

5/20/2002

State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: 5/23 and 24/2002 Public Hearings

Dear Board Members:

As a small landowner and professional with over 30 years of experience working with various landowners, I am here to ask how to get water quality staff and board members to answer questions and to consider input provided by landowners and other professionals.

As evidenced by copies of letters and hearing input that accompanies this letter, you will see I have been participating in your TMDL and Implementation Plan process for a long time, and I am very familiar with the current situation. The accompanying information provides a listing of all the questions that have not been answered, and all the input that has been ignored by you folks. To this point by not being acknowledged and utilized, landowner and professional site specific information and input has been ignored by this Fourth Branch of Government. A short listing of input and unanswered questions is as follows:

1. We are all told the best way to participate in the hearing processes is to go to the training sessions and meetings prior to any scheduled hearing and to work with staff. We are told contact with board members is not proper and basically not allowed. Input and questions at training sessions and pre-hearing meetings is ignored. The basis for board members to arrive at a decision is controlled by staff input.

Question: What can a landowner or professional do when their input and questions are ignored by Water Quality staff and Water Quality Boards?

2. My inquiry as to the basis for listing Redwood Creek in Humboldt County as being impaired resulted in receipt of a couple reports from Water Quality that said this designation was based on professional opinion. No site specific facts were provided to back up this opinion. Obtaining this little bit of information was a long and drawn out process as no one on the North Coast Regional staff could tell me why this watershed was designated as impaired, and I had to made several calls to other designated individuals.

Question: When the Redwood Creek landowners provided over five file boxes of site specific information during the scheduled hearing process, why were they told there was not enough time to review the information; therefore, their input could not be considered?

3. During pre-hearing training sessions and other meetings regarding implementation plans for Redwood Creek and your approved Garcia River Implementation Plan, provided input and many questions were asked and provided in writing. By never being utilized and/or answered the input and questions were ignored. I refer you to accompanying information for a long listing of the ignored input and questions.

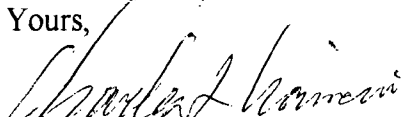
Question: With no required time lines for review, with staff having the final say on what is acceptable, and there being no effective means for appeal by permittee in the State approved Garcia Implementation Plan, how will unjustified and unsupported actions by staff be rectified, and how will staff be held accountable for their actions?

4. During Regional Water Quality Control Board's workshop held in Eureka February 27, 2002, a thick book was held up and referenced as the "Bible" regarding monitoring and sampling requirements. Accompanying letters show I have tried to obtain a copy of the "Bible", but have been ignored to date.

Question: What is the "Bible" and how is use of the Bible not in violation of Government Code Section 11340-11340.7 which prohibits use of agency criteria and internal guidelines that have not been adopted as a regulation and filed with the Secretary of State?

Can any answers to these questions be provided at this time?

Yours,



Charles L. Ciancio

RPF #317

P.O. Box 172

Cutten, CA 95534

CRITIQUE OF BASIS FOR LISTING REDWOOD CREEK AS AN IMPAIRED WATERBODY

As supplied by David Smith of EPA

1. Fact sheet listing reasons for listing (make copy) - Water Quality fact sheet and AFS general report on North Streams is listed as basis for listing.
 - Without any site specific information, listing was based on opinion information that was not shown to have been peer reviewed, and without such site specific information and peer review, the basis for the impaired listing is not supportable.
2. Water Quality Fact Sheet (make a copy) - lists method of assessment as Professional judgment (no site specific facts or peer review listed)
3. AFS general report of North Coast Streams (make a copy) - Does not list any site specific information
 - Mentions Redwood Creek in a listing of sediment impacted streams with no provided site specific information that supports the basis for the listing.
 - Mentions Redwood Creek in a listing of fish species and their status with no provided site specific information that supports the basis for the listing.
 - Four references of reports of Redwood creek appear in the appendix.
 - Without providing any site specific basis for the listings, AFS report only provides a general opinion that sedimentation and fish species situations are a concern in Redwood Creek.
4. The nine????? boxes of site specific information that show Redwood Creek is not impaired, and the site specific facts support the delisting of Redwood Creek as being impaired.
 - The question of the day is: Will the Water Quality Board continue the unsupported listing of Redwood Creek as impaired; or, will the Water Quality Board do the right thing by not ignoring the overwhelming site specific information that supports the delisting of redwood Creek?

IMPORTANT MESSAGE

FOR CHUCK
DATE 8/7/98 TIME 8:40 ^(A.M.) _(P.M.)

M Bruce Gwynne

OF _____

PHONE 576-2661
AREA CODE NUMBER EXTENSION

FAX

MOBILE _____
AREA CODE NUMBER EXTENSION

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL <input checked="" type="checkbox"/>	SPECIAL ATTENTION

MESSAGE He made a mistake
about being back from his
Vacation on the 3rd. He can help
you on the 10th with the info
you requested.

SIGNED G.Z.

Plants not part of project



U. S. Environmental Protection Agency
Region IX

Water Management Division
75 Hawthorne Street (W-3-2)
San Francisco, CA 94105-3901

Per your request cover 1
DAVID W. SMITH
Watershed Protection Branch
(415) 744-2012
Fax (415) 744-1078

Chuck - I included the docs on all the 92 additions to the list in case you are interested in the basis for waters in addition to RWC.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Staff Report Supporting Recommended Action
1992 California §303(d) Lists

Prepared by David Smith, TMDL Coordinator
April 22, 1993

§303(d) List Submittal Recommended Decision

EPA has reviewed California's Clean Water Act §303(d) lists contained in its Section 303(d) Report dated July 1992 and submitted August 24, 1992. California lists 259 waterbodies still requiring total maximum daily loads (TMDLs) [303(d) Report, Section 2], and 28 waterbody reaches for which TMDLs will be updated or established over the next two years [303(d) Report, Section 3].

On September 24, 1992, EPA partially approved California's 303(d) list of water quality limited segments still requiring TMDLs and the list of water quality limited segments for which TMDLs will be updated or established within the next two years. California's submittal partially satisfies the listing requirements in Clean Water Act §303(d)(1)(a) and 40 CFR 130.7 because the listings of waters in the California 303(d) Report:

- are based on reasonable analysis of available information concerning State water quality conditions,
- identify many, but not all waters within State boundaries for which effluent limitations required by §301(b)(1)(a) and §301(b)(1)(b) are not stringent enough to implement applicable water quality standards, and
- establish a priority ranking for listed waters, taking into account the severity of the pollution and the uses to be made of such waters.

On September 28, 1992, EPA requested additional information regarding a large number of waterbodies which were not listed and provided the State the opportunity to amend its list to include additional waters which meet the listing criteria. In a letter dated October 28, 1992, the California Water Resources Control Board informed EPA that the State would not amend its lists at this time. Therefore, we recommend partial disapproval of the list of water quality limited segments still requiring TMDLs because California did not list 17 waters which meet the listing criteria. We recommend addition of the following waterbodies to California's list:

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

303(d) FACT SHEET

WATER BODY NAME: Redwood Creek

LOCATION BY HYDROLOGIC UNIT NO.: 107.00 Source to Mouth

BASIS FOR LISTING:

Redwood Creek aquatic habitat is impaired by excessive sediment loading caused by historic logging activity (Water Quality Fact Sheet). Anadromous fish populations have experienced significant declines in Redwood Creek, partly as a result of fisheries habitat degradation (American Fisheries Society report, March 29, 1992, Page 3 and Water Quality Fact Sheet).

