

4/18/06 Item 7
Scott River
Deadline: April 12, 2006

From: "Vivian Helliwell" <shadoh@mcn.org>
To: ""Rik Rasmussen"" <rasmussen@waterboards.ca.gov>
Date: Wed, Apr 12, 2006 4:27 PM
Subject: Scott R TMDL comments--PCFFA



Rik

Here are PCFFA's comments on adopting Resolution R12 2205-0113, Scott River TMDL Action Plan. Thank you for distributing them to the board. If you need me to send hard copies, please respond by email; Thank you.

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Vivian Helliwell  
850 Greenwood Heights Drive  
Kneeland, CA 95549  
(707)445-1976  
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From: Pacific coast Federation of Fishermen's Associations (PCFFA) and
Institute for Fisheries Resources (IFR)
P.O. Box 29370
San Francisco, CA 94129-0370

April 12, 2006

Chair Tam Doduc and Members of the State Water Board
c/o Selica Potter, Acting Clerk to the Board
State Water Resources Control Board
Executive Office *
1001 I Street, 24th Floor
Sacramento, CA 95814

Scott River sediment and temperature TMDL Action Plan , Resolution R1-2005-0113.

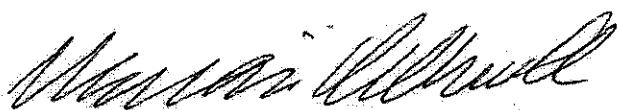
PCFFA's public comments to the NCRWQCB (Regional Board) on the Scott River TMDL Action Plan are in the record, see also Attachment A. Voluntary actions are not adequate to restore and preserve the beneficial uses for the Scott River, unless they meet or exceed mandated guidelines which are not specified in the Action Plan. Voluntary actions during the last 30 years have not addressed the most difficult causes of habitat degradation in the Scott, especially removal of riparian vegetation in cold-water refugia, sediment delivery reduction from road erosion on private and public lands, and low flows in the summer, all of which are related to temperature pollution. Unspecified actions that are left for future development at the time of the Amendment adoption do not allow for public input as required by CEQA. Summer flows have been absent for months in some years. Please see Coast Action Group/Alan Levine's comment for suggestions on addressing flows and the legal obligations/authorities of the Board. Existing public programs have lead to degraded water quality, and cannot be relied on to fulfill the requirements of the TMDL to restore and protect the beneficial uses. Siskiyou County does not have a grading ordinance, and Forest Service lands are notoriously under-funded (10%) to

maintain their existing roads. The California Board of Forestry's Threatened and Impaired rules for industrial forest lands are scheduled to sunset, and should be included in the Action Plan in case they are not renewed.

The fishing industry is once again facing the most severe closures in history to accommodate Klamath chinook that are not even listed as endangered. Many fishermen are talking of leaving the state to try to make a living this summer. Continued loss of markets and infrastructure are making economic waves in coastal communities, where many businesses relied on the wealth of fishing income to support gear stores, grocery stores, marine engineering and repair shops, haul-out facilities, unloading facilities, fish processors, ice and fuel depots, etc.

The Regional Board staff has performed a lot of excellent work in developing the Scott River Action Plan, but it is much weaker than previous TMDL Implementation Plans such as the Garcia River. The Garcia River Implementation Plan was measurably effective in improving habitat conditions for cold-water fishes, and the cooperation and continuing economic status of landowners was notable. Please consider the comments of Coast Action Group, Alan Levine, and consider improving the legality and especially the effectiveness of the Action Plan without sending it back to the Regional Board to be redone when they are pressed for time to complete other Action Plans on the Klamath system.

Sincerely,



Vivian Helliwell

Watershed Conservation Director

Pacific Coast Federation of Fishermen's Associations (PCFFA)

And Institute for Fisheries Resources (IFR)

Attachment A: PCFFA comments to the NCRWQCB 11/2/05

Attn: Mr. Ben Zabinsky

N.C. Regional Water Quality Control Board

5550 Skylane Boulevard, Suite A

Santa Rosa, CA 95403, Email: bzabinsky@waterboards.ca.gov, FAX: (707) 523-0135

November 2, 2005

Re: Scott River TMDL Action Plan amendments

Dear Mr. Zabinsky and members of the North Coast Water Board,

The current draft Action Plan is seriously lacking in measurable, enforceable actions to restore and protect cold-water fisheries. In the interest of a more effective Scott River Action Plan, we submit the following comments. Points are summarized, with further discussion in the text.

