

## Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

List of Commenters:

Comment Reference	Organization	Representative
1	California Cattlemen's Association	Justin Oldfield
2	City of Santa Maria Utilities Department	Richard Sweet
3	General Public	Dean Wineman
4	General Public	Richard Adam

### List of Acronyms and Abbreviations

This document contains several acronyms and abbreviations. The acronym or abbreviation is in parentheses following the first time a title or term was used. The following alphabetical list of acronyms/abbreviations used in this document is provided for the convenience of the reader:

CCA	California Cattlemen's Association
CCAMP	Central Coast Ambient Monitoring Program
Central Coast Water Board	California Central Coast Regional Water Quality Control Board
CEQA	California Environmental Quality Act
FIB	Fecal Indicator Bacteria
MPN	Most Probable Number (an analytical unit for measuring bacteria concentrations)
MS4	Municipal Separate Storm Sewer System
NPS	Nonpoint Source
NRCS	Natural Resources Conservation District
RCD	Resources Conservation District
REC-1	Water Contact Recreation, as defined in the Basin Plan
REC-2	Non-contact Water Recreation, as defined in the Basin Plan
SED	Substitute Environmental Document
State Water Board	State Water Resources Control Board
TMDL	Total Maximum Daily Load
UC Cooperative Extension	University of California, Cooperative Extension
USDA	United States Department of Agriculture
USEPA	United States Environmental Protection Agency
WDR	Waste Discharge Requirements

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

Response to Comments:

No.	Author	Comment	Response
1.1	California Cattlemen's Association	<p>The California Cattlemen's Association (CCA) appreciates the opportunity to comment on the proposed amendment to the Central Coast Basin Plan to adopt a Total Maximum Daily Load (TMDL) for Federal Indicator Bacteria in the Santa Maria River Watershed and to add the Santa Maria River Watershed to the Domestic Animal Waste Discharge Prohibition. CCA is a statewide trade organization representing ranchers and beef producers in the state, including cattlemen and women operating in Santa Barbara County who will be affected by the proposed regulation.</p> <p>CCA is opposed to the adoption of the proposed regulation as drafted and would request the State Water Resources Control Board (SWRCB) remand the regulation back to the Central Coast Regional Water Quality Control Board (CCRWQCB) for further work and revisions to more adequately address stakeholder concerns. CCA believes that comments submitted by the Santa Barbara Cattlemen's Association and the University of California, Agriculture and Natural Resources, San Luis Obispo County Cooperative Extension were not properly incorporated into the final draft submitted to the SWRCB.</p>	See responses to specific comments below.
1.2	California Cattlemen's Association	<p>The Santa Maria River Watershed is a complex watercourse that includes several creeks, lakes, canals and estuaries that are surrounded by multiple land uses including agriculture, open space, urban and industrial development. As such, impacts to the watershed and sources of fecal coliform impairment will originate from multiple sources, not just livestock. The source analysis section of the Staff Report clearly indicates that discharges are occurring from urban</p>	The commenter is correct in stating that fecal indicator bacteria come from multiple sources.

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

		septic systems, urban storm water management systems and other human sources.	
1.3	California Cattlemen's Association	<p>However, in rural areas where livestock grazing is more prevalent, particularly Alamo Creek, Bradley Canyon Creek, the Cuyama River, La Brea Creek, Little Oso Flaco Creek, Oso Flaco Creek and the Santa Maria River, the CCRWQB has identified the source of fecal impairment to originate solely from livestock. Ranching and the vast expanses of rangeland that are needed to support livestock production also provide a prime source of wildlife habitat. The Staff Report acknowledges that "Natural, uncontrollable sources of fecal coliform in all the listed water bodies are present..." however it does not quantify or attempt to predict the degree to which wildlife contribute to fecal coliform impairment.</p> <p>The CCRWQB attempts to provide some clarity on this issue by including Appendix C – Bacteria Source Load Calculator. Although this spreadsheet strives to establish the numbers of domestic animals in each watershed, it still lacks any credible water quality data or source testing to certify that discharges of fecal coliform and contributions to impairments are actually occurring from livestock. Appendix C also uses surveys conducted in 2001 to assume today's population of deer, squirrels, beavers and other mammals and waterfowl. In addition, the Appendix does not include feral pigs which are demonstrated to populate much of the Central Coast and have been proven to contribute to water quality impairment in other Central Coast watersheds. Since the implementation of the SWRCB Non-Point Source Pollution Policy in 2004, CCA and the regulated community continue to advocate that a survey of the landscape and land uses surrounding an impaired watershed will determine the source of impairment</p>	<p>The commenter has mischaracterized what the Project Report stated. The Central Coast Water Board did not identify livestock as the sole source of fecal indicator bacteria in any watershed. In all subwatersheds in the Santa Maria River Watershed, natural sources were also considered a source of fecal indicator bacteria. The Substitute Environmental Documents (SED) provide support for these assertions in multiple ways by using the Bacteria Source Load Calculator (Appendix C), Load Duration Curves, along with best professional judgment that wildlife sources are also contributing to bacteria loading.</p> <p>Appendix C (Bacteria Source Load Calculator) used various studies and references to derive estimates of potential sources of bacteria. This spreadsheet model does not take into account water quality data or source testing related to Santa Maria specifically, but relies on land use coupled with County-reported cattle numbers and various other references for estimating wildlife. The Project Report, part of the SED, includes analyses of specific water quality data (see section 2.5 Data Analysis).</p> <p>The Central Coast Water Board took into account natural animals such as those described in the Project Report's Table 13 – Inventory of fecal coliform producers in the Santa Maria Watershed. The Project Report estimated these populations based on various credible sources (e.g. Department of Fish and Game, United States Department of Agriculture (USDA), Census, and other literature references, etc.). The Project Report includes wild (feral) pigs in the estimate in Appendix C (please see Appendix C, page 2). For the entire watershed, 3,030 feral pigs were used as part of the wildlife calculation. This was an estimate based on</p>

