

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

STAFF SUMMARY REPORT (Farhad Ghodrati)
MEETING DATE: July 9, 2008

ITEM: 12

SUBJECT: Proposed Amendment to the Water Quality Control Plan (Basin Plan) to establish a Total Maximum Daily Load (TMDL) and Implementation Plan for Pathogens in Richardson Bay —Hearing to Consider Adoption of the Proposed Basin Plan Amendment

CHRONOLOGY: February 2008 – Public Notice of Proposed Basin Plan Amendment
April 9, 2008 – Testimony hearing

DISCUSSION: This is the second hearing on a Basin Plan amendment to establish a Total Maximum Daily Load (TMDL) and Implementation Plan for Pathogens in Richardson Bay. At this hearing the Board will be asked to consider adopting a Resolution (Appendix A) amending the Basin Plan to establish the Richardson Bay Pathogens TMDL and Implementation Plan. We will discuss revisions made to the Basin Plan Amendment (Appendix B) as an outgrowth of stakeholder comments received during the public review and comment period. Additional documentation in this package includes our revised Staff Report (Appendix C), Responses to Comments (Appendix D), copies of all written comments received during the public comment period (Appendix E), and the transcript of the April testimony hearing (Appendix F).

The proposed Basin Plan amendment will establish the following:

- Numeric water quality targets for pathogens based on existing water quality objectives to protect shellfish harvesting and recreational uses;
- A density-based total maximum daily load of 14 fecal coliform/100 mL for Richardson Bay, based on protection of shellfish harvesting, yet protective of all beneficial uses;
- TMDL allocations of zero for all human sources of pathogens, such as sanitary sewer systems, houseboats (floating homes), and vessels; a TMDL wasteload allocation of 14 fecal coliform/100 mL for stormwater runoff and an allocation for wildlife of 14 fecal coliform/100 mL;
- A plan to implement the TMDL;
- A monitoring program that evaluates progress in meeting the targets and TMDL; and,
- An adaptive implementation strategy to track and evaluate implementation actions while improving our understanding of sources and their contributions.

The Basin Plan amendment requires implementing parties to take actions to reduce and/or eliminate discharges of pathogens to the Bay. The goal of the amendment is to continue to improve upon actions that have been taken in the watershed in the past to

address water quality concerns related to pathogens. The proposed implementation plan relies upon regulatory programs that are already in place for stormwater runoff and sanitary sewer overflows and establishes an inspection and maintenance program that implements the prohibitions applicable to vessels and houseboats.

Comments from Stakeholders

During the public review period that closed on March 24, 2008, we received ten comment letters from U.S. EPA, San Francisco Baykeeper, County of Marin (Public Works, Community Development), City of Sausalito, two marinas--Sausalito Yacht Harbor and Pelican Harbor, the Floating Homes Association, the California Department of Transportation and the Sausalito-Marín City Sanitary District. The Richardson Bay Regional Agency submitted a comment letter after the close of the comment period. Staff recommends that this letter be included in the administrative record.

Since the April testimony hearing, we have had discussions with stakeholders about their comments and have considered and responded to all the comments (Appendix D). We responded to some of the issues raised by the public and Board members via minor changes in the Basin Plan amendment and supporting Staff Report.

Other comments were received that did not lead to modifications to the TMDL. Generally the comment letters support the water quality improvement goals of the TMDL. At the same time, they raise concerns about developing a TMDL to protect a beneficial use, shellfish harvesting, which in their view should not be considered an existing use. In addition, some letters raise concerns about meeting the stringent shellfish harvesting water quality objective as a TMDL, target or wasteload allocation.

Staff did not feel we could modify the TMDL in response to these comments, as we are required under the Clean Water Act to address all applicable standards, and shellfish harvesting is identified as an existing use in our Basin Plan. In addition, the actions called for in the TMDL to protect the shellfish harvesting beneficial use are the same as actions that we would be requiring to protect water contact recreational uses. However, we are committed to working with stakeholders during implementation of the TMDL to address some of the concerns they have raised. One recent development that may be helpful is that the State Board is in the process of moving forward with statewide surveys to better identify where shellfish harvesting is an existing use. We will likely use this information to address the concerns raised by stakeholders and may consider amending the Basin Plan at a later date.

Another important issue raised by USEPA, Baykeeper and Board members had to do with our response to this past winter's sewage spill incidents into Richardson Bay. These comments called for including more specific implementation measures to address spills from sanitary sewer systems. Staff feels that these implementation measures are being addressed through multiple regulatory actions, specifically the April USEPA enforcement orders to Richardson Bay's sewage collection agencies, updated requirements in wastewater NPDES permits, modifications to the General WDR for sanitary sewer overflows, and possible enforcement actions related to the

recent spills. Therefore, additional measures are not being required as part of this TMDL.

Other comments related to the desire for more information about the specific contributions of sources such as stormwater, sanitary sewer overflows, vessels and wildlife to the exceedances of water quality objectives observed in Richardson Bay. Although data are not available to quantify the magnitude of each source's contribution to the observed exceedances, each of these sources does potentially discharge to Richardson Bay and must be addressed in the Basin Plan amendment and implementation plan. Staff looks forward to developing a more robust monitoring program in collaboration with the implementing parties to better understand these sources.

We believe that the proposed 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 all potential sources to take responsibility to assure that potential sources of pathogens are properly managed. The implementation plan also provides the Board and our stakeholders with an opportunity for future, constructive, adaptive changes to the TMDL and implementation plan.

RECOMMEN- Adopt the proposed Basin Plan amendment
DATION:

Appendices:

- A. Tentative Resolution with Exhibit A, Proposed Basin Plan Amendment
- B. Proposed Basin Plan Amendment showing all changes since February 2008
- C. Staff Report
- D. Responses to Comments
- E. Comment Letters
- F. April 9, 2008 Testimony Hearing Transcript