

Comment Summary and Responses
Total Maximum Daily Load (TMDL) for Pathogens in Richardson Bay

No.	Commenter
1.	Department of Transportation (Caltrans)
2.	San Francisco BayKeeper

No.	Author	Comment	Response
0.1	Multiple	<p>Many of the comments submitted in opposition to the State Board's approval of this TMDL were previously submitted to the Regional Water Board and submitted verbatim to the State Board, without further explanation.</p>	<p>Many of the comments submitted to the State Board on this matter are identical to a comment submitted to the Regional Board at the time the draft version of this TMDL was under consideration by the San Francisco Bay Water Board. During its consideration, the SF Bay Water Board received and provided written responses to all of the many significant comments. The SF Bay Water Board's responses either indicated that changes would be made to the regulatory provisions or to the related documentation in response to the comment (in which case corresponding changes were made), or the Regional Board's written responses indicated that that changes would not be made, and the response included the reason.</p> <p>Where a commenter merely repeats a comment that was originally tendered to the regional water quality control board (regional water board) on a prior version of a TMDL, but fails to disclose what quarrel, if any, the commenter has with the response provided or the action taken by the regional water board in response to the comment, the State Water Board is unable to address the comment. Specifically, in those cases where the regional water board made changes in response to a comment, the commenter has failed to explain how the changes were allegedly inadequate. Likewise, where the</p>

			<p>regional water board did not make changes, the commenter has failed to explain how the response or explanation that the regional water board provided was allegedly inadequate, or even whether the commenter believes that the response was inadequate.</p> <p>Where a commenter has merely repeated the comment submitted below, the State Water Board cannot divine what the commenter believes has been adequately satisfied and what has not, nor can it determine the reason for any remaining dissatisfaction.</p>
1.1	Caltrans	Caltrans strongly supports efforts to protect human health, and achieve the best water quality possible.	Comment noted.
1.2	Caltrans	Caltrans agrees with the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) that the source of coliform bacterial indicators in highway runoff is wildlife, and requests that the proposed Basin Plan Amendment (BPA) clarify that Caltrans will not be held responsible for loads from natural background sources.	<p>In the SF Bay Water Board’s response to this comment, Staff stated that sources of bacterial indicators in highway runoff are “likely” to be wildlife.</p> <p>However, in the Final Staff Report page 32, SF Bay water Board staff also acknowledged that “No accurate information as to the magnitude and geographic dispersion of this waste source (wildlife) is available.”</p> <p>Caltrans has not reported any data to suggest that</p>

			the only source of coliform bacterial indicators is indeed wildlife. Therefore, this TMDL does provide Caltrans with a wasteload allocation equivalent to that given to all other entities with the potential to discharge stormwater into Richardson Bay.
1.3	Caltrans	<p>In the discussion of the planned actions, the SFBRWQCB staff report at page 49 states: "We do not anticipate that Caltrans' stormwater management plan will need to be revised because we believe that the source of bacteria in highway runoff is wildlife."</p> <p>In addition, the SFBRWQCB staff report at page 48 states: "The Water Board will not hold discharging entities responsible for uncontrollable coliform discharges originating from wildlife/natural background sources."</p>	<p>This comment was received by the SF Bay Water Board, which responded under response to comment No. 1.5.</p> <p>Please see the State water Board's Response to Comment 0.1.</p>
1.4	Caltrans	<p>We understand that it is not the intent of the SFBRWQCB to apply these allocations to Caltrans.</p> <p>However, if the allocations are adopted, they will become enforceable water quality standards. The Amendment contains no statements indicating that the allocations would not apply to Caltrans. The table 7-4 of the BPA, trackable implementation measures identifies Caltrans as an implementing party along with the Marin County and other local agencies to reduce pathogens loading under the TMDL. This leaves Caltrans subject to potential third-party citizen suits where we may have uncontrolled coliform discharges due to wildlife and natural background sources.</p>	<p>No new requirements are created for Caltrans by this TMDL.</p> <p>Also, the TMDL itself is not an enforceable document. Caltrans is only required to act upon water quality standards required in the NPDES permit issued to the agency.</p>
1.5	Caltrans	<p>We request that the State Water Resources Control Board remand this BPA back to SFBRWQCB to modify as follows:</p> <ul style="list-style-type: none"> • Footnote (d) under Table 7-3 of the BPA: Remove the reference to NPDES Permit No. CAS000003. 	<p>State Water Board (SWB) staff recommends approval and does not support a remand.</p> <p>Caltrans is included as a source due to its status under permit No. CAS000003 covering all of</p>