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

		<p>and thus any potential solution to achieve desired water quality standards. There are numerous examples, namely in the Lahontan Water Basin, where watersheds that are void of grazing or other human impact continually exceed the basin plan standard and the 200 MPN per 100 ml standard adopted by other regions for fecal coliform including the CCRWQCB.</p>	<p>information from Department of Fish and Game.</p> <p>With regards to wild pigs, information available shows that wild pigs may be large in number and may cause disruption to the riparian area. The issue of wild pigs is an environmental issue and the Central Coast Water Board acknowledged that the pigs can be problematic on many levels, including contributing to adverse impacts to sensitive species (Jolley, 2010). The State Board recommends that the commenter contact their local Department of Fish and Game representative, Jim Solis (<a href="mailto:jsolis@dfg.ca.gov">jsolis@dfg.ca.gov</a>), and discuss their options regarding the wild pig population. See also <a href="http://www.dfg.ca.gov/wildlife/hunting/pig/">http://www.dfg.ca.gov/wildlife/hunting/pig/</a> for more information on wild pigs.</p> <p>Regarding the commenter's statement of a survey of the landscape: stakeholders have asked that the Central Coast Water Board re-evaluate beneficial use designations across multiple watersheds, particularly where water contact recreation and municipal water supply designations are present (REC-1 and MUN, respectively). Removing these designations would impact the applicability of water quality objectives protecting these beneficial uses, e.g. for indicator bacteria. TMDL program staff advised stakeholders that the triennial review process is the appropriate process to reconsider beneficial use designations, particularly as they relate to designations across a larger geographic area, and to provide comment during that time. Some stakeholders have provided comment during a prior triennial review about beneficial use designations, and the Central Coast Water Board concluded that current designations are appropriate. This particular TMDL is intended to protect recreational beneficial uses and the Water Board has no evidence to conclude that those designations are not appropriate.</p>
--	--	---	---

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

			<p>With regards to numerous examples in the Lahontan Water Basin where watersheds void of grazing or other human impact continually exceed the basin plan standard; this assertion is not correct (please see <a href="#">Bacteria Monitoring in the Eastern Sierra Nevada, Summary of Results for 2011, Staff Report</a> as one example). In general, sites that are void of grazing or human impact typically meet the basin plan standard (note: the <a href="#">Basin Plan standard in the Lahontan region</a> is an order of magnitude lower than the Central Coast Water Board's REC-1 standard). Review of Lahontan data during 2011 found that there were rare instances out of many sampling sites where sites void of grazing did not meet the Central Coast's Basin Plan objective. There were actually many sites that were grazed that met the Central Coast Basin Plan's objective as well.</p> <p>With regards to various watersheds that are void of grazing or other human impacts exceeding the basin plan standard in the Central Coast region, CCAMP monitors many creeks along the Big Sur and Santa Cruz coastline that are meeting water quality objectives for fecal indicator bacteria. Several of these watersheds are comprised of mixed land uses including urban, agricultural, domestic animals, and grazing. These include, Carmel River, Little Sur River, Big Sur River, Waddell Creek, and Scott Creek. There are also creeks with minimal human impact, including Big Creek, Willow Creek, Mill Creek, and Salmon Creek. Furthermore, there are creeks with areas dominated by grazing and they include, Little Sur River, Sisquoc, and Huasna. Additionally, the National Park Service collected data from Upper Chalone Creek located in the Pinnacles National Monument, which represents a natural or relatively undisturbed stream reach. One hundred thirteen samples show that this creek is not impaired by <i>E. coli</i>.</p> <p>The TMDL makes clear that implementing parties are responsible</p>
--	--	--	--

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

			<p>only for the controllable fraction of bacteria loading causing impairment and that if all controllable sources of bacteria loading have been addressed, and there still remains impairment due to bacteria, the Central Coast Water Board will consider developing and supporting site specific water quality objectives. The proposed basin plan amendment and other TMDLs approved through the amendment process include this language. Today, there remain obvious controllable sources of bacteria loading from grazing activities in the project area; stakeholders do not deny this. After implementation of the TMDL, the Central Coast Water Board will consider whether a site-specific objective is needed.</p>
1.4	California Cattlemen's Association	<p>Therefore, CCA does not believe the use of the Appendix C or a comparable land use survey meets the threshold required under Section §13267 of the California Water Code to warrant the adoption of a waste discharge prohibition for domestic livestock. Section §13267 specifically states that "The regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports." We strongly believe more specific evidence that includes source testing is necessary to achieve the level evidence necessary to warrant the filing of a waste discharge report, or in this case the adoption of a domestic animal discharge prohibition.</p> <p>For these reasons, we do not believe the regulation adopted by the CCRWQCB provides the necessary evidence nor accurately captures the contributions of wildlife to fecal coliform impairment. We urge the SWRCB to remand this regulation back to the CCRWQCB for further consideration.</p>	<p>The TMDL will be implemented consistent with requirements described in the the <i>Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy)</i>. The Central Coast Water Board has not required reporting pursuant to Water Code §13267 of any cattle operations in the watershed at this time. As indicated below, the Central Coast Water Board anticipates that the allocations to cattle owners will be achieved with moderate implementation of management practices, and therefore, perpetual and/or widespread reporting will not be required. The Central Coast Water Board anticipates this will be the case due to the low severity of water quality degradation along areas where the primary land use is grazing. If water quality impairment along areas used for grazing persists, then reporting will be required on a site-by-site basis, i.e., where the Central Coast Water Board identifies threats to water quality from specific areas or ranches.</p> <p>Considering cattle access to impaired waters (confirmed by field observation), water quality data, past source analysis studies, and models used to predict the behavior and contribution of fecal indicator bacteria (load duration curves and bacteria load source</p>

