

-----Original Message-----

From: Christina Huff [REDACTED]

Sent: Saturday, May 09, 2015 9:19 PM

To: NorthCoast

Subject: Comments on proposed regulations of marijuana growing water uses

Dear NCRWQ,

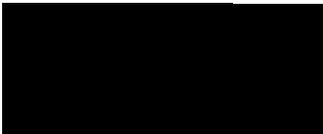
I fully support the regulation of marijuana growing, being deeply saddened and outraged by the loss of the fish runs in our community, the contamination of watersheds and harmful effects of the industrialization of our rural neighborhoods. My main concern is that

2000 square feet as the cut-off between Tier 1 and Tier 2 is too large a growing area. Farmers can cram many plants into that large of an area. And they will, using a lot of water and fertilizers. And there are so many of them. It is a true tragedy of the commons - all those "Mom & Pop" growers (along with incredible number of large volume growers), with their hoses and systems diverting water out of the rivers and streams. Please consider reducing the Tier 1 growing area to 1000 square feet. I hope that there will be adequate and aggressive enforcement as soon as these regulations are in place. It can not happen soon enough. Every day counts as they suck our streams and rivers dry.

Thank you for giving these comments serious consideration.

Christina Huff

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-----Original Message-----

From: Robert C. McKee Jr. [REDACTED]

Sent: Tuesday, May 12, 2015 1:56 PM

To: NorthCoast

Subject: Questions about cannabis water regulations

Hi,

I have looked over some of the proposed regulations , but not all. My question is about why there is so much regulation around cannabis with what appears to be quite a bit of specifics to how to water and grow a marijuana garden when there are not similar regulations in place for anyone to plant a good size family garden or small nursery owner or small fruit orchard etc. I personally know of all the above and no one is being asked to jump through the incredible list that is being presented here?

I understand there are commercial and for profit growing or very large scale. But the small limits that are being set in place seem over board and it seems like the small family size gardens are being unduly burdened.

Cannabis is not really any different than any other plant. The restrictions seem over the top.

So, in short, I feel your regulations are burdensome and not realistic and just wanted to add my input.

Thanks,

Maryellen McKee

Sent from my iPad

**From:** d b [REDACTED]  
**Sent:** Friday, May 22, 2015 5:00 PM  
**To:** NorthCoast  
**Subject:** Ashes and dog feces in waterways

Hello,

I live in Humboldt County.

In your recent proposal to register outdoor marijuana grows you may wish to specifically address the issues of people dumping dog feces and ashes into waterways. (Ashes from wood, and trash)

I've seen locals do this, and not just growers.

Maybe an education campaign to inform people that fish do not like to live in raw sewage. And that ash increases the alkalinity of water, fish and other creatures do not like this either. (To say nothing of chemicals that may be in burnt trash.)

I'm not sure that people realize that these hazards can be increased to critical levels in a very short time when the flow is low or non-existent.

Thank you for your time.

DJ Botts

## Comments regarding the Draft Order and Mitigated Negative Declaration

First, in general, I completely support this approach and applaud the NCRWQCB for its leadership in this area. Environmental damage from large and/or any marijuana grows exhibiting bad practices, has been allowed to go on way too long.

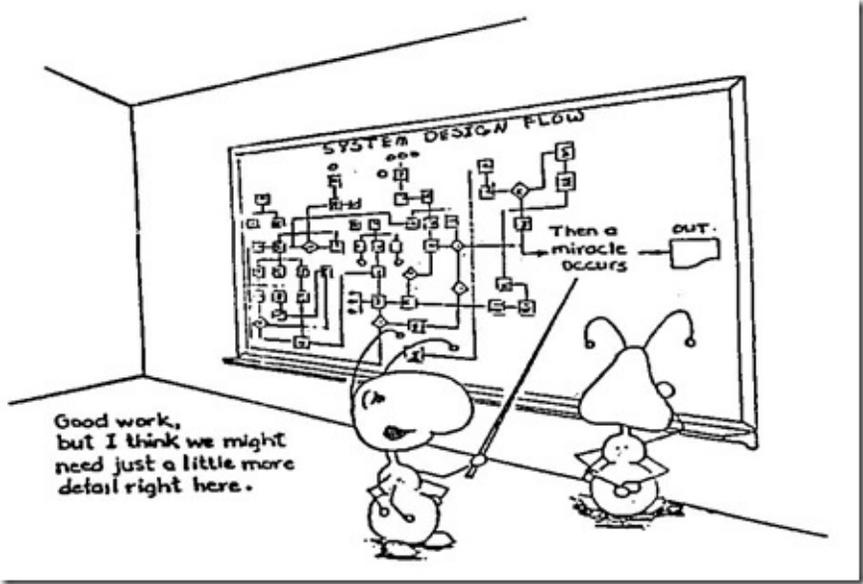
The negative history of the CAMP era and code enforcement, especially in Southern Humboldt, has created blow-back and fostered suspicion of, and conditioned avoidance of, government programs. The multipronged approach to regulating cannabis agriculture will only work if it is done in such a way that exhibits transparency, builds trust and creates healthy channels for information to flow from the regulators to those being regulated, as well as from those being regulated to those responsible for regulation. Unidirectional flow of information is too often the downfall of even well-designed programs. In addition, there must be clear and enforced consequences to noncompliance, otherwise the program is seen as unfair to those who voluntarily complied and loses respect from both those who complied and those who shined it on.

Please consider my questions and suggestions as follows:

- 1) The Notice of Intent form states: "To obtain authorization, you must submit a complete and accurate NOI form as well as a Monitoring and Reporting Standard Conditions checklist", but I see no address on the form to send it to.
- 2) I suggest the receiving office send a welcoming acknowledgement of receipt of the NOI. The formalized relationship begins at this point, and it's important that it is a positive experience for the growers. This means well-trained office staff to answer e-mail and phone-in questions.
- 3) If one submits the NOI indicating Tier 1 with all standard conditions met, how will your agency check to make sure that it's accurate?
- 4) The most egregious environmental offenders (those in Tier 3) will probably not comply, in hopes of keeping under the radar. If that group is allowed to continue their operations with no consequences then the program fails. People will say, "Why should I subject myself to regulation when I am doing things right and these guys haven't even registered and they are still operating?"
- 5) Points #3 and #4 mean that there will need to be many compliance officers on the ground to check the validity of the form and check for growers who never registered at all. Lack of funding in this area will probably be a major weakness of this approach. If folks find out they can get away with gaming the system, with no repercussions, then the effort fails.
- 6) I suggest implementing a special blog type website, where growers can post comments. Also, it would be helpful to solicit liaison groups from the various watersheds, as well as hold periodic watershed meetings. These efforts will serve to raise the presence of agency personnel and work towards building transparency and trust. The regulatory program should be malleable enough to allow modifications to be made as new information is obtained from these efforts.

This is a much needed program, and thus far you've charted a very effective course of action. The cartoon I've included at the bottom is only meant to inspire you to continue thinking through, and addressing, those areas which may need "just a little more detail."

Bob Froehlich, [REDACTED]



**From:** Jay Moller [mailto: [REDACTED]]  
**Sent:** Thursday, May 28, 2015 10:55 AM  
**To:** NorthCoast  
**Subject:** Jay Moller's comments to the Notice of Intent re: R1-2015-0023

Attached and below, please find my comments. Please let me know you received it.

thank you. jay moller

So'Hum Law Center Of  
RICHARD JAY MOLLER

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

May 28, 2015

North Coast Regional Water Quality Control Board

5550 Skylane Boulevard, Suite A

Santa Rosa, CA 95403

[northcoast@waterboards.ca.gov](mailto:northcoast@waterboards.ca.gov)

Re: My comments to the Notice of Intent to Adopt a Mitigated Negative Declaration and Draft Order R1-2015-0023 Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Marijuana Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region

Dear North Coast Regional Water Quality Control Board:

I am a landowner in the Sprowel Creek watershed, southern Humboldt County, with a small garden. My only water is from a spring, like most of my neighbors.

Your proposal is too expensive to implement and too vague for any rural landowner like me to comply with. The average Californian household uses 360 gallons of water a day, usually from a municipal water supply, and now we are encouraged to use no more than 270 gallons a day (a 25% reduction). We who have taken water from our land for many years are entitled to no less than 270 gallons per household per day, particularly when 90% or more of the water we use for household and garden use is returned to the land and eventually seeps and percolates to the creek below us, just as spring water does, while evaporation accounts for a small percentage. I request that you exempt households for their use of no more than 270 gallons a day, particularly if the water is not drawn from a fish-bearing river, stream or lake.

The proposal of not "directly divert[ing] surface water from May 15 through October 31" is ambiguous and possibly unfair. It is unreasonable to expect rural landowners to forgo using all water from May 15 through October 31. The regulations, at a minimum, should indicate that they do not apply to a water source using less than 270 gallons a day.

The exclusion for landowners who have six marijuana plants or less is also unfair. At a minimum the exclusion should be for the number of family members who have 215 recommendations times six, up to a maximum, such as 24 or 36 plants, or up to so many square feet, such as 1000, as these are not commercial operations. Moreover, water for household needs and for as many as 36 marijuana plants and a small vegetable garden and orchard can be accomplished with no more than 270 gallons a day, and probably much less. Compared to the huge swaths of vineyards in northern California that use millions of gallons of water, you are singling out and discriminating against very small gardens with very minimal effects on fish-bearing streams. Even so, I intend to water my modest garden only with water from my tanks holding a total of 20,000 gallons, from July until November.

Your draconian proposal may also have the effect of depriving landowners of ANY water during the summer. Individual landowners who use no more water than any other person in California should not be forced to choose between foregoing a small garden and living in their rural homes not connected to a municipal water supply, or undertaking the very expensive task of permitting, siting, and building water storage sufficient to carry through the summer. 99% of Californians who use an average amount of water are not being forced to pay for water storage. Neither should we.

Moreover, rural landowners are caught in a classic Catch-22. Your agency proposes the storage of water in the rainy season, yet refuses to include bladders and ponds, while the county also proposes onerous regulations about storing water in the rainy season. To encourage water storage for fire suppression and fish and wildlife, you should make it easier and cheaper to do so during the rainy season.

Depending upon how Class III streams are defined, which under Fish and Wildlife's unreasonable view of the law, seems to include any ravine that carries water -- if only for a few days of the winter during the heaviest rainfall -- the proposal for Tier I, that "no cultivation areas

or associated facilities” should be located within **200** feet of a surface water, is unreasonable. First, many garden sites have been sited no more than 150 feet away from water, as the previous regulations indicated, and this should not be changed, as more environmental damage can be expected by relocating garden sites that are no danger to fish-bearing streams. Second, if ravines are included it would be even more difficult to find any garden site in the rural areas that is not within 200 feet of some ravine, yet another Catch-22. Third, your agency has made no findings that 200 feet is needed to protect the water resources of the state, rather than the previous 150 feet. Moreover, even 150 feet is too onerous. If 100 feet from a watercourse is good enough for timber harvesting, there is no reason it should not be good enough for small home gardens. The Mitigated Negative Declaration is deficient by failing to consider the negative environmental effects of this unreasonable regulation.

Finally, any regulation should not go into effect until next year as it is unreasonable to believe that landowners can comply with these regulations in the middle of the summer or immediately upon its passage, given that it is expensive and time-consuming to obtain the permits and build water storage tanks sufficient to provide a household with 270 gallons a day for the entire summer, or as much as half the year (May 15 to November) (approximately 50,000 gallons at a cost of between \$25,000 and \$50,000). No other Californian is being asked to help the water table and the fish by spending this exorbitant amount of money.

It is unfair that rural landowners, some of whom grow legal medical marijuana, should be singled out and saddled with these onerous regulations, while the millions of acres devoted to grapes, rice, cattle, agriculture, and fracking natural gas -- that use a large portion of the water resources of California -- are exempted. It is also unfair that Barnum Timber, the owner of a large percentage of the Sprowel Creek watershed was and is allowed to poison hundreds of hardwood trees, and conduct very large logging and road building operations over thousands of acres, diminishing the ability of the land to hold water during the summertime, as well as ignoring large illegal marijuana grows on its land. This abuse of the land has and will affect Sprowel Creek thousands of times more than my reasonable use of household water, a neighborhood pool (that was used to fight a fire in 2001 and is available for future fires), and a small garden of less than 1/10 of an acre, and the similar reasonable use of water by many of my neighbors.

Very truly yours,

RICHARD JAY MOLLER

**From:** Anon Forrest [REDACTED]  
**Sent:** Wednesday, June 03, 2015 8:31 PM  
**To:** Warmerdam, Jonathan@Waterboards  
**Subject:** Comment on water discharge from marijuana PILOT PROGRAM

I hope you will direct this to the proper place. The deadline for comment is June 8, and your website will be dicey until then.

My comment:

I heard your interview on KMUD tonight. Thank you for your patience. I'm certain it must at times have seemed as if you were being interrogated instead of being interviewed; sorry about that. **HOWEVER:**

We have been fooled by government bait and switch policies before, and that's why we are reluctant to shoot ourselves in the foot.....again. Here's what I recommend:

- 1) The megagrows are easily identified by air. GPS will get you back to those sites on the ground. Get them first and **show us** you aren't just another pogrom to drive us out of our homes and off our lands.
- 2) Take our homes OFF your check list. You can always sic the building department on us through other channels if you must.

Thank you for caring about our water, and if you actually DO care, take on the Mega Grows. Dress rehearsals on the little folks just won't get you where you want to be. I've been here 46 years, and know whereof I speak.

