SAN MATEO RESOURCE CONSERVATION DISTRICT

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March 14, 2018

San Francisco Bay Regional Water Quality Control Board
ATTN: Setenay Bozkurt-Frucht
1515 Clay Street, Suite 1400
Oakland, CA 94612

RE: Comments on Pescadero-Butano Watershed Sediment TMDL- Draft Staff Report and Basin Plan Amendment

Dear Ms. Frucht,

The San Francisco Bay Regional Water Quality Control Board (RWQCB) developed a draft Pescadero-Butano Watershed Sediment Total Maximum Daily Load (TMDL) and Habitat Enhancement Plan (Draft TMDL) to address and restore water quality pertaining to sediment and habitat conditions and facilitate recovery of Coho salmon and steelhead in the Pescadero-Butano watershed (PBW).

The San Mateo Resource Conservation District (RCD) appreciates the opportunity to comment on the Draft TMDL. We recognize that it can support the RCD's collaborative work with land owners in the PBW and local, state and federal partners to restore and enhance habitat quality for protected fish and other species through multi-benefit resource management projects. In light of the our role in the watershed, our comments focus on ensuring that the TMDL leads to implementation of effective projects in terms of quantities and types of sediment reductions, and costs and timing; and does not create obstacles for critically important projects that address excess sedimentation as well as other factors that are limiting fisheries recovery in the PBW.

We applaud the focus in the Draft TMDL on large woody debris (LWD), stream complexity, slowing fine sediment movement, and reconnecting floodplains, and look forward to new opportunities to work collaboratively with RWQCB and the California Department of Fish and Wildlife (CDFW) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries on these types of projects. At the same time, the RCD is concerned by the lack of consultation with and review by the CDFW and NOAA Fisheries biologists in development of this Draft TMDL. These partner agencies are directly charged with protection of the fish species addressed in the Draft TMDL, and have significant experience and expertise necessary to the development of an effective TMDL for achieving fisheries recovery.

The Draft TMDL Implementation Plan does not sufficiently differentiate based on the impacts of different sediment types for fish habitat. Certainly, fine sediments and sand present issues for habitat in the watershed, but to create good spawning habitat, this system needs transport of additional coarse material into reaches where LWD and other features have been installed to trap and sort it. Other sections of the draft document recognize these distinctions, but the Draft TMDL Implementation Plan (see Tables 17-22) requires a one-size-fits-all, no-transport objective for projects. This could create (additional) obstacles for implementing projects that would help create a more balanced and natural sediment transport regime.

There is a disproportionate emphasis on agriculture (cultivated) land use in the Draft TMDL Implementation Plan which places costly, time-consuming regulatory requirements on all cultivated lands that will result in negligible sediment reductions from all but a few properties. As noted in the Draft TMDL on page 129, cultivated land makes up a small percentage (5%) of the watershed, and the relevant section of the sediment source analysis indicates that this land use delivers approximately 146 tons/year to the creeks. (Draft TMDL, Surface Erosion, pp.89-94) To put this into perspective, this amount is less than half the delivery estimate from Municipal Stormwater (300 tons/yr), and still less than the Construction Stormwater estimate (150 tons/yr). These urban stormwater sediment loads have been characterized as "minor" sources in the Draft TMDL, and no reductions are required. (Draft TMDL, pp.104 and 121) However, every owner/operator of cultivated lands is required to go to great lengths (see p. 129) to address sediment from their growing operations even though this source is considered to be an insignificant portion of the problem as defined by the RWQCB itself.

