



The Otter Project

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Public Comment
Franklin Creek Nutrient TMDL
Deadline: 10/18/18 by 12 noon

P.O. Box 269
Monterey, CA 93942
831/663-9460

October 18, 2018

Jeanine Townsend,
Clerk to the State Water Board
State Water Resources Control Board



Via email: commentletters@waterboards.ca.gov

Re: TOTAL MAXIMUM DAILY LOADS FOR NITROGEN AND PHOSPHORUS COMPOUNDS IN STREAMS OF THE FRANKLIN CREEK WATERSHED (Central Coast Region)

Dear Ms. Townsend and State Water Board and Staff:

Thank you for the opportunity to comment on the proposed TMDL for nitrogen and phosphorus compounds in streams of the Franklin Creek watershed.

Consistent with this letter, we offered public comment on this item when it was presented at the Regional Board meeting in Santa Barbara, earlier this year. In addition, we have made comments similar to this for a variety of TMDLs for the Central Coast Region.

This TMDL is the most recent of a long series of TMDLs – 26 to be more precise – that rely on the Central Coast Ag Order for implementation. TMDLs date all the way back to 2004 and range from nitrogen and sediment all the way through contaminants such as chlorpyrifos and pyrethroids. Some of these TMDLs have been in place long enough that they have received “failing” report cards from the Central Coast Board. In spite of these failures, the trend persists as exemplified by this TMDL.

The Waivers of Waste Discharge Requirements for Irrigated Agricultural Lands have entirely failed to curb application or “loading” of these chemicals. These TMDLs are nothing more than paper exercises that will have no impact on the abatement of agricultural chemicals, in this case nitrogen and phosphorus.

The 2017 Ag Order is insufficient to implement regulation of agricultural application of nutrients. For several years now, the Central Coast Board has been collecting nutrient application data and to this day, over-application of nutrients is widespread. Most important, the Ag Order contains provisions to monitor -- but not limit – the applications of nitrogen and phosphorus.

In addition, the court has determined – and the appellate court has affirmed -- the Ag Order is insufficient to regulate agricultural discharges. The court found:

- The Order violates Water Code Section 13269 by not being consistent with the applicable basin plan because it lacks specific, enforceable measures to meet water quality objectives.

- The Order did not comply with the nonpoint source pollution control program.
- The Water Boards failed to conduct a thorough anti-degradation analysis that complies with a recent Central Valley court decision (AGUA).
- The Order does not contain adequate monitoring provisions to verify that management practices are effectively controlling pollution.
- The Order is not in the public interest, as required by Section 13269, because there was no evidence that it will lead to quantifiable improvements in water quality.

Given these findings, the TMDL is not in the public interest because it does nothing to limit or control the target chemicals. This TMDL is not in the public interest because it relies on an illegal agricultural order. It is inappropriate to rely on the Ag Order to implement any TMDL at this time.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Shimek", written in a cursive style.

Steve Shimek
Executive Director
exec@otterproject.org