Sincerely, Ms. Anon Forrest, At Large

Kason,

As I mentioned in our conversation today, the 6 plant limit for the zero tier seems too low to me. My personal initial reaction was that it wasn't a serious number for non-commercial activity. I have surveyed a fair number of concerned citizens -- grower and non-grower but not anti-cannabis -- and all have agreed that 6 is too low. Of the more than half a dozen people interviewed three non-growers have reacted with shock as have at least three of the growers. One water conservation professional expressed strong sentiment that such a low limit undermines the credibility of the program and makes it hard to "sell" to the community.

10-12 has been a consistent low end estimate of personal use, especially if more than one personal user is in a household. My sense is that 12 is a credible number. For "low THC high CBD" cancer patients 20 has been mentioned as a much more reasonable number, since the cannabis is juiced. Similarly for ALS and MS patients since extraction into oil also requires more plant material.

Analogously:

A flock of 50 chickens might reasonably be presumed to be for commercial egg production, even if only at homestead level, if the impact of poultry operations on the watershed were to need regulation. Though eggs might be sold from a flock of 12 hens, it would be an intrusive presumption to propose to regulate flocks from 6-12.

Thank you for being responsive to people's concerns. I believe that rapport with the community is vital to the success of the waiver program.

Bruce E Hilbach-Barger



-----Original Message-----

From: Foodtopia [REDACTED]

Sent: Wednesday, June 03, 2015 8:14 PM

To: NorthCoast

Subject: comment

Re proposed water regulations of cannabis

The regulations conflict with Prop 215 which allows patients to grow their own supply.

The regulations are unduly burdensome and anyone growing less than 25 plants should be exempted from most of the regulations.

Please take them back to the drawing board.

Thank you.

John Stewart

**From:** Amy Gustin [REDACTED]  
**Sent:** Friday, June 05, 2015 12:28 PM  
**To:** NorthCoast  
**Subject:** comments on Draft Order R1-2015-0023 marijuana requirements and certification

While I appreciate your agency taking this on, I see two big problems. In tier 1, the low risk category, you accept grows up to 2,000 square feet in size. That is too big. Over the years, grows have grown tremendously in size and impact. Just because large grows are the norm now, doesn't mean that these sizes are acceptable or low impact. Secondly, a limitless number of permits does little to help the situation. You need to limit the number of permits you issue, in order to limit the cumulative damage. Regulation is useless, if it doesn't limit the number and size of grows. What I would like for you to see, is that you need to expand your area of concern beyond the riparian zone, to include the whole ecosystem, and the cumulative impacts of thousands of grows. The more grows, and the larger they are in size, the more fragmented the forest ecosystem. Grow sites are typically cleared, not only of the tree canopy, but of all protective native vegetation, leaving only dry bare soil surrounding the marijuana plants. Water flows off bare soil quickly, rather than soaking in, and without protective vegetation to retain moisture, there is a reduced amount of moisture retained in those areas. The fact that there are thousands of these sites, is changing the health and character of the ecosystem, and leads to lower water flows, higher water temperatures, and lower water quality.

Also, fragmented ecosystems are much more vulnerable to invasive species and diseases. This is a threat to water quality as well.

Please lower the size limit of tier one grows, and limit the number of permits you issue. Please look beyond the riparian zone, to see how the health of the whole ecosystem affects water quality. Thousands of large grows are degrading the health of this region, and degrading water quality. Amy Gustin

[REDACTED]

**From:** Anon Forrest [REDACTED]  
**Sent:** Saturday, June 06, 2015 5:06 PM  
**To:** NorthCoast  
**Subject:** Water Enforcement

Go to the headwaters of the tributaries, and you will be in the MAJOR BIG-TIME POT FARMS. This will focus your limited staff and resources on the problem you purport to prevent. Or "fix."

Or are you *practicing* on us little folks, targeting us in lieu of the biggies for other reasons, like forcing us to sell because we *are* so small we CANNOT meet your demands. We've experienced realtor-driven regulation in the past, and I think you're just doing the same thing.

Ditto bait-and-switch badge-heavy bureaucrats. I don't believe you anymore. Show me where I'm wrong. Bust the 15,000 plants growing (and drinking) and the Big Shots who care for nothing but their BMWs.

Sincerely,

Ms. Anon Forrest [REDACTED]

June 6, 2015

Re: Comments to the Notice of Intent to Adopt a Mitigated Negative Declaration and Draft Order R1-2015-0023 Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Marijuana Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region

Dear North Coast Regional Water Quality Control Board:

Thank you for bringing your attention to the environmental impacts from the increased cultivation of marijuana throughout the North Coast Region. The last few years have seen a stampede of people moving into our area with the sole purpose of growing marijuana for huge profits.

Since the marijuana industry is here and thriving it is critical that we have an effective regulation system in place so we do not repeat the horrible historic and ongoing degradation that the timber industry has and is having on our landscape and waterways (and wildlife).

Unfortunately your approach and development of this regulating system gives us no confidence that we will see any positive outcome for the land and waterways of our area in the near future.

If time is of the essence to prevent fish extinction (AND IT IS) it is beyond frustrating that your agency can spend the resources and staff to develop these unrealistic requirements when we have laws that are already written that these huge marijuana gardens are violating. These large grows are very easy to find. You can look on Google and find them. You can drive down any road and see them. We are begging you to do something about the water diversions, and possible erosion & sediment delivery these big grows may cause and you come up with this regulating system that talks about 7 plants.

What is going on?

Besides missing the major problem completely (huge mega-grows) your regulating system has problems.

The three that I will comment on:

-Set backs – logging is required to be 100 feet from waterways, why should 7 plants be 200 feet?

-Legacy problems – The roads and denuded hillsides that were the result of logging, (which was approved by the state of California) should be restored but not because someone has 7 marijuana plants. There should be state funding for

any landowner that will work on legacy erosion areas. We are facing such intense problems of water pollution and species extinction primarily because of past land use practices (that were supported and condoned by the State of California) and the worsening drought caused by climate change. Large mega-marijuana grows are contributing to an ongoing problem – not causing it.

-Forbearance – Storing winter water for agricultural is a solution for keeping water in the river through the summer. But requiring only marijuana growers to forbear all of their water, including drinking water is unjust.

Your order has requirements that would eliminate, minimize or mitigate erosion & sediment delivery, changes to riparian systems that may reduce shade & affect water temperatures, and over allocation of water sources. We support these objectives. Unfortunately to require this of marijuana growers (especially those who are growing very small amounts) and not other industries such as energy extraction, viticulture, agriculture such as alfalfa, almonds etc. is ineffective in achieving your stated goals. It is also unjust and discriminatory.

Sincerely,  
Robie Tenorio

██████████

████████████████████

-----Original Message-----

From: [REDACTED]

Sent: Sunday, June 07, 2015 5:26 PM

To: NorthCoast

Subject: Water policies

I'm concerned that cannabis gardeners are being targeted and overrun by 6 law enforcement agents without notice and on top of that, they are armed! I am 65, live alone, disabled, do not divert water and veggie garden has buried drip line. There's a law making it illegal to trespassing without warrant in my courtelage. Why must we give up our civil rights, to grow a lil medicine? I will not comply with multiple agency search policies!

**From:** WE THE PEOPLE 2007 [REDACTED]  
**Sent:** Sunday, June 07, 2015 10:00 PM  
**To:** NorthCoast  
**Subject:** Comment submitted for Discharges of Waste Resulting from Marijuana Cultivation et al

To whom it may concern:

As I read through the proposed draft:

**Notice of Public Workshop and**

**Notice of Intent**

to

Adopt a Mitigated Negative Declaration and

Draft Order R1-2015-0023

Waiver of Waste Discharge Requirements and

General Water Quality Certification

for

Discharges of Waste Resulting from Marijuana Cultivation and Associated Activities

or Operations with Similar Environmental Effects

in the

North Coast Region

I am struck by the lack of jurisdiction for the State Water Board to attempt to create regulation for that which they have no authority. It also strikes me that the proposed regulations are unreasonable, heavy handed, violate constitutional due process and seeks to put into place regulations that conflict with state statutes. Water rights as well as the right to farm are both constitutional and protected as real property.

*Under this Order, any landowner or operator cultivating marijuana that results in a discharge of waste to an area **that could affect** waters of the State (including groundwater) will fall within one of three tiers depending on the nature of their operation and risk to water quality.*

Including groundwater? The SWB has NO RIGHT TO REGULATE GROUNDWATER. This is overreach on a "could". I could fly if I had wings. Who is to determine this arbitrary "could"?

Why not apply "could" to rice farms? almond farms? rose gardens? How is it equitable? How is it fair to target a singular population on the basis of their type of agricultural product, in this case, benign in its raw state? On face value this looks unconstitutional to target a certain population based on their need for a product designated by the people of the State of California as medicine: A substance necessary for medical treatment.

*Tier 1 - If there is low risk why must there be a 2000 square feet limit for Tier 1? It has no rational basis, in other words, 2000 square feet is an arbitrary figure. How about 2015 feet? 2001 feet? There is no rational basis having a limit. Either there exists a risk or there does not. The Board would not dare apply such arbitrary numbers to other crops such as rice or almonds. Cannabis is an agricultural crop. In fact, it has no psychotropic properties in its natural fresh state. In its natural fresh state it nothing more than a food supplement. In other words, it IS an agricultural product in its raw form.*

*The Tier 1 designation "Specifically, slopes are no more than 35%" is also an arbitrary number. The draft summary includes this gem: Many sites in the North Coast include steep slopes, highly erodible soils, or unstable areas. Land development on sites with these characteristics often requires design and oversight by a licensed engineer, geologist, or other appropriate California-licensed individual during construction to ensure that constructed features on the site are stable and do not represent a threat to the beneficial uses of water or public health and safety.*

*Farmers have been tending their farms on extreme slopes utilizing stepped terraces for millennia without engineers to "design their plan". In fact, many of these ancient stepped terraces have been in constant use for 1000s of years with no degradation to soil, water quality or surrounding areas. Does the Water Board believe that farmers are more ignorant than farmers of old? that they have less capability to grow on the type of terrain that for instance, makes up most of Trinity County? Must all farmers be flatlanders to placate the Water Board? This appears to be outright discrimination by the Water Board against those that live and farm at higher altitudes and mountainous topography. From Wikipedia:*

*In [agriculture](#), a **terrace** is a piece of sloped plane that has been cut into a series of successively receding flat surfaces or platforms, which resemble steps, for the purposes of more effective farming. This type of landscaping, therefore, is called **terracing**. Graduated terrace steps are commonly used to farm on hilly or mountainous terrain. **Terraced fields both decrease [erosion](#) and [surface runoff](#), and may be used to support growing crops that require irrigation, such as [rice](#)**. The [rice terraces of the Philippine Cordilleras](#) have been designated as a UNESCO [World Heritage Site](#) because of the significance of this technique.<sup>[1]</sup>*

*Terraced [paddy fields](#) are used widely in rice, wheat and barley farming in [east](#), [south](#), and [southeast Asia](#), as well as other places. Drier-climate terrace farming is common throughout the Mediterranean Basin, e.g., in [Cadaqués, Catalonia](#), where they were used for vineyards, olive trees, cork oak, etc., on [Mallorca](#), or in [Cinque Terre, Italy](#).*

*In the South American [Andes](#), farmers have used terraces, known as [anden](#)s, for over a thousand years to farm [potatoes](#), [maize](#), and other native crops. Terraced farming was developed by the [Wari](#)' and other peoples of the south-central Andes before 1000 AD, centuries before they*

were used by the Inca, who adopted them. The terraces were built to make the most efficient use of shallow soil and to enable [irrigation](#) of crops.

The [Inca](#) built on these, hereby developing a system of [canals](#), [aqueducts](#), and [puquios](#) to direct water through dry land and increase fertility levels and growth. <sup>[citation needed]</sup> These terraced farms are found wherever mountain villages have existed in the Andes. They provided food necessary to support the populations of great Inca cities and religious centres such as [Machu Picchu](#).

