
North Coast Regional Water Quality Control Board

NOTICE OF PUBLIC COMMENT PERIOD, WORKSHOP, AND HEARING TO CONSIDER ADOPTION OF THE DRAFT BASIN PLAN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE NORTH COAST REGION FOR THE UPPER ELK RIVER SEDIMENT TOTAL MAXIMUM DAILY LOAD AND ACTION PLAN

NOTICE IS HEREBY GIVEN that the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) is proposing to amend the Water Quality Control Plan for the North Coast Region (Basin Plan) to establish a sediment Total Maximum Daily Load (TMDL) and Program of Implementation for the Upper Elk River (TMDL Action Plan).

I. Sediment TMDL Technical Report

The framework and information for the TMDL Action Plan were first reported in the *Peer Review Draft Staff Report to Support the Technical Sediment TMDL for the Upper Elk River*. Tetra Tech, Inc. has produced a technical report that synthesizes this information along with additional content and revised analyses in response to the scientific peer review, informal public comments, and new reports. The *Upper Elk River: Technical Analysis for Sediment* (Technical Report) represents a comprehensive assessment of sediment conditions and associated beneficial uses in the Elk River Watershed, presents the best available and relevant science, and serves as the Staff Report for the TMDL Action Plan. The Technical Report describes the watershed setting, the applicable regulatory framework, and desired watershed conditions. It further documents the sediment impairments, identifies and quantifies the sources of excess sediment, and estimates the sediment loading capacity of the system, distinguishing between current and future sediment loading capacity. Finally, the Technical Report includes a TMDL for sediment as supported by the existing data, as well as a framework for implementation, monitoring, and adaptive management. The TMDL Action Plan contains the technical TMDL components and a Program of Implementation, in compliance with the State Water Board Impaired Waters Policy (2006).

II. Program of Implementation

The Program of Implementation for the Upper Elk River Watershed identifies a combination of regulatory and non-regulatory implementation actions that will lead to recovery of beneficial uses and prevention of nuisance conditions in the Elk River. The three implementation components are described in more detail below and include:

- a. Waste Discharge Requirements (WDR) or waiver of WDRs: Revise applicable regulatory programs to reduce sediment loads from new sources and bring existing sources toward the load allocation (WDRs);
- b. Elk River Recovery Assessment: Develop and implement an instream sediment remediation and channel restoration program to improve hydraulic and sediment transport in Elk River; and
- c. Watershed Stewardship Program: Establish a Watershed Stewardship Program to serve as an umbrella in support of beneficial use enhancement, prevention of nuisance, and a trajectory of watershed recovery.

WDR or Waivers

First, Waste Discharge Requirements (WDRs) are the primary regulatory mechanism utilized by the Regional Water Board to control the nonpoint source pollution resulting from past and ongoing timber harvesting activities, the primary land use in Upper Elk River Watershed. In a separate notice, the Regional Water Board has circulated for public comment draft Waste Discharge Requirements and General Water Quality Certification for Nonpoint Source Discharges and Other Controllable Water Quality Factors Related to Timber Harvesting and Associated Activities Conducted by Humboldt Redwood Company, LLC in the Upper Elk River Watershed (draft WDR). The purpose of the draft WDR is to provide a water quality regulatory structure to prevent and/or address discharges of waste and other controllable water quality factors associated with timber harvest activities by Humboldt Redwood Company (HRC), the largest landowner in the watershed. Other responsible parties include Green Diamond Resource Company, Bureau of Land Management (BLM), and individual Non-industrial Timber Management Plan (NTMP) landowners.

Elk River Recovery Assessment

Second, instream sediment remediation and channel restoration is necessary to improve the hydrologic and sediment transport capacity of the impacted reach of Upper Elk River, thus improving the loading capacity for sediment and abating nuisance conditions in the watershed. Potential recovery actions include dredging, new channel construction, off-channel sediment detention basins, levee construction or modification, vegetation management, infrastructure improvements, creation of inset floodplains, high flow channels, and placement of instream Large Woody Debris (LWD). Such an undertaking requires the participation, coordination, and support of multiple landowners, scientists, permitting agencies, and funders. The Regional Water Board has opted to pursue primarily non-regulatory means of accomplishing sediment remediation and channel restoration to improve conditions in the impacted reach of the Upper Elk River.

