Notice of Public Hearing and Notice of Intent to Adopt a Subsequent Mitigated Negative Declaration and Order No. R1-2019-0021

Waste Discharge Requirements 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, Humboldt County

NOTICE IS HEREBY GIVEN that the North Coast Regional Water Quality Control Board (Regional Water Board) will conduct a public hearing to consider adoption of the above-referenced draft Order and Subsequent Mitigated Negative Declaration on June 19 or 20, 2019, at 9:00 a.m., in the City Council Chambers at the Eureka City Hall in Humboldt County or at the location to be announced in the Regional Water Board’s agenda and on its website: http://www.waterboards.ca.gov/northcoast/. The purpose of draft Order is to provide a water quality regulatory structure to prevent and address discharges of waste and other controllable water quality factors associated with timber harvest activities in the watershed and update existing Order No. R1-2016-0004 to ensure the waste discharge requirements (WDRs) will incorporate specific provisions that implement all of the hillslope indicators and numeric targets contained in the Action Plan for the Upper Elk River Sediment TMDL (TMDL Action Plan) and ensure that all anthropogenic discharges of sediment are eliminated to the extent feasible and, if not feasibly eliminated, minimized, as soon as feasible, but no later than 2031. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the draft Order and Mitigated Negative Declaration, or take other action.

Project Description: On November 30, 2016, the Regional Water Board adopted Order No. R1-2016-0004, Waste Discharge Requirements For Nonpoint Source Discharges and Other Controllable Water Quality Factors Related to Timber Harvesting and Associated Activities Conducted by Humboldt Redwood Company (HRC), LLC In the Upper Elk River Watershed, Humboldt County [the 2016 Order] and associated Initial Study and Mitigated Negative Declaration developed pursuant to the California Environmental Quality Act (CEQA) to analyze potential impacts from the proposed Order. The 2016 Order established specific requirements based largely on HRC’s report of waste discharge, with additional measures as warranted, to meet applicable water quality requirements. Both the 2016 Order and the draft Order incorporates and includes the following components:

- Measures to Prevent Sediment Discharge;
  - Forest Management;
  - Riparian Zone Protection;
  - Road Management
  - Landslide Prevention
Wet Weather Restrictions
  Limited Harvesting in High Risk Subwatersheds
  - Inventory and Treatment of Existing Controllable Sediment Sources;
  - Watershed Restoration Efforts; and
  - Monitoring and Reporting Program.


The Program of Implementation, one of the key components of the TMDL Action Plan, identifies a combination of regulatory and non-regulatory actions that will lead to the attainment of water quality objectives, recovery of beneficial uses, protection of high-quality waters, and abatement of nuisance conditions in the Upper Elk River Watershed. Due to continued impairments in the watershed and the inherent uncertainty with existing sediment transport processes, the Program of Implementation is an adaptive management program that includes sophisticated watershed modeling, collaborative watershed stewardship, and experimental pilot remediation projects. In November 2018, the Regional Water Board received the report *Elk River Recovery Assessment: Recovery Framework* from the ERRA Project Team. A pilot sediment remediation project was also required and has been completed. The pilot project was co-funded by the Coastal Conservancy, with cost shares from CalTrout and HRC. This project involved the removal of the road base at the Elk River Steel Bridge and removal of trees and sediment from a portion of the connected floodplain. CalTrout and its subcontractors successfully completed construction of this project in September 2017. The Regional Water Board serves as the lead agency for two additional sediment remediation pilot projects in the impacted reach of the Elk which are currently in the CEQA permitting phase.