[Terracing](#) is also used for sloping terrain; the [Hanging Gardens of Babylon](#) may have been built on an artificial mountain with stepped terraces, such as those on a [ziggurat](#). Terraced fields are common in islands with steep slopes. The [Canary Islands](#) present a complex system of terraces covering the landscape from the coastal irrigated plantations to the dry fields in the highlands. These terraces, which are named *cadena*s (chains), are built with stone walls of skillful design, which include attached stairs and channels

*The stipulation to be 200 feet from surface water is also one that is arbitrary. What if the landowner's parcel is located within the 200 feet of surface water? In fact, the pioneers of Trinity County located their homesteads next to surface water probably without exception and many modern homes and parcels front rivers and creeks. So therefore, they would be discriminated AGAINST IN NOT BEING ABLE TO GROW? Will the Water Board forbid rose gardens within 200 feet of surface water? Vegetable gardens within 200 feet? herb gardens? Why single out cannabis, a non toxic plant, for punitive restrictions?*

*These arbitrary numbers seem to indicate a leniency for large farms and punitive unreasonable restrictions lacking basis in science for the small grower or even singular medical cannabis patient/grower.*

*Did the proponent for Prop 215 intend to exclude those that live along or nearby surface water?  
I doubt it.*

*There should be an exception for natural elemental occurrences such as torrential rain or flooding. Even the best plans and efforts could be washed away with torrential rain as evidenced in mudslides on roadways developed, built and maintained by CalTrans. When their project fails, are the engineers and workmen fined? Why should they be exempt but private landowners bear the burden while the state bears no burden for poorly designed and executed projects? Whether present or heritage?*

*Unless otherwise noted, the following excerpts come from Water Rights Laws in the Nineteen Western States, Volumes I and II, written by Wells A. Hutchins and published in 1971 by the U.S. Department of Agriculture.*

*Water flowing in a natural stream is not the subject of private ownership. Private rights that attach thereto – whether appropriative or riparian – are strictly usufructuary rights to take the water from the stream into physical possession for the purpose of putting it to beneficial use. This, in western water law....is a very old and well-established principle. (page 137, Volume I)*

*One of the “first principles” of the law of watercourses...is that the running water of a natural stream is, as a *corpus*, the property of no one – variously expressed as being in the “negative community,” “common,” “*publici juris*,” “the property of the public,” or “the property of the State in trust for the people.” (page 140, Volume I)*

*The foregoing principle, so well settled in the arid and semiarid regions of the country recognizes, of course, that denial of private ownership in the corpus of the flowing stream water does not preclude but, on the contrary, is expressly subject to the existence and protection of valid private rights to capture, possess, and beneficially use the public waters [footnote omitted]. (page 141, Volume I)*

### **Water Rights**

*Water rights traditionally have been considered as rights in real property. San Bernardino v. Riverside (1921) 186 Cal. 7, 13; San Francisco v. Alameda County (1936) 5 Cal.2d 243, 245-247. A riparian right is “part and parcel” of riparian land, and the right to the flow is real property. Title Ins. & Trust Co. v. Miller & Lux (1920) 183 Cal. 71, 81. Real property remedies are therefore available for riparian rights. Miller & Lux v. Enterprise Canal & Land Co. (1915) 169 Cal. 415, 444. An appropriative right is also an interest in real property. Wright v. Best (1942) 19 Cal.2d 368, 382. Thus, appropriative rights may be, but are not necessarily appurtenant to the land. If they are appurtenant, the right is incidental to the land. Wright, pages 377-378. Percolating water rights are also real property rights. Stanislaus Water Co. v. Bachman (1908) 152 Cal. 716, 725. The right to use percolating waters is part and parcel of the land. Pasadena v. Alhambra (1949) 33 Cal.2d 908, 925; Rank v. Krug (S.D. Cal. 1950) 90 F.Supp. 773, 787.16*

### **Appropriative Rights**

*...the appropriative right is a right of beneficial use, a usufruct only, and hence it does not include an ownership of the corpus of water while still in the natural source of supply. A necessary result is that (a) ownership of a private appropriative right and (b) ownership of the public water to which the right relates are entirely different things.*

*...Pragmatically, the important principle is that private ownership of stream water while in its natural environment does not exist; but private rights to extract and use such waters under State supervision and control in the exercise of its police powers – do exist, and they are property rights. (pages 442-443, Volume I)*

*The appropriative right is a species of property. – At the beginning of the development of water law in California – in the earliest years of statehood – it was established that the right which an appropriator gains is a private property right, subject to ownership and disposition by him as in the case of other kinds of private property (footnote omitted).*

*This view of the property nature of the appropriative right has been consistently taken by the western courts that have had occasion to pass upon or to discuss it (footnote omitted). (page 151, Volume I)*

*The appropriative right is real property. – In 1894, the Wyoming Supreme Court said:*

*Thus it seems that the doctrine is very general in the states of the arid region that a water right becomes appurtenant to the land upon which the water is used, and the ditch, water-pipe, or other conduit for the water, becomes attached to the land either as appurtenant, or incidental to the land and*

necessary to its beneficial enjoyment, and therefore becomes part and parcel of the realty (footnote omitted).

In one of its earliest water rights decisions, the California Supreme Court held that the right of prior appropriation and use of water “has none of the characteristics of mere personalty.”<sup>17</sup> The rule that the appropriative right is an interest in real property is recognized generally throughout the West (footnote omitted). (page 152, Volume I)

**Percolated Groundwater:** Groundwater rights are one of the real property interests in the real estate overlying the groundwater basin. They are correlative with other overlying landowners. If a groundwater basin produces yield in excess of the amount that can be beneficially used by the overlying landowners, then the excess is available for appropriation by other entities.

No license is required from the SWRCB before exercising a groundwater right, and this right is not lost through non-use.

Groundwater and groundwater rights may be available for transfer provided the conditions presented in Section 1.3.3 of this document are met. Research must also be done into the restrictions of local ordinances on this issue before reaching conclusions regarding legality of transfer. Many counties already have such ordinances in place. An increasing number of groundwater basins have groundwater management plans in effect that also could pose restrictions on the groundwater right.

**Riparian:** Riparian water rights are one of the real property interests in the real estate adjoining the water source. Riparian rights are generally correlative with other riparian rights and are not junior to appropriative rights regardless of date of first use.

No license is required from the SWRCB before exercising a riparian right, and this right is not lost through non-use.

Exceptions to the preceding statements could exist if a water source has been adjudicated. Unless reserved in the title documents associated with a subdivision of a riparian parcel, any new parcel that no longer has frontage on the water source loses its riparian right. Riparian rights cannot be gained for a non-riparian parcel by merging with a riparian parcel.

Riparian rights cannot be separated from the real estate of which they are a part, and therefore, cannot be transferred.

**The jurisdiction of the SWRCB [State Water Resources Control Board] to issue permits and licenses for appropriation of underground water is limited by section 1200 of the California Water Code to “subterranean streams flowing through known and definite channels.”**

Underground water not flowing in a subterranean stream, such as water percolating through a groundwater basin, is not subject to the SWRCB’s jurisdiction. Applications to appropriate such water, regardless of use, should not be submitted. Owners of lands overlying a groundwater basin or other common source of supply have the first right to withdraw water for reasonable beneficial use on their overlying lands, and the right of each owner is equal and correlative to the right of all other owners similarly situated. In case of insufficient water to supply fully the requirements of all, the available supply must be equitably apportioned. In these respects, overlying rights are closely similar to riparian rights pertaining to surface bodies of water.<sup>1</sup> SWRCB, [http://www.waterrights.ca.gov/application/forms/infobook.htm#\\_Toc442697730](http://www.waterrights.ca.gov/application/forms/infobook.htm#_Toc442697730)

*This is government gone wild. This proposal should be "ditched" and in its stead placed an educational program in which the agency assists cultivators to grow cannabis in a safe and sustainable manner that will benefit the patient and the environment. Furthermore, the members of the Board and their staff are inadequately representing the interests of the people and are promulgating agendas in conflict with laws made directly by the people.*

*Furthermore, the intent of this proposal conflicts with the interests of Trinity County which has little or no industry for economic benefit except for the cannabis industry. At one time, mining and timber kept Trinity County solvent and prosperous. Now, due to unreasonable and unconstitutional policies by both state and federal agencies, the people of Trinity were forced to change to a different industry for their very survival. The SWRCB proposal conflicts with state statute:*

## **WATER CODE -**

**DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE  
WATER RESOURCES [10000 - 12999]**

### **10505.**

*No priority under this part shall be released nor assignment made of any application that will, in the judgment of the board, **deprive the county in which the water covered by the application originates of any such water necessary for the development of the county.***

*(Amended by Stats. 1965, Ch. 989.)*

*To limit water for the development of the county's cannabis agricultural industry is to hinder the development of the county. One cannot grow any crop without water. Therefore, the State Water Board should be assisting in development of sustainable water use rather than restrictive, financially burdensome and punitive regulation outside their jurisdiction.*

*Diane Richards*



**From:** Patricia V. [REDACTED]  
**Sent:** Sunday, June 07, 2015 10:10 PM  
**To:** NorthCoast  
**Subject:** Public commentary on Draft permit requirements for cannabis farmers

To the members of California's Water Board and all those willing to make an effective difference:

Public commentary on Draft permit requirements for cannabis farmers.

After attending a conference on water regulations in direct regards to cannabis production, listening to members of the board explain this proposal, and researching water usage throughout the state, it is clear that changes must be made throughout the ENTIRE agricultural watering system in the state of California. My concerns with this proposal is the money usage towards singling out small cannabis farmers. The resources available to cover this statewide drought ought to be dispersed evenly and with care. Understanding that a focal point may be one method of accomplishment, it is beyond necessity to pin point these small farmers especially as the statistics can verify a much larger scale of water usage, depletion, and pollution. Governor Brown's proposal of cracking down on the state's condition has seemed to left out bottling companies such as Nestlé, Crystal Geysers and Walmart, oil and fracking companies, and huge monocrop farms "even though they account for 82% of the state's annual water consumption (residential accounts for 12%), according to US Uncut. At 1.1 trillion gallons per year, almond farms alone consume 10% of the state's water, or as much as entire city of Los Angeles." (<http://sandiegofreepress.org/2015/04/california-water-restrictions-must-include-nestle-big-ag-and-big-oil/>). What about Mendocino Forest Products who use "fungicides at the mill site adjacent to Ackerman Creek behind their logging deck on North State St. north of Ukiah?.... Ackerman Creek empties into the Russian River." (<http://www.mecgrassroots.org/campaigns/campaign-against-herbicide-use-in-our-forests/>). The list goes on and on with these major money driven corporations.

Why has it been chosen by the state of California's water board to target this area specifically? I truly feel concerned about the motives of this proposal. Especially after questioning a board member about the other major issues as were previously mentioned and her knowledge running short on the topics. Instead of attacking small farmers to save this precious and sacred resource of water, why are we not working together to educate our communities and empower them to make a difference? The water board can redirect it's energy and money to raising up the knowledge on how to farm safe through more outreach programs and workshops in the communities rather than enforcing punishment to those who really have no idea. I believe it completely necessary to get everyone on board with 100% green practices and education statewide on how to implement this. The draft permit is flawed. There is a pointing finger on one area, and that in no way is going to solve the statewide drought, poisoning, and pollution to our ecosystem. For the sake of honesty and true stewardship of this Earth, let us come together in unison to better solve the issues at hand. What will be the true winning outcome by closing in on Cannabis small farmers rather than the other 82% who's unconscious usage and pollution to our waters and land deplete our ecosystem and destroy our sacred home?

We are willing to work together. Let us be one rather than a target.

KINDEST REGARDS,

WITH LOVE FOR THIS EARTH, HER WATERS, AND ALL THE UNSEEN CREATURES  
OF THIS UNIVERSE.

Patricia Vargas

**From:** J Baldwin [REDACTED]  
**Sent:** Monday, June 08, 2015 9:15 AM  
**To:** NorthCoast  
**Subject:** Comment letter on Water storage Issue.

Dear North Coast Regional Water Quality Control Board

If there is a mandatory requirement imposed on landowners to store water in the winter for use in the summer I think our government should pay for or at least create a funding program that would make it financially possible to create adequate storage systems.

I believe this is fair because the fish apparently need the "states" water in the driest summer months. The protection of the fish and their habitat is the responsibility of the Department of Fish and Wildlife. The allocation of the "States" water is the Water Boards responsibility. Getting the money to do this should also be the responsibility of these departments.

I believe for starters, there is a need to store a minimum of 10,000 gallons per person, 30,000 gallons per family, 50,000 gallons per small parcels or 1000 gallons per acre for large parcels. This water would be for use by people, plants, animals and fire safety during July, August and September also known as the driest months of the year.

The Department of Fish and Wildlife and the State Water Board could divert funds currently allocated for offices, administration, uniforms, vehicles and enforcement of environmental protection laws directly to water storage implementation. Starting NOW with the most critical Coho habitat watersheds.

I firmly believe that a program that included MONEY for Landowners to store major water on private property would find wide open doors and complete acceptance in the community.

Plus the Fish would be happy.

Respectfully Concerned  
Justin Baldwin

Nielson Ranch  
Sprowl Creek Watershed

**From:** Sarah Bstar [REDACTED]  
**Sent:** Monday, June 08, 2015 4:27 PM  
**To:** St.John, Matt@Waterboards; Leland, David@Waterboards  
**Subject:** Comment Draft Discharge

June 8th

Greetings and Salutations to the Northcoast Regional Water Control Board,

I have had the privilege of working with your organization in many capacities. As an Engineering Geologist for North Coast Redwoods District and landowner and resident of the Mattole Valley for over 15 years, I trust that you will take my words seriously.

As I prepared to write my comments on your draft discharge ordinance, I was beckoned to the "Honey Spot" along honeydew creek. A place I frequent. As we pulled at 24" lamprey eel from the river, a conversation ensued from the neighbors. The dried up pools with other dead eels new the bridge at Dutyville, the trapped steelhead further upstream and of course water use, rights and history. Please realize that we love our watershed and the local knowledge is invaluable. The systems we have created to live with the harsh landscape enrich humans and nature. Please realize that we must be able to self regulate. Please provide educational, monitoring and crisis/ disaster relief for those of us intimately familiar with the waters of this place.

I do hope for oversight on how folks use the water. But your notice of intent form is daunting to say the least. and your comment in the BMP's regarding cultivation "waste" miss the mark so far that it seems like you have never heard of compost. see below....

*H. Cultivation Related Wastes Planting waste shall be stored in watertight dumpsters or securely covered from wind and rain by covering the waste with tarps or plastic sheeting.*

Please consider the site specific applications, the fact that we hold these waters Sacred and work with us. I would like to see the SRWQB receive some type of funding to continue to protect the waters of CA. But please respect that you appear to doing a water grab with your over zealous BMPS and beyond normal notice of intent.

For the Clear Cool Waters of the Mattole

Sarah E Balster

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

**From:** Ali Boecker [REDACTED]  
**Sent:** Monday, June 08, 2015 4:12 PM  
**To:** NorthCoast  
**Subject:** Public comments on draft of Discharges of waste resulting from marihuana cultivation

Public Comments regarding Draft waiver of waste discharge requirements and general water quality certification for Discharges of Waste Resulting from Marijuana Cultivation and Associated Activities or a Operations with similar a Environmental a Effects in the North Coast region.