001205

~~001158~~

Date: 03/29/96

WATER BODY FACT SHEET

Region: 1

Water Body Name: REDWOOD CREEK (R1)

Hydrologic Unit No.: 107.00

Total Areal Extent: 63 MI

Type of Resource: Rivers and Streams

Clean Water Strategy Rating

Resource Value: 3

Uniqueness: 4

Magnitude of Use: 3

SUMMARY OF PROBLEM(S) OR CONCERN(S)

Type of Problem/Need: SEDIMENTATION FROM NATURAL AND HUMAN SOURCES HAS IMPACTED BENEFICIAL USES.

Location: SOURCE TO MOUTH

Problem/Need(s) and Source Description: REDWOOD CREEK, PARTIALLY PROTECTED BY REDWOOD NATIONAL PARK, IS THE DOMESTIC WATER SUPPLY FOR THE COMMUNITY OF ORICK, AND SUPPORTS AN ANADROMOUS SALMONID FISHERY. HISTORIC LOGGING UPSTREAM OF THE PARK HAS RESULTED IN NPS SEDIMENTATION. FISH POPULATIONS HAVE DECLINED.

	Concern 1	Concern 2	Concern 3
Specific Location:	ORICK	: MULTIPLE AREAS	:
Type of Pollutants/Parameters:	SED, DEB, NUT SUS	: SED, DEB, HAB	:
Method of Assessment:	Best Professional Judgement	: Best Professional Judgement	:
Water Quality Impaired or Threatened?:	Threatened - 3	: Threatened - 3	:
Major Beneficial Use Category Affected:	Recreational	: Aquatic	:
Type of Source(s):	INDU	: SILV, RANG, ONPS	:
Areal Extent:	1e MI	: 63e MI	:
Programs Affected:	NPDES, WDRNON15, WQC-PLAN, UGT	: NPS, MONITOR, UNREG, WQC-PLAN	:

	Concern 4	Concern 5	Concern 6
Specific Location:	:	:	:
Type of Pollutants/Parameters:	:	:	:
Method of Assessment:	:	:	:
Water Quality Impaired or Threatened?:	:	:	:
Major Beneficial Use Category Affected:	:	:	:
Type of Source(s):	:	:	:
Areal Extent:	:	:	:
Programs Affected:	:	:	:

e = areal extent of problem is estimated

Date Last Updated: 12/05/90

P.O. Box 172
Cutten, CA 95534
7/23/98

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

Re: Water Quality Attainment Strategy for Sediment (TMDLs and Redwood Creek River)

Dear Board Members:

I am a registered Professional Forester, who has lived and worked over 32 years on the North Coast. During this time, I have been involved with all the regulatory schemes and public agencies that have affected the varied mix of landowners to be found on the North Coast.

I have been asked by landowners representing over 12,000 acres in the Redwood Creek watershed to say a few things regarding the staff proposed TMDL and Implementation Plan for Redwood Creek. Due to the way this process has been handled, I am only able to throw stones at you today; however, I hope you will listen to others who have some worthwhile ideas that can lead to a workable and usable TMDL and Implementation Plan.

Since the list of concerns and problems is too long to fully discuss at this meeting and the hearing and rule creation process does not allow for constructive input to be adequately utilized, I have tried to find a way to get your attention and to provide a basis for you to do the right thing. I have chosen the approach of asking nine questions, which seem to be getting pushed aside, to emphasize the concerns and problems associated with the staff's proposal. As standard procedure in all such meetings as this one, there will not be time to obtain an adequate answer to my questions; so, I can only ask the questions, and hope you will work to answer and resolve them.

Question Number One: Why was the deleterious standard omitted from the process and replaced with a zero input standard which is effectively a defacto zero potential input standard? The zero input standard effectively says if anything goes into a watercourse "at any time", the zero input standard will be violated. Once in place, no mechanism for timely and workable change in the Basin Plan's written word, TMDL target numbers and implementation plan, has been provided. With all the unknowns and speculative professional input that is being used and the lack of an adequate site specific and peer review basis, this seems to be a major flaw in what the staff has proposed.

Question Number Two: Why is there no specific written standards, approval and processing procedures, and required time lines to be followed by the regulators? In regards to the Redwood Creek TMDL and Implementation Plan proposal, which lacks adequate direction and written standards, what are we to believe when on one hand it is indicated a high degree of precision at a large expense could be needed, and on the other hand, we are told a high degree of precision is not needed to get the job done? What will be required is an unknown and costs for preparing the unknown can be without end.

Question Number Three: Why is there no appeal or method of recourse for a landowner if a regulatory agency inappropriately applies the intent or written word? This problem will intentionally and unintentionally occur without written accountability standards, approval and processing procedures, and required time lines to be followed by the regulators and with the lack of an adequate site specific and peer review basis.

Question Number Four: This question is presented to illustrate why the above concerns exist and to illustrate one of the many, many situations that can occur in application of the staff proposal. This question utilizes a copy of page 15 of the 7/16/98, Part 1, Staff Draft Proposal for Redwood Creek (copy of page 15 is attached with additional accompanying information which shows this requirement is a poor one and it is not based on good science). On page 15 under II-3 B., there is a listed leave tree requirement. In this requirement, terms are used which depend on interpretation of the site specific situation. One assumption requires the acceptance of the wording "that support beneficial uses" only applies to Class I and Class II watercourses as describe at the top of page 15 under the first paragraph for Section II. The next assumption depends on agreement of what is a Class III and Class II and better watercourse. Since there are numerous written reports that substantiate Water Quality staff's definition of a Class III and a Class II are routinely different than the ones determined by the THP process, and there is routine disagreement on watercourse classifications between landowners, RPFs, landowners, the public, and various public agencies, the question is **"Who is the judge" when there is disagreement on the site specific situation and/or adequacy of presented plans, reports, and monitoring work?**

Question Number Five: Why are actual reports used to determine state designated impairment not available for review in the local area? Some folks would be amazed at the lack of justification for what is about to be done to all of us.

Question Number Six: Why are the Implementation Plan requirements not going to be equally applied and enforced in the areas of heaviest population use, which are routinely major contributors to the nonpoint source problem? I have been told by staff that urban areas and such areas as uncontrolled subdivisions will not be required to do what other larger landowners are required to do. Lack of man power and funding is the excuse that I was given for singling out the larger landowners. The overall problem will never be resolved if a major part of the problem is to be ignored.

Question Number Seven: Why is the consideration for the added pressure to convert open space lands to nonopen space lands (subdivisions) left out of the economic analysis? Open space lands exist because they provide an economic unit that can support someone. Many landowners are currently on the edge between fighting the good fight by raising a few cows, logging a few trees, etc. to pay the taxes and raise a family. Every time added regulation is applied, these folks ask the question why they don't sell for the big money offered by the developer instead of hanging on. All these folks have to look forward to is more and more regulation, and the incentive is to move on. The end result is going to be less and less open space lands, and more and more problems as heavier use of the involved areas occurs. This is a real problem, and if you think I am just babbling, talk to your county officials and see if they think this is not a economic problem that needs to be considered.

