RESPONSE TO COMMENTS

Tentative Order No. R1-2012-0087
Waste Discharge Requirements
For
Discharges Related to Green Diamond Resource Company's Forest Management Activities Conducted within the Area Covered by its Aquatic Habitat Conservation Plan
In the
North Coast Region

Prepared by:
North Coast Regional Water Quality Control Board
September 7, 2012

The following are response to written comments received during the public comment period on the subject tentative order.

CONTENTS: All comments received during the comment period are listed below, followed by Regional Board Staff response.

Comments received during the comment period

Dave Feral, Mad River Alliance	August 15, 2012
Andrew J. Orahoske, EPIC	August 15, 2012
Dave Feral, Mad River Alliance, EPIC, Ecological Rights Foundation, Humboldt Baykeeper	August 17, 2012
Wayne Whitlock, Pillsbury Law for Green Diamond Resource Company	August, 22, 2012
Dave Feral, Mad River Alliance, EPIC, Ecological Rights Foundation, Humboldt Baykeeper, Center for Biological Diversity	August 23, 2012
Gary Rynearson, Green Diamond	August 31, 2012
Andrew J. Orahoske, EPIC	September 2, 2012
Dave Feral, Mad River Alliance	September 3, 2012

Copies of these comment letters are attached.

Comment from Dave Feral, August 15, 2012

1. *"I'm seeking designated party status because I feel I will need more than 3 minutes to comment on that* [workshop] *item. I don't think I will need much more than 10 minutes, but 3 minutes will severely limit my ability to communicate clearly the opinion Mad River Alliance on this WDR."*

Response: This comment was forwarded to the board chair ahead of the August 23, 2012 workshop and additional comment time was allotted at the workshop.

Comment from Andrew J. Orahoske, August 15, 2012

2. *"EPIC requests designated party status in the development of a waste discharge requirement (WDR) for Green Diamond Resource Company. We have multiple reasons why this proposal is not in the public interest and will result in negative impacts to water quality. We will certainly need more than the allotted 3 minutes to present our concerns to the board."*

Response: This comment was forwarded to the board chair ahead of the August 23, 2012 workshop. Mr. Orahoske was not present at the public workshop.

Comment from Wayne Whitlock, August 22, 2012

Minor suggested changes to text of draft Order for clarification purposes. Comment requires no response. Edits have been incorporated, as appropriate in draft Order.

Comments from Dave Feral, August 17 & 23, 2012 (nearly identical letters)

3. *"We desire that Mad River Watershed be excluded from this WDR…"*

Response: The Mad River Alliance is requesting that the Mad River be excluded from the Green Diamond Forest Management Waste Discharge Requirements (FMWDRs) because they claim that the sediment source analysis used in the TMDL for the Mad River was flawed and that sediment delivery from within harvest units is being underestimated.

The Mad River TMDL is a technical TMDL that presents background and analysis to support calculations of the loading capacity, load allocations, and a margin of safety for an impaired waterbody. Upon completion of the technical TMDL, the State is charged with ensuring the necessary actions are taken so that the loading of the pollutant of concern does not exceed the TMDL and associated load allocations.

The 2004 Sediment TMDL Implementation Policy (Resolution R1-2004-0087) and Temperature Policy (Resolution R1-2012-0013) provide for the control of sediment and temperature pollution by using existing permitting and enforcement tools where possible and support the combination of TMDL requirements with region-wide nonpoint source programs for efficiency and to avoid duplicative regulation. The Regional Water Board Staff Work Plan to Control Excess Sediment in Sediment-Impaired Watersheds directs staff to develop ownership-wide WDRs regionally, and specifically to develop ownership-wide WDRs for Green Diamond in those watersheds in which Green Diamond operates, as a key task to comprehensively control excess sediment.

The conditions of the Order, CEQA mitigations, and the required management measures are expected to achieve TMDL load allocations in the Mad River and elsewhere, and recover impaired watersheds. This Order constitutes

implementation of the Mad River TMDL on Green Diamond's ownership and is an important element in addressing implementation of the Mad River TMDL.

4. *"Mad River Alliance and the undersigned request that harvest rate must be known and tracked to ensure habitat for salmonids and other aquatic species are protected."*

Harvest acreage, silvicultural methods, and CalWater watershed identification are all information that is included as a requirement in THPs. Harvest rate can be calculated with this information, and CALFIRE routinely tracks this information in their database. Additional, more refined information is required as part of this WDR, including annual THP Summary Reports and Aquatic Habitat Conservation Plan (AHCP) Post-harvest Report Forms. Furthermore, monitoring and reporting requirements will provide information for analyzing the impacts, including cumulative impacts, of the covered activities, which is more directly relevant to evaluating the impacts to water quality than simply knowing the rate of harvesting.

5. *"…proposed harvest in watersheds with current harvest rates above 1.5% per year should be given a high level of scrutiny."*

All timber harvest plans submitted by Green Diamond will be given a high level of site-specific scrutiny, as they always have been, as staff participates in the Review Team and evaluates THPs for compliance with this Order and water quality requirements.