General comments:

1) There must be reconciliation of the discrepancy in regulations for timber and wine industries, as compared to the level of risk to beneficial uses of water by Marijuana cultivators.

1a) Immediate study and revision of timber pesticide use (specifically the Hack & Squirt method) which takes into consideration the results of application of imazapyr, a Tier 3 fire hazard in North Coast regions, and the possible effects on the beneficial uses of water. Also, the regulation of this pesticide use, allowing subsequent fire hazard, causes undue threats to both beneficial uses of water and public health and safety.

1b) reconciliation includes the current timber orders regulating pesticide use, preventing natural shade conditions to exist, and is clearly unequal protection as the application of #14 of this order, "need to reduce and prevent excess sediment puts and decrease water temperature by protecting and restoring natural shade conditions equivalent to natural shade" places burdens on smaller landowners and tenants, and not the larger industrial land owners.

1c) Reconciliation also includes fair regulation of the water consumption rates of the cannabis industry, as compared to a similar, but more water intensive crop, wine.

1d). Whereas the timber and wine industries have lobbied for regulations for decades, this order to address issues with the unregulated cannabis industry places some excess burdens, such as those compared above, on those who have not had local, state or federal lobbyists.

2) If the intention is to enact effective implementation of this tier system, without a heavy hand if enforcement, the system must be built on trust between the Dischargers, 3rd party regulators, and CA Regional Water Quality Control Board.

2a) A forum inviting potential third party program participants, to clarify details of work, implementation and reporting, including the substantive and procedural mechanisms, not enumerated, would generate a more solid, and thereby, trustworthy system, which will engage more confidence of possible Dischargers.

2b) A critical piece is missing in this order, which is: Dischargers information will not be shared with ANY other agency, and will be kept confidential. If the Dischargers chooses to disenroll from the program, for any reason, all of the Dischargers information will be returned. Dischargers should also have the opportunity to purge all records in the program, retroactively.

3) Another notable discrepancy in this order is in placing the burden of previous timber operations onto the current landowners, particularly in regard to historic logging roads.

4) Incentives must be implemented to enact this program with the proposed efficacy using a "pathway to compliance" strategy.

5) The burden do studies to investigate the culvert size needle for a 100 year flood plan should be done as an internal investigation, and not placed on the shoulders of the property owners.

6) Backdating endorsement mechanisms for a pilot program is a threatening approach to a "pathway to compliance" and there should be multiple opportunities to enroll, over the course of at minimum, 1 year. This is another application to incentivize Dischargers, and not create distrust.

6a) In #25 - which organization or groups are to be referred to to provide technical assistance.

7) Marijuana is a pejorative term, and founded in a discriminatory mythology, from the onset of the drug wars. Cannabis is the proper term to describe the plant. This is another place where language can reflect knowledge of the activity to be regulated and respect of the Discharger.

Thank you.  
Ali Boecker



Comments on the to the Notice of Intent to Adopt a Mitigated Negative Declaration and Draft Order R1-2015-0023 Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Marijuana Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region

From Jama Chaplin, [REDACTED]  
June 8, 2015

- Rather than adding another layer of regulation, paperwork and enforcement, I would urge you to consider whether existing laws and regulations could suffice, and work to energize them with education and then enforcement.
- Due to outreach and education in the last several years, in my area mostly done by nonprofit environmental groups, many landowners who never knew that they need to file for water rights are doing so. If you add another burdensome layer of bureaucracy to this learning curve, you will probably alienate most of the people which the State of California is trying to “bring into the system,” which is counterproductive to the goals of preserving our creeks and rivers, and finding ways for people to share the water fairly and conserve it.

But if you must proceed with this:

-- It is not fair for current landowners to be responsible to repair legacy damage left behind by logging operations, etc. We have dealt with a great deal of this on a voluntary basis, on and off our own property.

-- Six plants is too low a threshold. Some medicinal users need to juice their plants, which requires a greater volume. See also next item about total garden size.

-- To require a person to forbear for 5 or 6 months simply because they have 7 or more plants is draconian, and also random. Forbearance period should be worked out in the Small Domestic Use Registration process, which takes total garden size into account, and, I hope, considers whether the location might impact salmonid habitat, downstream water users, etc. “One size fits all” is not appropriate.

That said, if commercial cannabis growing is occurring, I would consider it appropriate to require that that growing operation use only stored water from May 15 to October 15. That requirement might be able to be revisited in future updates, when cannabis may evolve into just another agricultural product.

-- Please allow more time for people to file the NOI, especially since there could be competition for the attention of too few professional “third-party” people.

-- 200 feet of distance to all watercourses is not always necessary, since a buffer of native vegetation is required, plus “agronomic” watering and fertilizing. (Is it true that timber harvesting is allowed up to 100 feet?)

-- Not all water tanks above 8,000 gallons need concrete pads and anchors. I think the Water Board should encourage water storage, and therefore require such things only at sites where they are necessary.

-- "Operations with Similar Environmental Effects" should be a more central part of the document, not just occasionally mentioned. Otherwise, such a person would fear that the government would interpret that they are a cannabis grower. And, these operations should be more clearly defined.

-- California's water conservation-oriented future calls upon us to develop criteria for the permitting of composting privies, rather than flushing human waste with precious water. Please take the lead in this regard.

8-12 April 2010

*DRAFT [ 2783 words]*

rg column: "**Diggin' In**" #34 for Trees' "**Forest & River News**"

I'll be 'recapping' some of the continuing sagas, like the bond funding freeze and watershed/fisheries restoration work, from the past few columns later on in "Diggin' In #34". But for today I'm going to try and summarize some of the elements of the so-called timber wars over the last 3+ decades, and then focus on some crucial current conflicts and opportunities. I'll have to really just skim over years of basic and fundamental detail in order to get to the here-and-now. For those that want to dig in deep, there are a large number of sources to search out - - you might be able to earn a PhD, or two, for your efforts. For a single, one stop, summary of a central aspect you might read and/or acquire Sharon Duggan and Tara Mueller's Guide to the California Forest Practice Act and Related Laws. For a millennial overview I'd recommend, A Forest Journey; The Role of Wood in the Development of Civilization by John Perlin. And while you're thinking millennial, read King of Fish: The Thousand-Year Run of Salmon by David R. Montgomery.

My first experience of forestry in California came in the Fall of 1971 in the Mattole Valley as I walked through battered landscapes ravaged by tractor logging after World War II and up through the 1960s -- streams buried and skid trails disrupting hillsides with incredibly dense and damaging networks. I soon learned of the ad valorem tax brought to bear by the California legislature to make sure that the materials for the post WWII building boom were available. Landowners were taxed ON THEIR STANDING TIMBER until they cut 70% of it. This tax, which spawned the crazed gypo cat-logging frenzy, lasted into 1976. Many people don't realize this -- and it is central to understanding the damage that was done -- and why the state has a responsibility for enabling watershed recovery, bearing the burden for its role in watershed and fisheries habitat destruction. The ad valorem tax was replaced by a yield tax whereby you are taxed on cut timber when commercial harvest takes place.

I won't go through the specific names and litany of every legal case and situation that led up to this day, but in general: The huge storms and flood events of 1955 and 1964, with impacts greatly exacerbated by the logging damage, which had deranged the hillslope hydrology\* -- streams became roads and roads became streams, wakened public perceptions and anger over the forestland destruction and horrific human and fisheries' impacts. Coupled with these events were the environmental consciousness raising in the late 1960s and early 1970s which resulted in landmark federal and California laws such as the Clean Water Act, the state and federal Endangered Species Act, the National Environmental Protection Act, and the California Environmental Quality Act (CEQA). On top of this the old California token Forest Practice Act was declared unconstitutional because among other things, no rules could take effect unless approved by a small number of large landowners. This resulted in the modern Board of Forestry having an ostensible majority of members representing the

public (5 public, 1 range, & 3 industry) -- and having the new world of forestry regulation ushered in by the Z-berg-Nejedly Forest Practice Act of 1973. All of a sudden you actually had to have a Timber Harvest Plan (THP) submitted that had erosion control standards, cutting restraints, regeneration standards, mapping requirements, and much increased California Department of Forestry authority for approval and oversight. [\*Acknowledgement to Professor Donald Gray]

This initial rudimentary forest regulation was better than nothing, but not by much. Streams were being stripped of their cover into the late 1970s and 1980s. Stream crossings, yarding and road damage could still be extreme. Clear cuts were often 120 acres each. The proverbial fan of accepted forest practice was hit when the courts declared that, if any landuse permit required the application of an Environmental Impact Report under CEQA, it would certainly be the Timber Harvest Plan. Whoa, daddy -- almost instantly logging trucks circled the state Capitol -- and officials quickly negotiated a "functional equivalent" process to an EIR for timber operations, which remains in place with various flaws intact through today. Despite the weakening of application of CEQA to logging plans, the main substantive elements of CEQA that would apply to logging plans remained. It just took, and takes, constant vigilance, resources, and talent to see that CEQA, as the "polestar" of environmental protection, is complied with.

The early THPs were around 5 pages or so with mapping that was usually a joke -- hard to tell what in heck was actually planned and what the impacts would be. Assuming the worst was usually the valid perspective. Logging dramas of various natures and nastiness were played out all over California's private forestland, especially along the North Coast. Santa Cruz deserves special mention and it's own history with its success in achieving selection forestry through County Rules.

The struggle over the expansion of Redwood National Park in the early and mid 1970s was one of the defining 'educational' sagas, as huge areas of old growth Redwood were liquidated using the most damaging methods possible in the race to prevent protection. The legacy of that struggle, apart from the forest that was protected, was the seminal work done to restore the landscape from the incredible damage -- the science and art of this restoration work was transferable to the rest of the North Coast and beyond -- and continues to be applied and improved today.

All over other, smaller and more local, crises were dealt with. In the Mateel area some of these crises were stopping the aerial spraying of phenoxy herbicides, protecting Gilham Butte, protecting the King Range, and protecting the Sinkyone Wilderness Coast. At the same time efforts were made to try and get an economy based on a more sustainable forestry through stewardship. Some of these efforts came from Mateel area organizations such as the Forest Land & Products Cooperative (FLAPCO) and the Institute for Sustainable Forestry (ISF). The Hoedads Cooperative in Oregon was an inspiration all over the Pacific Northwest.

Yet another related basic social and economic movement grew during these times that had an emphasis on watershed recovery that focused on restoration of fisheries habitat and populations. The state and federal governments, as well as many private landowners, recognized this need. The

fledgling 'restoration industry' grew from a few non-profits working for less than minimum wages on projects improving neighborhood salmon habitat, to a multi-million dollar endeavor removing 100s if not 1000s of barriers to fish passage at road crossings, and upgrading or removing 1000s of miles of forestland roads. I often cover the trials and tribulations of this work, but I'm trying to get to how all these forestland social, environmental, and economic phenomena relate to each other.

Getting back to a common link: All of these changes have been built on a foundation of information, education, and positive response. And the context for this is really the cumulative effects or impacts on the land and waters around us. To actually make an effective positive response is usually difficult because many or most adverse cumulative impacts have an economic driver. Depletion of fisheries and forests usually happens because of over harvesting and collateral damage to habitats. The forests of the North Coast were usually cut fast and sold cheap, with no real responsible vision and restraint that would enable future generations to live in economic, environmental, and social balance.

It really amazed me, when I first read the California Environmental Quality Act of 1970, that the legislators in their too rare wisdom had actually codified an ethical and intelligent human approach to the natural world: Would your project harm the environment? What practices and alternatives do you need to choose to avoid or minimize adverse impacts? What must you do to prevent significant impacts to the environment?

It so happens that consideration of cumulative impacts is a substantive requirement of CEQA and applicable to the private and state forestlands of California, which was decisively confirmed in the EPIC v. Johnson decision, the Sally Bell Grove case, in 1985. The California Department of Forestry's position during the arguments was that they didn't feel that they had to consider cumulative effects, but if they were they did. Georgia-Pacific's dominant paradigm response was a lot less accommodating: they resubmitted the Sally Bell Grove THP within months of the Appeal Court decision -- identical except for the change in date. Luckily their 3rd run at ignoring cumulative impacts and cutting the Grove, the first attempt was in 1977, ended when Trust for Public Lands and the State of California finally acted to purchase the Georgia-Pacific holdings on the Sinkyone Wilderness Coast in 1986.

Another huge example, reaching the national stage, of the importance of disclosure of information and cumulative impacts was the battle over the fate of Pacific Lumber Company after it was taken over by Maxxam Corporation. This battle raged from February 1986 through the headwaters Deal of March 1999 to the settlement of bankruptcy in June 2008. The failure of Maxxam to disclose critical information about its forestland resources, from old growth to Marbled Murrelets, to rate of harvest, to conditions of and risk to fisheries habitat, the cumulative impacts -- led to successful lawsuits and public outrage and action. Now, the new Humboldt Redwoods Company is trying to stay viable while treading the narrow trail through the damage from those cumulative effects.

All Timber Harvest Plans are required theoretically to consider cumulative impacts. After the 1985 court decision it took the California Department of Forestry and Fire Protection (now known as CalFire) about six years to come up with a checklist process where no measurements were

required. From what I understand, there has been only one THP that admitted that any cumulative effects would exist after timber operations were completed, and that one was approved along with the thousands of others that denied cumulative impacts.

One of the major rubs for me about the failure to come up with a viable and authentic process for the evaluation and response to cumulative impacts on California Forestland is that a good process would not only reduce impacts from individual THPs, but would also inform landowners, agencies, and public & private watershed restoration interests about where the most effective work could be done to recover listed fish and wildlife species, reduce fuel hazards, prevent erosion, improve silvicultural conditions, and realize these and other distinct benefits for economy and community.

