

Kristi Wrigley 2.15.2016

## Comments: Elk River TMDL for Sediment

The goal of the Elk River sediment TMDL should be optimum restoration of water quality to Basin Plan beneficial uses and recovery of a thriving fish population especially threatened Coho. Though the TMDL calls for a zero discharge its reliance on a WDR which continues to permit new logging ensures new discharges will occur. Therefore one must conclude that zero isn't zero once again, an all too familiar scenario for downstream residents. Explain and describe how zero will be attained with all the permitted discharges of all timber operations and how you plan to deal with unplanned discharges.

The term "feasible remediation" is worrisome; explain this term fully. All too often it is interpreted as economically thrifty for the polluter while it allows untold economic and emotional harm; economic damage to real property, income loss, precludes anticipated use of private property and environmental damage onto downstream residents. Explain how these adverse effects will be prevented.

In all the verbiage leading up to this TMDL there has never been a thorough or even a timid analysis of the economic hardships pressed upon downstream residents by the timber industry and the State. Either do this analysis or put downstream residents' rights first instead of allowing more logging first. The residents deserve an explanation from the Board members their long standing obvious bias for logging as residents often hear staff cannot fully advocate for residents' rights because the Board would



never approve that alternative.

Please explain the basis of an unreasonably long 20 year recovery period timeline for what at best will be a defined recovery for the river and will likely not be a real recovery for the residents' rights as they have historically known and depended on; clean water for domestic and agricultural use with an abundant fish population. Even a Central Valley TMDL for agricultural runoff has a 10 year timeline. The 20 year timeline is egregious in the light of the 20 years of severe damage already experienced by direct downstream residents. The State has essentially taken much of our property for their use without any compensation. Returning residents' property for their full usage should be the first goal of the Elk River TMDL, not keeping HRC engaged.

Explain how this TMDL is consistent with State (and therefore Federal) Antidegradation Policy in view of the fact that the State and Federal Antidegradation Policy has been flagrantly violated in actual physical fact in the river itself and in the legal environment as no hearing or notice was ever given. If this TMDL serves that purpose it needs to openly address it. The waters of Elk River have been knowingly and continuously degraded by WQ since 1997.

The crushing and burdensome demands of the State's process for dealing with sediment from logging is impossible for ordinary citizens to effectively participate. Every State proposal, including each and every THP requires yet more comment from a very limited citizenry. Their comments are what they have known, seen and experienced in a narrative format, which is easily ignored by the scientific realm of the



agencies. After 20 years of repeated testimonials the privilege of the upstream neighbor, logging, prevails over their basic right to clean water. It is unclear how this TMDL will adequately control sediment discharge to recover the high quality water of Elk River in 1978-1985. It does not even appear to be a clear goal. What is clear is the intended priority use of Elk River is as a waste ditch for industrial timber while working to restore conveyance capacity but not necessarily restore high quality fishable, swimmable, drinkable water quality known to residents for decades.

Please explain, enumerate and substantiate the tried and true methods in this TMDL used to achieve success. Just assigning a zero discharge especially in the light of new logging which renders this zero a qualified zero does not achieve success. Real accountable methods need to be thoroughly explained, not just alluded to. This TMDL assures new logging activity generated sediment not a successful zero which achieves optimum relief and recovery for residents. This is especially significant in the light of the unsuccessful reputation the State has had over the last 20 yrs. even with the latest landowner HRC. When the residents also see WQ fully allocating the sediment load the State's failure is downright scary. They know exactly what has been going on in Elk River because they've been watching it for years and years.

Explain why/how not being able to achieve an immediate zero discharge if logging were stopped is a basis to allow new logging. There is no science that I have seen that shows logging however good, does not produce new sediment. HRC or any timber



company, contending so does not make it so. Surely the failure to stop sediment from past operations would support stopping logging now, till man made discharges reach a nonharmful level. Clearly the watershed and Elk River would optimally recover water quality to comply with Basin Plan objective and compliance with the Antidegradation Policy if such a temporary stoppage did occur. Merely saying you believe the best choice is to keep HRC engaged doesn't make it so. Demonstrate how this choice best serves the people of the State of California. Clean drinking water and a thriving fish population would best serve Californians as well as all Americans. The reliance of this TMDL on nonregulatory means to recovery is an unknown as a means to achieve recovery of all the beneficial uses of Elk River. Implementation of phase 1 requires control of all existing and potential future sediment sources while the Elk River Assessment is completed and the Elk River Stewardship Program is developed, initiated and has successful results in the activities necessary to expand the sediment loading capacity of impacted reaches and abate nuisance conditions; then goes on to describe normal sediment transport. That is inadequate to achieve recovery of the beneficial uses of Elk River and should not substitute as an end goal. "Normal sediment" loading and transport is not 100% allocation which is most probably not going to be achieved on the ground and is merely a paper achievement. There needs to be a real and effective margin of safety - say a 50% loading capacity to allow for uncertainty, miscalculations and unintended discharges.



