

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Dyan Whyte)
MEETING DATE: June 15, 2005

ITEM: 7

SUBJECT: **Proposed Amendment to the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Region to Establish a Tomales Bay Watershed Pathogens Total Maximum Daily Load (TMDL) and Implementation Plan - Hearing to Consider Adoption of Proposed Basin Plan Amendment**

CHRONOLOGY: November 2002 - Preliminary Tomales Bay Watershed pathogens TMDL report
March 2004 - Final Tomales Bay Watershed pathogens TMDL report
April 2005 – First public hearing on proposed Basin Plan Amendment

DISCUSSION: This is the second hearing of the process to establish a TMDL and an implementation plan to control pathogen discharges in the Tomales Bay watershed and protect the public from exposure to waterborne diseases. At this hearing, we will present the status of our ~~review and~~ response to comments received on the proposed Basin Plan Amendment. In addition to oral testimony at the April hearing, we received eighteen comment letters (Appendix A). We are developing revisions to the proposed Basin Plan Amendment that are a logical outgrowth of comments received. We are distributing preliminary revisions to stakeholders for discussion purposes only since we have not completed our responses to comments and related analyses that could result in further proposed revisions. Accordingly, we recommend that the Board continue the hearing to adopt the proposed Basin Plan amendment until the proposed revisions and supporting documents are complete.

With this TMDL, we are striving to achieve a balance such that human activities including agriculture, recreation, commercial fishing and aquaculture, and residential use coexist and water quality is restored and protected. A number of the comments received reflect the challenges to achieving this balance and expressed support of our proposed implementation plan. “We welcome the flexibility that it (the TMDL) provides to implement and document water quality improving measures” (Tomales Bay Agricultural Group). “The appropriate balance of flexibility and authority has been put forth in the TMDL Implementation Plan such that source category stakeholders know that compliance is mandatory through a number of self selected options” (UC Cooperative Agricultural Extension). “The (Point Reyes National) Seashore supports the Board’s efforts and will work internally, and with our park leasees, to support the implementation process and ensure that progress is made towards achieving the TMDL goals” (US National Park Service).

A number of commentors requested that bacteria source tracking studies using DNA be conducted to more accurately identify pathogen sources. We agree that the TMDL should account for human, domesticated animal, and wildlife pathogens sources. We

propose revising the sources section of the TMDL to clarify the basis for identifying existing sources and express support for conducting source studies as part of the adaptive management program. We also propose a number of revisions to better account for naturally occurring sources and acknowledge that the Board does not intend to hold individuals responsible for uncontrollable wildlife discharges.

In response to comments submitted by the State Water Resources Control Board, we propose implementation plan revisions to clarify existing regulatory requirements and ~~inserting~~ better describe the ~~the~~ monitoring program. In addition, as required under the California Water Code, we propose including an estimate of implementation costs for agricultural sources.

Many of the stakeholders commented that our proposed tributary water quality targets and allocations are too stringent. In response to these comments, we are modifying a hydrodynamic model, developed specifically for Tomales Bay and this TMDL, to better evaluate the effect of tributary bacteria levels on Bay water quality. The goal of this exercise is to identify the maximum bacteria levels that can be discharged to the Bay via tributaries while protecting beneficial uses. The model is a tool for identifying what bacteria levels we need to achieve in Walker and Lagunitas Creeks in order to attain Bay water quality standards and protect shellfish harvesting, the most sensitive beneficial use in the Bay. The model simulation used to evaluate the targets proposed at the April hearing did not account for bacteria die-off, a naturally occurring phenomenon. This was acknowledged as a conservative assumption in our report. However, after further reviewing Tomales Bay background water quality data and bacteria decay (die-off rates) reported in the scientific literature, we acknowledge that our initial model results may be overly conservative. UC Berkeley researchers who developed the model are now rerunning a wet-weather model simulation that accounts for bacteria decay. The model runs close to real-time meaning that it takes several weeks for the model to crunch all the data to produce a 30-day simulation of Bay water quality. Once we receive the model results, anticipated by June 24, we will propose revisions to the allocation scheme as appropriate.

Since the Board cannot consider adoption of the Basin Plan Amendment until we complete our responses to comments and make associated revisions, we recommend that the Board continue the hearing. We also recommend that the Board consider providing stakeholders an opportunity to provide comments on our proposed revisions to the Basin Plan Amendment in advance of the future hearing date.

RECOMMEN-
DATION: Continue the hearing to consider adoption of the proposed Basin Plan Amendment.

APPENDIX: A - Comment Letters