Question Number Eight: Why is such a poor Implementation Plan which has no mandated time lines, court or legislated, being pushed through at this time? Putting this poor plan in place to satisfy a unsubstantiated, speculated concern will hurt everyone. More time should be taken to study and use other suggested ideas and procedures. We are all going to live with what is done for a very, very long time. Promises to modify as needed mean little to nothing when some entity later sues and forces full application of the written words that are placed into the Basin Plan. We are dealing with people's livelihoods and preservation of open space lands, and staff's proposed plan attacks both of these concerns.

Question Number Nine: How can our input on information and ideas be utilized in the rule making process? We are continually told to give our input. We are told our input is good and usable. Then the people who receive the input duck their heads and fade away with our input into a black hole somewhere. It all comes down to the public and concerned parties being asked to do the right thing, and the public agency requiring others to do its job.

One answer to the operational questions has been to bring such matters to you, the Board. Common sense tells me this will not be a timely and workable process as you become bogged down handling routine field matters, and past experience tells me the landowners will be left out in the cold as they are left to fend for themselves with no means of recourse.

Without pressure or strong direction to do otherwise, the agencies will bow to the personal agenda and politically correct pressures in preparing the rules we have to live by. It is up to you, the Board, to require your staff to do the right thing, which requires use of all site specific information, utilization of good science, and application of logic and common sense. This is not happening as illustrated by the proposal for Redwood Creek.

For your reading pleasure, I have provided some accompanying information on incorrect application of excessive large woody debris requirements and a previous 5/7/98 letter to this board.

Yours,

A handwritten signature in cursive script, appearing to read "Charles L. Ciancio".

Charles L. Ciancio

II Land Management Practices That Apply in the Riparian Management Zone

A Riparian Management Zone width shall be assigned to each watercourse based on the beneficial uses associated with the watercourse. For watercourses that directly support beneficial uses of water (Class I and II watercourses as defined in *California Forest Practice Rules, Title 14, California Code of Regulations, Chapters 4 and 4.5*), a Riparian Management Zone shall include a 100-foot strip of land on each side of the watercourse. For watercourses that do not directly support beneficial uses but are capable of transporting sediment to a watercourse which directly supports beneficial uses (Class III as defined in *California Forest Practice Rules, Title 14, California Code of Regulations, Chapters 4 and 4.5*), a Riparian Management Zone shall include a 50-foot strip of land on each side of the watercourse. The Riparian Management Zone shall be measured from the active channel or bankfull stage, whichever is wider.

II-1. To maintain an adequate sediment buffer between land management activities and watercourses, it is the goal of the Redwood Creek watershed Sedimentation Reduction Plan that 100 percent surface vegetation and/or duff be established and maintained within the Riparian Management Zone between the watercourses and land management activities that could otherwise result in the delivery of sediment to the watercourse. It is required, however, that any soil exposure within the Riparian Management Zone that is caused by land management activities shall be stabilized with the application of grass seed, mulch, slash or rock before October 15 of the year of disturbance. Stabilization measures shall achieve at least 90 percent coverage of all soil within the Riparian Management Zone exposed by land management activities.

II-2. To promote stream bank stability, each landowner shall ensure that there are no commercial land management activities, including commercial harvest, salvage timber harvest, or grazing, within the first 25 feet of the Riparian Management Zone for watercourses that directly support beneficial uses of water. This measure does not apply to the watercourse crossings.

II-3. To maintain present levels and promote future instream large woody debris, each landowner shall restrict commercial land use activities within the Riparian Management Zone to ensure that:

A. There is no removal of downed large woody debris from watercourse channels and within the riparian management zone unless the debris is causing a safety hazard.

B. On water courses that support beneficial uses at least five standing conifer trees greater than 32 inches in diameter at breast height (DBH) are permanently retained at any given time per 100 linear feet of watercourse in the riparian management zone, and these trees shall have an average DBH of at least 40 inches or greater. Where sites lack enough trees to meet this goal, there shall be no commercial harvest of the five largest diameter trees per 100 linear feet of watercourse in the riparian management zone.

**Use of proposed Water Quality staff large woody debris retention standards as listed
in 7/16/98, Part 1, Redwood Creek (TMDL and Implementation Plan) Proposal
(Page One)**

Requirement being requested for Class II and Class I watercourses is: A minimum of five standing conifer trees greater than 32 inches in diameter at breast height (DBH) are permanently retained at any given time per 100 lineal feet of watercourse in the riparian zone, and these trees shall have an average DBH of at least 40 inches or greater. Where sites lack enough trees to meet this goal, there shall be no commercial harvest of the five largest diameter trees per 100 linear feet of watercourse in the riparian management zone.

Questions and Concerns:

1. No scientific basis has been provided for this level of retention.
 - The smaller, upland watercourses do not need and/or can not effectively utilize the amount of LWD that the listed recommendation will provide.
 - Lack of disturbance in the RMZs can occur to the point where replacement conifers and new conifer growth is restricted and/or prohibited (Big trees capture and hold site; lack of mineral soil and sunlight; retention of competing vegetation).
 - Since the 5 tree leave requirement has been requested to be used in coastline to inland areas, how was this requirement developed and determined to be the number needed for all site specific conditions?
 - This large woody debris (LWD) standard provides questionable to no LWD benefits, is unnecessary, often unattainable, restricts conifer growth, and is possibly detrimental over the long term.

2. Does not the wording "permanently retained" clearly state a taking will occur?
 - As understood to be applied, it is believed this standard will effectively stop all harvesting of any trees in the riparian management zone (RMZ) in many upland and inland areas where the old-growth stands never reach the required level of tree cover.

**Use of proposed Water Quality staff large woody debris retention standards as listed
in 7/16/98, Part 1, Redwood Creek (TMDL and Implementation Plan) Proposal.
(Page Two)**

In reviewing application of this unwritten regulation in the field, the following questions come to mind:

1. Does the tally of five trees include one side of the watercourse channel or does it include both sides?
2. Is the five tree tally an average over a certain length or is there to be no 100 foot stretch of RMZ as measured along the watercourse channel that does not have the required five trees? (i.e.: Is a lineal quarter mile of watercourse RMZ area is to have a count of 66 (with both sides 132) trees? Or, is a lineal mile of watercourse RMZ area is to have a count of 264 (with both sides 528) trees? Are no trees may be cut in any "roving", lineal 100 feet of watercourse if a count of five required leave trees will not remain in any "roving" lineal 100 feet of watercourse?)

It became apparent during review of the situation that the long term end result will not be what is wanted in all situations.

- It is a basic fact that conifer regeneration and growth is not promoted without the creation of disturbed mineral soil, sunlight, and reduced competition.
- In unharvested old-growth areas that meet the current standard and where landowners will be prohibited from harvesting any trees, the immediate goal of 5 trees may be fulfilled; however, over time as the larger trees hopefully fall over, the 5 tree count will be eroded downward. With no creation of disturbed mineral soil, sunlight, and reduced competition, it is a fact that the likelihood of large replacement conifers will be created to fill the void is low at best. In areas similar to the area of the proposed operations, all you have to do is look around at uncut large tree situations to see a 5 tree count does not exist in many areas and brush and hardwood species are going to control more and more of the RMZ area.
- In wetter areas and all areas, the requirements for conifer regeneration and growth remain unchanged. The creation of disturbed mineral soil, sunlight, and reduced competition is mandatory. With the continual push for less and less activity and disturbance in RMZ areas, how is the condition needed to promote conifers going to occur; so, the creation and retention and of conifers in RMZ areas can occur? How is the reduction of hardwoods and other vegetative growth, especially in the wetter areas in the RMZ areas which is needed allow for the creation and retention of conifers, going to occur?

