

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2013-0010**

ALLOCATE \$475,030 FROM THE CLEANUP AND ABATEMENT ACCOUNT (CAA) TO THE NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD (NORTH COAST WATER BOARD) FOR THE ELK RIVER RECOVERY ASSESSMENT AND PILOT PROJECT FOR SEDIMENT REMEDIATION IN THE ELK RIVER WATERSHED (PROJECT)

WHEREAS:

1. The North Coast Water Board is requesting a total of \$475,030 from the CAA to fund the Project;
2. Accelerated timber harvest and road construction activities, beginning in 1986, followed by large storm events in 1995–1998, caused unprecedented discharges of sediment and organic debris and resulted in major geomorphic changes in the Middle Reach of Elk River, near the confluence of North Fork and South Fork;
3. In 1998, mechanical removal of instream sediment deposits was considered too environmentally damaging by North Coast Water Board staff. However, the impacted geomorphic and hydraulic conditions have resulted in lower conveyance capacity, lower flow velocities, and ongoing sediment deposition that exacerbated nuisance flooding conditions in the Middle Reach of Elk River. Residents now experience flooding conditions on an average of four times per year which constitutes “nuisance” under Porter-Cologne. The Elk River was first included on the Clean Water Act Section 303(d) List of impaired waters in 1998 on the basis of excessive sedimentation;
4. In 2004, the North Coast Water Board received a petition from 64 affected Elk River residents requesting cleanup (dredging) of the instream sediment deposits to abate the nuisance flooding conditions and recover beneficial uses of water, including domestic water supplies, recreation, and aquatic habitat. The North Coast Water Board rejected the petition citing the need for a lead entity and a feasibility study prior to initiating a major channel modification effort. The Elk River Recovery Assessment is the requested feasibility study. California Trout (CalTrout), a non-profit organization, is the identified lead entity;
5. The primary landowner responsible for the source of legacy pollutants, Pacific Lumber Company, is no longer in business;
6. The Humboldt Redwood Company (HRC) assumed the liability of Pacific Lumber Company, including accrued penalties for failure to report required information about sediment sources in Elk River. HRC paid \$330,000 into the CAA fund in 2009-2010;
7. The North Coast Water Board previously received \$600,204 ([Resolution 2002-0139](#)) from the CAA to support activities necessary to develop and implement water quality attainment strategies to remediate the severe sediment load impairment to Freshwater Creek, Jordan Creek, Stitz Creek, Bear Creek, and Elk River in Humboldt County;

8. The Redwood Community Action Agency (RCAA) received \$1,376,933 from the State Water Board 2005-2006 Consolidated Grants - Prop 50 Coastal Nonpoint Source Pollution Control Program in June 2007 to improve water quality and Salmonid Habitat in Elk River, Freshwater Creek and Humboldt Bay;
9. The CAA funds will be used to conduct a system-wide analysis of sediment; assess a suite of sediment removal and restoration activities; and develop an implementation framework that promotes recovery of ecosystem functions and beneficial uses in Elk River;
10. The CAA funds will also be used to conduct a Mechanical Sediment removal pilot project to demonstrate the feasibility of sediment removal, assess the transport and disposal of waste sediment, evaluate realistic implementation costs, test the system response and longevity to sediment removal, and interpret beneficial use attainment resulting from the project;
11. The requested CAA funding for this project will be used in conjunction with matching funds from Humboldt Redwood Company, State Coastal Conservancy and Redwood Community Action Agency for a total funding for the Recovery Assessment and Mechanical Removal Pilot project of \$697,040;
12. The Project is intended to result in a peer-reviewed sediment reduction implementation framework that is scientifically defensible and has the best prospect of leading to recovery of beneficial uses;
13. The North Coast Water Board adopted [Resolution No. R1-2012-0079](#) in August 2012 to request that the State Water Board approve funding from the CAA for the Project;
14. The requested allocation is consistent with the purposes of the Water Code section 13442. Water Code section 13442 provides that the State Water Resources Control Board (State Water Board) may order monies to be paid from CAA to a public agency with the authority to cleanup or abate the effects of a waste in order “to assist it in cleaning up the waste or abating its effects on waters of the state”; and
15. The State Water Board has an expectation that in order to fully realize the recovery of the Elk River watershed, the North Coast Water Board will:
 - Ensure that the model developed with these funds will be utilized to establish a Remediation Action Plan for the purpose of initiating a full-scale recovery effort in the watershed. The Elk River Recovery Assessment will result in the Implementation Framework in Fiscal Year 2015/16. Upon its completion, the North Coast Water Board will pursue development of the Remediation Action Plan and permitting. The North Coast Water Board anticipates finalizing the Remediation Action Plan in 2018 and implementing it, including remediation of the in-stream stored sediment, by 2023; and
 - Aggressively seek a wide variety of potential funding sources, including other state, federal and private funding sources, for implementation of the recovery effort.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves to set aside \$475,030 from the CAA to fund the Project.
2. Approves the funding with the expectation that if the agreement has not been executed by November 21, 2013, the Executive Director will bring this item back to the State Water Board in December 2013 for possible rescission of funding.
3. Shall make the funds available until May 30, 2016, and shall revert any unexpended funds to the CAA as of August 30, 2016, unless the Deputy Director or Assistant Deputy Director of the Division of Financial Assistance authorizes an extension.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on May 7, 2013.

AYE: Chair Felicia Marcus
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc
Board Member Steven Moore
Board Member Dorene D'Adamo

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board