It's way past due for California to take on dealing with cumulative impacts on California Forestlands. Here's a short list of reports and other milestones with a few quotes pointing to action:

**\*\* From the 1994 Little Hoover Commission Report #126: "Timber Harvest Plans: A Flawed Effort to Balance Economic and Environmental Needs":**

"Recommendation #4:

The Governor and the Legislature should enact legislation to require the completion of master protection plans for watersheds containing productive forests.

.....

Timber Harvest Plans cannot be fully effective in minimizing damage to the environment unless they address cumulative impacts across a broad area. . . ."

**\*\* From May 1999 "The Keeley Report", done by noted cumulative effects expert, Dr. Leslie M. Reid, at the request of Speaker pro Tem Keeley of the California Assembly:**

from page 3: ". . . Cumulative watershed impacts are of considerable concern because they are responsible for much of the damage to property and to public-trust resources that occurs away from the site of land-use activity. . . ."

**\*\* From the "Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat. June 1999" -- page 2 of the "Executive Summary . . . Overall Conclusions":**

"The SRP concluded that the FPRs, including their implementation (the 'THP process') do not ensure protection of anadromous salmonid populations. The primary deficiency of the FPRs is the lack of a watershed analysis approach capable of assessing cumulative effects attributable to timber harvesting and other non-forestry activities on a watershed scale. . . ."

**\*\* From the June 2001 report by The University of California Committee on Cumulative Watershed Effects, "A Scientific Basis for the Prediction of Cumulative Watershed Effects" [often referenced as the "Dunne Report" -- Professor Thomas Dunne, Chair of the Committee]:**

from page 3 of the transmittal letter: ". . . the authors suggest a demonstration project wherein researchers would show how new models could be adapted and applied to the circumstances discussed in this report."

**\*\* From the November 2001 report on the INTERAGENCY WATERSHED ANALYSIS TEAM PILOT PROJECT:**

**"Goal:** The goal of this pilot project is to develop, test, and refine a simple and credible interagency method, in cooperation with landowners and stakeholders, for analyzing watershed conditions, trend of resources of concern, and to identify protection and recovery needs, opportunities, and priorities on a planning watershed or sub-basin scale – consistent with both private and public trust values."

**\*\* From the February 2004 California Coho Salmon Recovery Strategy -- Recommendation for "7.24 Timber Management", "ALT-C-03":**

"The Department should develop and implement a program to design and implement a coho recovery plan for individual CALWATER Planning Watersheds. . . ."

**\*\* From January 2010 Anadromous Salmonid Protection Rules, 14 CCR Section 916.9 [936.9, 956.9] (v)(10):**

"Board staff and the Department shall work with agencies, stakeholders, and appropriate scientific participants . . . to: (1) describe and implement two pilot projects, including monitored results, using site-specific or non-standard operational provisions; . . . . . The pilot projects and guidance shall address cumulative and planning watershed impacts . . ."

**THE UPSHOT:**

In order to come up with the cumulative effects process that is needed (the old acrimonious venues for rule making like the windowless auditoriums of the Board of Forestry have gotten as far as they can go), we need to have all the major stakeholder groups (landowners/THP submitters, agencies, & the public) involved in on-the-ground pilot projects. Each group should have respected and qualified representatives that can come up with something that is doable, enforceable, and that meets a high standard of public trust.

Our long time North Coast advocate and now Assemblyman Wesley Chesbro has introduced legislation that would provide such a process in conjunction with, and through, the pilot projects designated in recently passed Forest Practice Rules (see above) as modified by his bill, AB 2575. This bill deserves staunch support and is in the interest of all three major stakeholder groups -- it should make it easier to write good THPs, easier to enforce good THPs, and greater assurance that the standards are adequate to protect public trust values. An additional potential benefit is the economic, environmental, and social benefit of implementing the measures necessary for the correction of past and current significant adverse cumulative impacts.

Go to the link:

<http://www.leginfo.ca.gov/bilinfo.html>

And type in the bill number AB 2575 to look at the bill, it's history, and its place in the legislature -- or call 916-319-2001, Assemblyman Chesbro's office for information.

## Short Summaries Of Other Issues:

\*\* Mark Andre, Arcata's Forester, has been appointed to a public seat on the BoF -- great selection. Stan Dixon, Board Chair, and Tom Walz, SPI industry seat were reappointed.

\*\* Redwood Forest Foundation, Inc. (RFFI) and the Usal Redwood Forest (URF): Key steps, hopefully, leading to a conservation easement are being made. Initial action has been taken to designate the first formal acorn collection grove. Spawning & habitat scoping surveys continue. DF&G approved funding for Phase III of the Standley Creek watershed restoration work. Proposals for large wood stream habitat work and road evaluations for Indian creek were submitted to DF&G. Work continues by Campbell Timber Management on the 'Option a'.

\*\* The appeal of the renewal of Water Quality Waivers continues -- possible court date in July.

\*\* Some bonds have been sold and some funding is still possible from a variety of sources, but overall the situation for adequate funding for watershed and fisheries restoration work is depressing. Check out this link for information:  
<http://stopworkimpact.ning.com/>  
and/or reach the Association of Conservation Contractors and Workers (ACCW) via David Simpson at 707-629-3670

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Get in touch with EPIC at 707-822-7711 or 707-923-2931 and Humboldt Watershed Council at 707-496-4703 for the latest information on many of the above topics and other issues. Please get involved in ways that are effective and meaningful for you, and that contribute to real solutions.

rg

20 September 2010

*DRAFT [2470 words]*

rg column: "**Diggin' In**" #35 for Trees' "**Forest & River News**"

In this Diggin' In #35 I will continue with aspects of the history recap of 'modern forestry' and its many, varied, and crucial issues from about the early 1970s through the present that I started to focus on writing about in column #34. I'll also bring in some short summaries of 'what's going on now'. I would encourage you to take some forest & watershed initiatives yourself: do some reading and thinking, take some stewardship actions on your own property and/or in your own watershed, work with others, support some of those worthy non-profits and businesses engaging in watershed restoration, fuel hazard reduction, sustainable forest management, and community-based forest models. In this issue of "Forest and River News" check out John Roger's article about 'upslope restoration'.

Let's talk about forest, ranch, and homestead roads. Many of you probably know a lot about them: their impacts, their construction, some of the history and evolution over the last 40 years. But for those that don't and a simple review for all those involved, I'll make a 'reader's digest' condensed version.

O.K., let's start with "skid road", sometimes called "skid trails" when they're only used a time or two. These go back a century or more, or in some form, probably for millennia. This is a road for dragging logs. Often these roads were 'corduroyed' in the past, with less valued (or sacrificed) logs laid parallel to each other in the road perpendicular to the route of the road, especially when animals were used prior to caterpillar-type tracked machines did the dragging. Water or grease of some type was often used to lubricate the surface the logs were skidded upon. In the down-to-the-dammed-river or railroad logging in the 1800s and early 1900s the skid road system was the tributary stream system. In general, until something was done to protect streams and watercourses, the only criteria for logging practices (besides making some money) was following the physics of least resistance.

Various cable-yarding systems were developed, especially after the steam donkey engine was invented by Eureka's John Dolbeer in the early 1880s. This revolutionized logging, especially in conjunction with railroads and Shay locomotives. Aside from the impacts of the skidding systems, the railroads impacted streams less because trestles were required to be built over the ravines and valleys. It should be mentioned that a lot of the early logging across the country involved getting the logs to the rivers -- the logs being so packed in the Susquehanna at Williamsport, Pennsylvania you couldn't see the river. And on the west coast, notably in Mendocino County, whole valleys were filled with old growth logs to be released from behind dams when storms raised the water level sufficiently. Whole streams and rivers were scoured when freshets sent the logs downstream in a tumult, often past the mills into the ocean.

But let's get back to roads. With the advent of powerful tracked 'cats', chainsaws, big logging trucks, and plenty of manpower after World War II, the impacts of logging and logging roads affected larger areas quicker than ever could have been imagined -- even a decade before. The cat could put a road anywhere you wanted it and did. The tractor logging made, in many places, every stream a road. Cable yarding was prevalent in some areas of Oregon and elsewhere, but tractor yarding was dominant in California. No bridges and painstaking trestles, the cat could move huge volumes of soil -- fast. The era of the Humboldt Crossing had arrived: cull logs in the bottom of the channel with hundreds or thousands of cubic yards of soil pushed over them -- the soil often from haul road cuts on extremely steep slopes. Some tributaries were simply buried for landings. Whole counties were given this treatment. Because the logging was such an economic driver, water and fish & game laws were unable to be enforced. As I've mentioned in earlier columns, the floods of 1955 and 1964 were a game changer.

The exacerbation of the damage of those floods by the widespread damage of tractor logging was clearly evident to the public, and the clamor for prevention of such land abuse greatly increased. The hydrology and stability of vast watershed areas were hugely compromised. Older styles of logging would greatly disrupt natural equilibrium processes, but not over such a large area in such a short period of time. By the time the modern Forest Practice Act was passed in 1973 these forestland abuses were starting to be addressed, in the Act and elsewhere.

Unfortunately, established habits are hard to change and the destructive 'traditional' road building and yarding procedures were seriously ingrained in timber operators and many foresters. Ironically, some of the necessary change rose out of the effort to correct the devastation in the Redwood Creek watershed near Orick that was the result of the controversy, fury, and spite that resulted from the struggle to enlarge Redwood National Park to protect the Creek's watershed. The huge scale of the damage that was documented was close to much of the similar damage all over the North Coast. The remedies began to become evident. The large machines that created the damage needed to be part of the correction of that damage. And another machine, hardly known at that time in a forestland setting, was central in that it had the capability to pull back and up the soil that had been dumped into the streams, watercourses, and down steep slopes. They could rotate 360 degrees to place soil back into stable locations, or to fill dump trucks that could deliver the reclaimed soil to stable locations. Cats could help in this effort, and in the recontouring of roadbeds to approximations of original slopes in the case of recontoured decommissioned roads -- or shaped to respect the factors of hydrology and slope stability in roads that were to be 'upgraded'.

Almost 'overnight' and through the 1980s great strides were made in the thinking, planning, management, and maintenance of roads by almost everyone - - from timber companies to homesteaders. Many of the subdivision roads from the 1960s were originally logging roads retained by the developer. All of a sudden water law and fish & game related laws were relevant and applied. The onerous effects of sediment on water quality and the survival of species like Steelhead and Salmon were beginning to be taken seriously. Timber companies seldom built roads on steep slopes anymore, and if they did, they used and were required to use the excavator to eliminate sidecast and to respond to

prescriptions by trained geologists. Unfortunately, road building by others did not advance so readily, but positive change is still evolving.

Many studies for many watersheds have found that roads are the major source of sediment. For certain watersheds landslides are the major source. In many watersheds landsliding triggered by roads is a major factor. As hinted above, the way roads are being built is generally being transformed. The principles of getting water off the road as expeditiously as possible, avoiding inside ditches as much as appropriate and possible, disconnecting the road network from the stream network, and adequately treating problem areas are part of the way roads are beginning to be viewed. For you to get further information and specifics about these issues, get a copy of *Forest and Ranch Roads* by two of the staunch initiators of much of this change, Bill Weaver and Danny Hagans. Originally at the forefront with some others at Redwood National Park (& elsewhere), they now are the principles in their own business, Pacific Watershed Associates. Just google *Forest and Ranch Roads* and there you have it.

What I'm trying to lead up to is one of the current upgrades that need to come about: prevention of sediment entering streams and watercourses from the approaches to crossings. Overall the construction of crossings is generally much improved: culverted crossings have oversized culverts set at watercourse grade with adequate armoring -- and one should hope have a 'critical dip' that keeps a channel in the channel if the culvert plugs, instead of creating a huge gully that takes out hundreds of feet of road before delivering 1000s of cubic yards of sediment to a stream. (A little digression that I have to get in here: Please, if you can afford a bridge, or can construct a high quality armored ford, depending on site and scale and so forth, please do. It's not if a culvert will fail and/or have to be replaced, it's when.)

Back to sediment from crossing approaches: Sediment from your road surface and/or inside ditches needs to be ushered into areas where the sediment can settle out and not reach the stream or watercourse. Inside ditches that deliver sediment defeat the whole purpose of a good crossing. Road approach surfaces that erode and deliver sediment do the same. Armor road approaches that slope to the crossing with good rock. Keep the sediment-laden water out of the crossing approaches with rolling dips, waterbars, or inside ditch relief culverts. This still isn't happening enough. Good county road crews are still rocking the heck out of road crossings, but allowing hundreds of feet of unarmored, eroding inside ditches to dump directly into streams that lead to endangered Coho Salmon habitat. We all can do better. Let's get with it.

AN UPDATE ON Assembly Member Wesley Chesbro's AB 2575:

The following is an informational summary, and near future artifact, written to encourage support for the Governor's signature, which by the time you get this will have happened or not. Either way it's an important step. If it's signed we'll have some good foundation to go on. If it isn't it will be back to the legislature again.

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***Assemblyman Wesley Chesbro's AB 2575 has passed the Legislature and is enrolled. Why you, & your organization, should support this bill and the Governor's signature.***

If signed into law, AB 2575 would amend the Forest Practice Act as "Article 5.5. Comprehensive Forest Land Recovery and Restoration Act". Although Article 5.5 will have to be filled out a bit to live up to its title, it does provide a solid foundation as regards dealing with cumulative effects, involving the public, and getting pertinent internet-available information organized on a planning watershed basis.