P.O. Box 172
Cuttan, CA 95534

5/7/98

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

Re: Water Quality Attainment Strategy for Sediment (TMDLs and the Garcia River)

Board Members:

You folks are to be commended for not hastily approving the December 9, 1998 version of the above referenced document and for requiring additional review. Having participated in a past hearing and review process by your board regarding implementation of the techniques and ideas being discussed, I would like to share some thoughts I have on the document of discussion.

As someone who can not be called a properly credentialed professional but who has studied and worked with the techniques being used (V*, RASI, McNeils, comparison of index stretches to noncomparable watersheds, etc.), I can say these techniques have some useful potential if correctly used, but they also have many, many flaws and limitations that I have not seen mentioned in any of the documents. Due to the recognized potential for inappropriate use of these techniques in a regulatory situation, the board during the previous review wisely decided to not incorporate the new ideas and techniques into the Basin Plan, and required staff to do more field review and verification of the involved ideas and techniques. To date, the lack of provided results from the required, additional review indicates the requested verification and field review has not been, and you, the board, have still not been fully advised of the potential problems and weaknesses associated with the proposed new ideas and techniques.

Having participated in many regulatory hearing processes and associated hearings, I have reached the conclusion, that once a regulatory package has been put into written form and noticed for public input, the chances for meaningful change do not exist. As required by law, the public input is taken and the regulatory bodies go through the legally required motions; however, the public's generally limited three to five minute sound bites are no match for the staff's extended means of input. Site specific facts and other professional input is given second chair to "professional expertise and opinions" already stated in the document being reviewed.

Except in rare cases, usually politically motivated, does a regulatory board question staff prepared regulatory documents and even more rarely is staff required to modify the documents they have prepared. Since the staff has again provided no significant changes to their original report and recommendations, it remains to be seen if you folks will take the next hard step of requiring specific changes be made in the involved document.

Since site specific facts and other professional input does not seem to stimulate needed changes, I will provide a list of questions that beg to be answered before another burdensome regulatory layer is again prematurely put in place. I hope these questions will help to stimulate some reason and common sense thinking to occur.

1. As a point of order, how is site specific information and professional information to be provided and utilized prior to the written preparation of a regulatory document by staff? In checking on upcoming review processes for other north coast watersheds, there seems to be no defined approach or explanation of how the public, various professionals, and involved landowners can participate in the initial stages of document preparation. As I have explained, the initial document preparation period is the critical period in the formation of any regulatory document.
2. With no required time lines for the implementation plan, why is such a long term and major impacting document being pushed through at this time which is based on so much questionable and unproven assumptions? It is understood that there is the fear that delays in implementation will lead to a lawsuit, and court ordered time lines forced the establishment of TMDL target numbers. It is bad enough that the TMDL target numbers, which did not undergo adequate and proper per review, are a forced, educated guess at best. Is it also justified to put in place such a burdensome regulatory structure that is based on the same potentially flawed and unproven assumptions and ideas? How is the threat of a "possible" lawsuit equal to the damage that a erroneous, burdensome regulatory structure can cause?
3. What appeal process is going to be available to a landowner when staff does not have an adequate and proper basis for disapproving a required plan and/or report? The landowners are going to be required to expend significant amounts of funds, effort, and commitment in preparing the required conservation plan, the monitoring plan, effectiveness verification, and multiple reports. To have one entity, which is not accountable to anyone or to a review process, with total control, will lead to many problems. With all the regulatory requirements being proposed, the use of the word "voluntary" in the document is misleading, and to have no avenue for timely review of potential regulatory abuses, raises a lot of other questions about what is really going to happen when the TMDL process is fully in place.

4. What procedures have been put in place to modify the implementation plan and TMDL target numbers as new and better information and ideas are developed? The general explanation is that modifications will be made as seen needed. As seen needed by who? How can changes be initiated? To assure changes can and will be made in as expedient manner possible when errors are found in the TMDL numbers and in the implementation plan, a defined procedure allowing for participation by anyone with properly obtained ideas and information is needed.

5. Where is the consideration in the economic analysis for the added pressure to convert open space lands to nonopen space lands (subdivisions)? Open space lands exist because they provide an economic unit that can support someone. Many landowners are currently on the edge between fighting the good fight by raising a few cows, logging a few trees, etc. to pay the taxes and raise a family. Every time added regulation is applied, these folks ask the question why they don't sell for the big money offered by the developer instead of hanging on. All these folks have to look forward to is more and more regulation, and the incentive is to move on. The end result is going to be less and less open space lands, and more and more problems as heavier use of the involved areas occurs. This is a real problem, and if you think I am just babbling, talk to your county officials and see if they think this is not a economic problem that needs to be considered.

6. Why are the areas of heaviest population use, which are routinely major contributors to the nonpoint source problem, to not be included in the implementation plan? I have been told by staff that urban areas and such areas as uncontrolled subdivisions will not be required to do what other larger landowners are required to do. Lack of man power and funding is the excuse that I was given for singling out the larger landowners. How can the overall problem ever be resolved if a major part of the problem is to be ignored?

In summary, the bottom line is the established TMDL numbers and proposed implementation plan ideas are based on weak, unproven ideas, and a very unclear picture of what will happen in the future is being presented. The unknown is a major problem especially for the larger landowners, and the unknown does not promote the maintenance of open space lands. A little extra effort in reviewing, clarifying, and being sure about what is being proposed will result in avoiding an awful lot of pain and problems down the road. The proposed plan is not adequate and needs to undergo more per review outside the staff level, and you folks are the only ones in a position to see the right thing is done.

Yours,

Charles L. Ciancio

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

Dear person:

I attended the Regional Water Quality Control Board's workshop held in Eureka last Wednesday (February 27, 2002). At this workshop, a thick book was held up and referenced as the "Bible" regarding monitoring and sampling requirements. I am writing to learn more about this "Bible".

What is the official title of the "Bible" and/or guidelines being used in determining monitoring and sampling requirements?

How can a copy of the "Bible" be obtained (cost, location, contact person, order procedures, etc.) ?

What is contained in the Bible (a short written summary will do)?

When and how is the Bible applied (a short written summary will do)?

When and where can a copy of the "Bible" be reviewed (hopefully someone, public representative, public agency, individual business or company, consultant or contractor, etc., in the Eureka area has a copy available for review)?

Yours,

Charles L. Ciancio
Charles L. Ciancio
707-445-2179
P.O. Box 172
Cutten, CA 95534

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also item 4 if Restricted Delivery is desired.
- Print your name and address on the back of the envelope so that we can return the card to you if space permits.
- Attach this card to the back of the envelope or on the front if space permits.

