

Appendix A  
Tentative Resolution

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**TENTATIVE RESOLUTION No. R2-2021-00XX**

**Supporting Implementing a Water Quality Improvement Plan to Achieve Water Quality Objectives for Sediment and Population and Community Ecology in San Gregorio Creek**

WHEREAS, the California Regional Water Quality Control Board, San Francisco Bay Region (Water Board), finds that:

1. Federal Clean Water Act (CWA) section 303(d) requires states to identify water bodies that do not meet water quality standards and to take appropriate actions to remedy the impairment(s).
2. San Gregorio Creek is identified on California's CWA section 303(d) list as impaired by elevated levels of fine sediment.
3. San Gregorio Creek is not meeting narrative water quality objectives for sediment, settleable material, and population and community ecology due to elevated rates of erosion and sedimentation in the San Gregorio Creek watershed.
4. The beneficial uses of San Gregorio Creek impaired by fine sediment pollution are cold freshwater habitat, fish migration, preservation of rare and endangered species, fish spawning, wildlife habitat and contact and non-contact water recreation (wading, fishing, swimming, etc.).
5. Water Board staff assembled and considered all readily available data to assess water quality conditions in San Gregorio Creek to evaluate this listing, consistent with the "Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List" (Listing Policy).
6. Under CWA section 303(d), the Water Board is required to establish a total maximum daily load (TMDL) for those pollutants identified as causing impairment of waters on the 303(d) list.

**WATER QUALITY IMPROVEMENT PLAN FOR SAN GREGORIO CREEK**

7. Public agencies and organizations in the San Gregorio Creek watershed collectively own or maintain 50 percent of the land area and have completed or begun plans and actions to restore water quality and reduce fine sediment inputs to the Creek. Further, these entities have funding opportunities and/or separate regulatory requirements to continue to improve water quality.
8. U.S. EPA's "Long-Term Vision for Assessment, Restoration, and Protection under the Clean Water Act Section 303(d) Program" (Vision) allows for flexibility in addressing impairments by letting states use alternative strategies that may be more practicable in achieving water quality standards prior to, or in some cases

in lieu of, a TMDL, where such strategies will be more expeditious and practicable.

9. Consistent with the Vision, the Water Board developed a Water Quality Improvement Plan (Plan) as an alternative to a TMDL to address the sediment impairment in San Gregorio Creek. The Plan describes sediment sources in the Creek, proposes implementation actions to reduce fine sediment loading, and identifies the existing regulatory mechanisms pursuant to which these actions may be undertaken.
10. The Plan identifies roads as the highest priority source of the fine sediment impairment in the San Gregorio Creek watershed. Secondary sources are channel incision and associated bank erosion, agricultural operations where best management practices have not been implemented, and urban and residential development.
11. The Plan outlines actions to restore and protect the Creek's beneficial uses and includes water quality monitoring to assess effectiveness of the corrective actions and verify attainment of water quality objectives for sediment, settleable material, and population and community ecology.
12. The Plan identifies the following existing regulatory mechanisms under which such actions to reduce fine sediment loading may be undertaken:
  - Municipal Regional Stormwater NPDES Permit (Order No. R2-2015-0049; NPDES Permit No. CAS612008).
  - Basin Plan Discharge Prohibition No. 9, which states: "it shall be prohibited to discharge silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity or discoloration in surface waters or to unreasonably affect or threaten to affect beneficial uses."
  - 401 certifications or WDRs for projects that propose to fill or otherwise physically alter creeks, wetlands or other waters, facilitated by guidance in the San Gregorio Creek Watershed Management Plan (Staff Report Attachment 1).
  - California Water Code section 13267, which authorizes the Regional Water Board to require technical or monitoring program reports from dischargers.
  - California Water Code section 13263 and 13383, which authorize the Regional Water Board to issue individual WDRs to regulate discharges of waste.
  - California Water Code section 13304, which authorizes the Water Board to require cleanup of unauthorized discharges to waters of the state.
  - California Water Code section 13261, which allows the Water Board to issue waivers of WDRs.
  - San Mateo County Routine Maintenance Program (Order No. R2-2021-005).
13. Whereas U.S. EPA is required to approve a TMDL, it is not required to approve this Plan.

14. The Water Board's support for the Water Quality Improvement Plan for San Gregorio Creek is not a "project" as defined in the California Environmental Quality Act (Pub. Res. Code § 21065) because the Plan is not an "activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (Pub. Res. Code § 21065). The Plan identifies and discusses existing regulatory programs expected to remedy the impairment in San Gregorio Creek but does not mandate additional compliance activities.
15. Water Board staff provided advance notice of the Water Board meeting and an opportunity for public comment on the tentative resolution and associated staff report during a 25-day public comment period commencing on August 6, 2021.
16. The Water Board has carefully considered all comments and testimony received, including responses thereto, on the tentative resolution.

**THEREFORE, BE IT RESOLVED** that the Water Board accepts the Water Quality Improvement Plan to achieve water quality objectives for sediment, settleable material, and population and community ecology in San Gregorio Creek, as documented in the Staff Report.

The Water Board will recurrently review progress during the 20-year term of this Water Quality Improvement Plan and consider regulatory actions if necessary.

If water quality objectives for sediment, settleable material, and population and community ecology are not attained within 20 years, the Water Board will consider development of a TMDL.

I, Michael Montgomery, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on October 12, 2021.

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Michael Montgomery  
Executive Officer