SUMMARY [13 September 2010]

First, new Forest Practice Rules -- a partial update of the former 'temporary' Threatened or Impaired Watershed Rules -- named Andromous Salmonid Protection Rules 2009, went into effect on 1 January 2010. Sub-section 916.9(v)(10) was part of this package providing for pilot projects for site-specific measures which might be used in riparian areas with approval by CalFire and the Department of Fish & Game

Assemblyman Chesbro; with sponsorship by Forests Forever, and with support by the Sierra Club, the California Native Plants Society, the Center for Biological Diversity, EPIC, and ultimately the California Forestry Association; successfully guided through legislation that would, through the (v)(10) pilot project process:

\*\* Require that a pilot project "shall result in the **development of guidelines for conducting a cumulative effects evaluation on a planning watershed scale**", with certain standards of consistency, reproduction, quantitative methods, documentation, and expertise.

\*\* Sets out goals that include, but are not limited to, restoration of fisheries and wildlife habitat, reduction of wildfire risk, growing high-quality timber, achieving long-term carbon sequestration, with an **emphasis on Coho Salmon recovery and restoration of impaired water bodies**.

\*\* Require that all **documents that form the basis for the pilot projects be posted on CalFire's Internet Web site**.

\*\* Require that the Board of Forestry or a technical advisory committee, "develop **recommendations for providing electronic public access** to all relevant documents that assist the department in administering timber harvest regulations **for actions that occur on a planning watershed scale**."

You have to realize that the original bill was stronger and more comprehensive, e.g. would have required electronic information to be organized by planning watersheds ASAP, but the essence was retained and a foundation is laid. In the context of these times and the budgetary constraints, its passage is rather remarkable, and needs your support to be added to the Forest Practice Act and be implemented.

Please draft a simple letter of strong support from you and your organization for the Governor's support and signature on AB 2575. E-mails are not appropriate for this. It is imperative that your paper letters are sent ASAP to:

*The Honorable Arnold Schwarzenegger  
Governor, State of California  
State Capitol, First Floor  
Sacramento, CA 95814  
Attention: Legislative Affairs- Request for Signature*

Go to the link:  
<http://www.leginfo.ca.gov/bilinfo.html>

And type in the bill number AB 2575 to look at the bill, it's history.  
And -- Assembly Member Chesbro deserves our thanks and support in this effort and evolution.

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#### Short Summaries Of Other Issues:

\*\* From the Fall 2010 RFFI Newsletter:

"RFFI, the Conservation Fund and Save the Redwoods League have made significant progress toward the sale of a conservation easement on the Usal Redwood Forest (URF). Ultimately, the easement will be purchased by the Conservation Fund with financing provided by the Wildlife Conservation Board. The easement will prohibit future fragmentation and development, protect stream buffers and limit harvest to a sustainable level in perpetuity. The state bond freeze that had delayed the easement sale has now been lifted and RFFI is able to move forward. The required appraisal of the URF easement's value is nearly complete, and RFFI hopes that the Wildlife Conservation Board will include the purchase of the easement on its November agenda. We would like to thank Congressman Mike Thompson, State Senator Pat Wiggins, Assemblyman Wes Chesbro, Assemblywoman Noreen Evans and their staffs for their strong support in helping RFFI secure funding for the Usal easement."

[Go to the RFFI website, [RFFI.org](http://RFFI.org) for more information.]

\*\* New Northern Spotted Owl developments will be reviewed in October in forums sponsored by UC Extension in Eureka & Ukiah.

\*\* The Board of Forestry (BoF) passed a new rule package about "stable operating surfaces" and "saturated soils" in September, and is anticipated to pass a new rule in October requiring denial of a Timber Harvest Plan if a California Geology Survey (CGS) Geologist determines that the THP will adversely affect slope stability that presents a threat to public safety.

\*\* How CalFire and the BoF will handled pilot projects remains to be seen. [See above RE: AB 2575] Hoped for participants in a Steering/Technical Advisory Committee have submitted their requests for consideration.

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Get in touch with EPIC at 707-822-7711 or 707-923-2931 and Humboldt Watershed Council at 707-496-4703 for the latest information on many of the above topics and other issues. Please get involved in ways that are effective and meaningful for you, and that contribute to real solutions.

rg

Richard Gienger

8 June 2015

RE: "15\_0023\_Cannabis\_Draft\_order" & related documents

[<northcoast@waterboards.ca.gov>](mailto:northcoast@waterboards.ca.gov)

North Coast Regional Water Quality Control Board  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403

Dear Board & Staff:

Having moved to the headwaters of the Mattole River in 1971 and homesteading to help to raise a family in the Mattole headwaters and adjacent coastal watersheds in Mendocino County, I have gained, I think, a fair understanding of both long and short-term history of a significant proportion of the North Coast. This understanding has been deepened, not only by living on-the-land and working with many neighbors, friends and communities, but also from participation in forest/watershed politics starting in 1975 with a special and continuing focus on the Sinkyone Wilderness Coast extending to the South Fork Eel River. From 1979, up through this day, I have vocationally and avocationally done as much as possible in the actual design and implementation of a wide variety of watershed restoration.

I am attaching three of the forty-eight columns I've written for Trees Foundation's "Forest and River News" that bear upon the last 44 years and the "Cannabis\_Draft\_order". I will also try a shorter, more succinct, approach:

It wasn't until the late 60's with the passage of such laws in California as the Porter-Cologne Act, the California Environmental Quality Act, and the 1973 Forest Practice Act (there with others along with federal laws) that some real acknowledgment of environmental damage and measures to correct or prevent such damage started to become part of the reality of land use on Northern California's forested watersheds. I say "started" because to apply a real conservation ethic will take generations – keeping in mind what I've been told that Aldo Leopold said about there being no common and culturally-shared conservation ethic. It was almost 'perfectly legal', at least allowed, accepted, and even encouraged to "hydrologically derange" timberland to extract economic value at least into the late 1990s by industrial logging. The "hydrologically deranged" quote is from Civil Engineering Professor Donald Grey – inspired by his examination of the slopes which tormented into Stafford. See the three photos from the late 1970s and in the 1980s which show permitted and/or accepted impacts.

It really wasn't until Bill Weaver, Danny Hagans, and others turned around the whole science and art of forest and ranch roads that, not only were the huge legacy problems (see Redwood National Park and PL/Maxxam Lands) finally able to be addressed (at huge expense), but standards for properly functioning roads and crossings became widely established. Now, those active in the timber industry gradually gained the necessary expertise and commitment to professional road practices – not so the general public and landowners. They often did not become educated about year-round impacts, just trying to get road access on their property as cheaply and quickly as possible. And don't forget that most of the areas that were sub-divided and sold after the gyppo tractor logging boom were areas that

were stripped of the merchantable forest and considered worthless. The new landowners inherited the hugely damaging road networks of the logging.

I have to mention here that the State of California's ad valorem tax law and policy that lasted from 1946 to 1976 directly supported the heavy adverse impacts. A landowner was yearly taxed on their standing timber until they cut 70% of it. This ruinous law & policy was replaced with a yield tax – whereby you are taxed on the timber that you cut. The damage that was a direct result of state policy, is for me and others the reason why the state is responsible for the restoration effort to eliminate or significantly reduce that damage. There have been some state supported efforts from the late 1970s on through today, but effective funding and commitment have greatly varied from year to year. This effort, when properly applied, has great economic, environmental, and social value to participating and affected communities. North Coast organizations, communities and people have led the way in restoration efforts and can continue to do so with adequate partnerships.

I would like to refer to a couple of restoration efforts for some perspectives. The first is a restoration partnership that has been going on for at least a decade. Campbell-Hawthorne, followed by Redwood Forest Foundation Inc. (RFFI) & Campbell Global, Department of Fish & Game (Wildlife), Trout Unlimited, Pacific Watershed Associates, and others embarked on implementation of corrective measures for the intense, but typical, damage from the tractor-logged 4670 acre Standley Creek Watershed, important salmon and steelhead tributary of the South Fork Eel River near Piercy. The work is almost entirely focused on the road system, removing the worst and upgrading the rest. When Phase VI is done more than \$2 million dollars in grants and matching funds will have been expended – with most of the needed instream habitat work, and 'lower/less accessible' erosion sites, still needing to be addressed.

In the Mattole Valley I would refer to the Good Roads Clear Creeks program that was in effect for a number of years. I don't have the exact facts and figures for you at this time (the Mattole Restoration Council documented the program), but I think more than \$2.5 million was spent on hundreds of sites affecting 100s of landowners. Road surveys were done, prescriptions made and implemented. Hugely significant improvements were made to reduce erosion, sedimentation, and upgrade stream crossings. Education and cost shares were the keys for the considerable accomplishments – and still more needs to be done. One example, and one that pertains to the timber industry, is taking the next difficult step to disconnect roads as much as possible from the watercourse network – draining sediment from the road to settle-out away from the streams. Too many inside ditches still lead directly to watercourses and streams.

Some upshots:

\*\* Your program should be readjusted to deal with private ownerships and the protection of beneficial uses in general – not the hugely singular and punitive emphasis on marijuana. What is happening and will continue to happen unless the program is changed is that an entire region is being demonized, marginalized, and disrespected. Charges of grotesque animal deaths, poisonings, pollution, and huge water diversions are continually chanted on radio and in print. I'm not saying there are not important corrective measures big and small that need to be made – but the manner of approach not only strikes fear of an array of authorities deciding what punitive measures must be imposed, from an assumed guilt, but also breeds a general breakdown of trust. I know I was aghast during the days of CAMP (Campaign Against Marijuana Planting) having young soldiers with automatic weapons high up over us while we worked on rock-bank stabilization sites in the Mattole headwaters.

\*\* How can you expect progress in truly correcting threats to the beneficial uses of water if you require a Notice of Intent that makes you a criminal under federal law? You don't even give some grounds for state legality under 'medical marihuana'.

\*\* Your documents regarding Best Management Practices, description of potential problems areas, and environmental impacts have some pertinence and use, but they need to be applied to ALL residents and landowners – in a reasonable and reality-based framework for implementation. You have tools that can work – as long as watershed residents and landowners are enabled to work together to accomplish bonafide restoration work and standards that qualify them for county and state incentives.

\*\* You need to support and expand programs like that of Sanctuary Forest Inc. in the upper Mattole Valley to facilitate water storage and forbearance agreements. You need to, and can, carry out similar programs that will form trusting partnerships like “Good Roads Clear Creeks” that not only educate and enable correction of erosion problems, but also enable top-grade & appropriate water diversions, procedures as well as storage facilities. These are all very expensive, and contrary to propaganda, are beyond the means of the overwhelming number of residents and landowners in the North Coast WQ Region.

\*\* In the last forty plus years the people of the North Coast have founded schools, community centers, emergency services, health centers, a large number of non-profit organizations benefiting the environmental, economic, and social fabric, vitalized a broader cultural understanding and exchange, and encouraged present and future generations to work together for long-term stewardship. You can modify the NCRWQCB approach to actually facilitate this stewardship. You and your partner agencies are trying to snap your fingers for across-the-board permits and standards that have never been applied to the general public and landowners of the North Coast. (It took more than 40 years to get 30 foot no-cut buffers for fish bearing streams on Timber Harvest Plans (THPs). And this only because Charles Hurwitz broke the logging interests' taboo and accepted no-cut buffers in exchange for his sweet Headwaters Deal.) To get to your stated water quality goals you need to work with the general public without subterfuge, without the sowing of divisiveness, and with a program of education and implementation that is adequately funded to reach those goals.

Respectfully,

Richard Gienger

Re;Response to the draft of the Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Marijuana Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region.”

While cannabis cultivation on private land is an important factor in the health of the waters of California it is not the only problem. Logging, agriculture and trespass grows provide a much more serious threat . These other impacts are regulated but the best practices should be applied to everyone fairly. This waiver unfairly targets one group while ignoring the fact that everyone and every industry should follow the same standards.

#### Water tank regulation

Requiring water tanks over 8000 gal. to have a cement foundation is in conflict with the California Uniform Building Codes . The codes cover large tanks quite well and as such no not require change. The danger is in the bladders used for water storage. These bladders like ponds can rupture and strip out riparian zones. All bladders over 20,000 gal should be contained with in a berm. No bladders that are used military surplus should be allowed without water testing. Other than these restrictions bladders should be allowed .

#### 6 plant limit

This is ridiculous . The limit for not needing a permit should be 20 plants or 300sq ft. This allows access for households with multiple medical patients.

#### Water storage

This requires anyone with 7 or more cannabis plants to store water starting may 15 for there agriculture as well as their homes . Home use of water should no be included in the restriction. The forbearance policy we are asked to sign to get our storage water rights established states june 15. The text should say all water storage to be used for agricultural uses should be filled by may 15 at the latest and full forbearance exercised at the proscribed time.

#### Grand Fathering

When I bought my land springs were considered percolation ground water and as such were exempt from regulation. No account was done and no record was kept. I have the right to drink clear fresh water anytime of the year. Stale water is potentially harmful. There is a danger that these policies will conflict with ones riparian rights as well as well being ex post facto.

## Tier 1

The typical front lawn is about 2000 sq ft .and, yes,if they are spraying chemicals ,fertilizing and using water they have as much impact and should require a permit too.If on the other hand ,if they are organic , have water rights and are not impacting the watershed no permit should be required.

Tier 1 set at 2000sq ft is ridiculous as there is no more impact than from a small garden or front lawn none of which require a permit. The tier 1 limit should be set at 5000 sqft .This is still less than 1/8 of an acre.Over 10,000sq ft should be disallowed entirely.The slope considerations should follow the existing Grading Ordinance which set the permitted limit at the amount of dirt (50cu yd) and the size of the cut bank not the slope.

