

**NORTH COAST REGIONAL WATER QUALITY
CONTROL BOARD**

2007 TRIENNIAL REVIEW

RESPONSE TO COMMENTS

October 1, 2007

Introduction

As part of the 2007 Triennial Review of the “*Water Quality Control Plan for the North Coast Region*” (Basin Plan) staff from the North Coast Regional Water Quality Control Board (Regional Water Board) solicited comments from other agencies and the public on issues that may require revisions or amendments to the existing Basin Plan. Written comments were received from seven stakeholders. Verbal comments were also presented to the Regional Water Board at the July 25, 2007 Public Workshop. Following is a summary of the comments received and Regional Water Board staff’s response.

1. Sonke Mastrup (letter dated June 19, 2007) and Steve Turek (presented orally at workshop), California Department of Fish and Game (CDFG)

Comment:

CDFG operates five hatcheries under the Regional Water Board’s NPDES authority. CDFG requests that the “*Policy on the Regulation of Fish Hatcheries, Fish Rearing Facilities, Fish Rearing Facilities and Aquaculture Operations*” be revised to better allow for efficient hatchery operations while maintaining protection of the resources covered by the Basin Plan. The Policy should be amended to allow safe levels of discharges from hatcheries that would be closely monitored by individual NPDES permits. The language is outdated, as it was adopted more than twenty-years ago and science has advanced a great deal during that time period.

Response:

Regional Water Board staff concurs that the existing “*Policy on the Regulation of Fish Hatcheries, Fish Rearing Facilities, Fish Rearing Facilities and Aquaculture Operations*” requires investigation in the near future to address the criteria for discharge of waste as it relates to the issuance of NPDES permits. Staff has proposed that this issue be ranked as a high priority (priority 9) on the *2007 Triennial Review Priority List and Workplan*. This ranking is based in part on an offer of external resources to aid in the investigation and development of a revised policy. CDFG has offered to provide resources to address this issue as it directly affects the issuance of permits for hatcheries under their control.

2. Environmental Law Foundation (ELF, et al.) (letter dated June 1, 2007)

Comment:

ELF and eight environmental organizations have petitioned the State and Regional Water Boards requesting that all Wild and Scenic River segments of rivers in the state be designated as Outstanding National Resource Waters (ONRWs).

Response:

Regional Water Board staff agrees that this issue has merit and has placed this issue on the Triennial Review as recommended by State Water Board legal counsel. This issue has been ranked as a medium priority on the Priority List and Workplan (priority #18). If the Regional Water Board would prefer to address this issue

separate from the Triennial Review, as requested by ELF, it is within their purview to recommend that staff do so.

3. Dan Myers, Sierra Club, Redwood Chapter (letter dated August 15, 2007 and orally at workshop)

Comment:

As a workplan, the Regional Water Board should list all the intended TMDL and implementation plans to be worked upon during the period of the review.

Response:

The three TMDLs (Klamath River, Freshwater Creek and Elk River) that Regional Water Board staff will develop implementation plans for (and accompanying basin plan amendment language) during this Triennial Review period, were described in the staff reports for the 2007 Triennial Review. Staff has proposed that the development of these "*Action Plans*" be designed as the highest priority (priority 1) during this 2007 to 2010 planning cycle. No other TMDL implementation plans are proposed for development during the 2007 to 2010 planning cycle.

Comment:

The Regional Water Board should address a plan to meet the need for more staff members to work on those enumerated projects. The prioritization and scheduling are key to acquiring the needed resources.

Response:

Comment noted. The Regional Water Board and staff acknowledge that for a program to be effective, it must first be recognized as providing a valuable benefit to the people of California and second, receive the resources necessary to accomplishing the program goals.

Comment:

Sierra Club supports the issue: In Stream Flow Issues, (Initial Staff Report, page 8). The Scott and Shasta TMDLs have clarified its importance to the backlog of the many temperature-impaired rivers. Sierra Club suggests that this issue be ranked higher.

Response:

The Instream Flow Policy has been ranked as a high priority (priority 10) by Regional Water Board staff. Staff has begun the investigation of the in stream flow issue at both the region wide level as well as part of the development of the Klamath TMDL. The information gathered, will be useful in developing a regionwide policy on instream flow as well as specific flow requirements for the Klamath River.

Comment:

Shouldn't the Klamath River segments be on the Appendix 4B list as being "underway?" We would also suggest a separate listing of Action Plans Underway

with date started i.e. the Garcia, Scott and Shasta Rivers and hopefully many more to come.

Response:

Development of an Action Plan for the Klamath River TMDL is currently underway and was inadvertently left off the list in Appendix 4-B of the Initial Staff Report. The September 14, 2007 staff report (page 13) accurately reflects staff's commitment to developing this Action Plan for the Regional Water Board's consideration. The information regarding "Action Plans Underway with date started" is available on the Regional Water Board's TMDL web site.

4. Regina Chichizola, Klamath Riverkeeper (presented orally at workshop)

Comment:

Riverkeeper suggests that the Freshwater Bacteria Objectives issue be ranked as a higher priority.

Response:

The Freshwater Bacteria Objectives issue is a high priority (priority 8) and is ranked high enough for Regional Water Board staff to begin addressing the issue within the three-year triennial review period. The State Water Board has recently begun working on freshwater bacteria objectives, so it is possible that the Regional Water Board will not need to develop a basin plan amendment addressing this issue. Regional Water Board staff is committed to ensuring that the State Water Board's project fully addresses concerns regarding freshwater bacteria in the North Coast Region.