As conservation planning practitioners, we are very concerned the Draft TMDL Implementation Plan will burden individual land owners/operators – particularly small farms and ranches – with technically demanding and data-heavy inventory, assessment and monitoring requirements that will not necessarily inform or improve implementation of sediment reduction actions. For agricultural (cultivated) land use, the Draft TMDL recognizes that the “level of detail” for implementation actions will be commensurate with farm size, crop and erosion potential and complexity. Similar accommodation should be provided for all land uses for prior steps (i.e., inventories, assessments, etc.) that are very expensive and time-consuming yet have diminishing benefits under similar circumstances. (Draft TMDL, p. 129) We also recommend that the descriptions of “implementation monitoring” required of landowners be consistently defined as “monitoring to document that implementation actions have occurred” (p. 127) to avoid scope creep into “effectiveness monitoring” (which might occur if the modified definition in section 8.6, p. 146 is applied). It is important to recognize that with virtually no grant funding available for sediment assessment, planning and monitoring, landowners will have to cover these costs out of pocket, sapping their already limited time and resources for implementation of BMPs. Ultimately, we think that the existing USDA Natural Resource Conservation Service (NRCS) model of conservation planning for agricultural and grazing land uses which includes identification of proven sediment reduction practices, will be the most cost-effective approach, and would leave more money available for implementation.

Stepping back, the RWQCB appears to have tried to address this scale-versus-benefits issue in the Napa River sediment TMDL by working with interested parties to "define a minimum threshold in terms of potential sediment delivery to channels caused by human activities from a given parcel that would trigger the requirement to prepare and implement a sediment control plan." (Napa River Watershed Sediment TMDL and Habitat Enhancement Plan, p. 77) Application of a similar approach in the PBW could help maximize planning efficiencies for the RWQCB, partners and landowners, and prevent inordinate efforts to implement sediment control regulations or permit requirements on small- or medium-sized properties where sediment delivery potential is low. Indeed, the Draft TMDL indicates that the RWQCB has sufficient information and clear basis to establish a threshold for agricultural lands where cultivation takes place on slopes less 30%, as these activities deliver a minor amount of sediment annually (see comments above).

The Draft TMDL attributes a significant portion of the human-caused sediment delivery to channels to gully and surface erosion. As such, performance standards for gully erosion are proposed for all five land use categories, and for surface erosion in two categories. (Draft TMDL p. 138 and Tables 17-21) Despite this emphasis, the Draft TMDL provides very little discussion of proposed regulatory actions, and it is unclear how the identified actions would be applied to effectively address gully and surface erosion (i.e., achieve the performance standards in Tables 17-21) in this watershed. Furthermore, the Draft TMDL does not provide a basis or any context for the development/application of gullies performance standards to different land uses. For example the Draft TMDL variously applies the following standards: "promote natural recovery"; "minimize" versus "prevent" human-caused increases in sediment delivery; and "decrease connectivity of gullies to stream channels". (Draft TMDL p. 138 and Tables 17-21) We are concerned that these inconsistencies, information gaps and lack of linkages to the Draft TMDL findings regarding gully and surface erosion (sections 5.3.3 and 5.3.5) will be confusing for landowners, the RCD and others trying to address gully and surface erosion in the watershed. In addition to requesting more clarity, we specifically recommend that the proposed actions be modified to emphasize practices to prevent gully formation and surface erosion (i.e., improve soil health and stability, water holding capacity and vegetation cover, and address drainage issues), along with other practices – as appropriate and effective – to stabilize gullies and/or achieve sediment containment.

We also want to note that the RCD and NRCS recently assessed gully erosion in two subwatersheds in the lower PBW, and reached the same conclusions as the Draft TMDL findings (p. 83) regarding the unique natural (e.g., geologic) factors that contribute to gullying. Unlike the Draft TMDL conclusions regarding gully development and sediment delivery based on trends from 1970-2010, our analysis of gullies (using more recent aerial imagery data) indicated that most of the areas in the lower PBW that are likely to develop gully erosion due to site characteristics and/or past land uses already experience gullying, and that the overall rate of gully development and expansion is decreasing in these areas. We also found that sediment delivery to the stream network was most likely to occur from active (i.e. growing) large gullies

that have hydro-connectivity to the stream network. Our analysis suggested that hydro-connectivity of these active gullies to the stream network varies dramatically across the watershed, and may constitute a relatively small proportion of the overall active gully length. These findings, which are supported by more recent field observations (following the 2016-2017 winter) by RCD staff and consultants, suggest that the Draft TMDL may overestimate the annual gully erosion rate, and that from this, delivery rates may be less than the 75% assumed. (Draft TMDL p. 84)

Similarly, our review of the Draft TMDL raised questions about other conclusions regarding past and current erosion and sediment delivery and transport in the watershed (e.g., historic rates of sediment storage on floodplains, and the role of major catastrophic events). Effectiveness of implementation actions will be measured according to reductions in rates of sediment delivery to channels. (Draft TMDL, p. 146) As such, we ask that the RWQCB provide specific guidance in the Implementation Plan on how to address (potentially large) discrepancies between the TMDL and other estimates of sediment delivery rates in development of required plans and actions/BMPs.