## Watershed

Long ago people advocated for watersheds as the basic unit of land use design.This concept is built into the legal framework of water rights law.But ,this idea has its roots in biology. If you are going to use science then any analysis of water should include all the impacts from every factor. The climate is changing,hydrology changes,people change hydrology and forest regrowth suck up water.To assess the impact from water withdrawal on fish requires a complete analysis of all the factors impacting flow.

## 200 ft setbacks from a creek

When you apply this to every tiny intermittent flow of water,even in the winter, you get a very subjective system prone to legal problems.Humboldt land use policies call for a

100 ft setback on streams and 50 ft on intermittent streams.These are some of the most protective laws in the state.Your process needs to respect local knowledge and values as part of public input

The effect of damage to water quality at 100 ft is not verified by current research. There is little measurable chemical pollution if the agricultural system does not rely on soluble fertilizers. The runoff,or,waste discharge is within the parameters of the natural system.In fact the water board has found no nutrient contamination in excess of natural background values in areas where the 100 ft exclusion zone has been respected.The other water pollution is from sediment runoff from roads.

## Roads

These best practices are the correct way to build,decommission and maintain roads but this information is new to most people and outside their and government's expertise . Most private roads have loose associations maintaining their roads and these organizations can be used to develop plans that correct these deficiencies.This road work must be slowly and carefully so as to prevent more impact to the TMDL. Most small private land owners are not in compliance with

the new TMDL

goals . Third party representation is a method that can be used to allow road groups to meet this water quality need. Much of the damage to watersheds was done by approved logging practices and policy .Public financial assistance should be provided to correct these problems and should be spread over a similar time scale.

#### Timing

These best practices are new to all parties so the time for these rules to be worked out as well as implemented should be given a large grace period rather than being unfairly implemented upon passage.

#### Accountability

These best practices are not laws, they are new ideas that need acceptance across the board.As with any legal process accountability is a right and freedom of information is required.These policies are new and a "pilot" program so they should have a procedural process to assess the appropriateness of the assessments as well as the legality of the process by an independent review team that is both public as well as inexpensive and accessible to the public.

#### OWTS

These regulations are not in effect yet as they have yet to be regionalized and finalized.This creates problems for the participants as the standards are not in place at this point in time and even then require time to come into compliance.

#### EIR

While this Waiver has little direct effect on the environment it does have an indirect effect. If cannabis growers are forced to out of their small gardens they will grow indoors and as trespass grows creating ecological damage and a very large carbon footprint. You did not take this into consideration in your EIR.

Thank you for your consideration ,

Thomas Grover

[REDACTED]  
[REDACTED]

**From:** Jay Moller [REDACTED]  
**Sent:** Monday, June 08, 2015 9:44 AM  
**To:** NorthCoast  
**Subject:** Re: Jay Moller's comments to the Notice of Intent re: R1-2015-0023

So'Hum Law Center Of  
RICHARD JAY MOLLER

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

June 8, 2015

North Coast Regional Water Quality Control Board

5550 Skylane Boulevard, Suite A

Santa Rosa, CA 95403

[northcoast@waterboards.ca.gov](mailto:northcoast@waterboards.ca.gov)

Re: Additional comments to the Notice of Intent to Adopt a Mitigated Negative Declaration and Draft Order R1-2015-0023 Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Marijuana Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region

Dear North Coast Regional Water Quality Control Board:

I apologize for sending in an additional comment to add to my comments I submitted on May 28, 2015, but I thought one point needed to be clarified. I am a landowner in the Sprowel Creek watershed, southern Humboldt County, with a small garden, which I intend to water in the

summer months solely from stored winter water. Otherwise, I intend to use my spring for household use, including a neighborhood pool.

I do not believe it is wise or fair to penalize those of us who are responsible and rich enough to buy tanks to store winter water when it is plentiful. I am sure that the Water Board wants to encourage the storage of winter water (defined as that stored between December or January and April or May or even just the two wettest months of January and February). Instead, it appears that a landowner who stores winter water for use during the summer must agree to not use ANY water for at least two months and for as long as six months in the late spring, summer and early fall. This is counterproductive, unfair, and draconian.

For landowners to use stored winter water during the summer will always be beneficial and contribute to increasing the amount of water in the creeks and aquifer. There is no rational purpose served by forbidding the storage of winter water unless the landowner agrees to not use ANY water for at least two months in the summer. Instead, as I have urged in my previous letter, water storage should be encouraged without conditions and any conditions should recognize that a minimal use of no more than 270 gallons a day (a 25% reduction of the average Californian usage) should be exempted from regulation. The exemption should be based on a reasonable amount of water usage not the number of legal marijuana plants. In other words, to penalize the use of stored water defeats the purpose of encouraging the storage of winter water. If you force a choice, I might have to empty my storage tanks, because I do not have adequate storage for all my water requirements to forebear from using any water from my spring for two months or longer. Moreover, I do not believe it is fair or legal to deny me and my neighbors water unless we buy further storage capacity which would cost tens of thousands of dollars -- unless the state wants to pay for it.

Very truly yours,

RICHARD JAY MOLLER

Jesse Noell

[REDACTED]

[REDACTED]

6/8/15

**Matt St. John**

**NCRWQCB**

**Comments Regarding the Cannabis Order, Inherent Inequity and Unfairness**

**A. Frequently Asked Legal/Policy Question – 4 – March 20, 2013 :**

**8. The Regional Water Board is required by law to control all discharges of waste to waters of the state, to restore water quality in impaired waters, and to maintain water quality in high quality waters that are already meeting water quality standards.**

My concerns: Monitoring by Salmon Forever detected decline in dissolved oxygen to levels lethal to salmonids below streamside cattle operations and timber operations. As flow diminishes, the concentration of pollutants tends to increase. As flow diminishes, biological oxygen demand tends to increase.

Can NCRWQCB demonstrate that the Timber Order/Waiver or the Cattle Order/Waiver sufficiently controls or avoids impairments?

No: when reviewed over the last 20 years, NCRWQCB's performance in protecting water quality in our watersheds is a failure. NCRWQCB's persistent and even irrational waivers for known destructive activities do not control or avoid impairments.

NCRWQCB has never yet met its mandate **to restore water quality in impaired waters, and to maintain water quality in high quality waters that are already meeting water quality standards.** In fact, NCRWQCB's official actions in regulating timber and cattle activities have **specifically and intentionally destroyed water quality standards.** This agency's policies and procedures are disreputable, demonstrating an abject failure to uphold the law and to protect water quality.

Can NCRWQCB demonstrate that domestic gardening activities require more stringent Orders/Waivers than Timber or Cattle activities?

No: NCRWQCB has no data, credible or otherwise, to assert that domestic gardening of any sort of plant is more destructive to watersheds than either timber or cattle operations. Currently NCRWQCB offers no distinction between a 7 plant organic garden and a

commercial plant production other than that the commercial grow will be permitted to have pollution impacts that are greater than de minimus. Size matters; a backyard garden scene has never garnered any interest from regulators because growing one's own food and medicine is not the issue. **The issue is regulating pollution in a manner that is fair and efficient.** NCRWQCB's history of regulation is precisely the opposite; numerous examples of polluted and even destroyed northcoast watersheds are testimony to this agency's failure to protect.

In fact, NCRWQCB refused to stop the known feces contamination of 100 cows (equivalent to a village of 3000 people using no septic systems for their fecal wastes) into a community's sole domestic water supply (and this water supply in Elk River was already officially designated as "severely impaired"). Yet rather than prevent increasing sedimentation and very toxic pollution, NCRWQCB told the affected downstream residents that it "could not tell that man what to do" when asked by the residents to stop the feces production into their water supply and the sediment delivery that was filling the river channel. The evidence is clear: NCRWQCB has no ability to protect water quality, to cease & desist dangerous activities, or to adhere to its own mission statement. So for NCRWQCB to now assert that it must protect us citizens from a different danger than cattle or timber is disingenuous. We have no respect for the abysmal record of this agency; NCRWQCB cannot be trusted to use valid data and equal protection standards when performing its duties.

9. Are marijuana growers responsible for naturally occurring pollution, **legacy pollution**, or background levels of constituents that may have an adverse effect on water quality or beneficial uses?

"In general, no. **Landowners are responsible for discharges of waste to waters of the state associated with human habitation and controllable water quality factors associated with human habitation.** One of the purposes of the individual water quality management plan, proposed as part one of the program requirements, is for the operator to have the ability to document the occurrence of naturally poor water quality or other natural features that are outside of the operator's control. Regional Water Board staff will account for natural sources of water quality impacts in onsite inspection and in evaluating individual compliance."

Regional Water Board and its staff can spend great sums of taxpayers' money to inspect discharges but their history as a regulatory agency demonstrates that the real policy is to place "risk avoidance" onto victims of pollution rather than "risk reduction" on the creators of the pollution. Those cannabis cultivators who are politically favored will be permitted to produce pollution. In fact, special cultivators will likely receive tax breaks and incentives to pollute, just like special timber and cattle operators do. Under NCRWQCB's current proposal small family gardens that are easy to access and don't have any political clout, will be ordered and penalized.

ISSUE: Is the term "human habitation" inclusive of anthropogenic alteration of hydrologic, chemical, and physical processes? ISSUE: In general, why is legacy pollution from a landowner's property that is, or may have, an adverse effect on water quality or

beneficial uses not addressed and regulated in a fair and equitable manner? Why isn't the Board exercising its comprehensive control authority to address legacy pollution as well as legacy impairment of water quality and legacy diminished flows?

Fairness and equity would require that legacy impacts be portioned into the evaluation of individual compliance; why is the Board proposing to bias the criteria? It appears that NCRWQCB encourages impacts---the more impact you make, the more impact you can continue to make. By reviewing NCRWQCB's history of regulation, it's crystal clear that the identity of the polluter is the critical element in approving the pollution. As we now plan for a new pollution impact from a new industry, we must review the methods of the regulators to ensure that they don't repeat their failed policies ("failed" as in failed to prevent pollution not "failed to benefit the polluters"—a NCRWQCB policy that has worked very nicely for timber and cattle.) Do we really want cannabis operators to benefit from such a perverse policy, too?

NCRWQCB must rely on transparent data and evidence for its actions. For instance; Salmon Forever's flow analysis demonstrates that managed forest is much drier in summer and fall than adjacent areas of old forest. This impact adversely affects aquatic species, domestic supply, and beneficial uses of water. As flow diminishes, the concentration of pollutants tends to increase. The residents of one such polluted community, Elk River, have intricate and detailed reports of how NCRWQCB refused to protect water quality despite its mandates to do so. Discriminatory enforcement is essential to NCRWQCB's pollution policies. This agency's legacy as a regulator of man-made pollution is as foul as the waters that now stagnate in the bed of Elk River.

Elk River's pollution is a documented result of regulated activities that should have been entirely prevented had someone imbued with morality and common sense been able to tell an important man what to do. That someone is clearly not anyone from NCRWQCB. NCRWQCB is fond of placing the burden of risk and damage on the receiver of the pollution. It then orders domestic supply users to incur the entire cost of water treatment and disinfection due to their neighbors' businesses. This intentional pollution was regulated, planned, monitored, evaluated, analyzed, and approved by government with absolute certainty that selected families would be severely damaged. While NCRWQCB is quite adept at damaging private property for public use to benefit private industries, it is too perverted to follow through with just compensation for those private individuals who are selected to bear the damages. Who will NCRWQCB select to bear the damages resulting from its discriminatory enforcement of cannabis operations? It could be you and your neighbors!

A measure of the damages inflicted by NCRWQCB's policies is the new FEMA floodzone mapping. Ten years ago, homes in upper Elk River were classified as being above flood zone C—less than one flood per 500 years. Now in 2015, FEMA reclassified the homes in Elk River to be in flood zone A—flooding will be more frequent than one every 100 years. This federal government reclassification is necessary because of NCRWQCB's failed timber sediment control policies. While residents were able to purchase flood insurance one year ago for less than \$400/year, that same flood insurance

will now cost damaged residents over \$4,500/year. This is a damage entirely caused by NCRWQCB's regulatory policies and entirely borne by victims.

NCRWQCB's legacy of violating the watersheds and those who reside in them, cannot be overlooked as this new era of water use is being considered. Clearly, NCRWQCB is not the proper agency to be formulating pollution prevention standards given that its board members are political appointees who persistently demonstrate their disdain for such equal protection concepts as accountability and responsiveness.

#### 14. Will economics be considered?

“Yes. The Porter-Cologne Water Quality Control Act requires that the Regional Water Board perform an economic analysis on agricultural programs that are proposed for adoption. The staff report for the Program will contain an economic analysis that will consider the total cost of implementation of the Program. **On an individual basis, Regional Water Board staff will work with operators to set up an implementation schedule that is reasonable and takes into consideration the threat to water quality, the feasibility of methods to address the issue, and resource availability.**”

How will this threat be determined? NCRWQCB assessed the threat of an upriver industrial cattle operation to be acceptable to all the downstream domestic users in Elk River because the cattle operator was one of those men who can't be told what to do. Was this assessment due to extensive monitoring and analysis? No, by the Board's own admission, they didn't have enough data to determine the imminent threat of thousands of pounds of toxic raw feces being deposited into families' water supplies. Rather than err on the side of public safety, NCRWQCB confirmed its commitment to political favorites.

This supplies further evidence of NCRWQCB's shadow policy of risk avoidance over risk reduction. The only hope for the regulation of pollution from this new cannabis industry is that none of the operators are politically favored; otherwise, we'll just get the same disastrous effects we're living with from timber and cattle.

Will the effect of the regulation increase individuals' cost of growing food, fiber, and medicine for their family to the extent that it exceeds the per unit production cost incurred by commercial agriculture, tailwater, or timber operations? Until NCRWQCB distinguishes the commercial operators from personal use gardeners, the effect of this regulation results in unequal protection and civil rights violations. Don't make the same mistake again (imperiously and unilaterally declaring that cow feces are acceptable for certain people like us); acquire valid data and apply fair & efficient regulations.

