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DENVER H. NELSON, M.D.
5240 Blackberry Lane
EUREKA, CALIFORNIA 95503

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10/25/06 BdMtg Item 10
303(d) List
Deadline: 10/20/06 5pm

TELEPHONE (707) 445-3514
FAX NUMBER (707) 445-3514
dennel@cox.net

October 18, 2006

Tam M. Doduc
Board Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Subject: Comment Letter – 2006 Federal CWA Section 303(d) List

Dear Ms. Doduc:

I am a resident of Eureka, CA and have several miles of Klamath River frontage property which includes the mouth of Surpur Creek and the lower mile of Surpur Creek tributary. On December 6, 2005 I presented my comments regarding the necessity of listing the Klamath River as sediment impaired to the State Water Resources Control Board (SWRCB). I endorsed the staff's recommendation to list the Klamath River as sediment impaired.

I have since found a 1989 Bureau of Indian Affairs study done by Thomas R. Payne & Associates titled "Lower Klamath River Tributary Delta Study." This study affirms my presentation with their conclusion that "One potential contributor to (fish) population declines that has been largely overlooked is the recent formation of gravel deltas where many lower river tributaries enter the Klamath."

There apparently now is a question as to whether the State of California is able to use studies done on the Yurok Reservation as a basis for a 303(d) listing or if the State of California has the jurisdiction to list the Klamath River as sediment impaired because of Yurok Tribal Sovereignty.

I would make the following points:

1. The Klamath 303(d) listing is for the entire water shed and not just the Yurok Reservation. The reservation consists of 63,035 acres which is only 0.72% of the entire Klamath watershed of 8,712,000 acres or 3.45% of the 1,825,000 acre Lower Klamath watershed.
2. Many Yurok tribal members patented their land and sold it to non-tribal people. Only 11,489 acres of the 63,035 acre reservation (18.22%) is owned or controlled by the Yurok tribe. Much of the non-tribal 51,546 acres is owned by Simpson Timber Company (Green Diamond) and is classified as Timber Production Zone (TPZ) by the State of California and Humboldt County. Logging on the reservation land owned by Simpson is controlled by the California Forest

Practice Act. Even lands on the reservation that have been purchased by the tribe from non-tribal owners are governed by the California Forest Practice Act. Thus the State of California governs practices on reservation lands.

3. From my discussions with Yurok tribal elders and Yurok tribal council members, they all understand and agree on the need for a sediment TMDL on the Klamath River.

4. If the Yurok Tribe's 11,489 acres need to be excluded from a SWRCB / US EPA Klamath River sediment TMDL, perhaps a joint agreement could be negotiated.

Thank you for the opportunity to comment on the 2006 Federal CWA Section 303(d) List.

Yours truly,

A handwritten signature in black ink, appearing to read 'Denver Nelson', with a long horizontal flourish extending to the right.

Denver Nelson

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