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

			<p>calculator), the TMDL concludes that some cattle operations are a contributing source of impairment of the Santa Maria River Watershed by fecal indicator bacteria. However, as stated in the Project Report, although there are cattle in the watershed, most cattle operations are using appropriate management practices to protect water quality and are therefore not contributing to the impairment of water bodies by fecal indicator bacteria in the watershed. In areas where the predominant land use is grazing, while there are some exceedances of the water quality objectives, the number of exceedances is relatively low and the concentrations of fecal coliform and/or <i>E. coli</i> are generally lower than in other more human influenced areas.</p> <p>The CCAMP will be taking water quality samples in the Santa Maria watershed in the calendar year 2013. Staff will analyze these data and decide if they will contact certain landowners in the area. Based on Central Coast Water Board staff's conversations with individuals in the area, they anticipate that most of the landowners are already using appropriate management practices and future water quality sampling will reflect that. If water quality sampling indicates water quality objectives are being met, staff does not plan on contacting landowners in that area. If water quality sampling indicates water quality objectives are not being met, staff will prioritize which areas to focus on and contact landowners as appropriate. If a landowner is contacted, they will be required to show progress towards compliance with the Domestic Animal Waste Discharge Prohibition, with the ultimate goal of compliance during the implementation phase of the TMDL (15 years).</p>
2.1	City of Santa Maria	The City of Santa Maria (Santa Maria) submits this comment letter on the Santa Maria FIB TMDL. Consistent with the requirements of the Notice of Opportunity to Comment, this	

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

	<p>Utilities Department</p>	<p>comment letter specifically addresses one aspect of the final version of the Basin Plan Amendment adopted by the Central Coast Regional Water Quality Control Board (Regional Board), and explains why the Regional Board's response to Santa Maria's comment on this issue was inadequate or incorrect.</p> <p>Before addressing one issue of concern, Santa Maria wishes to note that it appreciated the Regional Board's other responses to comments and the changes that were implemented in the final FIB TMDL. Santa Maria worked closely with Regional Board staff and thanks staff for its receptiveness to the concerns expressed by the City.</p>	
<p>2.2</p>	<p>Santa Maria Utilities Department</p>	<p>The one issue Santa Maria wishes to raise with the State Board is the manner in which the TMDL and the Basin Plan treat the Blosser Channel, the Bradley Channel, and the Main Street Canal. As the City advised the Regional Board throughout the FIB TMDL development process and included in its formal comment letter, these three flood control channels were constructed in or about the 1960s in areas where no previous watercourse existed. The three channels are fully or partially concrete, and receive a significant amount of agricultural discharges. They are not open to the public and are not (and have not been) used for recreational purposes. In short, they are flood control facilities that are more appropriately considered to be part of the MS4, not receiving waters that should be subject, by default language in the Basin Plan, to Rec-1 and Rec-2 standards.</p> <p>Unfortunately, the Regional Board's response to Santa Maria's comment on this issue was inadequate and incorrect. (See attached Comment 7.1 and Response). First, the</p>	<p>Waters of the state are defined as "any surface or groundwater, including saline waters, within the boundaries of the state" (Water Code section 13050(e)). Waters of the state includes all waters within the state's boundaries, whether private or public, including waters in both natural and artificial channels (reference: <a href="http://www.swrcb.ca.gov/academy/courses/wqstandards/materials/water_us_ca/ca_water_042508.pdf">http://www.swrcb.ca.gov/academy/courses/wqstandards/materials/water_us_ca/ca_water_042508.pdf</a>). Consistent with the Water Code, Blosser Channel, Bradley Channel, and the Main Street Canal are correctly designated as waters of the state.</p> <p>The Central Coast Water Board has not conducted a study regarding recreational contact of the channels in question, nor has the City conducted a study to support its assertion that they have not been used for recreation. The channels are accessible by the public in certain areas. Central Coast Water Board staff has seen evidence of recreation in the channels. Examples of this evidence include trash and clothing consistent with people spending time in the channels (i.e. staff observed items that were placed and did not appear to be present as a result of being washed down stream). The TMDL is intended to primarily address the impairment in the</p>



Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

		<p>response is deficient because it assumes, without any factual support, that there “is likely contact recreation in these channels because it is feasible that individuals (likely children) would either cross the channel and/or have access to play in these channels in certain reaches.” There is no evidence to support this response, and Santa Maria has no record of contact recreation in these three channels. Other than conjecture, the Regional Board has not pointed to evidence that supports this response.</p>	<p>Santa Maria River. The channels’ confluence with the Santa Maria River, which is specifically designated for water contact recreation, is impaired due to bacteria, and is assigned a TMDL. USEPA requires the Water Board to consider downstream receiving waters when establishing TMDLs. The overarching goals of the Clean Water Act are that waters of the United States be fishable and swimmable regardless of flow and regardless of the physical nature of the waterbody. Protection of the water contact recreation beneficial use in these channels is required under the Clean Water Act, consistent with the fishable/swimmable goals, and USEPA’s direction with respect to considering downstream receiving waters when developing TMDLs.</p>
2.3	Santa Maria Utilities Department	<p>Second, the response is deficient because it attempts to justify the application of the FIB TMDL to these three channels by stating that the Santa Maria River is the downstream receiving water body and is assigned the Rec-1 and Rec-2 beneficial uses in Table 2-1 of the Basin Plan. That a flood control facility/MS4 ultimately discharges to a receiving water with a certain designated use does not transform the facility itself into receiving water that must have the same beneficial use as the downstream water. Santa Maria did not object to the designation of the Santa Maria River. It objected to the characterization of the three flood control channels. References to the Santa Maria River do not shed light on how the three channels should be addressed.</p>	<p>See response to comment 2.2 regarding artificial channels being included as waters of the state.</p>
2.4	Santa Maria Utilities Department	<p>Third, the Regional Board’s response is deficient because it assumes that a UAA is not justifiable and that the Regional Board should not spend resources on a UAA that is not defensible. There is no evidence that a UAA is not justifiable. The evidence submitted by the City shows that there is a good basis for a UAA. At a minimum, it is premature to reach the conclusion that a UAA is not justifiable. Further, because</p>	<p>The evidence in the record demonstrates that the fishable and swimmable uses are “existing” as defined in the Clean Water Act regulations (40 CFR §131.10) To remove a swimmable/fishable use, the Central Coast Water Board would need to find that there has not been an actual occurrence of water recreation since November 28, 1975.</p>

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

		<p>the Regional Board's Basin Plan and approach to the FIB TMDL has created this issue in the first place, it is not reasonable to push the cost of the UAA onto the City. The Regional Board created the problem and should thus address it.</p>	<p>The City of Santa Maria has made tremendous progress with its Storm Water program, especially since 2007, when CCAMP last took samples. Staff anticipates that when CCAMP takes samples in 2013, they will see a reduction in loading of FIB from the City of Santa Maria. Stormwater sources can be difficult to control, especially given the free will of individuals that reside in the City (e.g., staff found multiple dog droppings right next to a clearly marked sign that states, "Please clean up after your pet," with an ample supply of mutt-mitts and a trash can in a very accessible place). The TMDL's implementation program allows broad latitude for the City to demonstrate progress during implementation of this TMDL through the Phase II Stormwater Permit.</p>
2.5	Santa Maria Utilities Department	<p>For these reasons, the City asks that the State Board not approve the portions of the FIB TMDL that apply to the Blosser Channel, the Bradley Channel, and the Main Street Canal. Because these three channels are flood control facilities that are best characterized as man-made facilities that are part of the MS4, the FIB TMDL and corresponding waste load allocations should not apply to them. The City suggests that the better approach is for the Regional Board to conduct a UAA with regard to these three channels.</p> <p>Thank you for your consideration of this issue. Santa Maria wishes to stress again that it appreciates the work of the Regional Board and its staff and their consideration of the City's concerns. The City writes this letter only to point out this one deficiency with regard to the Blosser Channel, Bradley Channel, and the Main Street Canal.</p>	
3.1	Dean Wineman	<p>I am writing to alert you to an extremely alarming set of activities performed by Regional Water Board and staff during the development and adoption of the TMDL for Fecal Indicator Bacteria in the Santa Maria River Watershed and implore you</p>	<p>Each of these specific issues will be addressed separately below.</p>

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

		<p>to review the relevant scientific information and reject the proposed Central Coast Basin Plan Amendment.</p> <p>I would like to inform you of: 1) The lack of timely outreach to impacted stakeholders during the TMDL's development and adoption, which precluded the introduction of these comments earlier in the process; 2) Lack of scientific integrity of the CCAMP program, most specifically at site 312ALA Alamo Creek; 3) Inability to achieve water quality standards without an off-stream watering facility, which is, in effect, mandating a specific practice to achieve TMDL compliance; 4) Inadequate and/or incorrect staff responses to oral and written comments.</p> <p>My family owns and operates the ranch containing the 312ALA Alamo Creek site and has firsthand knowledge of the sampling site and realities of the reach/subwatershed it is purported to represent. This empirical knowledge is the basis of my comments and cause for serious concern about the Regional Water Board staff's inability to perform their fiduciary responsibilities as stewards of the public trust and justly fulfill the important responsibility of protecting the Waters of the State.</p> <p>These are my specific concerns and, per Requirements for Submitting Comments, a brief explanation of why these comments are being provided to the State Board at this time (additional details follow):</p>	
3.2	Dean Wineman	<p>1. Lack of adequate outreach to actual stakeholders and opportunity to comment during the development and adoption process.</p> <p>o Explanation: comment raised by C. Wineman via oral comment at adoption hearing, inadequately addressed.</p>	<p>The Central Coast Water Board and the staff provided many opportunities for public participation during the development of this TMDL.</p> <p>Central Coast Water Board staff held numerous outreach meetings with regards to development of this TMDL. The following is a <i>partial</i> list of some of the meetings they have had in an attempt to</p>