6. *"…maintain all harvest rates* [in the Mad River] *watershed wide to less than 1.5% per year, preferably selective cuts."*

Response: The Mad River Alliance asks that the Regional Water Board (RWB) limit harvest rates in the Mad River to less than 1.5% for all THPs. The quoted rate is derived from one scientific paper, Klein et al., 2012[1]. We are aware of the Klein et al. paper, and while it has interesting conclusions regarding the cumulative effects of logging, it lacks specific information regarding the mechanisms and sources of these impacts. We do not believe, at the current time, that the results of one scientific paper are sufficient to modify the way timber harvest activities are regulated in the north coast region. Instead we rely on a robust combination of extensive management measures, protective riparian buffers, and inventory and treatment of legacy sediment. Verification of proper implementation and effectiveness is achieved with a comprehensive monitoring program. This Order contains requirements that are significantly stronger than what is required from other timber harvest plan proponents in the north coast region, including enhanced riparian and geology buffers, seasonal restrictions, and yarding restrictions. We

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[1] Klein, Randy D., Lewis, Jack, & Buffleben, Matthew S (2012). Logging and Turbidity in the Coastal Watersheds of Northern California. *Geomorphology* Vol. 139-140, 136-144.

believe the permit, as drafted, addresses cumulative impacts, including those from rate of harvest, through the required management measures and through the monitoring program.

Comments from Gary Rynearson, August 31, 2012
Comments require no response.

Comments from Andrew J. Orahoske, September 2, 2012

7. *"EPIC requests that the public comment period be extended to account for the lack of public involvement and the inability of the public to review cited documentation."*

Response: As a courtesy, the Regional Water Board will allow an additional seven (7) days for limited review of the documents associated only with Green Diamond's Report of Waste Discharge, with a new close of public comment date of September 12, 2012. Again, additional comments are limited only to the Report of Waste Discharge. The documents associated with the Report of Waste Discharge are:

- Project Description
- Covered Activities Matrix
- Review of Green Diamond Resource Company's Timber Harvest Operations and Forest Management Activities As They Relate to Rate of Harvest and Cumulative Watershed Effects

A supplemental response to these comments is forthcoming prior to the October Board meeting.

8. *"EPIC objects to the manner in which these WDRs were developed, behind closed doors, and without any genuine public involvement."* And, *"We are very disappointed by the lack of initiative and innovation on the part of water board staff in rubber stamping this draft WDR produced, it seems, entirely by GDRC staff and paid consultants."*

Response: This Order was developed and written by RWB staff with appropriate collaboration with Green Diamond. This item was discussed as an informational item at the June 2012 Board meeting in Willow Creek. As required, a 30-day public comment period was provided for review of the draft permit and associated documents, starting on August 3, 2012 and closing on September 3, 2012. To further public involvement, a public workshop was conducted on August 23, 2012. There has been ample opportunity for the public to access/request any documents and provide comment.

In the comment letter, Mr. Orahoske references a document that was posted to the RWB website after the public workshop on August 23. This document is part of the Report of Waste Discharge provided by Green Diamond in its application for Waste Discharge Requirements. Documents supporting the development of the Green Diamond Forest Management WDR have always been available upon request. There is no legal requirement to publish all materials on the RWB website, and this

particular document was provided and posted in response to a member of the public who spoke at the August 23 workshop.

9. *"EPIC contends that nothing is contained within the conditions for the WDR that GDRC is not already committed to doing under other laws."* And, *"The water board cannot simply rely upon ongoing actions to comply with other laws in order to satisfy the laws presently before them."*

Response: The RWB relies, in part, on the California Department of Fish and Game MATO, applicable provisions of the CALFIRE Forest Practice Rules (FPRs), and Green Diamond's AHCP requirements that are related to protection of water quality, which are included specifically or by reference, as enforceable provisions of the Order. Collectively, these regulatory mechanisms require implementation of specific prescriptions or management practices that provide a significant level of water quality protection. The Order is intended to work in conjunction with, and to supplement, the existing regulations in order to implement Basin Plan water quality standards and restore beneficial uses of water across Green Diamond's ownership. As such, those MATO conditions, applicable FPRs, and AHCP requirements that provide water quality protection are included as enforceable conditions of the Order.

10. *"The water board should have prepared an Environmental Impact Report ("EIR") as required by CEQA."*

Response: EPIC claims that because Klein et al., 2012 was published after the environmental documents being used to analyze the proposed activities (EIS, IS/MND), that the RWB should have prepared an EIR. We do not believe that because one paper was published in 2012 finding that a rate of harvest of 1.5% should be established equates to sufficient evidence that the environmental analysis is lacking. To the contrary, there is an extensive cumulative impacts analysis in the existing EIS, which finds that implementation of the conservation measures included in the AHCP will achieve increased benefits to water quality overall (FEIS Chapter 4).

11. *"The water board is bound by a legal settlement with EPIC and other parties to actually ensure that WDRs will recover impaired watersheds."*

Response: The conditions of the Order, CEQA mitigations, and the required management measures are expected to achieve TMDL load allocations and recover impaired watersheds. The RWB considers the Order to constitute TMDL implementation for the 303(d) listed and TMDL watersheds in which Green Diamond conducts the covered management activities.

Comments from Dave Feral, September 3, 2012

12. *"If it is no inconvenience to the water board or staff I would like to provide feed back from the Mad River Alliance to the NCRWQCB by Friday September 21st."*

Response: See response to number 7, above.