In Resolution No. 2017-0046 adopting the TMDL Action Plan, the State Water Resources Control Board included findings that described its understandings of the TMDL Action Plan’s requirements: “(1) that hillslope indicators and numeric targets in Table 2 apply throughout a discharger’s area of land ownership and not solely in areas of active harvest, (2) that the North Coast Water Board’s WDRs and any other orders for the two major landowners that conduct timber harvesting will incorporate specific provisions that implement all of the hillslope indicators and numeric targets in Table 2, unless the regional board makes specific findings about why any omitted hillslope indicators or numeric targets are not appropriate or feasible, (3) the WDRs and any other orders for the two major landowners will also contain any additional specific provisions to ensure that all anthropogenic discharges of sediment are minimized and eliminated, and (4) in the absence of a future amendment to the TMDL Action Plan, including an amendment based on successful implementation of the Watershed Stewardship Program resulting in expanded sediment loading capacity in the impacted reach, the WDRs and any other orders will require the landowners to achieve the zero load allocation for all anthropogenic discharges of sediment as soon as feasible, but no later than 2031.”
Following discussions with Regional Water Board staff, HRC proposed revisions to specific provisions of the 2016 Order to implement TMDL hillslope targets and load allocation and on February 1, 2019, submitted the proposed revisions. Following review of HRC’s proposal and in consideration of the State Board’s resolution, the Regional Water Board developed the draft Order, which incorporates revised findings and Specific Requirements for riparian zone protection and wet weather restrictions designed to address and fully implement TMDL hillslope indicators, numeric targets and the load allocation. Significant revisions to Specific Requirements include:

- Riparian zone protection has been expanded to require minimum 50% post-harvest overstory canopy cover within 300 feet of Class I and II watercourses and 150 of Class III watercourses;
- Wet weather requirements for hauling are more protective, requiring that between October 15 and May 1, hauling shall be limited to permanent rocked all-season roads that meet the HCP stormproofed standard and shall cease for a period of 48 hours following a precipitation event that results in 0.25 inches or more of rainfall within any 24 hour period;
- The seasonal shut down for road construction/reconstruction has been extended from September 15 to October 15 in order to accommodate seasonal bird habitat restrictions. Between September 15 and October 15, erosion control BMPs shall be on-site and ready to deploy and shall be applied to the entire length of new road construction prior to any day for which a chance of rain of 30 percent or greater is forecast by the National Weather Service;
- The seasonal shut down for ground-based yarding and mechanical site preparation has been changed from October 1 to October 15.

**Draft Order and Initial Study and Subsequent Mitigated Negative Declaration are Available for Review and Comment**

Comments must be submitted by April 15, 2019 at James.Burke@waterboards.ca.gov, or at the following address:

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

**Document Availability**  
Information on the Regional Water Board’s draft Order and Subsequent Mitigated Negative Declaration can be found at:  
https://www.waterboards.ca.gov/northcoast/board_decisions/tentative_orders/ or may be viewed during public hours in person at the Regional Water Board’s office listed above.

Persons wishing to receive additional notices related to the draft Order and Mitigated Negative Declaration must subscribe to the respective email list, under Resources, Email Subscription on the left side of the Regional Water Board’s main web page at:  
http://www.waterboards.ca.gov/northcoast.
Public Hearing Procedures

The procedures governing North Coast Water Board meetings may be found at California Code of Regulations, title 23, section 647 et seq. and are available upon request. The Discharger and interested persons must submit to the Regional Water Board office written copies of all legal argument, technical reports, testimony, and other evidentiary material concerning this issue by the deadline listed above.

Written material received after April 15, 2019 will not be accepted except at the discretion of the Regional Water Board Chair. Untimely written material will not be accepted or incorporated into the administrative record if doing so would prejudice the Dischargers or the Regional Water Board staff. The Chair may choose to modify this rule upon a showing of severe hardship (Cal. Code Regs., tit. 23, §§ 648.1 & 648.4).

During the pendency of this proceeding, there shall be no ex parte communications between Regional Water Board members and participants. This includes communications on substantive or controversial procedural matters. (Gov. Code, §§ 11430.10-11430.80.)

The time limits for oral testimony or comments at the public hearing will be set by the Regional Water Board Chair and are subject to change. All speakers are expected to honor these time limits. A timer may be used and speakers are expected to honor the time limits. Where speakers can be grouped by affiliation or interest, such groups will be expected to select a spokesperson and not be repetitive.

Accessibility
Anyone requiring reasonable accommodation to participate in the public meeting should contact Patti Corsie at 707-576-2220 at least five days prior to the scheduled meeting. The meeting location is accessible to persons with disabilities. TTY users may contact the California Relay Service at 800-735-2929 or voice line at 800-735-2922.

Staff Contact
Questions regarding the workshop or the draft Order and Subsequent Mitigated Negative Declaration should be directed to Jim Burke, by phone at 707-576-2289 or email at James.Burke@waterboards.ca.gov.