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

		<p>I was not aware of the TMDL prior to its adoption. My daughter, Claire Wineman, was in attendance at the adoption hearing as an interested party on another agenda item and was shocked to learn of what was being proposed, particularly when photos of the sampling site on our family’s ranch were presented. She correctly commented that most ranchers don’t equate the phrase “TMDL for fecal indicator bacteria” to a decision that will fundamentally change the way that they operate their ranches.</p> <p>Since the adoption I have personally contacted some of my neighbors who own and operate over 30,000 acres of the watershed. Zero of these stakeholders have heard anything about the TMDL. The stakeholders, especially in areas like the small Alamo Creek subwatershed, are easily identifiable: more of an outreach effort to these impacted parties could and should have been made. As such, claims that this document was vetted through a public process are offensively misleading.</p> <p>Furthermore, many of the rural ranchers in the watershed have limited computer skills and/or access to high-speed internet. To review the hundreds of pages of documents online seems to be unjustly preventing these parties from reviewing and responding.</p>	<p>reach stakeholders:</p> <ul style="list-style-type: none"> <li>• September 2003 – First public meeting for this TMDL.</li> <li>• March 2005 - Staff held a meeting in Guadalupe to provide an update on the TMDL. Alamo Creek was part of this TMDL project at that time.</li> <li>• June 2006 – Staff sent an email to stakeholders, asking for information on any additional stakeholders to add to their interested parties list. Included in this email are the Cachuma Resource Conservation District (RCD), UC Cooperative Extension, Natural Resources Conservation Service (NRCS) and the Cattlemen’s Association.</li> <li>• Dec. 1, 2006, Feb 26, 2007, Oct. 16, 2008 – CEQA Scoping meetings.</li> <li>• April 22, 2010 – Presentation to Rangeland Improvement Association in Arroyo Grande.</li> <li>• August 14, 2010 – Article in the Santa Maria Times that discussed the Project Report and gave details of a public meeting staff would be holding in Santa Maria. Additionally, this newspaper article gave staff contact information, both email and phone number.</li> <li>• August 23, 2010 – Staff held a public meeting in Santa Maria to discuss the TMDL. In attendance were members of the Cachuma RCD (including a member of the Wineman family), UC Cooperative Extension, and a member of the San Luis Obispo County Cattlemen.</li> <li>• September 8, 2011 – Staff held a meeting in a private home in the Huasna subwatershed. Approximately 11 individuals who either own or operate cattle were in attendance. Note that Alamo Creek watershed is adjacent to this this subwatershed. Cattlemen were informed of this meeting, including the president of the local county cattlemen’s association, who was</li> </ul>
--	--	---	--

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

			<p>present at the meeting.</p> <ul style="list-style-type: none"><li>September 21, 2012 – Staff held a meeting in the Sissuoc subwatershed where approximately 18 individuals were in attendance. Cattlemen were informed of this meeting, including the president of the local county cattlemen’s association, who was present at the meeting.</li></ul> <p>The Central Coast Water Board complied with and went beyond the public notice requirements for adoption of a TMDL. The Board did not send a public notice to each and every landowner in the watershed. Staff made every effort to make contact with lead stakeholders in the area (RCDs, NRCS, UC Cooperative Extension, County Cattlemen Association) in an effort to disseminate information to landowners/operators. The Central Coast Water Board records indicate that C. Wineman joined the Santa Maria River Watershed FIB TMDL email list on November 23, 2011, and therefore, should have received the public notice about the March 15, 2012 Board meeting.</p> <p>The TMDL does not include a requirement to place reporting requirements on every stakeholder during the implementation phase of this TMDL, as previously stated. The Central Coast Water Board anticipates seeing an improvement in water quality in 2013 because they anticipate a majority of landowners are already implementing appropriate management practices.</p> <p>The State Board appreciates the commenter’s position that many rural ranchers in the watershed have either limited computer skills and/or limited access to high-speed internet. Central Coast Water Board staff has had numerous conversations with a grower in the watershed via the telephone and hard copy mailed this gentleman reports since he does not have computer access. Newspaper articles (Santa Maria Times, August 14, 2012, and August 24,</p>
--	--	--	---

