

Appendix C

Comment letter from
Living Rivers Council

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Living Rivers Council
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MISSION STATEMENT: The Living Rivers Council was established to protect, restore, defend and preserve watersheds in natural harmony with the people and wildlife that depend on healthy water for economic vitality, recreational enjoyment and ecological sustainability. We will pursue these goals through education, research, consensus building, and advocacy.

A "living" river system functions properly when it conveys variable flows and stores water in the floodplain, balances sediment input with sediment transport, provides good quality fish and wildlife habitat, maintains good water quality and quantity and provides recreation and aesthetic values. A "living river" conveys equilibrium and harmony with all that it touches and resonates this through the human and natural environment.

October 12, 2006

Dyan Whyte
SFRWQCB
1515 Clay St.
Oakland, Ca. 94612

Re: Napa River Pathogen TMDL

San Francisco Basin Plan Amendment

The Pathogen TMDL implementation plan requires action consistent with the California Water Code (CWC Section 13000 et seq.), the state's Nonpoint Source Pollution Control Program Plan (CWC Section 13369) and its policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program and the human waste discharge prohibition. However, the Basin Plan does not advocate enforcement actions, only waivers, more data collection, reports of waste discharge by ranches, and time tables of five years duration for re-evaluating the efficacy of pathogen reduction programs. Enforcement recommendations should be an integral part of the San Francisco Basin Plan.

The San Francisco Regional Water Quality Control Board, SFRWQCB, is charged with enforcing the Clean Water Act. By not advocating enforcement to motivating

change in human behavior and land use policies that pollute the public's waterways the Water Board makes its recommendations weak and becomes ineffectual. By not requiring clean up forthrightly and requiring reviews of the clean up progress every five years it loses a sense of urgency and importance. The Water Board fails in its duty to protect the public now with enforcement policies and recommendations to local government.

Actions the Water Board should take:

1. Advocate for county and city Conservation Regulation changes that provide for adequate stream buffers or setbacks for all new agricultural, replanting, and building projects. Napa County and the cities have inadequate to no regulatory tools to protect streams. Conservation Regulations are void to cover many streams and there are no setbacks on under 5% slopes for example.
2. Advocate for developing Napa County Conservation Regulation that require the fencing off of all cattle and horse grazing from streams. Many cattle ranchers in the Conn, Rector and Milliken watersheds, which are all municipal watersheds, allow cattle to roam freely through the blue line streams above the reservoirs. This puts unreasonable amounts of bacteria in the stream. The County ONLY suggests voluntary compliance with best management practices and largely does not work with ranchers on preventing cattle in creek issues. The City of Napa Water Department, issues a 'Sanitary Survey Report' by hired consultants that has repeatedly made recommendations that the cattle in the watershed be kept OUT of the streams. After LRC protested cattle excrement in streams, the City of Napa recently informed LRC that the County does not cooperate with the City to stop cattle in streams. In other words, the City and the County do NOT currently work together to keep cattle out of streams. Most cattle ranches are in the County, so it would take collaboration between the City and County to educate and or regulate cattle excrements out of our public water supply hence our water bodies. Both agencies should be required to develop protection of streams with cattle exclusion zones.
3. Any evidence of pathogen pollution should be reported to responsible enforcement agencies. At present CWA violations relies on private groups to report violations to authorities based on RWQCB data. The WB should require local agencies to likewise report any pathogenic pollution violations they become aware of, even those involving other governmental agencies.
4. Eliminate waivers except under the condition that they only extend for a time period of one year.

5. The Water Board estimates the cost of implementing cost of agriculture discharge. It should also estimate the cost to the public of having polluted water in loss of recreational value, probable cost of human sicknesses, and a numerical value of preserving a clean animal habitat.
6. Repeat offenders of violations of the CWA regarding pathogens should have their permits revoked. For example: Constantine Winery in the Napa Valley has a long history of violations of the CWA due to spraying their winery effluent on their vineyards. However, their permit combined with the Mustard Grill effluent or sewer water has over the years discharged into the Napa River several hundred feet away. These repeated violations should not be allowed and the WB should revoke their permit to discharge.
7. The City of Calistoga waste water plant experiences a ten percent increase in winter flows from rain water intrusion. The plant is overwhelmed and must operate at a lower level of efficiency producing secondly treated effluent instead of tertiary effluent. Storm water inputs are caused by cracked pipes or loose pipe joints, poorly sealed manholes around the pipes and/or joints, or by inadvertent cross connections. If water is coming into the system during wet weather it is equally leaking out of the system during dry weather, possibly contaminating ground water and possibly finding its way into surface waters. Every sewer district in Napa County has this problem from one degree or another. The current NPDES Permit requires a failed maintenance program of identifying the sources and repairing of storm water leaks. It is apparent that the current maintenance programs are not sufficient if the equivalent of one month's volume is entering the system as noted in the application for Calistoga's NPDES permit. The TMDL should establish a numerical target for lowering storm water inputs and sewer leakage out of the sewer systems to encourage better control.

Thank You,
John Stephens
LRC Advisory Chair
Chris Malan
Manager