

Date: January 29, 2016

To: Naomi Feger, San Francisco Water Board

From: David R. Williams, BACWA Executive Director

Subject: Preliminary Comments on the *Scientific Basis to Assess the Effects of Nutrients on San Francisco Bay Beneficial Uses*, October 2015

We received the lyrics notice on the Stakeholder Advisory Group meeting scheduled for February 9th and have been reviewing the subject document (Assessment Document (AD)) available on the San Francisco Bay Regional Water Quality Control Board's web site. As noted in your email of January 26, 2016, you are requesting comments in advance of the SAG meeting, but additional comments may also be submitted for Water Board consideration at a later date. We are submitting the preliminary comments below as requested, but may submit additional comments once we have had an opportunity to thoroughly review and digest the document.

General Comment on the AD

It is not clear how the AD will be used with respect to timing and use of information being developed as part of the current 10 Year Science Plan for the Nutrient Management Strategy (NMS). We do not support the AD as a stand-alone assessment of Bay impairment.. It is important that the AD reflects the appropriate context for information presented in the document. Language should be added to describe the timing and use of the information being developed through the AD in conjunction with the broader NMS, and how collectively, the body of information will be utilized in the adoption of subsequent Nutrient Watershed Permits.

The SFEI website provides detailed information on the NMS and the Science Plan and how they are designed to address key questions regarding impairment of the Bay. As noted on the website, there are several other principal elements of the NMS with the AD being one of many. These other key parts of the overall NMS include:

- Regular assessments of the Bay via a long-term monitoring program that provides key data to be used in a state-of-the art hydrodynamic load-response model which will provide information in support of future decision on management actions
- Evaluate control strategies to reduce nutrient inputs
- Consideration of alternatives for regulatory approaches (i.e. trading, etc.) which could be used for nutrient management.

The scientists at SFEI and a wide array of stakeholders agree that it will take a decade or longer to complete the Science Plan and generate information needed to make sound management decisions. We understand the importance of getting it right, as premature decisions may not achieve desired results and could cause the diversion of significant resources that are urgently needed for activities

essential to maintaining the health of the Bay and its beneficial uses. BACWA members have demonstrated their willingness to fund science that informs sound decisions.

Sophisticated modeling tools, together with complimentary monitoring and research efforts to inform that modeling must be developed over the next 10 years to allow all stakeholders to understand the environmental impacts of various nutrient management alternatives. This is a key step in setting attainable and effective management decisions. The AD can provide important information that, collectively with other information being developed, will ultimately be used in making these nutrient management decisions.

Our concerns are exemplified by the statement in the Executive Summary of the AD which states: *“The AF is intended to provide a decision framework for quantifying the extent to which SFB is supporting beneficial uses with respect to nutrients.”* This statement is problematic for the following reasons:

First, the AD should not be a decision tool, in and of itself. We see information developed in the AD being useful for making nutrient management decisions in conjunction with other information being developed under the NMS and its Science Plan. As stated above, this is a multi-year effort and the adverse consequences of premature decisions regarding beneficial uses will be significant.

Second, it is premature to make definitive statements in the AD regarding “acceptable” levels of attainment of beneficial uses at this early stage. Premature pronouncements regarding attainment of beneficial uses are unnecessary and potentially counter-productive. We strongly suggest that the AD be revised to provide information regarding the range of current or potential biological conditions, without rendering value judgments.

Other Specific Comments

Our understanding is that this is a draft AD and should be so labeled. It also is important to describe the process of stakeholder review that will occur, prior to finalization by the NMS Steering Committee.

Executive Summary, page II, first paragraph, states that “Recent observations have reinforced the need to identify numeric water quality objectives and management actions to protect SFB from the potential effects of nutrient over-enrichment.” This statement is different than the statement made in the body of the document on page 39, line 1271, where the word “or” was used instead of the word “and”. We agree with the use of the word “or”, since it provides flexibility for an implementation plan, that may or may not, include numeric water quality objectives. As stated earlier, information needs to be developed through modeling, monitoring, and research, to determine the most appropriate approach.

Executive Summary, page ii, second paragraph, statements are made regarding “Decisions on classification bins” and the definition of “thresholds”. Definitive “decisions” or “thresholds” are not appropriate at this time. We advocate the use of terminology that more accurately reflects the current assessment status, such as “preliminary assessment guidelines” or other less definitive terms, describe the range of biological conditions as part of the assessment document. These “decisions” on

“thresholds” are not pure scientific determinations, require stakeholder input, and have significant potential policy ramifications.

Executive Summary page ii, paragraph 3, last sentence, states “these two components of the AD appear to have the greatest consensus and the least “uncertainty”. This statement should be deleted or significantly modified pending review of the draft document by the Nutrient Technical Workgroup and Steering Committee.

In closing, we believe numeric nutrient water quality objectives are tools that can be used, primarily to manage nutrient loads to achieve desired ambient concentrations. Therefore, the usefulness of numeric objectives is linked to two questions: (1) whether management of nutrient loads to achieve ambient concentrations in SF Bay can yield desired biological outcomes and (2) whether load management in San Francisco Bay is a feasible and cost-effective approach to attaining those outcomes. As currently structured, we see the Nutrient Management Strategy and Nutrient Watershed Permit for SF Bay as appropriate vehicles for answering these fundamental questions, if fully implemented. The AD should therefore be revised to ensure its proper use in the continued implementation of the Nutrient Management Strategy.