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

			<p>2012) that discussed this project also listed staff's phone number in case people wished to contact staff via telephone instead of email. Central Coast Water Board staff will keep this information in mind when/if they contact ranchers during the implementation phase of this TMDL.</p>
<p>3.3</p>	<p>Dean Wineman</p>	<p>2. CCAMP site selection and sampling for Alamo Creek (312ALA) result in load estimations either grossly incompetent or intentionally biased to target livestock operations.</p> <p>o Explanation: comments raised during various oral and written comments, summarily dismissed by Regional Water Board Staff; the specifics of the 312ALA site were unable to be provided previously due to lack of stakeholder outreach.</p> <p>Around 2000 I granted Water Board staff permission to access my family's ranch in Alamo Creek to conduct CCAMP sampling. The site that Water Board staff chose to sample from was a 100 foot section of creek easily accessible to wildlife, cattle, and staff. The remaining 3,000 feet of the ranch's creek is fenced to limit cattle's access to the creek year-round. This is in accordance to BMPs described throughout natural resource literature. Visual observations consistently indicate that this water access point is strongly preferred by wildlife such as deer, ducks, bears, beavers and other rodents, and wild pigs, all of which are regularly observed in the Alamo. The staff's choice of a sampling site is in absolutely no way representative of the Alamo Creek, nor the quality of water discharged to the downstream receiving body.</p> <p>Several SWAMP/CCAMP Monitoring Program Work Plan documents (2008 and 2012-2017) indicate that:</p>	<p>See response to comment 3.2 with regards to lack of stakeholder outreach.</p> <p>The State Water Board appreciates the commenter allowing CCAMP access to his family's ranch and appreciates the management measures that Mr. Wineman has already implemented. Staff does not disagree that the data collected at 312ALA may not be representative of the entire 7.8 miles of Alamo Creek. Monitoring site 312ALA is near the bottom of the watershed and is therefore representative of upstream waters. Staff chose site 312ALA because it was the most downstream site with safe year-round access and upstream of the influence of the lake. The commenter may be correct that waters further upstream of this monitoring site meet water quality standards for bacteria. However, staff does not have access to these upstream waters and, therefore, cannot demarcate where impairment might end upstream of site 312ALA.</p> <p>Staff is unsure what the commenter means with regards to gathering additional information on CCAMP sampling results. Central Coast Water Board staff received one email from Mr. Wineman on August 15, 2012, inquiring about the date of the State Water Board hearing. Staff responded to Mr. Wineman on August 16, 2012, and gave him the information about the State Water Board hearing and attached the public comment notice for the State Water Board Hearing. Staff also indicated in the email to please call or email with any other questions he might have. Staff</p>

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

		<p>“Watershed [monitoring] site selection targets the primary discharge point of the watershed, the discharge of major tributary which drains the watershed.... Some sites are also located above and below areas of significant human activity, including urban development, agriculture, and point source discharges.”</p> <p>None of these conditions are true of the site selected for 312ALA. There are other downstream sites that could be safely accessed and would more closely represent the subwatershed’s discharges.</p> <p>We tried to gather additional information on the CCAMP sampling results, but after originally verbally consenting, Water Board staff ultimately withheld information related to this site prior to the comment submission deadline.</p> <p>At best, staff’s selection for the site of 312ALA constitutes gross scientific negligence. At worst this action is the scientific and environmental equivalent of profiling against agriculture. Bad science informs bad policy.</p> <p>This skewed sample resulted in placing Alamo Creek on the 303(d) list and contributed to the development of the TMDL for FIB. I have submitted a Revocation of Permission to Access to Private Property for Water Monitoring due to concerns about the scientific integrity of the Water Board and its implications for stakeholders throughout the region.</p>	<p>did not hear back from him. Staff further consulted with supervisors and other coworkers to investigate whether Mr. Wineman contacted them; staff is unaware of any attempts by Mr. Wineman to contact other Water Board employees during this time. Staff reiterates that they are available to discuss the issues at any time.</p> <p>Mr. Wineman handed Central Coast Water Board staff a letter in June 2012 at a stakeholder meeting. The letter revoked permission for Water Board staff to enter Mr. Wineman’s property. Mr. Wineman followed this letter with an email on August 22, 2012, again revoking permission to enter his property. The email provided a phone number to reach Mr. Wineman. Staff attempted to phone Mr. Wineman to acknowledge receipt of the email; Mr. Wineman did not answer the phone and staff left a voice message. To date, Mr. Wineman has not returned the call. Staff then sent Mr. Wineman an email on September 4, 2012, to acknowledge Mr. Wineman’s correspondence. To date, Mr. Wineman has not replied to staff’s email. Consistent with Water Code section 13267, the Water Board staff does not access private property without the permission of the owner.</p>
3.4	Dean Wineman	<p>3. In spite of staff claims that the Water Board cannot dictate the manner of achievement of water quality standards, the 312ALA Alamo Creek site exemplifies that compliance under any in-stream livestock watering scenario will be impossible</p>	<p>See response to comment no. 3.3 regarding Mr. Wineman’s request for specifics on site 312ALA.</p> <p>The TMDL does not specify the manner of compliance. The implementation program (section 6.2.2.1) states that the</p>