1. Article Addressed to:
*North Coast Region
Water Quality Control Board
5550 Skylane Blvd.
Santa Rosa, CA*

2. Article Number (The) *7001 2510 0001*

**U.S. Postal Service
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SANTA ROSA CA 95403

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Date: *03/06/2002*

Sent To: *Water Quality Board*

Street, Apt. No. or PO Box No.: *5550 skylane Blvd, Suite A*

City, State, ZIP+4: *Santa Rosa, CA 95403*

PS Form 3811, August 2001 PS Form 3800, January 2001 See Reverse for Instructions 102595-01-M-2509

5/20/2002

State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: 5/23 and 24/2002 Public Hearings

Dear Board Members:

As a small landowner and professional with over 30 years of experience working with various landowners, I am here to ask how to get water quality staff and board members to answer questions and to consider input provided by landowners and other professionals.

As evidenced by copies of letters and hearing input that accompanies this letter, you will see I have been participating in your TMDL and Implementation Plan process for a long time, and I am very familiar with the current situation. The accompanying information provides a listing of all the questions that have not been answered, and all the input that has been ignored by you folks. To this point by not being acknowledged and utilized, landowner and professional site specific information and input has been ignored by this Fourth Branch of Government. A short listing of input and unanswered questions is as follows:

1. We are all told the best way to participate in the hearing processes is to go to the training sessions and meetings prior to any scheduled hearing and to work with staff. We are told contact with board members is not proper and basically not allowed. Input and questions at training sessions and pre-hearing meetings is ignored. The basis for board members to arrive at a decision is controlled by staff input.

Question: What can a landowner or professional do when their input and questions are ignored by Water Quality staff and Water Quality Boards?

2. My inquiry as to the basis for listing Redwood Creek in Humboldt County as being impaired resulted in receipt of a couple reports from Water Quality that said this designation was based on professional opinion. No site specific facts were provided to back up this opinion. Obtaining this little bit of information was a long and drawn out process as no one on the North Coast Regional staff could tell me why this watershed was designated as impaired, and I had to make several calls to other designated individuals.

Question: When the Redwood Creek landowners provided over five file boxes of site specific information during the scheduled hearing process, why were they told there was not enough time to review the information; therefore, their input could not be considered?

3. During pre-hearing training sessions and other meetings regarding implementation plans for Redwood Creek and your approved Garcia River Implementation Plan, provided input and many questions were asked and provided in writing. By never being utilized and/or answered the input and questions were ignored. I refer you to accompanying information for a long listing of the ignored input and questions.

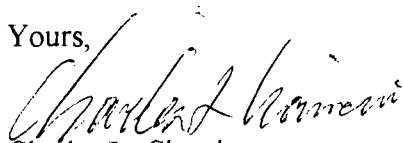
Question: With no required time lines for review, with staff having the final say on what is acceptable, and there being no effective means for appeal by permittee in the State approved Garcia Implementation Plan, how will unjustified and unsupported actions by staff be rectified, and how will staff be held accountable for their actions?

4. During Regional Water Quality Control Board's workshop held in Eureka February 27, 2002, a thick book was held up and referenced as the "Bible" regarding monitoring and sampling requirements. Accompanying letters show I have tried to obtain a copy of the "Bible", but have been ignored to date.

Question: What is the "Bible" and how is use of the Bible not in violation of Government Code Section 11340-11340.7 which prohibits use of agency criteria and internal guidelines that have not been adopted as a regulation and filed with the Secretary of State?

Can any answers to these questions be provided at this time?

Yours,



Charles L. Ciancio

RPF #317

P.O. Box 172

Cutten, CA 95534

CRITIQUE OF BASIS FOR LISTING REDWOOD CREEK
AS AN IMPAIRED WATERBODY

As supplied by David Smith of EPA

1. Fact sheet listing reasons for listing (make copy) - Water Quality fact sheet and AFS general report on North Streams is listed as basis for listing.
 - Without any site specific information, listing was based on opinion information that was not shown to have been peer reviewed, and without such site specific information and peer review, the basis for the impaired listing is not supportable.
2. Water Quality Fact Sheet (make a copy) - lists method of assessment as Professional judgment (no site specific facts or peer review listed)
3. AFS general report of North Coast Streams (make a copy) - Does not list any site specific information
 - Mentions Redwood Creek in a listing of sediment impacted streams with no provided site specific information that supports the basis for the listing.
 - Mentions Redwood Creek in a listing of fish species and their status with no provided site specific information that supports the basis for the listing.
 - Four references of reports of Redwood creek appear in the appendix.
 - Without providing any site specific basis for the listings, AFS report only provides a general opinion that sedimentation and fish species situations are a concern in Redwood Creek.
4. The nine?????? boxes of site specific information that show Redwood Creek is not impaired, and the site specific facts support the delisting of Redwood Creek as being impaired.
 - The question of the day is: Will the Water Quality Board continue the unsupported listing of Redwood Creek as impaired; or, will the Water Quality Board do the right thing by not ignoring the overwhelming site specific information that supports the delisting of redwood Creek?

IMPORTANT MESSAGE

FOR CHUCK

DATE 8/7/98 TIME 8:40 (A.M.)
(P.M.)

M Bruce Gwynne

OF _____

PHONE 576-2661
AREA CODE NUMBER EXTENSION

FAX

MOBILE 576-2661
AREA CODE NUMBER HOME TO CALL

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input checked="" type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

*Plenty out of office
10/10/98*

MESSAGE He made a mistake
about being back from his
Vacation on the 3rd. He can help
you on the 10th with the info
you requested.

SIGNED G.Z.



U.S. Environmental Protection Agency
Region IX

DAVID W. SMITH
Watershed Protection Branch

Water Management Division
75 Hawthorne Street (W-3-2)
San Francisco, CA 94105-3901

(415) 744-2012
Fax (415) 744-1078

Per your request cover 1

*Chuck -
I included
the docs. on
all the 92
additions to
the list in
case anyone
interested
in the basis
for workers in
addition to RWC.*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Staff Report Supporting Recommended Action
1992 California §303(d) Lists

Prepared by David Smith, TMDL Coordinator
April 22, 1993

~~000044~~

~~000007~~

§303(d) List Submittal Recommended Decision

EPA has reviewed California's Clean Water Act §303(d) lists contained in its Section 303(d) Report dated July 1992 and submitted August 24, 1992. California lists 259 waterbodies still requiring total maximum daily loads (TMDLs) [303(d) Report, Section 2], and 28 waterbody reaches for which TMDLs will be updated or established over the next two years [303(d) Report, Section 3].

On September 24, 1992, EPA partially approved California's 303(d) list of water quality limited segments still requiring TMDLs and the list of water quality limited segments for which TMDLs will be updated or established within the next two years. California's submittal partially satisfies the listing requirements in Clean Water Act §303(d)(1)(a) and 40 CFR 130.7 because the listings of waters in the California 303(d) Report:

- are based on reasonable analysis of available information concerning State water quality conditions,
- identify many, but not all waters within State boundaries for which effluent limitations required by §301(b)(1)(a) and §301(b)(1)(b) are not stringent enough to implement applicable water quality standards, and
- establish a priority ranking for listed waters, taking into account the severity of the pollution and the uses to be made of such waters.

