

**From:** Parrish, Janet [<mailto:Parrish.Janet@epa.gov>]  
**Sent:** Monday, February 22, 2016 2:26 PM  
**To:** NorthCoast  
**Cc:** Mangelsdorf, Alydda@Waterboards; Parrish, Janet  
**Subject:** Draft Elk River Sediment TMDL Comments

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

Subject: Comments on the public review drafts

1. Draft Basin Plan Amendment - Action Plan for the Upper Elk River Sediment TMDL (TMDL Action Plan), October 21, 2015
2. Upper Elk River: Technical Analysis for Sediment (Technical Report), Dec 23, 2015

Please note: a copy of these comments are also included in the attached document, for your convenience.

The U.S. Environmental Protection Agency (EPA) appreciates the opportunity to support your progress in completing the Elk River Sediment TMDL. We encourage you to consider our suggestions described in the attached comments, and we recommend that your Board adopt the TMDL, incorporating our suggested revisions.

The comments below are intended to assist the North Coast Regional Water Quality Control Board (Regional Board) staff in preparing TMDLs that will meet EPA requirements. These comments are not necessarily complete, and they do not constitute an approval or determination by EPA under Clean Water Act Section 303(d). We will continue working with you to further clarify our comments and to help finalize any remaining issues.

EPA commends the comprehensive use of available data, resulting in a well-supported sediment source analysis, and we acknowledge the utility of summarizing key points of the many historical analyses into a cogent, relevant, and readably condensed technical support document. The data support the determination of loading capacity and corresponding TMDL as zero, as well as the necessity of a conservative approach to sediment source control.

EPA does not approve implementation plans, but we recognize and encourage the identified approaches to achieve in-stream conditions that fully support all beneficial uses and attain water quality standards. Furthermore, we are enthusiastic about your intention to develop a Nonpoint Source plan consistent with eligibility for future funding under the Clean Water Act Section 319(h) program.

As we have discussed, EPA must ensure that necessary elements are included in order to approve a TMDL under Clean Water Act Section 303(d). While many of the elements can be found in the documents, we would appreciate some clarifications and additional information. We understand that you intend to develop a Resolution that may include most of what may appear to be missing or incomplete information in the draft documents.

EPA appreciates your efforts in completing the Upper Elk River TMDL to address sediment impairment, and we look forward to reviewing the final TMDL when you provide the final documents containing all required elements to us for approval under Clean Water Act Section

303(d). If you have any questions, or if you would like further clarification of our comments, please call me at (415) 972-3456.

You will find the primary findings from our review detailed below.

Sincerely,

Janet Parrish  
US EPA Region 9  
Water Quality Assessment Section  
415-972-3456

### **Detailed Comments**

#### **Problem Statement, Water Quality Standards, Numeric Targets, Linkage Analysis, Sediment Source and Data Analysis, and History of Restoration Efforts and Public Involvement**

The components of these sections appear to be largely complete. However, we would appreciate a clearer, consistent, and more specific delineation of the waterbody or waterbodies to which the Upper Elk River Sediment TMDL (or TMDLs) applies. It would also be helpful to identify definitively the relationships between the existing Section 303(d) listing and any new listings or proposed delistings that were identified in the process.

It is not clear which parts of the watershed are included in the TMDL; various subwatershed areas appear to be delineated differently in different sections of the documents (e.g., Technical Report Figures 1-3 versus Figure 13, Upper Elk v. Lower Elk subbasins, the location of the “impacted reach” and the subwatersheds that drain to or are included or excluded in either, and the exclusion or inclusion of the Upper Little South Fork subwatershed). Please identify clearly which waterbody or waterbodies are subject to the TMDL, and which will be proposed for future actions, such as a delisting proposal or future TMDL actions.

It would also be helpful if the “impacted reach,” and the relationships between the impacted reach, the subwatersheds, and TMDL waterbody delineations could be clearly specified. Chapter 2 of the Technical Report states that “*the drainage area to the impacted reach includes a portion of the Lower Elk River subbasin (Figure 1). While this portion of the Lower Elk River subbasin drains to the impacted reach, it is not anticipated to contribute significant sediment loads; therefore, the upper 17 subbasins were used to calculate sediment loading....*” Is the impacted reach included within the delineation of the TMDL? Please explain. For the portion of the Lower Elk River that appears to be excluded from the TMDL analysis, can you identify the portion that is “not anticipated to contribute significant sediment loads” and support the statement or explain the reasoning?

#### **Loading Capacity, TMDL, Load Allocations, and Waste Load Allocations**

While we believe you have adequately supported your determination of an “assimilative capacity” of zero, we would appreciate greater clarity in explicitly identifying the loading capacity, TMDL, and allocations; perhaps this would be best accomplished in a section that is specifically devoted to these elements (i.e., loading capacity = 0; TMDL = 0; WLA = 0; LA = 0). Currently, the information is largely implied but not stated explicitly, and there are some contradictory statements (e.g., p. 5 of the Technical Report states, “These changes do not constitute a new TMDL”). Again, please state explicitly which waterbody or waterbodies the TMDL applies to.

It will also be beneficial to clarify the discussion of the phased implementation approach that you propose. You have proposed a TMDL of 0, corresponding to a loading capacity of 0, which is due in part to continued in-stream aggradation. This TMDL would apply until such time in the future that water quality standards are attained or loading capacity can otherwise be recalculated, which may require measures that increase sediment transport capacity. While current and future phases are described for the implementation efforts, a future TMDL is not specified; when the stream and watershed conditions are reevaluated in the future, you may find that another course of action is appropriate, such as delisting the Upper Elk River for sediment if water quality standards have been attained. If you do reevaluate watershed conditions in the future and find that water quality standards are not yet attained, you may determine that the loading capacity should be recalculated and the TMDL revised. To the maximum extent possible, it would also be helpful to describe a timeframe during which you anticipate that water quality standards will be attained, and identify the factors on which this estimate is based.

The Technical Report states incorrectly that load allocations apply to NPDES permitted discharges (p. 73). NPDES permitted discharges are considered point sources, and would be assigned waste load allocations. The Technical Report also states that there are no point source discharges of sediment in the Upper Elk River watershed. Please state specifically whether waste load allocations and load allocations are currently zero. In the future, if the loading capacity and TMDL are revised, it would be helpful to explain and fully describe waste load and load allocations. In particular, please ensure that any existing or anticipated NPDES permits will be addressed as required and appropriate, including any of the statewide General Permits.

### **Margin of Safety, Seasonal Variations, and Critical Conditions**

The Technical Report and Draft Action Plan state that the loading capacity approach “incorporates a conservative, implicit MOS.” Please provide additional explanation and support. In addition, please explain your consideration of seasonal variations and any critical conditions.

### **Public Involvement**

You have documented an extensive and inclusive program of public involvement in the development of your proposed TMDL and action plan, and we encourage your continued diligent efforts to work collaboratively with all stakeholders toward attainment of water quality standards, and to consider all public comments fully and objectively, as you have demonstrated in the past.