Watershed Stewardship Program

Third, the overarching component of implementation is to convene a participatory program that engages residents, community members, scientists, land owners, land managers, and regulatory agencies in developing a collaborative planning process that seeks to enhance conditions in the Elk River watershed. The Elk River Watershed Stewardship Program will work to accomplish the following goals:

- a. Promote shared understanding and seek agreements among diverse participants.
- b. Identify strategies and solutions to:
 - i. Improve the hydrologic, water quality, and habitat functions of Elk River;
 - ii. Reduce nuisance flooding of private properties and improve public transportation routes during high water conditions; and
 - iii. Improve domestic and agricultural water supplies.
- c. Promote coordinated monitoring and adaptive management.

A program of implementation must include a description of the nature of the actions necessary to achieve objectives, including recommendations for appropriate action by any entity, public or private, a time schedule for actions to be taken, and monitoring to determine compliance. (Wat. Code, § 13242.) The TMDL Action Plan provides for active monitoring and reporting, adaptive management, and Regional Water Board review in five years.

III. CEQA

The adoption of the proposed Basin Plan Amendment is subject to the requirements of the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21159.) Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional Water Boards' basin planning process as a "certified regulatory program" that adequately satisfies the CEQA (Pub. Resources Code, § 21000 et seq.) requirements for preparing environmental documents. (Cal. Code Regs., tit. 14, § 15251, subd. (g); Cal. Code Regs., tit. 23, § 3782.)

In a separate Public Notice, the Regional Water Board is circulating the draft WDR for HRC nonpoint source discharges and other controllable water quality factors from timber operations and associated activities in the Upper Elk River. The draft WDR is accompanied by a draft Initial Study and Mitigated Negative Declaration (IS/MND) that analyzes potential impacts from the draft WDR, and identifies mitigation measures to reduce those impacts. If adopted, the MND satisfies CEQA requirements for the regulatory portion of the TMDL Action Plan applicable to HRC. Other implementation actions for upstream activities in Table 4 of the TMDL Action Plan are subject to various permitting structures that have existing CEQA coverage.

The non-regulatory components of the TMDL Action Plan (i.e., instream remediation, channel restoration, and the Watershed Stewardship Program) also require CEQA coverage. As explained in the MND for the draft WDR, the instream remediation, channel restoration and Watershed Stewardship Program may result in large projects that are beyond the scope of the MND. As explained in more detail below, the Regional Water Board intends to rely on the Temperature Policy Substitute Environmental Documentation (SED) and Restoration Policy Addendum (Restoration Addendum) for CEQA compliance for the restoration components of the TMDL Action Plan.

On March 13, 2014, the Regional Water Board adopted Resolution No. R1-2014-0006 the Policy for Implementation of the Water Quality Objective for Temperature (Temperature Policy), which was subject to the requirements of the CEQA as a “certified regulatory program.” (Cal. Code Regs., tit. 14, § 15251, subd. (g); Cal. Code Regs., tit. 23, § 3782.) The Regional Water Board developed and certified the SED consistent with the requirements of Public Resources Code section 21159, including the CEQA Environmental Checklist containing an analysis of environmental impacts, mitigation measures to reduce or avoid those impacts, and alternative means of compliance that would avoid or eliminate environmental impacts. (Pub. Resources Code, § 21159, subd. (a)(1)-(3); Cal. Code Regs., tit. 14, §§ 15187, subds. (b), (c)(1)-(3), 15189.) The SED analyzed and addressed potential impacts and mitigation measures of a full range of potential projects that could be implemented to meet temperature objectives, including but not limited to measures to control sedimentation, measures to address surface impoundments, and measures to address aquatic ecosystem restoration. On April 8, 2015, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2015-0200 approving the Temperature Policy and certified the associated SED. Various projects that may be implemented under the TMDL Action Plan are similar if not identical to the various projects contemplated under the Temperature Policy including dredging (i.e., large scale excavation, bioengineering, and instream restoration), stream bank stabilization, new channel construction, off-channel sediment detention basins, levee construction or modification, vegetation management, infrastructure improvements, creation of inset floodplains, high flow channels, and placement of instream LWD. The SED includes a programmatic statement of overriding considerations if the State or Regional Water Board finds that a project’s potentially significant, unavoidable environmental impacts could be acceptable in light of the benefits of attainment and protection of beneficial uses. Decision-makers will have the benefit of project-level CEQA review of any large-scale restoration projects.

