



Agenda Date: 4/11/2006
Agenda Placement: 9A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Jill Pahl - Acting Director
Environmental Management
REPORT BY: Jill Pahl, Acting Director , 253-4410
SUBJECT: Pathogen Total Maximum Daily Load for the Napa River

RECOMMENDATION

Acting Director of Environmental Management and Director of Conservation, Development and Planning request the following:

1. Discussion regarding additional comments to the San Francisco Regional Water Quality Control Board (RWQCB) regarding proposed Total Maximum Daily Load (TMDL) allocation and a Basin Plan Amendment addressing pathogens in the Napa River Basin; and
2. Approval of and authorization for the Chair to sign a letter suggesting implementation measures to the San Francisco Bay Regional Water Quality Control Board (RWQCB) regarding proposed Total Maximum Daily Load (TMDL) allocation and a Basin Plan Amendment addressing pathogens in the Napa River Basin.

EXECUTIVE SUMMARY

On March 21 the Board considered comments on the Napa River TMDL for pathogens. Those comments were further refined by the Watershed Information Conservancy Committee (WICC) on March 23 and the attached final letter was sent with the Chair's signature. In meetings with County staff and other local agencies, RWQCB staff indicated that the pathogen TMDL appears to be minimal and restricted to only a few areas along the watershed. Neither the County or the RWQCB want controllable sources of pathogens to pollute the watershed, but the current scope of the TMDL is not limited to the identified potential problem areas.

There are several ideas that the County could offer that would limit the scope of future investigations to a manageable effort:

Failing Septic Systems

If the scope could be confined to the 3 creeks (Salvador, Browns Valley and Murphy) that have indicated the potential for septic system failures, a review specific to those areas could be completed in 2 years with the use of extra help for a maximum of \$75,200.

Coordination of Existing Sampling Efforts

Several different agencies conduct sampling in the Napa River Watershed. The County could coordinate and potentially amend the current efforts to accomplish the sampling proposed in the TMDL.

Sanitary Sewer Systems and Stormwater Discharges

Existing Waste Discharge Permits cover the operations of these systems and are appropriate to implement to reduce pathogen loading on the Napa River. The TMDL should not duplicate these efforts, but instead refer to the existing permits as adequate to control pathogen loading.

Grazing Lands and Confined Animal Facilities

These two activities will undergo a public process to develop Waste Discharge Requirements, Waivers and Exemptions. The stakeholders will be engaged to complete the final product. Those future Requirements, Waivers and Exemption should be adequate to address all concerns and the TMDL should indicate this.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	General Fund, Plan Check Fees and Permit Fees.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	To limit the scope of the TMDL to accomplish its intent.
Is the general fund affected?	Yes
Future fiscal impact:	It is anticipated that the investigations and repairs could be completed in two years with the use of extra help. Approximately \$35,000 per year would be required.
Consequences if not approved:	This is an opportunity to limit the scope of the TMDL to manageable tasks.
Additional Information:	None

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Section 303(d) of the 1972 federal Clean Water Act requires that states develop a list [known as the 303(d) list] of water bodies that do not meet water quality standards, establish priority rankings for waters on the list, and develop action plans, called Total Maximum Daily Loads (TMDLs), to improve water quality. The State's Water Resources Board and regional boards such as the San Francisco Bay Regional Water Quality Control Board (RWQCB) are the agencies taking the lead in these endeavors.

The Napa River is on California's 303(d) list of impaired water bodies for excess nutrients, pathogens, and

sedimentation/siltation. As a result, the San Francisco RWQCB is charged with developing TMDLs for each of these pollutants. Presently, the RWQCB is circulating draft environmental documents proposing amendments to the Water Quality Control Plan for the San Francisco Bay Basin including a TMDL for pathogens in the Napa River watershed. The pathogen TMDL, or action plan intended to improve water quality, assess, and allocate pathogen loading (i.e., pollution) in the Napa River basin. The pathogen TMDL summarizes pathogen impairment, analyzes potential sources, assigns numeric targets and allocations for each source category, and establishes an implementation plan.

On July 19, 2005, staff of the RWQCB presented the sediment and pathogen Technical Reports to the Board of Supervisors and indicated their desire for community and stakeholder review and comment. The Board subsequently authorized the Chair to sign a comment letter which was forwarded to the RWQCB. The current draft proposal regarding pathogens addresses some but not all of the County's earlier comments.

On August 23, 2005 the Board of Supervisors directed the Watershed Information Center & Conservancy (WICC) Board to review draft materials associated with RWQCB's proposed TMDL allocations and apprise the Board of Supervisors of opportunities in the TMDL process for local input and participation. At their August 25, 2005 meeting, the WICC Board received an update from staff on the Board of Supervisor's direction and discussed opportunities and possible actions to assist the Supervisors and public to better understand and participate in the TMDL process. The WICC Board, representing a breadth of community and stakeholder interests, confirmed that the WICC is an appropriate forum in which to encourage public engagement on this matter. Following their discussion, the WICC Board directed staff to place the TMDL issue as a standing item on their agenda for the near term, and on March 23rd, the WICC discussed the draft proposal regarding pathogens and related outreach to the Cities and agricultural interests regarding components of the pathogen TMDL. Based on staff analysis, discussions with City representatives, and outreach to agricultural (in this case grazing and confined animal enclosure) interests, the attached letter of March 24, 2006 was developed and sent which addressed the County's comments.

Staff believes the County would benefit by investigating the three creeks (Salvador, Browns Valley and Murphy) proactively to limit the scope of the TMDL. Only three localized stretches of these creeks indicated pathogens as a problem. There are approximately 100 parcels within 100 feet of these three creeks and several of these parcels are undeveloped or have the septic system more than 100 feet from the creek. These three creeks have high clay soils and it is unlikely that a failing septic system could reach the creek unless it daylight and/or directly discharges to the creek.

For septic systems to contribute to the pathogen loading either a direct discharge or a high density of septic systems would be necessary. Areas of high density on septic are limited in the County. Murphy Creek is such an area. If a broad range problem is identified, a community system may need to be developed. There are very few other areas in the County that have such a density of development on septic systems.

Through the implementation of the County's sewage ordinance the Department of Environmental Management has the responsibility and the authority to abate septic failures. If additional sampling determines other localized areas of concern for pathogens, the same approach could be used to identify and abate other failing septic systems.

The investment of staff time in proactively investigating these areas and determining whether or not controllable sources are the pathogen sources should lead to the delisting of the Napa River for pathogens. If failures are found, they will be repaired to improve the water quality. If failures are not found, residents will be informed on how to maintain their septic systems so that they do not become a contributing source of pathogens in the watershed. If failures are not found, then the natural background of uncontrollable sources will be determined to be the pathogen source which should still lead to the delisting of the watershed. Wildlife may be the source and the TMDL states that wildlife are not controllable sources.

SUPPORTING DOCUMENTS

A . March 24, 2006 Letter

B . TMDL Implementation Compromise Letter

CEO Recommendation: Approve

Reviewed By: Andrew Carey