		<ul style="list-style-type: none"> • Footnote (e) under Table 7-3 of the BPA: Modify the statement as follows: Wildlife is not believed to be readily controllable source of pathogens; therefore no management measures are required for situations, such as highway runoff including Caltrans, where the loading is likely due to wildlife. • Table 7-4 of the BPA trackable implementation measures: Remove Caltrans as an implementing party. 	<p>Caltrans' municipal stormwater activities. It is an implementing party due to its possible conveyance of stormwater to Richardson Bay.</p> <p>In addition, removing Caltrans as an implementing party would result in Caltrans receiving a zero allocation for pathogens, therefore not allowing them to discharge stormwater containing any level of pathogens. As stated above in response 1.2, This TMDL provides Caltrans with a wasteload allocation equivalent to that given to all other entities with the potential to discharge stormwater into Richardson Bay.</p> <p>The Regional Board indicated that no new requirements were created by this TMDL because Caltrans already has management strategies and measures in place. Including language limiting any future additional requirements is not something SWB staff recommends because staff cannot anticipate what the future source(s) of pathogen-indicators, in highway runoff may be.</p>
2.1	Baykeeper	<p>On behalf of San Francisco Baykeeper ("Baykeeper") and our members, we are writing to provide comments on the Total Maximum Daily Load ("TMDL") for Pathogens in Richardson Bay. We have previously submitted written comments on this draft TMDL and hereby incorporate by reference all of the details contained therein. As recognized by this TMDL, sewage discharges from houseboats, recreational vessels, storm drains, and sanitary sewer systems have and continue to compromise the designated beneficial uses of Richardson Bay. This is particularly troubling</p>	<p>Comment noted. Please see Response to Comment 0.1.</p>

		given the ecological and recreational importance of this area. We feel that every effort should be made to ensure that all of the beneficial uses of Richardson Bay are protected.	
2.2	Baykeeper	In general, we support adoption of this Basin Plan Amendment, which is necessary to protect Richardson Bay from the harmful impacts of sewage discharges and we are also supportive of using the shellfish harvesting water quality objective for the TMDL as the best way to ensure that Richardson Bay will eventually support all designated uses as required by the Clean Water Act.	Comment noted.
2.3	Baykeeper	<p>However, we again ask that the following changes be made to the Basin Plan Amendment prior to being considered by the Regional Board for adoption:</p> <ul style="list-style-type: none"> • Impose additional implementation measures on sanitary sewer system owners in southern Marin, and • Divide the wasteload allocation for stormwater agencies into dry and wet weather allocations and translate the allocations into numeric permit limits, as has been done by other Regional Boards in California. 	<p>This comment was received by the SF Bay water Board, and it responded under comment No. 7.4.</p> <p>Please see Response to Comment 0.1.</p> <p>In addition, this comment is addressed to the Regional Board, asking for revisions before the Regional Board adoption. The TMDL has already been adopted and now is being considered for approval by the State Board.</p>
2.4	Baykeeper	A. Additional Implementation Measures for Sanitary Sewer Systems are Necessary. The TMDL must specify implementation measures for sanitary sewer agencies in southern Marin County that go beyond mere compliance with existing regulations. The sewage treatment plants in Marin are old, in poor condition, and lack capacity to treat wet weather flows - as evidenced by the large spills that have occurred over the past two winters in Marin. Similarly, the wastewater collection systems in Marin have chronic problems with spills. The southern Marin collection systems experienced an estimated 150 sewage spills in less than three years, which resulted in at least 50,000 gallons of raw sewage flowing to nearby surface	<p>This comment was received by the SF Bay Water Board, and it responded under comment No. 7.7.</p> <p>Please see Response to Comment 0.1.</p>

waters, including Richardson Bay. This rate is also probably an underestimate - EPA's inspections of the sanitary sewer system collection systems in southern Marin identified problems in tracking and reporting sewage spills, and Baykeeper's own experience in reviewing city records shows that cities often experience many more sewage spills than they report to the Regional Board.

The only measure that the Richardson Bay Pathogen TMDL requires to address this deplorable situation is that they comply with the Statewide General Waste Discharge Requirements ("WDR") for Sanitary Sewer Systems. As we have explained in our previous comments, the TMDL as currently written will not provide then necessary reasonable assurances that water quality standards will be attained through implementation of the measures described in the TMDL Although it has been effect for several years, the Statewide General Permit has not prevented or remedied the failing conditions of the Marin sewer systems or the spills that they contribute to. We therefore reiterate our strong recommendation that the draft TMDL identify trackable implementation measures - beyond mere compliance with the General WDR - for reducing sewage spills from the sanitary sewer treatment plants and collection systems in Southern Marin. These measures should address the issues identified by EPA's recent inspections of five of the six sewage collection systems that flow to the SASM wastewater facility.