On September 28, 1992, EPA requested additional information regarding a large number of waterbodies which were not listed and provided the State the opportunity to amend its list to include additional waters which meet the listing criteria. In a letter dated October 28, 1992, the California Water Resources Control Board informed EPA that the State would not amend its lists at this time. Therefore, we recommend partial disapproval of the list of water quality limited segments still requiring TMDLs because California did not list 17 waters which meet the listing criteria. We recommend addition of the following waterbodies to California's list:

~~000001~~

~~000007~~

303(d) FACT SHEET

WATER BODY NAME: Redwood Creek

LOCATION BY HYDROLOGIC UNIT NO.: 107.00 Source to Mouth

BASIS FOR LISTING:

Redwood Creek aquatic habitat is impaired by excessive sediment loading caused by historic logging activity (Water Quality Fact Sheet). Anadromous fish populations have experienced significant declines in Redwood Creek, partly as a result of fisheries habitat degradation (American Fisheries Society report, March 29, 1992, Page 3 and Water Quality Fact Sheet).

001205

~~001158~~

Date: 03/29/96

WATER BODY FACT SHEET

Region: 1

Water Body Name: REDWOOD CREEK (R1)

Hydrologic Unit No.: 107.00

Total Areal Extent: 63 MI

Type of Resource: Rivers and Streams

Clean Water Strategy Rating

Resource Value: 3

Uniqueness: 4

Magnitude of Use: 3

SUMMARY OF PROBLEM(S) OR CONCERN(S)

Type of Problem/Need: SEDIMENTATION FROM NATURAL AND HUMAN SOURCES HAS IMPACTED BENEFICIAL USES.

Location: SOURCE TO MOUTH

Problem/Need(s) and Source Description: REDWOOD CREEK, PARTIALLY PROTECTED BY REDWOOD NATIONAL PARK, IS THE DOMESTIC WATER SUPPLY FOR THE COMMUNITY OF ORICK, AND SUPPORTS AN ANADROMOUS SALMONID FISHERY. HISTORIC LOGGING UPSTREAM OF THE PARK HAS RESULTED IN NPS SEDIMENTATION. FISH POPULATIONS HAVE DECLINED.

	Concern 1	Concern 2	Concern 3
Specific Location:	ORICK	: MULTIPLE AREAS	:
Type of Pollutants/Parameters:	SED, DEB, NUT SUS	: SED, DEB, HAB	:
Method of Assessment:	Best Professional Judgement	: Best Professional Judgement	:
Water Quality Impaired or Threatened?:	Threatened - 3	: Threatened - 3	:
Major Beneficial Use Category Affected:	Recreational	: Aquatic	:
Type of Source(s):	INDU	: SILV, RANG, ONPS	:
Areal Extent:	1e MI	: 63e MI	:
Programs Affected:	NPDES, WDRNON15, WQC-PLAN, UGT	: NPS, MONITOR, UNREG, WQC-PLAN	:

	Concern 4	Concern 5	Concern 6
Specific Location:	:	:	:
Type of Pollutants/Parameters:	:	:	:
Method of Assessment:	:	:	:
Water Quality Impaired or Threatened?:	:	:	:
Major Beneficial Use Category Affected:	:	:	:
Type of Source(s):	:	:	:
Areal Extent:	:	:	:
Programs Affected:	:	:	:

e = areal extent of problem is estimated

Date Last Updated: 12/05/90

P.O. Box 172
Cuttan, CA 95534
7/23/98

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

Re: Water Quality Attainment Strategy for Sediment (TMDLs and Redwood Creek River)

Dear Board Members:

I am a registered Professional Forester, who has lived and worked over 32 years on the North Coast. During this time, I have been involved with all the regulatory schemes and public agencies that have affected the varied mix of landowners to be found on the North Coast.

I have been asked by landowners representing over 12,000 acres in the Redwood Creek watershed to say a few things regarding the staff proposed TMDL and Implementation Plan for Redwood Creek. Due to the way this process has been handled, I am only able to throw stones at you today; however, I hope you will listen to others who have some worthwhile ideas that can lead to a workable and usable TMDL and Implementation Plan.

Since the list of concerns and problems is too long to fully discuss at this meeting and the hearing and rule creation process does not allow for constructive input to be adequately utilized, I have tried to find a way to get your attention and to provide a basis for you to do the right thing. I have chosen the approach of asking nine questions, which seem to be getting pushed aside, to emphasize the concerns and problems associated with the staff's proposal. As standard procedure in all such meetings as this one, there will not be time to obtain an adequate answer to my questions; so, I can only ask the questions, and hope you will work to answer and resolve them.

Question Number One: Why was the deleterious standard omitted from the process and replaced with a zero input standard which is effectively a defacto zero potential input standard? The zero input standard effectively says if anything goes into a watercourse "at any time", the zero input standard will be violated. Once in place, no mechanism for timely and workable change in the Basin Plan's written word, TMDL target numbers and implementation plan, has been provided. With all the unknowns and speculative professional input that is being used and the lack of an adequate site specific and peer review basis, this seems to be a major flaw in what the staff has proposed.

Question Number Two: Why is there no specific written standards, approval and processing procedures, and required time lines to be followed by the regulators? In regards to the Redwood Creek TMDL and Implementation Plan proposal, which lacks adequate direction and written standards, what are we to believe when on one hand it is indicated a high degree of precision at a large expense could be needed, and on the other hand, we are told a high degree of precision is not needed to get the job done? What will be required is an unknown and costs for preparing the unknown can be without end.

Question Number Three: Why is there no appeal or method of recourse for a landowner if a regulatory agency inappropriately applies the intent or written word? This problem will intentionally and unintentionally occur without written accountability standards, approval and processing procedures, and required time lines to be followed by the regulators and with the lack of an adequate site specific and peer review basis.

Question Number Four: This question is presented to illustrate why the above concerns exist and to illustrate one of the many, many situations that can occur in application of the staff proposal. This question utilizes a copy of page 15 of the 7/16/98, Part 1, Staff Draft Proposal for Redwood Creek (copy of page 15 is attached with additional accompanying information which shows this requirement is a poor one and it is not based on good science). On page 15 under II-3 B., there is a listed leave tree requirement. In this requirement, terms are used which depend on interpretation of the site specific situation. One assumption requires the acceptance of the wording "that support beneficial uses" only applies to Class I and Class II watercourses as describe at the top of page 15-under the first paragraph for Section II. The next assumption depends on agreement of what is a Class III and Class II and better watercourse. Since there are numerous written reports that substantiate Water Quality staff's definition of a Class III and a Class II are routinely different than the ones determined by the THP process, and there is routine disagreement on watercourse classifications between landowners, RPFs, landowners, the public, and various public agencies, the question is "**Who is the judge" when there is disagreement on the site specific situation and/or adequacy of presented plans, reports, and monitoring work?**

Question Number Five: Why are actual reports used to determine state designated impairment not available for review in the local area? Some folks would be amazed at the lack of justification for what is about to be done to all of us.

Question Number Six: Why are the Implementation Plan requirements not going to be equally applied and enforced in the areas of heaviest population use, which are routinely major contributors to the nonpoint source problem? I have been told by staff that urban areas and such areas as uncontrolled subdivisions will not be required to do what other larger landowners are required to do. Lack of man power and funding is the excuse that I was given for singling out the larger landowners. The overall problem will never be resolved if a major part of the problem is to be ignored.

