

ITEM: 6

SUBJECT: **Proposed Amendment to the Water Quality Control Plan (Basin Plan) to establish a Total Maximum Daily Load (TMDL) and Implementation Plan for Bacteria in the Petaluma River Watershed –**
Hearing to Consider Adoption of Proposed Basin Plan Amendment and Substitute Environmental Document

CHRONOLOGY: There has been no previous action by the Board on this matter.

DISCUSSION: The attached Tentative Resolution (Appendix A) would amend the Basin Plan to establish a TMDL and Implementation Plan for bacteria in the Petaluma River watershed. Additional documentation in this package includes the proposed Basin Plan amendment (Appendix B), the supporting Staff Report (Appendix C), Responses to comments (Appendix D), and all written comments received during a 45-day public comment period (Appendix E).

Background

The entire Petaluma River main stem, including the tidal portion at the mouth, is listed as impaired by bacteria found at levels consistently above water quality objectives for water contact recreation (e.g., swimming, wading, and kayaking). The TMDL would require measures to reduce discharges of bacteria from controllable sources to meet water quality standards.

Controllable, sources of bacteria in the Petaluma River Watershed include a wastewater treatment plant, sanitary sewer collection systems, private sewer laterals, onsite wastewater treatment systems (OWTS), vessel marinas, homeless encampments, confined animals facilities (e.g., cow dairies, commercial horse facilities), grazing lands (e.g., cattle and sheep ranches), domestic pet waste, and municipal and Caltrans stormwater runoff.

The proposed Basin Plan amendment would establish the following:

- A TMDL for bacteria with numeric targets, load and wasteload allocations for all sources to protect the water contact recreational uses of Petaluma River and its tributaries;
- Plans to implement the TMDL and monitor water quality to evaluate progress in meeting the numeric targets; and
- Adaptive implementation strategies to conduct phased implementation actions and, as needed, further refine nonpoint source controls for bacteria discharges in the Petaluma River Watershed.

The Basin Plan amendment would require implementing parties to act to reduce discharges of bacteria to Petaluma River and its tributaries. The proposed implementation plan builds on existing local efforts and relies on some regulatory programs that are already in place and actions that are already required, such as eliminating sanitary sewer overflows and reducing bacteria discharges from dairy confined animal facilities, managing municipal stormwater systems, and controlling bacteria discharges from the wastewater treatment plant. The TMDL also includes

additional requirements in regards to sanitary sewer system inspections and repairs, OWTS inspection and repairs by homeowners; vessel waste management in marinas, homeless encampments, and grazing lands waste management; enhanced municipal stormwater best management practices; and monitoring by implementing parties to determine where to focus implementation actions and better identify bacteria sources. The TMDL directs the Water Board to create a non-point source program to address bacteria sources from grazing cattle and sheep in the Petaluma River Watershed, to enroll commercial horse confined animal facilities into the regional confined animal facility program, and to monitor and assess improvement in water quality resulting from these activities. The Water Board's holistic monitoring of the Watershed will begin five years after the TMDL effective date.

Comments from Stakeholders and Staff Responses

In order to allow the public and affected parties an opportunity to comment on the Basin Plan amendment, we publicly noticed the availability of the TMDL documents through our interested parties list serve and by posting the documents online. We took the voluntary step of directly mailing notification letters to individual OWTS owners that were likely to be affected by the TMDL requirements. In response, we received six comment letters, including comments from San Francisco Baykeeper, Mr. William Bennett, California Department of Transportation (Caltrans), Sonoma County Farm Bureau (Farm Bureau), Marin County Stormwater Pollution Prevention Program (MCSTOPPP), and North Bay Association of Realtors (Realtors Association). We revised the Basin Plan amendment and staff report in response to some specific concerns raised by commenters. For example, in response to Baykeeper comment that the proposed allocation for the Petaluma River is not daily, we added the daily expression of the TMDL and associated wasteload and load allocations. In response to Mr. Bennet, we updated the map of OWTS likely to be within 200 feet of the River or major tributaries. In response to the Farm Bureau and Realtors Association request to allow additional time for the OWTS owners to inspect and repair their systems, we extended the due dates for implementation of these actions.

We were not able to resolve all concerns raised by commenters. Caltrans and MCSTOPPP stated that they should not be required to take additional source control actions because of their relatively small footprint in the watershed. We responded that although their footprint in the Watershed is relatively small, they are still required to implement appropriate control measures to manage their bacteria discharges in the watershed commensurate with the extent of their contribution to the impairment.

Baykeeper's comments included concerns that the implementation and monitoring plans lack specificity. We do not agree that the implementation plans lack the necessary specificity to achieve the TMDL targets. Our response to concerns about monitoring is that implementing parties must take into account site-specific urban drainage patterns, bacteria sources, and other factors when designing their required monitoring programs. Their comments also included concerns that our TMDL lacks EPA-required elements, such as wasteload and load allocations, margin of safety, and seasonal variation. We do not agree with this claim and respond that the TMDL does include all appropriate and required elements, and that we followed relevant EPA guidance. Further, they raised concern that the Water Board pursues decadal implementation plan development processes. We disagree with this assessment and respond that in most cases, when the TMDL requires submittal of source-specific action plans by implementing parties, it does so within one year of the TMDL effective date. After the plans are developed and approved by the Executive Officer, the implementing parties have five years from the TMDL effective date to implement them. If the TMDL targets are not met by that time,

the implementing parties generally need to develop a secondary enhanced plan and complete implementation within 10 years of the TMDL effective date. Given the magnitude of the bacteria impairment in the Petaluma River Watershed, that is an appropriate and realistic timeline.

The proposed Basin Plan amendment represents our best effort to address stakeholder concerns, protect water quality, and meet all federal and State requirements. The overall proposed approach for solving this water quality problem requires proper management of controllable sources of bacteria while allowing for adaptive implementation.

RECOMMEN- Adopt the Tentative Resolution
DATION:

Appendices:

- A. Tentative Resolution with Exhibit A, Proposed Basin Plan amendment
- B. Revised Basin Plan amendment
- C. Final Staff Report
- D. Responses to Comments
- E. Comment Letters