

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

RESOLUTION No. R6T-2022-0047

SUPPORTING IMPLEMENTATION OF THE BISHOP CREEK VISION PLAN: A WATER QUALITY IMPROVEMENT PLAN DESIGNED TO ACHIEVE WATER QUALITY OBJECTIVES FOR *ESCHERICHIA COLI* (*E. COLI*) FECAL INDICATOR BACTERIA (FIB) IN BISHOP CREEK, INYO COUNTY.

WHEREAS, the California Regional Water Quality Control Board, Lahontan Region (Water Board) finds that:

1. Federal Clean Water Act (CWA) Section 303(d) requires States to identify waterbodies that do not meet water quality standards and to take appropriate actions to remedy those impairment(s); and
2. Reaches of Bishop Creek, Inyo County surrounding the communities of West Bishop, the Bishop Paiute Tribe, and the City of Bishop are identified on California's CWA Section 303(d) List (303(d) List) as impaired, as indicated by elevated levels of *E. coli*; the B-1 drain and the Bishop Creek Canal are also on the 303(d) list for the same impairment; and
3. *E. Coli* is a fecal indicator bacteria. Fecal indicator bacteria serve to indicate the presence of pathogens which can cause sickness; and
4. The beneficial use of Bishop Creek impaired by *E. coli* is water contact recreation (REC-1), including but not limited to the activities of swimming, wading, and fishing; and
5. Water Board staff assembled and considered all readily available data to assess water quality conditions of Bishop Creek to evaluate the 303(d) listings, consistent with the 'Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List' (Listing Policy); and
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; and
7. Recent monitoring data collected by watershed stakeholders indicate that levels of *E. coli* in Bishop Creek continue to be elevated above the applicable water quality objectives during the spring, summer, and fall months, meaning that water quality standards are not being attained; and

WATER QUALITY IMPROVEMENT PLAN FOR BISHOP CREEK, INYO COUNTY

8. Bishop Creek, the impaired waterbody, is located in a relatively small watershed; the sources of *E. coli* FIB loadings are well-delineated, some actions to reduce loadings are already in process, and remaining actions can be implemented through voluntary collaboration with watershed stakeholders; and
9. The United States Environmental Protection Agency's (U.S. EPA) "Long-Term Vision for Assessment, Restoration, and Protection under the Clean Water Act Section 303(d) Program" (The Vision) allows for flexibility in addressing impairments by letting states use alternative strategies that may be more practicable in achieving water quality standards; and
10. Consistent with The Vision, the Water Board developed a Water Quality Improvement Plan (Vision Plan) to address *E. coli* FIB impairments in Bishop Creek. The Vision Plan is intended to include the 9 elements of a US EPA Non-Point Source Watershed Plan, allowing stakeholders to apply for Clean Water Act section 319h funding opportunities to support Vision Plan implementation; and
11. The Vision Plan describes *E. coli* FIB sources to the creek, proposes high-priority implementation actions and strategies to reduce *E. coli* loading. The Vision Plan identifies cattle waste, human waste from transient and recreational communities, livestock waste kept for hobby ranching purposes, and pet wastes as high priority sources of *E. coli* FIB in the Bishop Creek watershed, and outlines actions to restore and protect the creek's REC-1 beneficial uses; and
12. The Vision Plan identifies development of regulatory mechanisms should voluntary implementation actions not be pursued, or if voluntary measures do not effectively reduce *E. coli* levels to meet water quality objectives in the ten-year scheduled period of implementation and review. The Vision Plan includes a commitment to ongoing water quality monitoring to assess effectiveness of the corrective actions and verify attainment of water quality objectives; and
13. Water Board staff has conducted outreach to stakeholders in the Bishop Creek watershed beginning in 2018, and some parties have already begun voluntary implementation efforts. Thus, this non-TMDL alternative approach is appropriate for continued efforts addressing the FIB impairment in Bishop Creek; and
14. Development and implementation of the Vision Plan does not eliminate the requirement to develop a TMDL. If water quality objectives for FIB are not attained within 10 years, the Water Board will prioritize completion of a TMDL. Staff will

provide an annual report of the status of implementation to the Water Board and will provide a comprehensive 5-year review in 2027; and

15. Whereas U.S. EPA is required to approve a TMDL, it is not required to approve this Plan; and

16. The Water Board's support for the Vision Plan for Bishop Creek is not a "project" as defined in the California Environmental Quality Act (CEQA) (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 Vision Plan identifies and discusses voluntary actions to remedy the impairment to Bishop Creek but does not mandate compliance activities.

THEREFORE, BE IT RESOLVED that the Water Board:

1. Supports implementation of the Vision Plan which, developed together with watershed stakeholders, is reasonably expected to achieve water quality objectives for *E. coli* FIB in Bishop Creek, as documented in the Staff Report.
2. Directs staff to transmit the Vision Plan to U.S. EPA.

I, Michael R. Plaziak, PG, 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, Lahontan Region, on September 14, 2022.



Michael R. Plaziak, PG
Executive Officer