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

	<p>and an off-stream watering facility will be requisite to meeting water quality standards.</p> <p>o Explanation: concern about off-stream facility raised by C. Wineman via oral comment at adoption hearing; specifics of the 312ALA site were unable to be provided previously due to lack of stakeholder outreach.</p> <p>The water quality results at 312ALA prove staff's assertion is false and misleading to stakeholders and the Water Board(s). In essence, the sampling site demonstrates that ranchers will, in fact, need to create off-site watering facilities in order to achieve the regulatory standards set forth in the TMDL. This will have an associated ecological and financial cost in terms of the flow diversions that will be required throughout the watershed. My daughter expressed concern about the impact of off-stream watering facilities and how technical failures of these facilities could result in catastrophic deaths of livestock.</p> <p>Based on staff and Regional Water Board responses to that comment, it is my understanding that the mandate of a specific practice is beyond the regulatory powers of the Water Board; however, the case of Alamo Creek conveys important information that should be considered before dismissive and misleading rhetoric about the multitude of options that ranchers would have to comply is perpetuated.</p>	<p>landowner/operator will comply with the prohibition by 1) submitting evidence (e.g. photo documentation) to demonstrate that the landowner/operator is not causing waste to be discharged to a water of the state resulting in violations of the prohibition, or 2) submitting a nonpoint source pollution prevention plan for compliance with the prohibition, or 3) submitting a report of waste discharge.</p> <p>The Central Coast Water Board analyzed data at site 312ALA as described in the TMDL Project Report. CCAMP staff took fecal coliform samples in February 2000 – April 2001 and in January 2007- January 2008. Combining the sample results during these two periods results in 10 samples out of 27 (37%) exceeding 400 MPN/100 mL. However, separating the two sampling events, 2/12 (17%) samples exceeded the 400 MPN/100 mL in the later sampling period (2007-2008). The data provide evidence regarding the improvement in water quality from 2000 to 2007. As explained by C. Wineman during a conversation with staff, a portion of the fencing on the property was installed in post 2001 (staff is uncertain of the exact date). Documentation of the installation of appropriate management practices and subsequent water quality sampling showing water quality improvement, could lead to delisting this waterbody as set forth in the State Water Board policy. This would require a minimum of 26 samples, post management practice installation, and no more than 4 exceedances of the water quality objective. See <a href="#">303(d) Listing Policy</a> (Water Quality Control Policy for Developing CA's Clean Water Act Section 303(d) List), data quality assessment process (Section 6.1.4 and Table 1.2).</p> <p>CCAMP staff will gather more data in 2013 in the Santa Maria Watershed, however, no samples will be collected on Alamo Creek due to lack of safe year-round access. Based on past data and the</p>
--	---	--



Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

			<p>amount of fencing in the watershed, staff anticipates that future water quality samples taken at site 312ALA may show improvement and therefore any future management measures may not be necessary. However, in the absence of additional data, staff cannot assess current conditions of the Creek.</p> <p>As stated in the Project Report, page 70, the Executive Officer will “identify and notify livestock owners/operators who are not in compliance with the Domestic Animal Waste Discharge Prohibition.” Staff has not notified anyone in the watershed at this point about not being in compliance with the Prohibition. Additionally, for those who may in the future be identified as not being in compliance, they have some time to demonstrate progress towards complying with the Prohibition consistent with the Nonpoint Source Policy. Regarding implementation practices, ranchers know their properties best and demonstrating compliance with the TMDL can be an iterative process, using management measures that work best for their sites as opposed to the Water Board mandating ranchers implement a specific practice.</p>
3.5	Dean Wineman	<p>4. Water Board staff have inadequately and/or incorrectly responded to multiple comments. This is but one example of how realistic, scientific details are summarily dismissed by the Regional Water Board.</p> <p>o Explanation: oral and written comments prompted staff to develop a breakdown of which species are contributing to bacterial exceedances. This response, among others, is inadequate, inaccurate, and completely removed from reality of the subwatersheds that would be “addressed” by this TMDL.</p> <p>These responses, both individually and collectively, illustrate</p>	<p>The comment states that many rural areas in the Santa Maria Watershed are on private property and not accessible to the public. A recreational beneficial use designation in no way implies public recreation is allowed on private property. It is important to recognize that streams and waterbodies are not closed systems. Impaired water quality in a reach of a stream that is inaccessible, or where the current or future property owner never comes into contact with the water, does not preclude those waters of the state from flowing into downgradient stream reaches where other property owners or other people may come in contact with the water, either through wading, fishing, or any recreational activity involving some form of water contact. The REC-1 beneficial use is broadly defined as any activity that involves contact with the water</p>

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

	<p>how comments raised by the public that “ground-truth” staff claims are ignored and/or inappropriately dismissed.</p> <p>Staff Response to Comment 1.3, regarding the contact recreation beneficial use designation for all waterbodies in the report. Reality: many rural areas in the Santa Maria Watershed are on private property and not accessible to the public.</p> <p>Staff Response to Comment 1.3, regarding if domestic sources can be economically handled. Staff did not respond to this issue. Reality: domestic sources cannot be economically handled. Furthermore, the TMDL will reduce production of food and income from ranches. The UN’s 2011 World Livestock Report states that by decade’s end the world will need to produce 20% more meat and poultry than today. The TMDL will reduce production of meat.</p> <p>Staff Response to Comment 6.2, regarding estimated population of livestock. Reality: Table 16 in the Final Project Report estimated 2,659 cattle and 370 horses in the Alamo Creek subwatershed. Through conversations with my neighbors I estimate the true numbers to be some 100 cattle and 10 horses.</p>	<p>and the reasonably possible ingestion of water, including, but not limited to, wading or fishing. The overarching goal of the Clean Water Act and State law is that all surface waterbodies of the state should, at a minimum, be clean enough to be safe for body contact and aquatic habitat regardless of whether the flows are perennial or intermittent, and regardless of the physical nature of the waterbody (i.e., lake, canal, slough, stream, river, creek). As such, body contact is a presumptive minimum clean water standard for waters of the state, unless substantial evidence and site-specific conditions merit a removal of the REC-1 standard.</p> <p>The commenter stated that domestic sources cannot be economically handled and that the TMDL will reduce the production of food and income from ranches. In the case of Alamo Creek, staff anticipates that future water quality sampling will show that the creek is meeting water quality objectives. If this is the case, staff does not foresee additional management practices being warranted. However, watershed-wide, there may be some areas where ranchers may need to implement some appropriate management practices. The TMDL includes cost estimates for management practices. The TMDL also identifies the availability of NRCS, RCDs, and UC Cooperative Extension information and <a href="#">grants</a> available through nonprofit agencies or districts, and other funding sources to provide the most cost effective ways of simultaneously addressing water quality issues and addressing management practices.</p> <p>The commenter stated that estimates of cattle and horses are closer to 100 cattle and 10 horses instead of the Project Report’s estimates. The TMDL Project Report includes USEPA recognized methods to estimate the number of livestock in the area. Inherent in these estimates are assumptions that are broadly applied. Estimates are not exact numbers. The additional information will</p>
--	---	---

