

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
9:00 a.m., Thursday, April 7, 2016
Eureka City Hall
Eureka Council Chambers
531 K Street, 2nd Floor
Eureka, CA 95501

- ITEM: 6
- SUBJECT: Public Hearing to consider adoption of Proposed 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, LLC in the Upper Elk River Watershed, Humboldt County (proposed Order).
- BOARD ACTION: Consider Adoption of Proposed Order No. R1-2016-0004.
- BACKGROUND: On November 18, 2015, the North Coast Regional Water Quality Control Board (Regional Water Board) conducted a public workshop to facilitate public and Board comments on the draft Order. Prior to the public workshop, the draft Order was made available for public review on the Regional Water Board's webpage.
- On December 4, 2015, the Regional Water Board issued a Notice of Public Hearing and Intent to Adopt a Mitigated Negative Declaration for Draft 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, LLC In the Upper Elk River Watershed, Humboldt County.
- The purpose of the Order is to provide a water quality regulatory structure for Humboldt Redwood Company (HRC) to prevent and/or address discharges of waste and other controllable water quality factors associated with timber harvest activities in the Upper Elk River (UER) Watershed. The Elk River has a long and strained history, and despite numerous efforts to improve conditions, and recent and promising changes in management strategies, the watershed remains severely impaired, specifically the existing beneficial uses in the downstream reach, referred to as the impacted reach. The Order provides for implementation of rigorous best management practices (BMP) prepared with the collaboration and cooperation of HRC, some that vary according to the sediment loading risk of subwatersheds. It provides an interim program where HRC will refrain from timber harvest activity in high risk subwatersheds to allow time for

stewardship efforts to move forward and improve conditions in the impacted reach.

The draft Order, Mitigated Negative Declaration, and supporting documentation (Initial Study) were submitted to the State Clearinghouse for a 30 day CEQA review and assigned SCH# 2015122010. In addition, the Public Notice initiated the Regional Water Board's 45-day formal public comment period, which ended on January 18, 2016. However, as January 18, 2016 was a state and federal holiday, written comments were accepted through January 19, 2016. The notice of the draft Order was distributed to the Regional Water Board's lyrics list "reg1_elkriver_wastedischarge", two newspapers in the Region (Press Democrat, Eureka Times Standard) and was posted on the Regional Water Board's website.

The draft Order is informed by the *Upper Elk River: Technical Analysis for Sediment* (Tetra Tech, 2015 aka Technical Report), the draft Action Plan for the Upper Elk River Sediment TMDL (TMDL Action Plan), and overwhelming evidence pointing to the lack of assimilative capacity in Elk River. On December 23, 2015, the Regional Water Board issued a public notice to begin the public comment period for the draft Action Plan for the Upper Elk River Sediment TMDL, which will be an amendment to the Water Quality Control Plan for the North Coast Region (Basin Plan). The comment period closed on February 15, 2016. The public hearing to consider adoption of the proposed TMDL Action Plan is also scheduled for the April 7, 2016 Regional Water Board meeting in Eureka.

Twenty comment letters were received during the formal comment period for draft Order No. R1-2016-0006. All commenters are generally in agreement with, or at least do not contest, the Technical Report's findings that high levels of fine sediment deposited in the impacted reach over the past 20 years were largely the result of ground disturbance from past logging and associated activities in combination with other systemic factors such as channel and floodplain constraints, that these deposits have resulted in channel aggradation, which continues to cause nuisance conditions for residents, including increased flooding magnitude and frequency and impaired domestic water supplies. Commenters can be broadly categorized into two diametrically opposed groups based on their opinions regarding the potential for sediment production and discharge from continued logging and how much logging, if any, should be allowed under the Order.

Elk River residents (as well as two commenters associated with environmental advocacy organizations), who's properties and lives have been directly, and profoundly adversely affected by elevated

sediment loads are strongly opposed to any additional logging until beneficial uses in the impacted reach have been restored. Residents cite the abundance of both anecdotal evidence as well as analysis and conclusions from published reports to advocate for a complete moratorium on logging in the watershed.