- **1. Include downstream affected communities as stakeholders.**
- **2. Specify an enforceable time schedule** for evaluating the progress of implementation, followed by a back-up plan of action.
- **3. Include a set of default prescriptions;** regulation empowers local action and is required by statute.
- **4. The Garcia River TMDL Implementation Plan** has the above three elements, and is progressing well, despite initial fears of landowners. See the attached PCFFA/IFR report, "**Salmon Returning to the Garcia River.**"
- **5. Low flows** must be addressed in order to restore fisheries.
- **6. Groundwater study:**
 - A. **Use authority you have to address low flows.** Numerous studies relate water quantity to water quality, making them your responsibility to address. If low flows are not addressed, beneficial uses will not be restored.
 - B. The **State Department of Water Resources** named in your first draft is the proper entity to study ground-surface water interface. Siskiyou County does not have the expertise or the authority to do so. They may also have a conflict of interest.

C. Require transparency of data as a criterion for the groundwater study.

D. Include downstream stakeholders (ocean and river fishers and related businesses, Tribes) in the development of the groundwater study.

- **7. Address road-related sediment** by requiring a grading ordinance or functional equivalent.
- **8. Address rate of land disturbance**, especially harvest plans targeting riparian corridors and in coho refugia.

Include downstream affected communities as stakeholders. Fishing-dependent communities on the Klamath River and for hundreds of miles up and down the coast have a stake in the water quality of the Scott River. A major problem with the Scott River document is the framing of it seems to be driven by fears of only some of the stakeholders. I am particularly concerned that downstream communities most affected by the condition of the river and of the beneficial uses have not been well included in the Scott River TMDL process. Downriver stakeholders should also be included earlier in the pending Klamath-related TMDLs.

Ocean fisheries for salmon were completely closed for 800 miles of coast, from Cape Blanco in Oregon to Point Sur in southern California for the entire month of June, 2005, to allow returns to the Klamath River. The rest of the season was severely curtailed as well. With fishing impacts minimized, conditions for salmon in the river have continued to decline. The ocean commercial salmon fleet off California has been regulated for returns to the Klamath River system for the last 30 years, with disastrous results. Fishing communities have suffered dislocation, loss of infrastructure, and 80% or greater loss of jobs in fishing and support industries. World markets were lost due to closures limiting the supply of ocean-caught fish. Salmon fishers in San Francisco, for example, are major stakeholders in the Scott River Valley. So are the Tribes and fishing businesses along the river.

I am concerned about recent Board workshops where farmers have been given unlimited time to speak while clean water and fish advocates were limited to three minutes. I am concerned that most of the Scott River TMDL meetings were held inland where the expense for coastal people to participate is greater. Unfortunately, the December 7 hearing on the Scott

River Action Plan is being held right at the height of Dungeness crab season, an alternative crop for displaced salmon harvesters, limiting the attendance by commercial fishermen.

Specify an enforceable time schedule for evaluating the progress of implementation, followed by a back-up plan of action. We have recently had some years of good ocean conditions to bring fish to the rivers, but that is not likely to continue. More urgency in the draft Action Plan would be appropriate, considering that the salmon can be lost by interrupting their life cycle for 3 years for coho, and 5 years for chinook. Additionally, California State Water Code Section 13242 requires specific actions to achieve water quality objectives, a time schedule and a plan for monitoring compliance. The federal Clean Water Act and California's Porter Cologne Act require enforceable standards.

Include a set of default prescriptions now, rather than wait for the adaptive management phase. Voluntary actions are encouraged in Scott River, and should be encouraged whenever they meet or exceed State guidelines for supporting the beneficial uses of water. Scott River landowners may be anxious about regulation, as in people were in the Garcia River, where things turned out better than expected. People tend to accomplish the easy things and not address more costly or difficult actions unless required to. Leadership by regulators is needed to speed up the recovery process. **Default prescriptions do not prevent or discourage voluntary actions.** Where is the sincerity of anyone who threatens to withhold positive action if a default program for the reluctant is set up as a safety net for the fish?

