



## EXECUTIVE OFFICERS REPORT

North Coast Regional Water Quality Control Board

MARCH 2011

### Progress on the North Coast Water Board's 2007 Triennial Review List

Porter-Cologne and the Clean Water Act require that every three years the Regional Water Board 1) identify those portions of the Basin Plan that need modification or new additions; 2) adopt standards as appropriate; and 3) recognize those portions of the Basin Plan which are appropriate as written. Our Board last conducted this review in 2007, and staff will shortly propose a schedule for conducting the next review. The purpose of this report is to give an overview of the progress we have made on the 2007 list.

### Crosswalk for 2007-2010 Triennial Review Priorities

Triennial Review Priority	Work Under-way	Estimated RWB Adoption
#1 TMDL Action Plans Klamath Elk Freshwater	Yes Yes Yes	Completed TBD TBD
#2 Excess Sediment Prohibition	Yes	TBD
#3 Stream & Wetlands Policy	Yes	TBD
#4 Low Threat Discharge	Yes	Completed

Triennial Review Priority	Work Underway	Estimated RWB Adoption
#5 Editorial Amendment Chapter 1 - Intro Chapter 2 – BUs Chapter 3 – WQO Chapter 4 – Imp Chapter 5- Monitoring	Yes Yes Yes Yes No	Completed 9/2011 Spring 2012 Spring 2012 TBD
#6 WQO Amendment	Yes	Winter 2012
#7 Regional DO Objective	Yes	Winter 2012
#8 Freshwater Bacteria Objective	No	TBD
# 9 Hatcheries Action Plan	No	TBD
# 10 Instream Flow Objective	No	TBD
#11 Restoration Policy	Yes	Winter 2012
#12 Mixing Zone Policy	Yes	11/2011

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Triennial Review Priority	Work Under-way	Estimated RWB Adoption
#13 Temperature Policy	Yes	Summer 2011
#14 BU Table 2-1 Update	No	TBD
#15 Ammonia Objective	No	TBD

### Basin Plan Amendment to Update Regional Groundwater and Surface Water Protection March 2011

Regional Water Board staff is developing a comprehensive Basin Plan amendment to ensure that groundwater and surface water resources are not adversely impacted by the discharge of waste. Due to the existing format of the Basin Plan and the interconnected nature of the actions necessary to protect waters of the State from discharge of waste to land or surface water, staff has identified numerous revisions/additions to the Basin Plan (Chapters 3 and 4) that are needed to accommodate this goal. These include, in part, the need to revise existing surface and groundwater objectives to delete outdated information and replace with up to date references. To this end, staff is

developing a new "Policy for Application of Narrative Water Quality Objectives" to replace the outdated information contained in Table 3-2. Staff has also identified the need to develop a comprehensive policy to protect groundwater resources from the application of waste to land regardless of the sources of waste (e.g. confined animal operations, solid waste sites, etc). Staff is developing this land disposal policy so that requirements needed to protect waters of the State from this type of land uses are clearly articulated for the regulated community.

Staff Contact: Lauren Clyde  
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### Basin Plan Amendment Creating a Restoration Policy

While the Regional Board has the authority to certify or permit restoration projects that have short term impacts, but long term benefits, the consideration of a policy on restoration policy is desirable.

Staff is developing a *Restoration Policy*, more broadly addressing the issue of aquatic system restoration and its role as a water quality protection tool. A Scoping Document is currently being drafted and will be the subject of public Scoping Meetings to be held in Spring 2011. The Scoping Document will describe a range of

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topics to be considered for inclusion in a Restoration Policy, including but not limited to the following:

- A definition of *aquatic system restoration*;
- New or revised prohibitions designed to support aquatic system restoration;
- Criteria by which to exempt certain aquatic system restoration projects from prohibitions, or permit the temporary exceedance of certain water quality objectives;
- Implementation guidelines for the construction of aquatic system restoration projects; and a strategy by which to coordinate the review and approval of aquatic system restoration projects with other resource protection agencies.