In contrast, the two industrial timberland owners, HRC and Green Diamond Resource Company, maintain that the restrictions on harvesting proposed in the draft Order are unnecessarily stringent. These commenters maintain that their current timber harvesting practices conducted pursuant to their Habitat Conservation Plans (HCP) and associated management plans implement appropriate harvest restrictions and Best Management Practices (BMPs), and no additional requirements for water quality can be supported.

The Initial Study and draft mitigated negative declaration provides project-specific CEQA analyses for the proposed Order. Water quality impacts from logging and associated activities are primarily increased sediment production and elevated water temperature. These impacts result from a complex interaction between inherent watershed characteristics, such as geology and geomorphology, external natural processes, such as climate and timing of stochastic events (i.e. large storms, earthquakes, fires), type of management practices, and extent and rate of watershed area disturbed. The proposed Order includes requirements to prevent new sediment discharge, including forest management (including harvest rate), riparian protection, roads management, landslide prevention, and wet weather prescriptions. The proposed Order includes requirements to address existing sources of sediment, including identification, evaluation, and treatment of controllable sediment discharge sites, and a feasibility study to evaluate potential methods to control, trap, or meter sediment from in-stream sources. The proposed Order also covers HRC's various types of remediation and restoration projects intended to improve fishery related beneficial uses and control sediment delivery from in-stream and near-stream sources. Attachment A of the Initial Study provides additional best management practices designed to mitigate potential impacts from stream restoration and remediation.

Regional Water Board staff have responded to written comments in the attached Response to Comments document. The Proposed Order reflects revisions from the December 4, 2015 draft Order based on consideration of written comments, verbal comments from Board member during the public workshop, informal comments from interested parties, as well as ongoing Regional Water Board staff deliberations.

**SIGNIFICANT
CHANGES:**

The proposed Order contains many minor changes based on editorial and consistency considerations. However, the only significant changes are summarized below:

Section I.A.4. Harvesting in High Risk Subwatersheds:

In order to allow the Railroad Gulch Best Management Practices Evaluation Project to be conducted, an exception to the temporary prohibition has been incorporated to permit harvesting of Unit 2 of THP 1-12-110 HUM.

In addition, the allowance for partial lifting of the prohibition was removed and the process for lifting the temporary prohibition was modified in the proposed Order.

Section I.B. Riparian Zones Protection:

- Removed the previously proposed requirement that Riparian Management Zones (RMZ) extend up to 300 feet on either side of the channel for Class I watercourses. The proposed Order now incorporates prescriptions for Class I RMZ from HRC's ROWD.
- The RMZ requirements for Class II and III watercourses in the draft Order specified tree retention out to 200 and 100 feet, respectively, from the channel in terms of *basal area*. The proposed Order has been revised to specify that post-harvest conifer *canopy* shall not be lowered below 60 percent between 30 feet and 200 feet from a Class II watercourse and 70 percent between 20 feet and 100 feet from a Class III watercourse.

Section I.E. Wet Weather Requirements:

Revised requirement to cease timber operations after 4 inches of accumulated precipitation in any water year (October 1–September 30) after October 1st as measured at the National Weather Service Woodley Island Station in Eureka. Once that condition is triggered, timber operations may not resume until May 1st, subject to on-the-ground conditions as specified in the HCP.

RECOMMENDATION: Adopt Order No. R1-2016-0004, (including the Mitigated Negative Declaration) as proposed.

SUPPORTING
DOCUMENTS:

1. Proposed Order No. R1-2016-0004
 - Attachment A – Map
 - Attachment B – *Elk River Sediment Technical Analysis* (Tetra Tech, 2015)(included as attachment to Item 5)
 - Attachment C – Master Sediment Reduction and Master Treatment Schedule
 - Attachment D – HRC's Report of Waste Discharge
2. Proposed Order No. R1-2016-0004 underline/strikeout version
3. Regional Water Board response to comments on Draft Order No. R1-2016-0004
4. Public Comments on Draft Order No. R1-2016-0004
5. Initial Study and Negative Declaration and associated documents
6. Notice of Public Workshop, Draft Order No. R1-2016-0004
7. Supplemental Notice of Public Workshop (Notice of changed date and location)
8. Final Notice of Public Workshop (Notice of changed location)