Cannabis\_Draft\_Order.pdf:

ISSUE: While the Porter-Cologne requires economic analysis on agricultural programs, and Water Code 174 requires consideration of availability of unappropriated water, the

Board appears to be segmenting the programs so that implementation requirements will be inequitable and unfair. (See draft cannabis order Findings 3, 7 and footnotes 2, 3.)

Why are ownerships with forestry related impacts not responsible for legacy impacts to water quality and quantity (in Elk River for instance), but personal use vegetable growers are? Will personal use vegetable growers be required to post bonds and carry liability insurance? Those public protections are not placed on timber yet the pollution and damages flowing from that industry are epic. NCRWQCB refuses to protect the families of Elk River from timber and cattle pollution but now proposes to put on a big white hat and protect us from cannabis growers. Sadly, this show of bravado merely results in further discrimination by this agency and our rivers just keep on sliming.

Note: Under Water Code 174, “[i]t is also the intention of the Legislature to combine the water rights and water quality functions of state government to provide for consideration of water pollution and water quality, and **availability of unappropriated water** whenever applications for appropriation of water are granted or **waste discharge requirements** or water quality objectives are established.” The Water Board mission statement states: “discharge is a privilege, not a right”, while California law prohibits the wasting of water.

EXAMPLES of inherently inequitable and unfair regulation:

Timber’s Waiver provides an exemption to use thousands of gallons per day for wetting road surfaces and to alter the hydrological processes and fog drip of entire watersheds thereby drying up water resources, while domestic agriculture using as little as 42 gallons per day to supply medicinal cannabis; vegetables or tree crops for domestic use are stringently regulated. One cow consumes 50-100 gallons of water per day, yet cattle operations are exempt. Vegetable growers are ordered to forebear: store all their needed water while timber has permission to use all the water it likes to water their roads and cattle operators face no restrictions at all. This cannot be construed as a fair and equitable much less efficient.

Tailwater discharge to the waters of the state and streamside aquifer is permitted, and cattle are exempt to graze and defecate in or along water courses, while orchards, vegetables, and permaculture more than 6 plants, or within 200 ft., are stringently regulated and must pay a per acre fee and demonstrate that all feces are treated by septic system. Timber humans along with cattle defecate freely on the surface of the ground even when that ground is dangerously close if not right in, the domestic water supply of a community of families.

We neighbors of HRC’s timber operations have seen no evidence of outhouses or any form of septic treatment for the effluent that must occur during a day’s work in the woods. We do see evidence of human toilet paper strewn in the bushes. We know that our upstream neighbor’s cattle do not wear diapers nor is he required to bag his animals’ feces nor is he required to provide any septic system for the thousands of pound of feces under his control. Remarkably, no residents in upper Elk River can legally add on even

one more toilet in their homes because the river is so severely impaired, yet to add on the equivalent of 3000 defecating humans is completely acceptable to this agency and even deserves a tax break. And this policy of refusing to restrict known pollutants while telling the receivers of the pollutants to fortify themselves against it, is the hallmark of NCRWQCB.

Do you really trust this agency to promulgate new pollution restrictions against a growing industry if it's politically uncomfortable to do so? NCRWQCB's history of protecting water quality is replete with failure, corruption, and a malicious disrespect for the common citizen. Water quality has only been impaired under NCRWQCB's policies.

NCRWQCB's policies are not based in law or science. While NCRWQCB staff members appear credible and sometimes even moral, they are repeatedly thwarted by the Board in their mission to protect water quality. A regulatory board composed of political appointees with no accountability, no transparent supervisor, no public evaluations, no express qualifications for the position—this is who we the people entrust our lives and our watersheds to? Establish moral, responsible, and intelligent people on this board and perhaps our northcoast watersheds will eventually receive the protection they so rightly deserve and to which they are legally entitled.

What criteria will NCRWQCB use to assure that its policies are inherently fair and equitable? Given that NCRWQCB has never demonstrated fair and equitable policies in Elk River, this entire regulatory scheme is a sham. This agency has no will to be fair, equitable, or even effective at controlling water quality. Nor does it answer to the public in any meaningful way. Political appointees by definition, are untrustworthy. Political appointees who refer to pollution-damaged residents as “the nuisance people” and laugh as the feces keeps on flowing, are just a stinking reminder of how power corrupts. Any regulations arising from NCRWQCB to allegedly protect water quality must be scrutinized for fairness and effectiveness. Look to NCRWQCB's legacy; it's ugly.

Sincerely for the protection of water quality,

Jesse Noell and Stephanie Bennett

**From:** Randy Remote [REDACTED]  
**Sent:** Monday, June 08, 2015 4:52 PM  
**To:** NorthCoast  
**Subject:** public comment on Draft Order R1-2015-0023

Dear Sirs:

These are my general and brief comments on Draft Order R1-2015-0023, "Draft Waiver of Waste Discharge Requirements and General Water Quality Certification".

Comment 1: Water quality regulations already exist, therefore it is not necessary to draw up new regulations, especially when those regulations place additional legal burdens upon cannabis farmers, as this one does, that do not apply to other types of agricultural operations.

Comment 2: It is a violation of the 5th amendment of the US Constitution to require the applicants to sign a document in which they are essentially incriminating themselves, since cultivation of marijuana is illegal under federal law.

Summary conclusion: Include cannabis growing operations which are not for personal or medical use under existing regulations for other types of agriculture. Abort this draft order or remove all reference to marijuana.

R. Remote

6/8/2015

To : North Coast Regional Quality Control Board  
Re : Comments on Notice of Intent to Adopt Mitigated Negative Declaration Waiver of Waste Discharge Requirements  
...Discharge of Waste from Marihuana Cultivation in the North Coast Region

Dear North Coast Regional Quality Control Board,

Seeley Creek is my home watershed. I live here and have a garden close to the ridge top. Over the past 12 years we have systematically and successfully planned, budgeted and implemented summer water forbearance June 1-Nov1. Most of my water comes from rainwater catchment ponds. We try to prioritize here based on conservation, aquatic recovery, neighborhood education and practicing what we preach.

Re: overview #7

The word "waiver" is confusing. This appears to be a requirement, not a waiver from anything. Is this waiving the water rights we asked for in recent water permit registrations?

For marijuana only? What about cows, vineyards, timber operations, agriculture of wheat, corn, rice, alfalfa, etc? Discharge requirements need to be evenhanded, not specific to marijuana farmers. Ranchers too discharge manure/nutrients into watercourses, including riparian setbacks.

water delivery truck : create dust, sediment, depleat their water source, are an inappropriate band-aid approach to forbearance.

Re: Program Framework #17

I understand Tier 1 folks cannot take drinking water or any water diversion for 6 months beginning May 15. This means if I do not "waive" my State Water Resources Control Board rights to divert drinking water and other water for 6 months, I cannot be Tier 1. This means almost no one will be Tier 1 even if our cows, wheat, vineyards are greater than 200 feet from a class 1,2, or 3 watercourse and slope is \_\_\_\_\_. This is too stringent.

Let me do some math here.

2000sq.ft. of cultivated space is:

10ft X 10ft of growing space per plant plus a 2 foot buffer around each plant is

12ft X 12ft per plant = 144 sqft per plant is 13.8

plants/2000sqft.

Discussion is 25 plants per medical marijuana card, which would require almost 4000 sq.ft. per cardholder person of cultivated space. I personally advocate for 99 plants per prescription.

Dates of forbearance should be similar to those in our State Water Resources Control Board Division of Water Rights Registration for Small Domestic Use Appropriation form. All of these new waivers and regulations are very confusing. Coordination would be good.

Tier 3 schedule for fixing problems should be a reasonable schedule to reflect the owners economic situation. For example a "Family Farm" of 2 cows, 2 pigs, 2 rows of corn, 4000 square feet of marijuana per cardholder, should have a more reasonable fix-it schedule than bigger farms. Recognize people will increase their cash crop in order to comply with planned mitigation measures. Unreasonable for current owners to pay for "legacy" problems.

A 200 foot setback from Class 1,2 streams is good.  
Water forbearance of at least 60 days during dry season is good.  
Definitions of Tier 2 and 3 are good.

Sincerely,

[REDACTED]

[REDACTED]

[REDACTED]

From: T. Gray Shaw [mailto:g[REDACTED]]  
Sent: Monday, June 08, 2015 9:52 AM  
To: NorthCoast  
Subject: Comments on Draft Waiver

#### Draft Waiver comments

- Program Framework, 17. Tier 1: 2000 square foot limit to cultivation area is unrealistic and probably violates law. The size of a garden is immaterial; any size garden can cause problems if it is done wrong, or cause none at all if it is done right. Limits on size and number of plants would appear to violate voter-approved medical needs, because they vary well beyond what can be grown in 2000 square feet and because of the "administrative penalties" under Tier 2 for non-compliance with standards.
- I.A.3.a.: The 200-ft. distance from watercourses required for Tier 1 might be acceptable if it were not for "administrative penalties" under Tier 2 for non-compliance. However, very little land is 200 ft. from a Class III watercourse, and cannabis gardens and facilities can be designed to have no impact, even much closer to watercourses. The 100-ft. and 50-ft. clearance required from Class III and Class I-II watercourses under Tier 2 would also be acceptable if it were not for "administrative penalties." The reason is that cannabis gardens and facilities can be designed to have no impact, even much closer to watercourses. Buffers are only part of that design. Penalties ought to be applied only in cases of measured pollution or sediment.
- I.A.5.f.: "Water storage features, such as ponds, tanks, and other vessels shall be selected, sited, designed, and maintained so as to insure integrity and to prevent release into waters of the state in the event of a containment failure." Release of water into streams in the event of a containment failure would not hurt the stream, unless a rupture caused erosion. This item should be amended accordingly or stricken.
- I.A.9.b.: What is the smallest size of tank/container that requires secondary containment? It is unreasonable to require this for a 5-gal. fuel can, for example.
- I.B.7.: Prohibiting draws after May 15 is too stringent. Being placed in Tier 2 on account of later draws and having to report annually might be fine, if it were not for "administrative penalties." Water draws become steadily more impactful over the course of the dry season. In average rainfall years, the impact of draws is not serious until mid- to late-summer. I propose July 15 to Oct. 31 as the forbearance window. I would support a floating start date for forbearance based on stream flow, to be announced each year in spring.
- Appendix B (BMP), Limitations on Earthmoving: "If shrubs and other non-woody riparian vegetation..." Shrubs are woody. Delete "other."
- Appendix B (BMP), Limitations on Earthmoving: "... (i.e. barley grass)..." s/b "... (e.g., barley grass)..." Same change under Erosion Control.
- Appendix B (BMP), Erosion Control: "Effective erosion control measures will be in-place" s/b "in place"
- Appendix B (BMP), II. Standard BMPs for Construction, A. General BMPs... Erosion Control: "...consultation with a qualified profession is appropriate..." s/b "professional"
- Appendix B (BMP), II. Standard BMPs for Construction, A. General BMPs... Erosion Control: "Hydraulic calculations by a qualified profession..." s/b "professional"
- Appendix B (BMP) global change: In legal terminology, "will" and "shall" are different. Should "will" be changed to "shall" throughout?
- Appendix B (BMP), III. BMPs for Site Maintenance..., B. Stream Crossing Maintenance: "...consultation with a qualified profession..." s/b "professional"
- Appendix B (BMP), III. BMPs for Site Maintenance..., G. Fertilizers, Soil Amendments...: "Prepare and keep onsite a Spill Prevention, Countermeasures, and Cleanup Plan (SPCC Plan)" add "if

applicable" (SPCC pertains to over 1,320 gal. petroleum stored aboveground or 42,000 gal. below ground)

- generally needs copy editing for minor punctuation, capitalization, hyphenation, etc.

- Gray



**From:** Chip Tittmann [REDACTED]  
**Sent:** Monday, June 08, 2015 10:52 AM  
**To:** commentletters  
**Subject:** Topic:Cannabis water regulations

Gentlepeople, This is to comment on your draft

DRAFT Waiver of Waste Discharge Requirements  
and  
General Water Quality Certification  
for  
Discharges of Waste Resulting from Marijuana Cultivation and Associated Activities  
or Operations with Similar Environmental Effects  
In the  
North Coast Region

Focus on the large operations. Right now use the federal, state and local regulations already in place to interdict the mountain top removal and forest clearance with the discharges, pesticide use and road building from the big guys. Residual logging damage should not be the burden of the current landowners. Summer, dry time, water storage for all domestic and all agricultural uses is an admirable goal. Make sure that other regulating agencies and local and county governments, allow and do not excessively tax such efforts. If taking the straws out of the summer streams is your goal, provide tax breaks, not tax burdens such as land, property, value increases for these storage containers. Target your efforts on the large scenes. Allow for a call in hot line for neighbors to help you identify those large grows, and have the personnel to act on these called in by concerned neighbors. As this is being written in June 2015, there are pumps pumping creeks, bull dozers working overtime clearing forests and meadows and no place for concerned citizens to turn. Your procedures and regulations will not bring any large growers into compliance without more boots on the ground. Do not propose complicated regulations aimed at the wrong population of small growers who will not enroll because of the onerous costs to comply, the awareness of the lack of compliance personnel and folly of the government to try and regulate small gardeners, orchardists and homesteaders who are growing their own food. Start with the big problems and work down, you will get better citizen cooperation and their later, future enrollment for your desire to keep the fish and the clean water flowing.

Chip Tittmann, Owner  
[REDACTED]