgrade to existing cesspools or septic systems MUST be conditioned on public funding being available whenever the cost of the upgrade exceeds ½% of the home's assessed value, as stated in AB885.	See Water Code section 13291.5. The legislature encouraged the State Water Board to make loans available to public agencies to assist private property owners with existing systems who incur costs as a result of the implementation of regulatory requirements for onsite sewage treatment systems. See Holmer-5 and O'Rorke-1.

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Christian-5	The commenter repeats the comment made by Phil Grosse and summarized in Grosse-3.	See Grosse-3.
Daniel Boyes (Boyes-1)	Implementing a plan to address water quality concerns for the Russian River has a number of benefits: 1) to public health and 2) to support local economies near the river. Every dollar spent on planning and implementing the plan is money well spent.	Comment noted.
Boyes-2	It is important that the Plan is locally driven and incorporates values from the community. Since the local communities stand to benefit from the Plan, key stakeholders from the community should be involved. It is important that the Plan be crafted in a way that makes it adaptable to changing conditions in the future.	Staff agrees and believes the results of the last 4 years of extensive public input are reflected in the proposed TMDL Action Plan.