On January 24, 2015, the Regional Water Board adopted its *Policy in Support of Restoration in the North Coast Region* (Restoration Policy) (R1-2015-0001 & R1-2015-0004), and relied on the analysis contained in the Temperature Policy SED for CEQA compliance. Pursuant to California Code of Regulations, title 14, section 15164, the Regional Water Board prepared an addendum to the SED to analyze factors that would trigger the need to prepare subsequent CEQA analyses under California Code of Regulations, title 14, section 15162, subdivision (a). The Restoration Addendum reports no anticipated new or worsened water quality or other environmental impacts that are expected to result from the adoption of the Restoration Policy, which also contemplates the types of restoration projects that may occur under the TMDL Action Plan. On May 19, 2015, the State Water Board adopted Resolution No. 2015-0200 approving the Restoration Policy and certified the associated SED and addendum. The Regional Water Board will consider the collective CEQA documentation, including the draft WDR IS/MND, Temperature Policy SED, and Restoration Addendum when considering the adoption of the TMDL Action Plan.

IV. Availability of Documents

The draft Basin Plan Amendment – Action Plan for the Upper Elk River Sediment TMDL (TMDL Action Plan) and Upper Elk River Technical Analysis for Sediment (Technical Report) are available for public review and comment and can be downloaded from the Regional Water Board’s website at:

http://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/elk_river

These documents can also be viewed by contacting or visiting the Regional Water Board’s office at 5550 Skylane Blvd., Suite A, Santa Rosa, California 95403 weekdays between 8:00 a.m. and 5:00 p.m. or calling 707-576-2220.

V. Public Comments

Persons wishing to comment on the draft Basin Plan Amendment and Technical Report are invited to submit comments in writing. To be evaluated and responded to by the Regional Water Board, and fully considered in advance of the hearing, all written comments and evidence must be *received* by the Regional Water Board no later than **5:00 p.m. on Monday February 15**. To accommodate the holidays the normal 45-day public comment period has been extended to 54 days. Untimely submittal of written comments will not be accepted or responded to.

As noted above the documents available for comments include:

1. The Technical Report; and
2. The draft Basin Plan Amendment – The Action Plan for the Upper Elk River Sediment TMDL

Please Note: Comments on the Technical Report submitted in association with review of the draft WDR for HRC need not be repeated as part of comments on the draft TMDL Action Plan. Commenters are requested to simply provide reference to any previously submitted comments.

Please transmit comments electronically to the attention of Alydda Mangelsdorf at the Regional Water Board at NorthCoast@waterboards.ca.gov. Comments can also be faxed to 707-523-0135 or mailed to the California Regional Water Quality Control Board - North Coast Region, ATTN: Alydda Mangelsdorf, 5550 Skylane Blvd., Suite A, Santa Rosa, California 95403. Persons wishing to present oral comments are invited to attend the hearing and present oral comments.

VI. Staff Workshop

The staff of the Regional Water Board plan to hold a public workshop to provide information and answer questions related to the Technical Report and TMDL Action Plan.

Date and Time: February 5, 2016 at 1:00 P.M.

Location: Humboldt County Agricultural Center, 5630 South Broadway, Eureka

VII. Hearing Date and Location

The Regional Water Board will hold a public hearing to consider adoption of the proposed TMDL Action Plan at its regular public meeting scheduled:

Date and Time: April 7, 2016, 8:30 A.M.

Location: Wharfinger Building, #1 Marina Way, Eureka, CA.

The hearing will be conducted in accordance with California Code of Regulations, title 23, section 649.3. Time limits may be imposed on oral testimony at the public hearing; groups are encouraged to designate a spokesperson.

Written comments submitted prior to the close of the comment period will be considered by the Regional Water Board as part of their decision making process. Testimony at the above-scheduled hearing may summarize or explain timely submitted written evidence.

To be evaluated and responded to by the Regional Water Board, and fully considered in advance of the hearing, all written comments and evidence must be *received* by the Regional Water Board no later than **5:00 p.m. on February 15, 2016** and any oral comments should be presented at the public hearing to take place **8:30 A.M., Thursday April 7, 2016** at **Wharfinger Building, #1 Marina Way, Eureka, CA**. To subscribe please visit:

http://www.waterboards.ca.gov/resources/email_subscriptions/reg1_subscribe.shtml

VIII. PUBLIC HEARING ACCESSIBILITY

A map and directions to the hearing are available online at:

http://www.waterboards.ca.gov/northcoast/about_us/contact_us.shtml

Anyone requiring reasonable accommodation to participate in the hearing should contact Patti Corsie, Executive Assistant, at (707) 576-2307, at least five days prior to the scheduled Board Meeting. The hearing location is accessible to persons with disabilities. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

Matthias St. John
Executive Officer
December 23, 2015