Comment:

When revising the "*Policy on the Regulation of Fish Hatcheries, Fish Rearing Facilities, Fish Rearing Facilities and Aquaculture Operations*", the Regional Water Board should ensure that discharges are as clean as possible.

Response:

Comment noted. However, comments specific to individual basin plan amendment language need to be submitted during the public comment period for that particular amendment to be considered part of the administrative record.

Comment:

The Klamath River should be listed as impaired for sediment from Beaver Creek downstream. Supporting information will be submitted by the commenter.

Response:

This comment does not relate to the Triennial Review process but rather to the Clean Water Act section 303 (d) listing process for impaired waterbodies. For the documentation to be entered into the record for consideration of sediment impairment, this comment and the supporting documentation should be submitted to Regional Water Board staff as part of the 303 (d) listing process.

5. Douglas P. Schleusner, Trinity River Restoration Program (letter dated September 20, 2007)

Comment:

The Trinity River Restoration Program supports the Regional Water Board's consideration of: 1) Adoption of exemption criteria for restoration projects, and 2) Evaluation of North Coast basin-wide turbidity objectives. They state that both issues are well-founded and that investigation will result in revisions to the North Coast Basin Plan that will further promote the beneficial uses of North Coast water bodies.

Response:

Comments noted.

6. J. Sharon Heywood, United States Forest Service (USFS), Shasta-Trinity National Forest (letter dated September 21, 2007)

Comment:

The USFS supports the two additional issues added to your staff's original list for consideration during the Triennial Review. The two issues, 'Adopt Exemption Criteria for Restoration Projects' and 'Evaluate Objective for Turbidity' could not be more timely regarding the restoration work the Forest Service is doing, and will continue to do, within the Trinity River watershed.

Response:

Comments noted.

7. Gene Koch, public citizen (email sent September 13, 2007)

Comment:

The Regional Water Board should address their prohibition of composting toilet use in Sonoma County, especially since they are waterless and are economically viable--far more so than sewers or mound systems-- which seem to be the only systems the agency is currently allowing to pass. This seems in violation of CA Water Code Section 13360 (a) (1-2) which prohibits the Regional Water Board from specifying a particular solution to a community's wastewater problems.

Response:

There is no prohibition on compost toilets in the North Coast Basin Plan. However, there is a protocol for alternative systems that some feel is too rigorous. There is an issue on the Triennial Review for updating the Individual System Policy in the Basin Plan. It is possible that this issue could address this concern. The Individual System Policy has been ranked as a medium priority (priority 22). This issue was not ranked as a high priority as the Regional Water Board is awaiting the release of the State Water Board's final regulations for Onsite Wastewater Treatment Systems, per AB 885, before addressing this issue. Regular updates on the status of this

project can be found at the State Water Board's website:
<http://www.swrcb.ca.gov/ab885/>

8. Karuk Tribe, (letter dated September 19, 2006)

Comment:

The Karuk Tribe formally requests that the Regional Water Board begin the process of amending the Basin Plan in order to establish a specific reasonable water quality standard for the algal toxin microcystin as well as the algae *Microcystis aeruginosa*.

The rationale for this request is justified by, but not limited to the following:

- The toxin produced by this algae, microcystin, is known to cause liver and kidney failure;
- Microcystin has been shown to be a tumor promoter in lab studies;
- The health effects of microcystin are known to be cumulative and manifest over time with repeated and prolonged exposure;
- For the past two years, toxin levels have far exceeded the World Health Organization (WHO) standard for a moderate health risk at several sample sites;
- Karuk ancestral territory is in the Klamath Basin downstream of these blooms. Therefore, members, our fishers, and ceremonies are being adversely affected.

The Tribe is confident that the Board will fulfill its civic and regulatory responsibilities and do everything in its power to protect the public from this threat.

Response:

Regional Water Board staff are also very concerned by the *Microcystis aeruginosa* and the algal toxin microcystin concentrations measured in the Klamath River since 2005. In response to these conditions, the Regional Water Board has issued press releases with the U.S. EPA warning the public of the serious potential health risks posed by these conditions. In addition, Regional Water Board staff posted health advisory signs at key public access beaches on Copco and Iron Gate Reservoirs in 2005, 2006 and 2007.

Regional Water Board staff has determined that two narrative water quality objectives contained in the Basin Plan, the toxicity and nutrient objectives, apply to these toxins and will continue to serve staff in assessing and controlling impacts from the algae and associated toxins on beneficial uses. The Toxicity Objective states that "all waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal or aquatic life..." Therefore, adoption of a new water quality objective is not deemed necessary to address this issue.

As a basin plan amendment was not considered to be necessary to deal with this issue, this project has not been added to the Triennial Review Priority List and Workplan. This does not; however, diminish the importance of this issue, which is still a high priority for the Regional Water Board.

The Regional Water Board will continue to have a staff scientist actively participating in the Klamath Blue-Green Algae Working Group. In addition to other tasks, the working

group also receives and reviews the most current blue-green algae sampling results conducted in the Klamath River, including Copco and Iron Gate reservoirs. Staff involvement with the working group greatly assists the Regional Water Board, working cooperatively with other public and tribal organizations, with the timely issuance of health advisories in the local media, and the posting of warning signs informing water-contact recreational users that affected segments of the Klamath River may be populated with harmful concentrations of blue-green algae and/or their associated algal toxins. The State Water Board also posts pertinent information regarding blue-green algae in waterbodies within our jurisdiction, including the Klamath River, on its website, accessed at <http://www.waterboards.ca.gov/bluegreenalgae/index.html> .