

Ms. Carmen Fewless
North Bay Watershed Management Division
1515 Clay Street, Suite 1400,
Oakland, California 94612

Dear Ms. Carmen Fewless:

Thank you for the opportunity to provide comment on the San Francisco Bay Regional water Quality Control Board (SFBRWQCB) Resolution Number R2-2008 (Proposed) WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR GRAZING OPERATIONS IN THE TOMALES BAY WATERSHED (TOMALES BAY, LAGUNITAS CREEK, WALKER CREEK AND OLEMA CREEK) IN THE SAN FRANCISCO BAY REGION (Grazing Waiver). The Grazing Waiver Plan proposes activities in Tomales Bay that may not be as effective in monitoring and improving water quality in the bay and its tributaries as site specific waste discharge requirements (WDR). Information provided in the "Project Description Waiver of Waste Discharge Requirements for Grazing Operators in the Tomales Bay Watershed" the SFBRWQCB has a choice between waste discharge requirements and or a waiver for such requirements.

There are a number of actual and potential non-point sources of fecal contamination in Tomales Bay. The Tomales Bay Pathogen Total Maximum Daily Load (TMDL) problem statement outlines the extent of impairment from non-point sources in Tomales Bay and its watershed based on water quality results exceeding bacteria water quality objectives for shellfish harvesting and recreational waters. Some of the non-point sources may impact the Bay and are directly related to rainfall, e.g., grazing cattle and or overflows or rupturing of dairy waste holding ponds. Grazing lands in the Tomales Bay watershed are identified in the pathogen TMDL as one of the categorical pollutant sources. These potential sources are at times unpredictable and unmanageable with respect to the management of Conditionally Approved shellfish growing areas.

The pathogen TMDL is based on a concentration measure rather than a loading value. Because of this fact it would be more appropriate to require any discharger to meet target values for fecal coliform in streams and the bay (Recreation standards of 200 MPN - 400 MPN and bay standards of 14 MPN - 43 MPN). Waste discharge requirements appear to be better suited for regulating a specific pollutant such as fecal coliform by determining if each discharger is meeting the TMDL in any waste discharging from their property.

If the grazing waiver approach is to work its must be clearly stated that each landowner, lessee and or operator conducting grazing operations be held to a minimum of bi-weekly fecal coliform, suspended solids, sediment, and nutrient monitoring during the rainy season (November to May) and monthly monitoring outside that period. In addition, all critical control points (Land application of manure, holding ponds, and water runoff of waste areas) of their operation should be identified and sampled monthly at a minimum. The public should be able to review and comment on any operation that applies for a waiver plan. All records of land waste application should be made available to the public. Any analytical methods that are used to evaluate fecal coliform should be consistent with the beneficial uses identified in the TMDL. A "Third Party Program" to oversee enforcement of a grazing waiver is not recommended since it is unclear to the public how the SFBRWQCB can delegate its enforcement authority for the monitoring of grazing operations.

In summary, the CDPH is supportive of the SFBRWQCB efforts to reduce pathogen loads to Tomales Bay. Thank you for the opportunity to provide comments on the proposed grazing waiver. If there are any further questions or comments, please contact me at (510) 412-4631.

Sincerely,

A. Marc Commandatore
Environmental Scientist
Environmental Management Branch

A. Marc Commandatore
Environmental Scientist
State Shellfish Program
Environmental Management Branch
California Department of Public Health
850 Marina Bay Parkway, Room G165
Richmond, CA 94804
W (510) 412-4631 FAX (510) 412-4637
angelo.commandatore@cdph.ca.gov