

WOOLEY CREEK DELISTING REQUEST
Klamath River HU, Salmon River HA, Wooley Creek HSA

Comments by Sari Sommarstrom, Ph.D.
Before the North Coast Regional Water Quality Control Board
June 3, 2009

Today I am speaking to you about the common sense reasons for delisting Wooley Creek as impaired for temperature. I will be wearing two different hats: one for the Siskiyou Resource Conservation District (who cannot send a board or staff member) and one as a watershed consultant with over 30 years of professional experience in North Coastal California who was also a member of this Board when the Salmon River TMDL was adopted in 2005. In addition, Siskiyou County and the U.S. Forest Service will be supporting this delisting in separate statements today.

Wooley Creek was listed as impaired for temperature along with the rest of the Salmon River Sub-basin in 1994. We argue that this listing was in error and should be delisted for many reasons.

Siskiyou Resource Conservation District

The Siskiyou RCD Board sent a letter on Feb. 5, 2007 requesting that the State delist Wooley Creek as impaired for temperature. The District believed then – and still believes – that there are no significant human-induced or controllable sources affecting stream temperature in this pristine 95,150 acre watershed. Most of this mountainous backcountry was protected as a Primitive Area in 1931 – one of the first in the country – as President Hoover was an avid fly fisherman and loved camping and fishing in the Wooley Creek area. Later these wildlands were designated by Congress as the Marble Mountain Wilderness Area under the 1964 National Wilderness Preservation Act. Currently 96.7% of the Wooley Creek watershed is officially designated as Wilderness.

Therefore, the US Forest Service must manage the watershed to protect its wilderness values, with or without the Salmon River TMDL. Roadbuilding and logging are not allowed. While natural disturbances such as wildfire and debris slides occur in this remote landscape, such potential contributors to water quality changes are not “anthropogenic”. These disturbances are not caused by management actions.

- If this untrammeled Wilderness watershed can't be delisted, what can be in the North Coast Region?
- What kind of signal are you sending to those working hard to meet TMDLs in other watersheds, such as the Scott River? That even a Wilderness cannot attain your temperature standard?

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I agree with everything the RCD has stated. When the Salmon River TMDL was before the Regional Board for adoption in 2005, I was a member of the Board and reluctantly voted for the TMDL approval. At that time and multiple times since, staff have told me that Wooley Creek would be seriously considered for delisting during the next 303(d) process. But sadly, staff is not seriously considering this delisting and has made recommendations based on some rather absurd conclusions in its recent Final Decision. Common sense has apparently gone out the window.

The bottom line is that staff is completely misconstruing the intent of the Clean Water Act and the Porter-Cologne Act in its understanding of “natural”.

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Clean Water Act (CWA) (section 502(19)) defines “pollution” as “*the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.*”

“Impaired waterbody” is defined under CWA to mean “Any waterbody that does not attain water quality standards due to an individual pollutant, multiple pollutants, pollution, or an unknown cause of impairment.”

North Coast Region’s Basin Plan states: “*Controllable water quality factors are those actions, conditions, or circumstances resulting from man’s activities that may influence the quality of the waters of the State and that may be reasonably controlled.*” [emphasis added]

Therefore, the main issue with Wooley Creek is that there are no human causes influencing its water temperature. There is no pollution which is man-induced, there is no impaired waterbody since there are no human caused pollutants, and there are no controllable water quality factors that result from man’s activities. It should never have been listed.

1. No significant human impairment has occurred or is now occurring in the Wooley Creek watershed.
 - a. Within the 96% portion designated Wilderness, only natural processes are at work: flooding, debris slides, and wildfires. This rugged and hot interior landscape is prone to such natural disturbances. They cannot be prevented.
 - b. The few roads within the watershed have almost all been decommissioned.
 - c. Grazing by cattle is allowed in the Marble Mountain Wilderness on several allotments by the US Forest Service, with small portions overlapping the watershed. However, cows are grazing the meadows in the upper watershed, not the riparian in the inaccessible steep canyons, and the intensity of grazing is extremely low: at most 105 cow-calf pairs within this 95,000 acre watershed. The Klamath National Forest will present this grazing information in more detail. Natural grazing by Roosevelt Elk (reintroduced) also occurs throughout the Wilderness Area and beyond.
2. No reference streams have been identified by the Regional Board in entire North Coast Region. These are extremely important to implement your Basin Plan.
 - a. NONE have been designated for the entire North Coast Region. This Region encompasses 19,390 square miles. Yet there is no single stream or watershed that is considered of sufficient quality to be deemed unimpaired for temperature?
 - b. The Porter-Cologne Act (section 13241) states for the Regional Plans that the water quality objectives must consider several factors, including: “(b) *environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.*” That means baseline condition – what is natural?
 - c. The Basin Plan’s Water Quality Objective for Temperature requires that “*at no time or place shall the temperature of any COLD water be increased by more than 5 F above natural receiving water*”, yet no attempt is made by staff in the Salmon River TMDL – or any TMDL -- to determine what that is. Instead, staff analyses are always based on “optimum” temperature for cold water fisheries. So what if the MWMT values exceed the desired optimum maximum temperature of 16 C, if there is no definition of “natural receiving water”?

