

1-17-2017

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000

Public Comment
North Coast Action Plan Upper Elk River Sediment TMDL
Deadline: 1/17/17 12 noon

VIA Email: commentletters@waterboards.ca.gov



RE: North Coast Action Plan for Upper Elk River Sediment TMDL

Dear Chair Marcus and Board Members:

Thank you for the opportunity to provide comments on the pending “Upper Elk River Sediment TMDL”. Green Diamond Resource Company (GDRCo) owns approximately 2,000 acres in the South Fork of the Elk River Basin and has actively participated in the review and development of the TMDL.

We have long recognized the unique geologic conditions in Elk River and the adjacent Salmon Creek drainage and developed the “Salmon Creek Management Plan” in 1993. Since then GDRCo has worked closely with the staff at the North Coast Board to develop basin-specific measures for Elk River that were adopted by the North Coast Board in 2006 in our “South Fork Elk River Watershed-Wide WDR”. We continued to work closely with the Staff and developed an ownership wide Road Management WDR in 2010, followed by an ownership wide Forest WDR in 2012. The Forest WDR included the provisions of the Elk River Watershed-Wide WDR.

While we look forward to continuing to work with the Staff at the North Coast Board to implement effective measures and practices we have several concerns that remain regarding the following items in the pending TMDL:

1). The TMDL is titled “Upper Elk River Sediment TMDL”. The Implementation Plan includes the “Action Plan for the Upper Elk River Sediment TMDL” that was adopted by the North Coast Board on May 12, 2016. This Plan contains specific management actions and goals for the Upper Elk River basin. It also includes a Problem Statement at Section I that states: “Site specific assessment of water quality conditions in the Upper Elk River Watershed confirm that sediment discharges from timberlands in the upper watershed and sedimentation in the impacted reaches, combining with other natural (e.g., tectonics, geology, soil characteristics, geomorphology, climate and vegetation) and anthropogenic (e.g., pre-Forest Practices Act logging, ranching, farming, roads, and residential development) factors exceed the water quality objectives for sediment, suspended material, settleable matter, and turbidity and result in adverse impact to several beneficial uses, including domestic water supplies (MUN), agricultural water supplies (AGR), cold water

habitat (COLD); spawning, reproduction and early development (SPWN); rare, threatened, or endangered species (RARE), and recreation (REC-1 and REC-2)." (underlining added). This indicates there are other controllable factors that have influenced conditions in Elk River that are outside of the geographic area that is the subject of this TMDL.

Resolution R1-2016-0017 (the Action Plan for the Upper Elk River Sediment TMDL) identifies the three main components for the Program of Implementation at Item 18 as:

- a. Revising applicable regulatory programs to reduce sediment loads from new and bring existing sources toward the load allocation;
- b. Developing and implementing an instream and channel remediation and restoration program to improve hydraulic and sediment transport in the impacted reaches of Upper Elk River; and
- c. Establishing a Watershed Stewardship Program to serve as an umbrella in support of beneficial use enhancement, prevention of nuisance, and a trajectory of watershed recovery."

While Items "a" and "b" are specific to the Upper Elk River, Item "c", the Watershed Stewardship Program, address the entire drainage. We believe the TMDL process should have included the entire Elk River drainage, and not just the Upper Elk River. This prevented a full suite of solutions to be considered rather than focusing on the Upper Elk River landowners. We have raised this issue repeatedly in the process and, while the adopted Action Plan acknowledges contributions from other sources and from outside the boundaries of this TMDL and contemplates further studies, it included no action measures, leaving the Action Plan incomplete and placing the entire regulatory burden on timber management in the Upper Elk Watershed through the zero load allocation. The record does not support this determination.

2). Resolution R1-2016-0017- Action Plan for the Upper Elk River Sediment TMDL includes the following statement at Item 20: "The components of the Program of Implementation provide reasonable assurance that the TMDL will be met. Sediment sources will be controlled by implementation of waste discharge requirements (WDR) or waivers with enforceable provisions, timelines, and monitoring requirements. Zero sediment load allocations will be implemented via WDRs and waivers of WDRs until such time as the non-regulatory program elements have restored supporting conditions or, in the absence of sufficient progress, other regulatory methods of achieving TMDL goals are reconsidered." (underlining added). However, at Section IV of the "Implementation Plans" it recognizes that the zero load allocation is "necessarily conceptual" in the following statement: "Due to the lack of sediment loading capacity in the impacted reaches, the nonpoint source load allocation is defined as zero. This approach incorporates a conservative, implicit MOS₁ and includes seasonal variation of sediment production through estimating sediment loads on an annual time step. The zero load allocation is necessarily conceptual since, using current technology and techniques, no amount of land use restriction can physically result in zero loading of non-point source sediment (i.e., the control of all natural and anthropogenic sediment delivery from the tributary system). This regulatory loading capacity will guide the program of implementation and will be maintained until the sediment loading capacity of the impacted reaches has been expanded. The zero load allocation does not constitute an effluent limitation or a waste load allocation, and the Board has discretion on how to implement it in WDRs, waivers or other actions to reduce and eliminate waste discharges." (underlining added)

We are concerned that the TMDL uses a target that is admittedly unattainable. We are also concerned that its inclusion in the Action Plan is not justified by the evidence in the record and will lead to confusion when implemented by the agencies involved in the THP review and approval process and unrealized expectations by the public.

3). At Section III the Implementation Plans includes Table 2 with specific "Numeric Targets". We are concerned some of these targets are unattainable and will result in future conflicts during

the THP review and approval process. We have concerns regarding several of the Numeric Targets, we believe the following specific targets cannot be achieved:

- “100% of road segments hydrologically disconnected from watercourses”
 - It is not possible to have 100% disconnection at the watercourse crossing
- “100% of harvest areas have ground cover sufficient to prevent surface erosion”
 - Harvesting will result in some exposed ground surfaces; however, this does not necessarily lead to a discharge

In addition we believe the proposed riparian zones prescriptions are not necessary to achieve water quality objectives. We are operating in the Elk River drainage under an approved federal Aquatic Habitat Conservation Plan that established Riparian Management Zones that we believe are adequate to protect the beneficial uses of water quality.

We also believe that the current sediment discharges from the Upper Elk River are substantially the result of in-channel sediment from past management activity and not the result of current practices. This opinion is supported by Table 1 in the Implementation Plans that shows a reduction in sediment from “Anthropogenic Loading” in the period 2004- 2011 as compared to the 1988 -1997 period.

We have raised these issues in the TMDL/Action Plan review and adoption process, but the changes to the adopted TMDL and the rationale offered in the response to comments do not adequately address our concerns. As adopted, the TMDL would impose an unnecessary and unjustified regulatory burden on Green Diamond and other forestland owners in this watershed.

Thank you for the opportunity to comment on the pending TMDL. We respectfully request the TMDL be returned to the North Coast Board for consideration of these comments. We also respectfully request that all previously submitted comments to the North Coast Regional Water Quality Control Board pertaining to this matter be incorporated into your record for consideration.

Sincerely,

S/S

Gary C. Rynearson

Manager Forest Policy and Communications