The RCD seeks further clarity on the specifics of implementation measures, including the third-party certification programs, the Waste Discharge Requirements (e.g., Grazing Permits and Agricultural Discharge Permits) and waiver policies. (Note that the link to the Nonpoint Source Policy (NPS Policy) that is provided in the draft TDML report is broken, i.e., "404 page not found.") We would appreciate the RWQCB providing examples from other similar TMDLs. Additionally, what process and criteria will the RWQCB use to determine "if existing policies and local efforts are not sufficient to address farm-related erosion" (p. 129) and "if locally administered grazing-related programs are not adequate to address the sediment impairment," (p. 132) thus triggering development of WDRs and waivers?

We are concerned that the Draft TMDL Implementation Plan does not account for the significant costs and time requirements uniquely inherent to complying with permitting and monitoring for projects in coastal San Mateo County. Unlike other watersheds in the Bay Area that are implementing sediment TMDLs, almost the entire PBW is designated critical habitat and/or considered potentially suitable habitat for multiple federal and state listed species (including the fully protected San Francisco Garter Snake). In practice, this means that a simple rural road erosion control or gully treatment project that would only require a county grading permit elsewhere, must also go through costly and lengthy permitting reviews with multiple agencies, (e.g., US Fish and Wildlife Service, CA Department of Fish and Wildlife). The added costs associate with permit preparation, agency consultations and permit fees and requirements (e.g., exclusion fencing, biological monitors, etc) and monitoring (before, during and after, usually for 5-10 years) significantly increase the cost of each individual project. In the RCD's experience, permitting and monitoring costs alone (i.e., not including geotechnical work and design development) range from 25% to more than half of the total project cost. In addition to the costs, these permitting and monitoring requirements create a significant

technical hurdle for landowners seeking to implement the projects described in the Draft TMDL. Programmatic state and federal permits, along with technical support from the RCD would help reduce costs and allow for timely implementation of the types of sediment reduction projects needed for restoring fish populations in the PBW. We strongly recommend that the final TMDL include provisions for the RWQCB to prioritize and to take a leadership role in securing the funding and programmatic permits to implement this TMDL.

We appreciate that the RWCQB has included voluntary approaches in the Draft TMDL Implementation Plan. Cooperative and coordinated efforts are the most effective ways to move landowners along in implementing sediment reduction practices, and the RCD has the right experience and support role to facilitate this work. We also recognize the urgency for implementation, but the completion deadlines for these voluntary approaches in Tables 17-22 are unrealistic. Based on the RCD's extensive natural resource program development and implementation experience, we know that significant time will be required to develop the stewardship and/or third party certification programs that the RWQCB envisions for agricultural and grazing land uses, let alone complete the described sediment plans. (Draft TMDL pp. 129, 132) The current deadlines assume funding exists already and that program ramp up will be instantaneous upon adoption of a final TMDL, when this is not the case. They also do not take into account the lengthy environmental reviews and permitting processes (see comments above) that will be required. We are concerned that these infeasible deadlines will inadvertently and unnecessarily divert many landowners into a more time-consuming and expensive regulatory process with the WDRs and waivers. Our ability to achieve the sediment reductions and habitat enhancements that are necessary for recovery of fisheries in this watershed is best served by significantly pushing back the completion deadlines to accommodate development and implementation of the voluntary approaches that the RWQCB has laid out.

The RCD is committed to continuing our work in collaboration with the RWQCB and other public and private partners to improve watershed and ecological health. We hope that with incorporation of this feedback as well as that of our partners in the watershed, this TMDL can facilitate achievement of fisheries restoration goals.

Sincerely,

Kellyx Nelson
Executive Director