Question Number Seven: Why is the consideration for the added pressure to convert open space lands to nonopen space lands (subdivisions) left out of the economic analysis? Open space lands exist because they provide an economic unit that can support someone. Many landowners are currently on the edge between fighting the good fight by raising a few cows, logging a few trees, etc. to pay the taxes and raise a family. Every time added regulation is applied, these folks ask the question why they don't sell for the big money offered by the developer instead of hanging on. All these folks have to look forward to is more and more regulation, and the incentive is to move on. The end result is going to be less and less open space lands, and more and more problems as heavier use of the involved areas occurs. This is a real problem, and if you think I am just babbling, talk to your county officials and see if they think this is not a economic problem that needs to be considered.

Question Number Eight: Why is such a poor Implementation Plan which has no mandated time lines, court or legislated, being pushed through at this time? Putting this poor plan in place to satisfy a unsubstantiated, speculated concern will hurt everyone. More time should be taken to study and use other suggested ideas and procedures. We are all going to live with what is done for a very, very long time. Promises to modify as needed mean little to nothing when some entity later sues and forces full application of the written words that are placed into the Basin Plan. We are dealing with people's livelihoods and preservation of open space lands, and staff's proposed plan attacks both of these concerns.

Question Number Nine: How can our input on information and ideas be utilized in the rule making process? We are continually told to give our input. We are told our input is good and usable. Then the people who receive the input duck their heads and fade away with our input into a black hole somewhere. It all comes down to the public and concerned parties being asked to do the right thing, and the public agency requiring others to do its job.

One answer to the operational questions has been to bring such matters to you, the Board. Common sense tells me this will not be a timely and workable process as you become bogged down handling routine field matters, and past experience tells me the landowners will be left out in the cold as they are left to fend for themselves with no means of recourse.

Without pressure or strong direction to do otherwise, the agencies will bow to the personal agenda and politically correct pressures in preparing the rules we have to live by. It is up to you, the Board, to require your staff to do the right thing, which requires use of all site specific information, utilization of good science, and application of logic and common sense. This is not happening as illustrated by the proposal for Redwood Creek.

For your reading pleasure, I have provided some accompanying information on incorrect application of excessive large woody debris requirements and a previous 5/7/98 letter to this board.

Yours,

A handwritten signature in cursive script, appearing to read "Charles L. Ciancio".

Charles L. Ciancio

II Land Management Practices That Apply in the Riparian Management Zone

A Riparian Management Zone width shall be assigned to each watercourse based on the beneficial uses associated with the watercourse. For watercourses that directly support beneficial uses of water (Class I and II watercourses as defined in *California Forest Practice Rules, Title 14, California Code of Regulations, Chapters 4 and 4.5*), a Riparian Management Zone shall include a 100-foot strip of land on each side of the watercourse. For watercourses that do not directly support beneficial uses but are capable of transporting sediment to a watercourse which directly supports beneficial uses (Class III as defined in *California Forest Practice Rules, Title 14, California Code of Regulations, Chapters 4 and 4.5*), a Riparian Management Zone shall include a 50-foot strip of land on each side of the watercourse. The Riparian Management Zone shall be measured from the active channel or bankfull stage, whichever is wider.

II-1. To maintain an adequate sediment buffer between land management activities and watercourses, it is the goal of the Redwood Creek watershed Sedimentation Reduction Plan that 100 percent surface vegetation and/or duff be established and maintained within the Riparian Management Zone between the watercourses and land management activities that could otherwise result in the delivery of sediment to the watercourse. It is required, however, that any soil exposure within the Riparian Management Zone that is caused by land management activities shall be stabilized with the application of grass seed, mulch, slash or rock before October 15 of the year of disturbance. Stabilization measures shall achieve at least 90 percent coverage of all soil within the Riparian Management Zone exposed by land management activities.

II-2. To promote stream bank stability, each landowner shall ensure that there are no commercial land management activities, including commercial harvest, salvage timber harvest, or grazing, within the first 25 feet of the Riparian Management Zone for watercourses that directly support beneficial uses of water. This measure does not apply to the watercourse crossings.

II-3. To maintain present levels and promote future instream large woody debris, each landowner shall restrict commercial land use activities within the Riparian Management Zone to ensure that:

A. There is no removal of downed large woody debris from watercourse channels and within the riparian management zone unless the debris is causing a safety hazard.

B. On water courses that support beneficial uses at least five standing conifer trees greater than 32 inches in diameter at breast height (DBH) are permanently retained at any given time per 100 linear feet of watercourse in the riparian management zone, and these trees shall have an average DBH of at least 40 inches or greater. Where sites lack enough trees to meet this goal, there shall be no commercial harvest of the five largest diameter trees per 100 linear feet of watercourse in the riparian management zone.

**Use of proposed Water Quality staff large woody debris retention standards as listed
in 7/16/98, Part 1, Redwood Creek (TMDL and Implementation Plan) Proposal
(Page One)**

Requirement being requested for Class II and Class I watercourses is: A minimum of five standing conifer trees greater than 32 inches in diameter at breast height (DBH) are permanently retained at any given time per 100 linear feet of watercourse in the riparian zone, and these trees shall have an average DBH of at least 40 inches or greater. Where sites lack enough trees to meet this goal, there shall be no commercial harvest of the five largest diameter trees per 100 linear feet of watercourse in the riparian management zone.

Questions and Concerns:

1. No scientific basis has been provided for this level of retention.
 - The smaller, upland watercourses do not need and/or can not effectively utilize the amount of LWD that the listed recommendation will provide.
 - Lack of disturbance in the RMZs can occur to the point where replacement conifers and new conifer growth is restricted and/or prohibited (Big trees capture and hold site; lack of mineral soil and sunlight; retention of competing vegetation).
 - Since the 5 tree leave requirement has been requested to be used in coastline to inland areas, how was this requirement developed and determined to be the number needed for all site specific conditions?
 - This large woody debris (LWD) standard provides questionable to no LWD benefits, is unnecessary, often unattainable, restricts conifer growth, and is possibly detrimental over the long term.
2. Does not the wording "permanently retained" clearly state a taking will occur?
 - As understood to be applied, it is believed this standard will effectively stop all harvesting of any trees in the riparian management zone (RMZ) in many upland and inland areas where the old-growth stands never reach the required level of tree cover.

**Use of proposed Water Quality staff large woody debris retention standards as listed
in 7/16/98, Part 1, Redwood Creek (TMDL and Implementation Plan) Proposal.
(Page Two)**

In reviewing application of this unwritten regulation in the field, the following questions come to mind:

1. Does the tally of five trees include one side of the watercourse channel or does it include both sides?
2. Is the five tree tally an average over a certain length or is there to be no 100 foot stretch of RMZ as measured along the watercourse channel that does not have the required five trees? (i.e.: Is a lineal quarter mile of watercourse RMZ area is to have a count of 66 (with both sides 132) trees? Or, is a lineal mile of watercourse RMZ area is to have a count of 264 (with both sides 528) trees? Are no trees may be cut in any "roving", lineal 100 feet of watercourse if a count of five required leave trees will not remain in any "roving" lineal 100 feet of watercourse?)

It became apparent during review of the situation that the long term end result will not be what is wanted in all situations.

