



*Sent via Electronic Mail to: commentletters@waterboards.ca.gov On Date Shown
Below*

January 11, 2016

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

RE: EPIC Comments Letter regarding North Coast Action Plan for Upper Elk River Sediment TMDL

Dear State Water Resources Control Board:

The following comments are submitted on behalf of the Environmental Protection Information Center (EPIC) regarding the North Coast Regional Water Quality Control Board (Regional Board) Action Plan for the Upper Elk River Sediment Total Maximum Daily Load (herein referred to as “TMDL Action Plan.”). EPIC appreciates the opportunity to provide comments to the State Water Resources Control Board on this matter and respectfully request a written response to all points raised herein.

EPIC supports both the authority of the Regional Board in adopting regulatory controls to uphold its statutory mandate to protect the quality and beneficial uses of waters of the State, such as the TMDL Action Plan, as well as WDRs, as well as the necessity to do so in the case of the Upper Elk River Watershed, given the heavily impacted watershed conditions and the unreasonable burden that these conditions place on the public, especially local residents, beneficial uses and natural resources.

Elk River was determined to be “Significantly Adversely Cumulatively Impacted” by excessive sedimentation generated from poorly-regulated and implemented timber operations in 1997 by the inter-agency team investigating watershed condition in the wake of the New Year’s Eve 1996–1997 storms, and the lawless and reckless logging conducted by the Pacific Lumber Company under MAXXAM ownership. In the present day, timber operations continue to contribute to the unreasonably degraded water quality conditions in the Upper Elk River Watershed.

Environmental Protection Information Center
145 G Street Suite A Arcata, CA 95521
(707) 822-7711
www.wildcalifornia.org

Water Quality Objectives are not being attained in the Upper Elk River Watershed, and have not been so in almost two decades; the regulatory agencies have simply not done enough to constrain the root cause of adverse watershed conditions: industrial timber harvesting and associated activities. As articulated in the original 1998 303(d) listing by the Regional Board, water quality problems resulting from timber operations include, but are not limited to: sedimentation and threat of sedimentation, impaired domestic and agricultural water supplies, impaired spawning habitat for listed salmonids and steelhead, and real property damage. (*Upper Elk River Technical Analysis for Sediment* (Tetra Tech 2015), at section 3.1, p. 18.). The Regional Board has an affirmative duty to take whatever actions are necessary to attain and recover the water quality conditions in the Upper Elk River Watershed.

Thus, EPIC fundamentally questions the overall approach, and likelihood of compliance with applicable legal and regulatory standards for achieving a zero sediment input load allocation in the Upper Elk River watershed as expressed in the TMDL Action Plan. The extensive and rigorously tested scientific information available clearly demonstrates that conditions in the Upper Elk River Watershed continue to worsen under the current management and regulatory regimes, and that Water Quality Standards and Objectives are not presently being attained. The results of the *Upper Elk River Technical Analysis for Sediment* (hereafter, “Tetra Tech 2015”) demonstrates that existing regulatory constraints to protect, enhance, and restore water quality in the Upper Elk River Watershed simply have not been enough to stem to the tide of sedimentation and aggradation resulting from contemporary timber operations, and that far more stringent measures are needed, given the reality of a zero assimilative capacity for new sediment inputs in the so-called “Impacted Reach.”

The approach articulated in the TMDL Action Plan will not actually result in zero additional allocation of anthropogenic sediment loading, and thus, it seems highly unlikely that Water Quality Objectives/Standards can be attained, and nuisance conditions that are adversely affecting the lives, safety, and property of local residents and natural resources can be remedied.

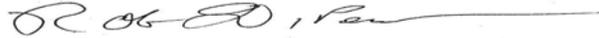
The TMDL Action Plan states at page 6, that the zero load allocation is “necessarily conceptual,” reasoning that no amount of land use restrictions can completely eliminate new sediment inputs from anthropogenic and “natural” sources. This logic and reasoning fundamentally fails to recognize that there are very real—and anything but conceptual—impaired water quality conditions in the Upper Elk River, especially as experienced by those people and resources most affected by the failure of the regulatory agencies to adequately constrain logging practices in the watershed. Poorly regulated and implemented industrial logging practices have and continue to directly result in the severely impacted conditions we now see. Local residents have lost their property, property values, livelihoods, and their ingress and egress have been compromised. EPIC remains concerned that the Regional Board’s reliance on non-regulatory and voluntary measures to achieve

compliance with the Basin Plan and other applicable laws is itself, nothing more than “conceptual,” with no real evidence, or hope, of actually attaining the needed objective, which is to recover the river, and as soon as possible.

The preponderance of the available evidence suggests that a zero load allocation is necessary and appropriate given the impacted conditions in the Upper Elk River watershed, and the ongoing threats to fish, wildlife, water quality, people, community and public safety resulting from nuisance conditions. To the extent that the TMDL Action Plan establishes a zero load allocation, the load allocation cannot be imaginary or “conceptual,” but must be actual in order to ensure eventual attainment of Water Quality Objectives/Standards in the Upper Elk River watershed.

Again, EPIC appreciates the opportunity to provide written comments. Please do not hesitate to contact me should there be questions.

Sincerely,



Rob DiPerna
California Forest and Wildlife Advocate
Environmental Protection Information Center
145 G Street, Suite A
Arcata, California 95521
Office: (707) 822-7711
Email: rob@wildcalifornia.org