



Ventura County Coalition of Labor, Agriculture and Business

P.O. Box 4237, Ventura, CA 93007

Email: execdirector@colabvc.org

www.colabvc.org

September 4, 2012

Los Angeles Regional Water Quality Control Board (LARWQCB)

Att. Jenny Newman

320 W. Fourth St., Suite 200

Los Angeles, CA 90013

Via email: jnewman@waterboards.ca.gov

RE: Comments: Algae, Eutrophic Conditions, and Nutrients TMDLs for Ventura River and Its Tributaries – Draft: July 20, 2012

Ventura County COLAB appreciates the opportunity to comment to the Los Angeles Regional Water Quality Control Board with respect to the Algae, Eutrophic Conditions and Nutrients Total Maximum Daily Loads (TMDLs) for Ventura River and its Tributaries. VC COLAB has 300 members including cattle ranchers, horse owners and irrigated landowners, many within the Ventura River watershed. **While we believe there are opportunities for improvement to the watershed with the implementation of Best Management Practices, we do not support the TMDLs with respect to Agriculture, Horse Facilities/Intensive Livestock or Grazing Activities as described by the LARWQCB due to the lack of sufficient science to support the numeric targets, source assessment, linkage analysis, pollution allocations or implementation plans.**

The schedule for development of the TMDLs in the Los Angeles Region was set by a lawsuit against the Environmental Protection Agency in 1999. In the consent decree, the Regional Water Board agreed to provide TMDLs for the Ventura River watershed (analytical unit 88) within 14 years, ending March 24, 2013. **With time running out and limited data available, the draft document of July 20, 2012 describes a set of unreasonable goals that will likely cause the unnecessary loss of agricultural resources with limited improvement of the watershed.** The land use section describes 85% of the 119,000 acres of the watershed as open space including 50% that is designated National Forest. Irrigated agricultural lands are only 4.5% of the area (6387 acres) and horse property is .3% (357 acres). The acreage of land with active cattle ranching and the number of cows in the watershed is undetermined. The reported estimates are simply a guess and Cattlemen's associations were never contacted for verification. It is unclear whether the elimination of all these land uses would cause an appreciable improvement in the amount of algae, nitrogen, phosphorus and/or dissolved oxygen content of the water in the Ventura River.

The federal Clean Water Act section 303(d) requires States to list waterbodies that are impaired and then requires TMDLs to be established. The Porter-Cologne Water Quality Control Act governs water quality in California. The Act defines water quality objectives as: "...the limits or levels of water quality constituents or characteristics which are established for reasonable protection of beneficial uses..." When a Regional Board develops water quality objectives, it must consider: "environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto" and "water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area" and "economic considerations" (Section 13241). In addition, under Section 13300, the state may only regulate

water quality “reasonably, considering all demands being made and to be made on those waters.” **We do not believe that the TMDL document defines water quality targets for agriculture, horse facilities or livestock ranching that can be reasonably achieved.**

Numeric Targets

A set of numeric targets were set (p.33) to protect the most sensitive beneficial use in the Ventura River watershed which is cold water aquatic habitat and the associated migration, spawning and early development uses. Low concentrations of dissolved oxygen (DO) can cause negative impacts on cold water fish, including the endangered Southern California Steelhead. However, numeric targets were added for algal biomass, microalgal cover and phytoplankton biomass which are not included in the Basin Plan and are based on studies from other regions of the country. While the DO targets directly relate to the health of aquatic life, the algal targets are related to watershed and recreational uses.

The algal targets were set with no consideration of whether the lower recommended amounts of algae have ever existed or could be reasonably attained in this watershed. There is not enough data to document the likely natural background for algae. There is only one algae biomass sample location above the Matilija Dam in the 2008 UCSB study, which is north of the area of impacts from humanity. The river gradient at this sample location is likely higher than the sample locations in the lower reaches which would make a comparison difficult. To establish a true background algae level would require sampling above the dam in areas of lesser gradients.

Given the large variety of algal biomass data values in the study area, limited data collected, and the number of variables that affect the data, it is difficult to make realistic algal numeric targets. **Therefore, we recommend that the algal targets be eliminated at this time and the Basin Plan targets for DO and pH remain.** Algae sampling is high-cost, irrelevant and has no relationship to the target of the TN and TP loading that drives source assessment and implementation.

Source Assessment

The source assessments were calculated for wet and dry nutrient loading of nitrogen and phosphorus for each source evaluated. The natural baseline is provided by data calculated for open-space areas for which the concentration is 1.5 mg/l total nitrogen (TN) and .03 mg/l total phosphorus (TP) in wet weather and .33 mg/l TN and .05 mg/l TP in dry weather.

Agriculture: It is noted that avocado and citrus orchards are the predominant crops in the Ventura River. Acreage amounts on page 39 show 70% are orchards/vineyards. **Two VCAILG monitoring sites in the Ventura River provided concentration data for orchards that are 1.84 mg/l TN and .16 mg/l TP – just slightly over the open space values. In addition, for orchards, there was no runoff measured in dry weather in the two VCAILG monitoring wells. It is apparent that the impact to the Ventura River from orchards is negligible and these areas should be exempted from further study and expense.**

Since irrigated agriculture is covered by the VCAILG study and the Agricultural Waiver adopted as Order No. 2010-0180, VC COLAB has no further comments on the source assessment.

Horse Ranches: Nutrient concentrations in wet weather were estimated from a 2007 study of two horse paddocks in Finland which has snowy winters. There is no discussion of comparable precipitation amounts, sampling techniques or soil type in developing the targets. This one study likely does not represent a norm for Ojai due to differences in climate and soil types.