Flooding based on bankful events should harken back to 1978/1985 conditions before the deposition of 4 feet of sediment at bankful. Caution needs to be addressed in relation to the planned yet unfunded non regulatory measures which will supposedly enhance the volume of water the river carries. That sounds like a Flood Control Plan and does not serve as a river recovery plan. Plans which are only vague at this point, Residents must be assured that they have control of what activities occur on their property. None of us have seen the 319H grant and until we do we cannot give it our whole support as a means to recovery. There are practical and legal aspects which must be clearly explained before any non regulatory recovery is an actuality this TMDL can depend on. Recalculating the sediment allowed based on channel transport is unacceptable in a Basin Plan. Water quality objectives need to be recovered and resident lives made whole before any logging is allowed in the upper watershed and should be the standard of comparison for any adjustments.

The Elk River Recovery Assessment should necessarily have directly affected upper Elk River residents on the Committee to represent their knowledge, interests and will. All their meetings should be open to attend by affected residents, otherwise planning for a problem we exclusively suffer are contemplated by and direction taken without our knowledge and consent.

The residents and Salmon Forever have done more river analysis and have more direct knowledge of the impacted reach yet are excluded from the Recovery Assessment Planning process. The residents



have learned that they cannot rely on W.Q. staff, independent environmental groups, the County or other public trust agencies to adequately represent, protect or restore their rights. The nonregulatory Stewardship program is an ill defined entity with under defined goals and guidelines at this point. Therefore it is premature to rely on that as a proven means to recovery.

The WDR which is an integral part of this TMDL is an unclear regulatory instrument at this time. The fact that it permits logging up to 2% of the watershed equal to what they log now in the North Fork Elk River, obviates any real Margin of Safety. It has clearly failed to protect downstream residents and they added measures effects are only conjecture at this point. You cannot precisely calculate nature. Any unforeseen occurrence or incorrect calculation in sediment production and delivery reflects what is so wrong with the existing system. It becomes an oops and on we go. There is no provision made as to what should be done if there is failure, mirroring so often what government regulations fail to do - address their own failure.

The TMDL needs to rigorously specify effective monitoring in the affected reach by other than Lumber Company monitoring. Salmon Forever has operated two strategically located monitoring stations in Elk River and W.Q.

Should support continued operation which has produced robust sediment data. The timber company data should not be the only source of data in Elk River. Corroborative data should be essential at this point to ensure verifiable



accurate results. The lumber companies have controlled far too much of the science associated with logging related sediment production with disastrous results for downstream residents and fish populations. It is insufferable that the public trust agencies require innocent victims who are obviously harmed by sediment from logging to have to create the science that shows in data format their harm. Such is the case where eyewitness observations showed that stopping new logging produced the best recovery which was then demonstrated in a report sent to W.Q., CDF and appeared as an article in Forest and River news. Residents know what they see and are the most knowledgeable source of cumulative effects. Our knowledge is ignored by the system always circumvented by timber science.

It is difficult to understand how this TMDL adequately addresses logging activities by Green Diamond - the statement that their activities will be consistent with the TMDL action plan rings hollow. It needs to be explained especially since it is the Board not the E.O. that enrolls their plans. The TMDL needs to clearly explain how all this logging along with the NTMPs in Elk River and other sediment producing activities like road building and reconstruction will be accurately accounted for in the zero discharge. It is obvious neither HRC or GD take the residents loss seriously. HRC continues winter logging and massive road building and reconstruction without real consideration to the immediate downstream landowners in real time. So often future gain is given credence over immediate

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harm. THPs always conclude that all harm has mitigated to less than significant no matter what has happened to residents water, property and welfare. The entire system of logging analysis fails the downstream affected residents that it is supposed to protect and serves only to enable logging. The WDR/TMDL process by Water Quality further codifies the subjugation of residents' rights. The process is biased to enable logging even though logging has and is destroying residents' inherent right to water in Elk River and to live freely on their own property without invasion by the upstream neighbors waste.

Explain thoroughly why W.Q. chooses more harm over optimum recovery for the adversely affected residents. W.Q. using their power of Cease and Desist and Cleanup and Abatement could choose to recover Elk River in a more timely manner. Many of us will likely die before we see recovery; some have already. Using Cease and Desist to stop even temporarily all the logging would give residents much needed relief after years of constantly increasing harm and deprivation of their inalienable rights.

W.Q. needs to use Cleanup and Abatement to mandate the timber company to keep his pollution up on his property. This TMDL should also designate such be immediately pursued using their own money and manpower not public funds.

This TMDL enables logging while getting to a trajectory of recovery. The best interests of California demand a TMDL that restores all Elk River's beneficial uses in a sure and timely manner.

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