



Carmen Fewless
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400,
Oakland, California 94612

June 11, 2008

Re: Comments on WDR Waiver for Grazing Operations in the Tomales Bay Watershed

Dear Ms. Fewless,

On behalf of the people of California, the State Coastal Conservancy has invested extensively in protecting, restoring, and enhancing the natural resources of the Tomales Bay watershed. The Conservancy supports the Regional Board's efforts to protect the water quality and beneficial uses of the Tomales Bay watershed. The Conservancy generally supports the terms of the Tentative Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Tomales Bay watershed. The Regional Board's stated openness to working through a third party program to facilitate compliance is welcome.

Regulatory burden on the ranching community

While the Conservancy supports the protection of the watershed's water quality and beneficial uses, we also want to ensure that ranching in this area remains viable. Ranching is an important part of the cultural legacy of West Marin, and ranches in the region also provide important wildlife habitat and ecosystem services. Preparing and implementing conservation plans will require a commitment of time and money on the part of ranchers. The Conservancy suggests that the Regional Board try to mitigate the financial and time commitment required by ranchers. In this regard, it would be helpful to extend the deadline for submitting conservation plans. The current proposed deadline is unclear from the draft resolution, but it appears to be either January 31, 2009, when the Grazing Waiver Notice of Intent is due, or November 15, 2009, when the first compliance report is due. Extending the deadline to January 2010 will give the ranching community a reasonable period of time to prepare water quality plans. A deadline extension will also allow time for the Marin County Resource Conservation District, UC Cooperative Extension, and the Natural Resources Conservation Service to work with the Regional Board to offer workshops and provide other support for plan preparation.

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Requirement to Demonstrate Implementation and the Financial Burden of Implementing Improvements

One concern that many ranchers may have with the conditional waiver is that the improvements that may be required (riparian fencing, development of off-stream watering systems) will be expensive. If ranchers are required to demonstrate progress in implementing improvements, but cannot afford to pay for these improvements, they will have difficulty complying with the terms of the waiver. The Conservancy expects that programs like the Tomales Bay Watershed Enhancement Project and Conserving Our Watershed will continue to offer funding through the RCD for improvements that enhance habitat and water quality, and that funding may be available from other sources, such as the Natural Resources Conservation Service. However, not all ranchers' improvement projects will be priorities for funding, and it is in the public interest to fund high priority projects first, based on a watershed perspective. If a rancher prepares a plan, and applies for funding needed to implement it, but does not receive funding, the ranch should still be considered in compliance with the terms of the Waiver. As long as the rancher continues to seek necessary funding for implementation and to make the improvements that he or she can afford independently, he or she should not be penalized if the ranch improvements in question are not considered high priorities.

Monitoring Requirements

Monthly monitoring during the dry season and monitoring before every anticipated storm event will require a significant commitment of resources by ranchers. The Conservancy suggests that monitoring could occur twice during the dry season, when significant influx of sediment and nutrients into waterways is unlikely to occur, and monthly or before every anticipated storm event, whichever is less frequent, during the rainy season.

Clarification Needed in Attachment B- Checklist

The following questions concerning potential mercury problems would benefit from clarification:

Checklist questions:

- Are structures that collect sediment a potential source of methyl mercury?
- Could buffer zones potentially produce methyl mercury?
- Could off-site water supply/storage facilities increase methyl mercury production?

It would be helpful to explain what sorts of characteristics would result in increased production of methyl mercury or would make something a potential source of methyl mercury. Is it the risk of sediment resuspension? Is it particular reaches of the creeks? Something else? The more you can spell this out, the more useful the checklist will be to

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operators. If it is not possible to clarify this, then completing the checklist will likely require expertise in the conditions that support methyl mercury production. In that case, it would be helpful if the Regional Board or another agency could provide technical assistance to ranchers on this issue.

Thank you for your work on behalf of the Tomales Bay watershed, and for considering our comments.

Sincerely,

Joel Gerwein
Project Manager

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