Following the CEQA Scoping Meetings, a Substitute Environmental Document (SED) will be completed and submitted for public review in preparation for a Regional Water Board workshop in the fall of 2011 and a hearing in the winter of 2011-12. Notice of the CEQA Scoping Meeting will be added to the Regional Water Board web page and will include all relevant documents through which stakeholders and the public can become familiar with the water quality issues related to aquatic system restoration in the North Coast Region. Interested parties are

encouraged to sign up on the "Restoration Policy for the North Coast Region" Lyris email subscription list on the Regional Water Board's website to receive notification of upcoming actions.

Staff Contact: Alydda Mangelsdorf

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### **Regional Basin Plan Amendment for Dissolved Oxygen**

The current dissolved oxygen (DO) water quality objectives (objectives) are specified in two separate places in the Basin Plan. Site Specific Objectives (SSOs) for DO are specified in Table 3-1 for all the main waterbodies of the North Coast Region (Region) and many of the tributary streams, as well. These are based on grab-sample data collected during the day throughout the 1950s and 1960s and are not reasonably compared to the continuous data often collected now. Life cycle-based DO objectives are also included in the Basin Plan; but, they only protect against acute DO stress and only apply to those waterbodies not specifically named in Table 3-1.

Staff has drafted a Substitute Environmental Document (SED) outlining a proposed Basin Plan Amendment (BPA) to eliminate the SSOs for DO and update the life cycle-based DO objectives to provide protection against both acute and chronic DO stress. Staff

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proposes that life cycle-based DO objectives be applied in all the waterbodies of the Region, except those that can't meet them due to natural conditions. In these special cases, staff proposes that natural DO conditions be substituted as the objective, estimated based on percent DO saturation and natural receiving water temperatures.

The proposed Amendment has been scoped with public input and undergone a scientific peer review. The concepts described in the draft SED have been updated based on public and scientific peer review comments and applied as a test case to the Klamath River mainstem. The result is a set of newly revised SSOs for DO in the Klamath River based on percent DO saturation and natural receiving water temperatures (i.e., natural DO conditions). These were adopted by the Regional and State Boards and approved by the Office of Administrative Law and the U.S. Environmental Protection Agency in 2010.

Staff has drafted a scope of work by which to complete a BPA for revised DO objectives regionwide. Additional issues under consideration are how to apply DO objectives in lakes, wetlands, bays and estuaries. Staff intends to have a draft SED available for public review during the summer of 2011 with a Regional Water Board

workshop in the fall and hearing in the winter 2011-12.

Interested parties are encouraged to sign up on the "Dissolved Oxygen Water Quality Objective Basin Plan Amendment" Lyris email subscription list on the Regional Water Board's website to receive notification of upcoming actions.

Staff Contact: Alydda Mangelsdorf

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### Temperature Policy

Regional Water Board staff continue to make progress developing a policy for the implementation of the water quality objective for temperature. The goals of the proposed policy are to control elevated water temperature in waterbodies so that water quality objectives are attained and beneficial uses are no longer adversely affected by elevated temperatures. The policy is proposed to take the form of a resolution from the Regional Water Board. Through the resolution, as currently proposed, the Regional Water Board would direct staff to rely on the use of all existing authorities and regulatory tools to more effectively address elevated water temperatures, as appropriate. The resolution would also direct staff to work with other agencies and local governments to pursue non-regulatory actions to address elevated water temperatures.

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### **Update on Development of the Elk River and Freshwater Creek Sediment TMDLs**

In 1998, Elk River and Freshwater Creek were placed on the federal Clean Water Act section 303(d) list of impaired waterbodies due to excess sediment. The Clean Water Act requires the development of TMDLs for 303(d) listed waterbodies. The TMDLs for these watersheds were reprioritized by the Regional Water Board and scheduled for development by 2003. However, implementations of a permitting program, petitions, litigation, enforcement matters and contracting difficulties have all contributed to delays in developing the TMDLs. Meanwhile, the Regional Board has taken several actions in these watersheds, including: the issuance of several watershed-wide Waste Discharge Requirements (WDRs) and Cleanup and Abatement Orders (CAOs) for Pacific Lumber Company (Now Humboldt Redwood Company (HRC)) and Green Diamond Resource Company (GDRco). These include:

#### **Elk**

WDR R1-2006-0039 (HRC) and  
R1-2006-0043 (GDRco)  
CAO R1-2004-0028 and  
R1-2006-0055

#### **Freshwater**

WDR R1-2006-0041  
(does not include activities in Ryan  
Creek)  
CAO R1-2006-0046

Staff released portions of the Draft Staff Report for the Elk River Sediment TMDL to the public in May 2009. This release included Chapter 1: Introduction and Chapter 2: Problem Statement. The Draft Chapter 3: Source Analysis, Targets, Linkage, and Load Allocation is scheduled for public release on March 30, 2011. At that time, the web page will be updated and the Lyris email list will be used to inform interested parties of the available documents and soliciting public input on Chapters 1, 2 and 3 of the Draft Staff Report. A workshop will be held at the June 23, 2011 Regional Water Board meeting to inform the Board and the public on the technical portions of the Elk River Sediment TMDL. An outline of potential implementation actions designed to comply with the draft TMDL load allocations will also be presented. Staff will also propose a schedule for future Board consideration of the Elk River TMDL.

The staff contact for the Elk River TMDL is Adona White.

Currently for the Freshwater Creek TMDL, staff has completed drafts of the first two chapters, the introduction and problem statement, and is nearly complete with the source analysis. The source analysis will be completed by the end of March. Additional field work is needed to

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document aggradation in lower Freshwater Creek and will occur during April and May. A draft of the technical portion of the TMDL will be prepared by July 2011.

The staff contact for the Freshwater Creek TMDL is Dr. Matthew Buffleben.

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### **Development of a Water Quality Compliance Program for Agriculture**

Regional Water Board staff are in the process of developing a water quality compliance program for agriculture in the North Coast Region. Staff are considering a range of options regarding the scope of the program. At the time of the January 2011 Executive Officer's Report, the proposed scope included discharges associated with both irrigated agriculture and grazing in the Klamath Basin. Staff have decided to expand the geographic scope of the program to include all of the North Coast Region, while at the same time limiting the types of discharges covered to those associated with irrigated lands and irrigated pasture.

Expanding the geographic scope will address potential impacts to water quality across the Region and will be a more efficient use of staff resources by consolidating program development efforts. Expanding the

scope also provides an opportunity for all the ag-based stakeholders to participate in the development of this key program. Having a regionwide program will create a level playing field, while maintaining the flexibility for growers to form watershed or commodity-based groups and develop management plans specific to their area.

Discharges associated with dryland grazing activities have been removed from the scope of the regional program in consideration of the statewide process to address grazing that is currently underway. This effort is being led by the Lahontan Region (South Lake Tahoe) in coordination with the other regions. North Coast Regional Water Board staff will be actively involved in the process to ensure the statewide program adequately addresses the water quality concerns and needs of the ranching communities in the North Coast Region.

Regional Water Board staff have contracted with the Center for Collaborative Policy (CCP) to assist in program development. Staff are currently working with CCP to develop a stakeholder involvement plan based on the new scope of the program.

Staff are maintaining the timeline and workplan tasks presented to the Board in June 2010, including the

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endpoint of a Board adoption hearing in December 2012. Staff are planning a presentation to the Board in May 2011 on the initial approach and progress towards implementing the workplan. Staff intend to develop a program that is both feasible for growers to implement and reasonably protective of water quality.

Stakeholders can subscribe to the mailing list and stay informed on the latest program developments at the following webpage:

<http://www.waterboards.ca.gov/northcoast>.