Nutrient concentrations in dry weather were calculated from an ASAE Manure Production and Characteristics Standard Manual version 2003 assuming .3 lb/day TN per horse excreted. According to the

same ASAE Manual version 2005, the TN for a 1,100 lb horse is only .2 lb/day when sedentary and .34 lb/day when subjected to intense exercise. It is unlikely that most horses in Ojai are racehorses. Using the .2 constant, the dry weather TN loading would be reduced from 19,860 to 13,240. In addition, the TP of 4,700 with a sedentary horse at .027 lb/day would be reduced to 1787. This numerical exercise shows the danger of accepting data and subjecting a whole industry to implementation requirements based on published numbers.

Cattle Grazing: It is apparent that there is not enough information to determine the wet-weather or dry-weather concentrations or nutrient loads from cattle grazing in the Ventura River watershed. The numbers of cattle grazed in the report is a guess and the acreage study using GIS was an unreliable exercise. Cattle grazing is a very low-profit operation and much of the areas suitable for grazing do not have annual operations. The LARWQCB should have contacted the local and/or state Cattlemen's Associations to determine both the acreage, numbers of cattle and density of grazing. The stocking rates in Ventura County are low ranging from one cow per 15 to 30 acres. The impact from this type of grazing in open-space land is likely negligible considering the number of wild animals that also roam the open-space. Taking a mean concentration from the MANAGE database for wet-weather loading cannot be extrapolated to a realistic wet-weather assessment for Ventura County. In addition, the dry-weather nutrient loading was admittedly not quantified and therefore realistic assessments cannot be made for grazing.

Pollution Allocations and Implementation

Pollution allocations require Load Allocations (LA) for non-point sources such as agriculture, horse ranches and cattle grazing. The critical condition in the TMDL report is loading in the dry season that would result in water quality impairments.

The LA for agriculture identifies a reduction scenario based on an assumption that nutrient loading can be reduced by 50% based on BMPs, consistent with the Agricultural Waiver adopted as Order No. 2010-0180. **It is important to point out that the AG waiver contains specific language that the implementation of BMPs insures compliance with the allocations.**

The LA for Horse/Intensive Livestock Facilities assumes a reduction scenario of 99% of dry-weather runoff, based on nutrient load calculations that are over-estimated. In any case, this reduction scenario is unreasonable and unattainable. Most large horse facilities are already implementing some form of BMPs and some have manure management plans as a condition of their Conditional Use Permits regulated by the County of Ventura. **Even if every horse facility in the watershed adheres to strict BMPs, described by the LARWQCB as reasonable "good housekeeping practices", it is unlikely that the TN load for dry-weather can be reduced to 199 lb/year.** This is not consistent with the objectives of reasonableness indicated in the California legislature's desire for balance in the Porter-Cologne Act.

VC COLAB recommends the following for Horse/Intensive Livestock Facilities:

- 1) **The Allowable dry-weather load be reset at 6,620 TN lb/year** (Table 6-1) representing 50% of the recalculated TN load as is expected from the other sources.
- 2) **The Allowable dry-weather load be reset at 895 TP lb/year** (Table 6-2) representing 50% of the recalculated TP load as is expected from the other sources.
- 3) **The intent of the TMDLs as explained by the LARWQCB in the public outreach meetings must be clearly stated in Section 6.1.5 that "compliance with the allocations will be determined by the implementation of the BMPs".** This will discourage lawsuits over estimated assessment numbers and reduce unnecessary and expensive monitoring efforts.
- 4) **Implementation section 7.2.3 and Schedule (Table 7-9) needs to allow an additional period of 5 years from the effective date to re-evaluate the TMDL based on more reliable data and assumptions produced from the group. Compliance with the LAs should be extended to 15 years from the effective date of the TMDL.**

The LA for Grazing Activities is also unreasonable as there is no clear data to support what the contribution of grazing is to the watershed. An arbitrary 10% reduction in TN and TP loads will cause undue hardship for the cattle industry as the properties are spread out and will be difficult and expensive to monitor. Joining the regional water monitoring group based on an acreage cost share would be a catastrophic cost for ranchers. The LARWQCB has assumed that livestock grazers are not currently implementing grazing management practices which is not the case. Most ranchers are working with the NRCS and RCD using prescribed and rotational grazing which enhances the economics of the operation. In addition most pastures already have alternate drinking locations because of the unreliability of stream water as a drinking source. Pasture fencing is also a relatively common practice.

VC COLAB recommends the following for Livestock Grazing:

- 1) It is important that the LARWQCB completely separate livestock grazing from intensive horse and other livestock operations and make a reasonable effort to determine based on actual local data, whether it is worthwhile to regulate this activity at all under the TMDL in the Ventura River watershed.
- 2) **The sections relating to Cattle Grazing should be removed from this TMDL document and the Cattlemen's Association should work with the LARWQCB staff for the next year to generate realistic wet-weather and dry-weather nutrient loading and assessment calculations in collaboration with the NRCS and RCD. We do not believe that the risk to the river from the small amount of cattle ranching in this area necessitates their hasty inclusion in the TMDL based on the complete lack of data.**
- 3) We believe that the cattle industry has been pro-active in implementing BMPs as rangeland management is consistent with improving the productivity of ranches. Ranchers consider themselves to be pro-active stewards of the land and should not be rewarded with arbitrary reductions.

We appreciate the opportunity to comment on this document and hope our recommendations are constructive. Please do not hesitate to contact us for more information.

Sincerely,



Lynn Gray Jensen, RG
Executive Director
execdirector@colabvc.org
(805) 633-2291