The Scott River TMDL Action Plan should be compared with the Garcia River TMDL Implementation Plan, because the latter seems to be working well. The Garcia River Plan is an example of **regulation acting as a catalyst to empower local people** in redressing pollution problems with cooperative and collaborative actions. **Water Board regulation** jump-started the formation of the Watershed Group and its Watershed Plan in the Garcia, with the results that chinook, coho, and pink salmon that had not been seen there in many decades are spawning in the mainstem which was uninhabitable prior to restoration work. The channel is becoming deeper and colder, and spawning gravels are emerging from the silt in the lower mainstem.

Getting out ahead of the TMDL, proud ranch and timber owners in the Garcia have assessed and fixed 80% of their bleeding roads, vegetated and fenced their stream banks. They are still ranching and harvesting timber. The Garcia Implementation Plan is **reasonable and flexible**, with 30-40 year long time-lines for addressing erosion. That is over half the life

expectancy of the average American. Though landowners in the Garcia were fearful at first, they have accomplished most of the actions called for in their locally-designed Watershed Plan under the leadership of the North Coast Regional Water Quality control Board. For more information on the success of the Garcia River TMDL Implementation Plan, please see the attached PCFFA/IFR report "Salmon Returning to the Garcia River."

Groundwater study:

Some agricultural diversions are preceded by cooler water temperatures and followed by dry creek beds. New wells (controllable human-caused sources of low water) following the 1997-8 Planning phase have been allowed even though summer flows have recently been below the USFS requirements for salmonids.

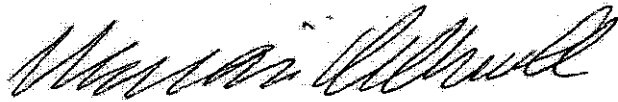
Siskiyou County is lacking in expertise or authority to develop a study of the relationship between low flows, surface water and ground water pumping. They additionally have the appearance of a conflict of interest, being influenced by the particular economies of their constituents, and having resisted such studies in the past. The State Department of Water Resources is a more appropriate entity to perform such a study. **Require transparency of data** as a criterion for the groundwater study. The public needs to see the data in order to participate in a democratic way. **Include downstream stakeholders** (ocean and river fishers and related businesses, Tribes) in the development of the groundwater study. At the end, everyone needs to be able to believe the results.

Address road-related sediment by requiring a grading ordinance or functional equivalent. The Forest Service will be unable to increase their level of road maintenance and improvement due to receiving yearly only 10% of the funds they need to maintain their existing roads. County roads may be addressed by the 5-County group, but private roads and construction are not.

Address rate of land disturbance, especially harvest plans targeting riparian corridors and in coho refugia. The private industrial logging lands above many Scott River tributaries have been severely logged and roaded. Some recent harvests targeted riparian areas in the remaining cool-water headwaters that are suitable for coho. A small strip of shade is not adequate to reduce water temperatures when the uplands have been stripped. You must use your authority to address the rate of land disturbance where it is impacting salmonid survival.

Thank you for your attention to these important matters.

Sincerely,



Vivian Helliwell

Watershed Conservation Director

Pacific Coast Federation of Fishermen's Associations (PCFFA)

And Institute for Fisheries Resources (IFR)

References:

Cal Water Code 13242. The program of implementation for achieving water quality objectives shall include, but not be limited to:

- (a) A description of the nature of actions which are necessary to achieve the objectives, including recommendations for appropriate action by any entity, public or private.
- (b) A time schedule for the actions to be taken.
- (c) A description of surveillance to be undertaken to determine compliance with objectives.

State Anti-degradation Policy (Basin Plan, Chapter 3, Water Quality Objectives): "Controllable water quality factors shall conform to the water quality objectives contained herein. When other factors result in the degradation of water quality beyond the levels or limits established herein as water quality objectives, then controllable factors shall not cause further degradation of water quality. Controllable water quality factors are those actions, conditions, or circumstances resulting from man's activities that may influence the quality of waters of the State and that may reasonably be controlled."

Amending the Water Quality Control Plan for the North Coast Region to Summarize Existing Antidegradation Objectives: The state Antidegradation Policy (Resolution 68-16), applies to all waters of the state, including ground waters of the state, whose quality meets or exceeds (is better than) water quality objectives.