

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Dyan Whyte)
MEETING DATE: November 13, 2006

ITEM: 8

SUBJECT: **Proposed Amendment to the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Region to Establish a Napa River Watershed Pathogen Total Maximum Daily Load (TMDL) and Implementation Plan—Hearing to Consider Adoption of Proposed Basin Plan Amendment**

CHRONOLOGY: April 2006 – Hearing to Receive Testimony on Proposed Basin Plan Amendment
June 2006 – Basin Plan Amendment adopted by Board
August 2006 – Basin Plan Amendment renoticed
October 2006 – Close of additional comment period

DISCUSSION: At today’s hearing, the Board will be asked to consider adopting a Resolution (Appendix A) amending the Basin Plan to incorporate a TMDL and implementation plan to control pathogen discharges in the Napa River watershed. The Board voted to adopt this amendment at its June meeting. However, in the course of assembling the administrative record for the State Board’s consideration of the TMDL, we learned that due to a decision taken in error by a local newspaper—and not disclosed to us—the legal notice advertising the TMDL’s public comment period and hearing schedule never ran in “a newspaper of general circulation,” as required by law. As a result, the Board’s June adoption of the amendment took place without the necessary newspaper publication. To ensure the legal integrity of this Basin Planning action, we have noticed, including the required newspaper publication, a new 45-day comment period on the proposed Basin Plan amendment and supporting staff report (Appendix B). The comment period closed on October 16.

During this recent comment period we received one letter, from the Living Rivers Council (Appendix C). The Living Rivers Council comments that the proposed Basin Plan amendment does not advocate sufficiently for enforcement, and that enforcement recommendations should be integral parts of the Basin Plan. In addition, the Living Rivers Council urges the Board to advocate for changes to City and County regulations, enforce against repeat polluters, and establish a target that would reduce wastewater sanitary sewer system overflows. While we agree conceptually with many of the Living Rivers Council comments, we do not believe that they warrant changes to the Basin Plan Amendment you adopted in June 2006. In our response to these comments (Appendix D), we describe the Board’s enforcement policies and show how this pathogen TMDL is consistent with both local policies and the state’s Nonpoint Source Policy, and sets forth a robust strategy for assuring all pathogen sources are controlled and public health is protected in the Napa River watershed.

The Basin Plan amendment you adopted last June is an outgrowth of two years of discussions with numerous stakeholders. Appendix E contains copies of comments received during the initial comment period that ended in March 2006. Appendix F contains our responses to those written comments as well as to comments heard at the April 2006 testimony hearing. Appendix G contains the June 2006 Hearing transcript.

In order to protect the public from exposure to waterborne illness in the Napa River, the Basin Plan amendment will establish the following:

- Numeric bacteria targets to protect recreational uses
- A concentration-based TMDL that is consistent with US EPA guidance and existing water quality objectives for protection of recreational uses
- TMDL allocations for all pathogen source categories in the watershed
- An implementation plan for the TMDL that includes actions to minimize animal waste runoff and eliminate discharges of untreated human waste
- A plan and schedule for evaluating and monitoring progress toward meeting the targets
- An adaptive implementation strategy for reviewing progress, evaluating new and relevant information, and revising the TMDL as necessary

As we stated in June, this TMDL will protect water quality and meets all federal and state requirements. Our overall approach to solving this water quality problem requires that all potential sources take responsibility for proper management of human and animal waste, while the implementation plan provides opportunities for future adaptive improvements to the plan. If we all work together we can achieve the TMDL and have confidence that these waters are safe for wading, fishing, and swimming.

RECOMMEN-
DATION

Adopt the Tentative Resolution

APPENDICES:

- A. Tentative Resolution with Proposed Basin Plan Amendment (Exhibit A)
- B. Staff Report
- C. Comment letter from Living Rivers Council
- D. Responses to comments received during the comment period ending in October 2006
- E. Responses to comments received during the comment period ending in March 2006
- F. Written Comments during March 2006 Comment Period
- G. June 2006 Hearing Transcript