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

			<p>help responsible parties evaluate needed practices. The TMDL Project Report includes an estimate of livestock and wildlife because the public has requested the information. It is important to note that these estimates do not have a regulatory impact on Mr. Wineman or other cattlemen in the project area. Furthermore, if the true number of cattle in the subwatershed is 100, rather than 2,659, then implementation efforts to achieve the water quality standard may be easier to achieve than previously considered.</p>
3.6	Dean Wineman	<p>Do not approve adoption of this Basin Plan Amendment! The water quality results are misleading, the implementation impacts are misleading, and the description of public participation is misleading.</p> <p>We ask that you direct staff, as public servants, to work with actual stakeholders to inform the TMDL process and its implications in a way that will positively impact long-term water quality.</p>	<p>The adoption of the TMDL is required under the Clean Water Act. The TMDL includes a long-term implementation program that will involve staff interactions to assist responsible parties in complying with the TMDL.</p>
4.1	Richard Adam	<p>The proposed regulation in the name of enhancing water cleanliness flies in the face of the cattle industry as we have known it for the last 200 years and is a colossal waste of money. Fencing a river or stream that will dry up in the summer and in any case disappear and percolate underground into the Santa Maria Valley Ground Water Basin makes little sense. The manure that is generated on the high side of the fence is destined for the same drainage as the fenced off area, that is, when the inevitable rain event occurs, the drainage will find its way to the waterway, the same as if you moved the watering facilities to a different location in the same drainage. Fencing will cause wild animal watering patterns to be interrupted and pigs, deer or other creatures will have to damage the fence or find alternative sources of water. Fire events may also be enhanced by the uncontrolled</p>	<p>See response to comment no. 3.4 regarding mandating certain management practices. As explained in the TMDL Project Report, fencing is one of several management practices for cattle.</p> <p>The commenter stated that manure will make its way to the waterway whether it is fenced or not. Researchers Tate and Atwill, who specialize in grazing related studies, have demonstrated that greater than 90% of the <i>E. coli</i> will be trapped in the fecal pat itself or trapped within one foot of the pat. An additional 70% to 99.9% will be trapped within one yard of the pat when there is vegetation present (2011 – April 2011 <a href="#">presentation</a> at Cal Poly). Therefore, having a small buffer between the manure and the creek should reduce fecal indicator bacteria loading significantly. The Central Coast Water Board does not expect waterways to be fenced and anticipates that landowners will chose to install or implement less</p>

Draft Comment Summary and Responses

Comment Deadline: August 20, 2012

Amendment to the Water Quality Control Plan for the Central Coast Region to 1) Adopt Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and 2) Add the Santa Maria River Watershed (including the Oso Flaco subwatershed) to the Domestic Animal Waste Discharge Prohibition

	<p>growth in the fenced off area. Fish are not even a consideration because of the unreliable existence of water in the now protected stream bed. Does testing for target bacteria occur in periods of high water or low or no water? Will downstream/upstream bacteria testing result in lawsuits being filed to determine who or what may be the responsible party, particularly if the offender is drainage from public lands? Are the protocols and metrics known and in place? The whole proposal seems to me to be a giant waste of money and effort that will achieve nothing. Tell us if you intend to pass laws that will ultimately result in the demise of the domestic animal industry in the State of California.</p>	<p>costly methods of protecting water quality. If a landowner chooses to install fencing, the TMDL Project Report recommends they choose to use wildlife-friendly fences. There are many resources available online to help assist landowners with creating wildlife-friendly fencing.</p> <p>The Central Coast Water Board staff only collects water quality samples where there is flowing water and does not collect from stagnant ponds. They do not collect water samples when there is no water.</p> <p>The Board cannot speculate as to whether downstream/upstream bacteria testing will result in lawsuits to determine the responsible party. The TMDL's implementation program is long-term and the Central Coast Water Board anticipated that during the implementation phase, the Central Coast Water Board staff will assist responsible parties. The TMDL includes water quality sampling protocols and metrics (numeric water quality objectives). See the numeric target section of the TMDL (pg. 37).</p> <p>As stated above, the overarching goal of the federal Clean Water Act and state law is that all surface waterbodies of the state should, at a minimum, be clean enough to be safe for body contact and aquatic habitat regardless of whether the flows are perennial or intermittent and regardless of the physical nature of the waterbody (i.e., lake, canal, slough, stream, river, creek). This TMDL aims to achieve that goal.</p>
--	--	---