- It is a basic fact that conifer regeneration and growth is not promoted without the creation of disturbed mineral soil, sunlight, and reduced competition.
- In unharvested old-growth areas that meet the current standard and where landowners will be prohibited from harvesting any trees, the immediate goal of 5 trees may be fulfilled; however, over time as the larger trees hopefully fall over, the 5 tree count will be eroded downward. With no creation of disturbed mineral soil, sunlight, and reduced competition, it is a fact that the likelihood of large replacement conifers will be created to fill the void is low at best. In areas similar to the area of the proposed operations, all you have to do is look around at uncut large tree situations to see a 5 tree count does not exist in many areas and brush and hardwood species are going to control more and more of the RMZ area.
- In wetter areas and all areas, the requirements for conifer regeneration and growth remain unchanged. The creation of disturbed mineral soil, sunlight, and reduced competition is mandatory. With the continual push for less and less activity and disturbance in RMZ areas, how is the condition needed to promote conifers going to occur; so, the creation and retention and of conifers in RMZ areas can occur? How is the reduction of hardwoods and other vegetative growth, especially in the wetter areas in the RMZ areas which is needed allow for the creation and retention of conifers, going to occur?

P.O. Box 172
Cutten, CA 95534

5/7/98

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

Re: Water Quality Attainment Strategy for Sediment (TMDLs and the Garcia River)

Board Members:

You folks are to be commended for not hastily approving the December 9, 1998 version of the above referenced document and for requiring additional review. Having participated in a past hearing and review process by your board regarding implementation of the techniques and ideas being discussed, I would like to share some thoughts I have on the document of discussion.

As someone who can not be called a properly credentialed professional but who has studied and worked with the techniques being used (V*, RASI, McNeils, comparison of index stretches to noncomparable watersheds, etc.), I can say these techniques have some useful potential if correctly used, but they also have many, many flaws and limitations that I have not seen mentioned in any of the documents. Due to the recognized potential for inappropriate use of these techniques in a regulatory situation, the board during the previous review wisely decided to not incorporate the new ideas and techniques into the Basin Plan, and required staff to do more field review and verification of the involved ideas and techniques. To date, the lack of provided results from the required, additional review indicates the requested verification and field review has not been, and you, the board, have still not been fully advised of the potential problems and weaknesses associated with the proposed new ideas and techniques.

Having participated in many regulatory hearing processes and associated hearings, I have reached the conclusion, that once a regulatory package has been put into written form and noticed for public input, the chances for meaningful change do not exist. As required by law, the public input is taken and the regulatory bodies go through the legally required motions; however, the public's generally limited three to five minute sound bites are no match for the staff's extended means of input. Site specific facts and other professional input is given second chair to "professional expertise and opinions" already stated in the document being reviewed.

Except in rare cases, usually politically motivated, does a regulatory board question staff prepared regulatory documents and even more rarely is staff required to modify the documents they have prepared. Since the staff has again provided no significant changes to their original report and recommendations, it remains to be seen if you folks will take the next hard step of requiring specific changes be made in the involved document.

Since site specific facts and other professional input does not seem to stimulate needed changes, I will provide a list of questions that beg to be answered before another burdensome regulatory layer is again prematurely put in place. I hope these questions will help to stimulate some reason and common sense thinking to occur.

1. As a point of order, how is site specific information and professional information to be provided and utilized prior to the written preparation of a regulatory document by staff? In checking on upcoming review processes for other north coast watersheds, there seems to be no defined approach or explanation of how the public, various professionals, and involved landowners can participate in the initial stages of document preparation. As I have explained, the initial document preparation period is the critical period in the formation of any regulatory document.

2. With no required time lines for the implementation plan, why is such a long term and major impacting document being pushed through at this time which is based on so much questionable and unproven assumptions? It is understood that there is the fear that delays in implementation will lead to a lawsuit, and court ordered time lines forced the establishment of TMDL target numbers. It is bad enough that the TMDL target numbers, which did not undergo adequate and proper per review, are a forced, educated guess at best. Is it also justified to put in place such a burdensome regulatory structure that is based on the same potentially flawed and unproven assumptions and ideas? How is the threat of a "possible" lawsuit equal to the damage that a erroneous, burdensome regulatory structure can cause?

3. What appeal process is going to be available to a landowner when staff does not have an adequate and proper basis for disapproving a required plan and/or report? The landowners are going to be required to expend significant amounts of funds, effort, and commitment in preparing the required conservation plan, the monitoring plan, effectiveness verification, and multiple reports. To have one entity, which is not accountable to anyone or to a review process, with total control, will lead to many problems. With all the regulatory requirements being proposed, the use of the word "voluntary" in the document is misleading, and to have no avenue for timely review of potential regulatory abuses, raises a lot of other questions about what is really going to happen when the TMDL process is fully in place.

4. What procedures have been put in place to modify the implementation plan and TMDL target numbers as new and better information and ideas are developed? The general explanation is that modifications will be made as seen needed. As seen needed by who? How can changes be initiated? To assure changes can and will be made in as expedient manner possible when errors are found in the TMDL numbers and in the implementation plan, a defined procedure allowing for participation by anyone with properly obtained ideas and information is needed.

5. Where is the consideration in the economic analysis for the added pressure to convert open space lands to nonopen space lands (subdivisions)? Open space lands exist because they provide an economic unit that can support someone. Many landowners are currently on the edge between fighting the good fight by raising a few cows, logging a few trees, etc. to pay the taxes and raise a family. Every time added regulation is applied, these folks ask the question why they don't sell for the big money offered by the developer instead of hanging on. All these folks have to look forward to is more and more regulation, and the incentive is to move on. The end result is going to be less and less open space lands, and more and more problems as heavier use of the involved areas occurs. This is a real problem, and if you think I am just babbling, talk to your county officials and see if they think this is not a economic problem that needs to be considered.

6. Why are the areas of heaviest population use, which are routinely major contributors to the nonpoint source problem, to not be included in the implementation plan? I have been told by staff that urban areas and such areas as uncontrolled subdivisions will not be required to do what other larger landowners are required to do. Lack of man power and funding is the excuse that I was given for singling out the larger landowners. How can the overall problem ever be resolved if a major part of the problem is to be ignored?

In summary, the bottom line is the established TMDL numbers and proposed implementation plan ideas are based on weak, unproven ideas, and a very unclear picture of what will happen in the future is being presented. The unknown is a major problem especially for the larger landowners, and the unknown does not promote the maintenance of open space lands. A little extra effort in reviewing, clarifying, and being sure about what is being proposed will result in avoiding an awful lot of pain and problems down the road. The proposed plan is not adequate and needs to undergo more per review outside the staff level, and you folks are the only ones in a position to see the right thing is done.

Yours,

Charles L. Ciancio

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

Dear person:

I attended the Regional Water Quality Control Board's workshop held in Eureka last Wednesday (February 27, 2002). At this workshop, a thick book was held up and referenced as the "Bible" regarding monitoring and sampling requirements. I am writing to learn more about this "Bible".

What is the official title of the "Bible" and/or guidelines being used in determining monitoring and sampling requirements?

How can a copy of the "Bible" be obtained (cost, location, contact person, order procedures, etc.) ?

What is contained in the Bible (a short written summary will do)?

When and how is the Bible applied (a short written summary will do)?

When and where can a copy of the "Bible" be reviewed (hopefully someone, public representative, public agency, individual business or company, consultant or contractor, etc., in the Eureka area has a copy available for review)?

Yours,

Charles L. Ciancio
 Charles L. Ciancio
 707-445-2179
 P.O. Box 172
 Cutten, CA 95534

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PS Form 3811, August 2001

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PS Form 3800, January 2001

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