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- d. If Wooley Creek's temperature is considered higher than "optimum" for cold water fish, then that is what Mother Nature provides in this part of the region. One cannot demand colder temperatures. Wilderness conditions mean "what you see is what you get".
 - e. Yes, the watershed burns and debris slides occur and banks erode after flooding – those are natural processes. They are not a reason for listing as impaired.
 - f. Wooley Creek's channel is extremely steep and rocky, with little opportunity for riparian establishment except for flatter reaches with some soil. Shade canopy will be lower in this stream system naturally.
 - g. Inland watersheds like Wooley Creek are different than coastal watersheds. Wooley Creek ranges from a low elevation of 700 ft to high mountain peaks over 6,000 feet. This variable watershed would be an excellent inland reference stream.
3. Staff's response to public comments (#29-34) reveals that they want to retain the listing because they believe the current temperatures are too high and the stream does not meet their definition of "effective shade". This action is in direct conflict with the intent of the Clean Water Act and Porter-Cologne Act: deal with man-induced pollutants. Staff jump past any "controllable factors" and demand impairment status because they don't like seeing their perception of temperatures that are too warm at the mouth of Wooley Creek.
- a. Only shade canopy, staff says, can be used for the definition of "natural":
"It cannot be determined, at this time, whether temperatures in Wooley Creek are natural, because it is unknown whether TMDL targets for effective shade have been met." (p. 345 Staff Report)
 - b. The TMDL target of 69.7% mean adjusted potential effective shade value must be attained, staff asserts, before Wooley Creek can be delisted.
 - c. Natural stream temperatures are not important, only shade canopy: *"When available data demonstrates that these TMDL shade targets are met, then the water temperatures can be said to represent natural receiving water temperatures..."*
 - d. Staff could have just called up the Klamath National Forest's Range Management Specialist to get the answer to how much grazing actually occurs in the watershed, when this issue was raised by the public. Instead, staff concluded too much disturbance occurs to qualify as natural so they eliminated LOE 21155 (p.346).
4. The Scale of the Wooley Creek HSA – Hydrologic Sub Area – instead of just the larger Salmon River Hydrologic Area (HA) is very appropriate for separate consideration under the 303(d) process.
- a. The CWA's 303(d) specifically refers to "water quality limited segments". Entire watersheds are not the expectation for listing, especially at the large scale of a hydrologic area (HA) such as Salmon River at 481,000 acres (751 sq. miles).
 - b. Listing of an entire sub-basin at the scale of the Salmon River HA seems to be a matter of convenience and has been a practice of the North Coast RWB, but not by other RWBs in California.
 - c. As part of a congressional Wilderness Area designation, Wooley Creek will be maintained and managed for its pristine qualities. It does not require a TMDL to mandate its management practices.
5. A designation as Unimpaired should be a proud classification for those who care about the Salmon River watershed. Instead, this change seems to be viewed as a threat. That

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bad management will somehow be unleashed without the constraint of an impaired listing.

- a. Less than 1% of the watershed is privately owned.
- b. Wooley Creek will still need to be monitored, even more so, as it represents a unique reference condition.
- c. Funding should still be targeted to Salmon River as a priority area for stream and fisheries restoration. However, the Wilderness Area does not require restoration.

Recommendation

- Draft 303(d) Report by staff from Feb. 2009 correctly identified the watershed as having a low amount of human disturbance, less than the 15% figure quoted. Staff correctly recommended delisting, stating “*the natural receiving water temperature has not been altered by human activities and the temperature water quality is being attained.*” Line of Evidence (LOE) 21155 is correct.
- Final Report by staff in May incorrectly identified the watershed as being disturbed, claiming “new information that there “may be more disturbance in the watershed” than previously indicated. The new LOE 26643 is incorrect. Staff makes the assertion that the “*natural receiving water temperature of Wooley Creek has been altered by human activities*” solely because the data values exceed their expectation of what natural should be.
- Adopt the Draft Report’s Supporting Information (Decision ID 9540) instead of the Final Report’s recommendations and conclusions. Support the delisting of Wooley Creek HSA as impaired for temperature.

Conclusion:

Please follow the intent of the Clean Water Act and the Porter-Cologne Act and address human caused impairments of water quality and leave the natural, unimpaired watersheds unlisted.

If this natural Wilderness watershed can’t be delisted for temperature, what watershed can be considered “unimpaired”?

We seem to have forgotten what the whole process is about: protecting and restoring natural conditions. It is not about trying to create a fairy tale image of what natural conditions should be.