Additionally, the Marin agencies should be required to establish a forum for information sharing, discussion and dispute resolution per the recommendation of a 2004 Marin Grand Jury Report entitled "Southern Marin Sewers- So Many Districts, So Few Users." This report concluded that the relationships between the agencies responsible for the treatment plants and those responsible for the

		<p>collection systems creates an institutional barrier to reducing inflow and infiltration and, therefore, spills. The Grand Jury found that "with no overriding mandate to confer and collaborate, it is easy [for the collection agencies] to opt to conduct business as usual." The report recommends the creation of a joint powers agreement to enable the eleven agencies serving the area to share personnel, expertise, and physical resources.</p> <p>Recommendation: Baykeeper recommends that the Basin Plan Amendment be revised to include trackable implementation measures and deadlines addressing each of the issues identified above, including but not limited to:</p> <ul style="list-style-type: none"> • Characterization of inflow & infiltration to the collection systems; • Acquisition of spill response equipment and development of formal response and containment procedures; • Development and implementation of accurate spill reporting procedures; • Comprehensive evaluations of the agencies' Capacity, Management, Operation, and Maintenance ("CMOM") programs; and • Creation of a joint powers agreement or some other arrangement to facilitate communication, information sharing and dispute resolution amongst the agencies. 	
2.5	Baykeeper	<p>B. The TMDL Should Establish Municipal Stormwater Wasteload Allocations for Wet and Dry Seasons and Should Provide for Numeric Effluent Limits in Stormwater Permits.</p>	<p>This comment was received by the SF Bay Water Board, and it responded under comment No. 7.9-11.</p> <p>Please see Response to Comment 0.1.</p>

		<p>The TMDL provisions related to stormwater require two changes. First, the TMDL should establish WLAs for MS4s during the wet and dry season. During the dry season, MS4s should not be a source of fecal indicator bacteria as they should not be discharging to Richardson Bay at all.</p> <p>Recommendation: We also request that the stormwater runoff WLA be divided into wet and dry season allocations with numeric limits to implement the dry weather allocation.</p> <p>Second, the trackable implementation measures for MS4s should include numeric effluent limits. In southern California, the Los Angeles Regional Board used numeric effluent limits to implement dry weather WLAs for Santa Monica Bay beaches. Their rationale for this approach-that dry weather WLAs do not apply to stormwater and that the iterative approach in previous permits has failed to eliminate dry weather discharges applies equally here.</p>	
2.6	Baykeeper	<p>C. The Houseboat and Vessel Implementation Measures Should Contain More Detail.</p> <p>We strongly support the requirement that the county and local cities evaluate the adequacy and performance of sewage systems for all houseboats and vessels. But for this measure to be effective, the Board must include more details about what this entails.</p> <p>Recommendation: Baykeeper recommends that the trackable implementation measures include annual (or some specified frequency) inspections for each houseboat and vessel, establishment of authority by the cities and by marina operators to inspect houseboats and vessels and enforce against those that are substandard, and establishment of an anonymous hotline for citizens to report violations.</p>	<p>This comment was received by the SF Bay Water Board, and it responded under comment No. 7.12.</p> <p>Please see Response to Comment 0.1.</p>

2.7	Baykeeper	<p>D. The Basin Plan Amendment Should Require Water Quality Monitoring and Beach Closures</p> <p>When Water Quality Standards are Exceeded. While the monitoring data summarized in the TMDL staff report contains data for Schoonmaker Beach, it is unclear whether the Marin County Department of Health or other agency regularly monitors fecal coliform levels at beaches or other locations where water contact recreation is likely.</p> <p>Recommendation: In order to protect human health, the Basin Plan should require regular fecal indicator bacteria monitoring at Schoonmaker Beach and other water contact recreation areas and immediate closures of these areas when water quality objectives are exceeded.</p>	<p>This comment was received by the SF Bay Water Board, and it responded under comment No. 7.13.</p> <p>Please see Response to Comment 0.1.</p>
2.8	Baykeeper	<p>In conclusion, Baykeeper supports adoption of this TMDL provided that it is first revised to (1) impose additional implementation measures for sanitary sewer systems as necessary to address identified problems with those systems, (2) establish dry and wet weather WLAs for municipal stormwater, (3) specify that municipal stormwater WLAs will be implemented via numeric effluent limits as has been done in other parts of California, (4) provide more detail regarding vessel and houseboat implementation measures, and (5) require beach monitoring and immediate public notification when water quality standards are exceeded.</p>	<p>This comment was received by the SF Bay Water Board, and it responded under comment No. 7.13.</p> <p>Please see Response to Comment 0.1.</p>