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### Enforcement Report Diana Henriouille

#### Enforcement Report for February 2011 Executive Officer's Report

Date Issued	Discharger	Action Type
12/17/10	City of Healdsburg	NOV/ Expedited Payment Letter
Violation Type	Status as of February 25, 2011	
WDRs	Paid \$6,000 to CAA; complete	

Discussion: On December 17, 2010, the Regional Water Board Assistant Executive Officer (AEO) issued to the city of Healdsburg a Notice of Violation (NOV) and Conditional Offer to Participate in Expedited Payment Program (EPP) relating to violations of the Discharger's Waste Discharge Requirements (WDRs). The Expedited Payment Letter (EPL) cites WDR violations subject to Mandatory Minimum Penalties (MMPs) in the amount of \$6,000. The Discharger paid the penalty within the required timeframe and this matter has been completed.

Date Issued	Discharger	Action Type
12/21/10	Harold Richardson	NOV
Violation Type	Status as of February 25, 2011	
Failure to Enroll Timber Harvest Plan	Coverage obtained; case closed.	

Discussion: On December 21, 2010, the Regional Water Board Assistant Executive Officer (AEO) issued a NOV to Harold Richardson for failure to enroll a Timber Harvest Plan for coverage under the General Waste Discharge Requirements for Timber Harvest Activities. The NOV directed the discharger to cease timber harvest until coverage was obtained. The Discharger enrolled for coverage as directed.

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Date Issued	Discharger	Action Type	Date Issued	Discharger	Action Type
12/31/10	College of the Redwoods	NOV	12/31/10	Patient Terrier Vineyards, LLC	NOV
<b>Violation Type</b>	<b>Status as of February 25, 2011</b>		<b>Violation Type</b>	<b>Status as of February 25, 2011</b>	
<b>Violation of requirements of the Construction Storm Water Permit</b>	No response received.		<b>Unauthorized waste discharge to Mark West Creek</b>	Ongoing	

Discussion: On December 31, 2010, the Chief of the Regional Water Board's Watershed Protection Division issued an NOV to College of the Redwoods for violation of the Statewide General Permit for Discharges of Storm Water for Construction Activities. The Discharger has not fully implemented BMPs on the construction site, resulting in turbid stormwater discharges, and a violation of water quality objectives. The NOV directed the Discharger to update its Stormwater Pollution Prevention Plan (SWPPP), implement BMPs, and submit a report to the Regional Water Board within 10 days of the NOV issuance date (by January 10, 2011). To date, staff have not received a response from the Discharger, so staff will investigate and determine appropriate followup action.

Discussion: On December 31, 2010, the Chief of the Regional Water Board's Watershed Protection Division issued an NOV to Patient Terrier Vineyards, LLC for unauthorized discharge of soil, sediment, and/or other earthen materials into Mark West Creek in violation of the Water Code and the Basin Plan. The NOV directed the discharger to cease the discharge and install erosion and sediment controls. With input from Regional Water Board staff, the Discharger has taken steps to control erosion and sediment discharges on the subject property; staff inspected the site on February 15, 2011, during rainfall, and report that they did not observe discharge of sediment from the site into receiving waters.



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Date Issued	Discharger	Action Type
1/12/11	Jon and Deann Green	NOV
Violation Type	Status as of February 25, 2011	
Violation of CAO No. R1-2010-0071	Continuing violation	

Discussion: On January 14, 2011, the Regional Water Board AEO issued Administrative Civil Liability Complaint No. R1-2011-0013 to Fort Bragg Municipal Improvement District No. 1 proposing a penalty of \$31,069 for violations subject to discretionary penalties and MMPs, including sanitary sewer overflows (SSOs). The Discharger has returned the waiver form enclosed with the ACLC indicating interest in proposing a Supplemental Environmental Project to satisfy a portion of the penalty.

Discussion: On January 12, 2011, the Regional Water Board AEO issued a NOV for violation of Tasks 2, 3 and 5 of Cleanup and Abatement Order No. R1-2010-0071. The Dischargers have not responded to the NOV, nor indicated any intentions to comply with the subject CAO.

Date Issued	Discharger	Action Type
1/14/11	Fort Bragg Municipal Improvement District No. 1	ACLC
Violation Type	Status as of February 25, 2011	
MMP, WDRs and SSO violations for the period 11/1/07 through 10/31/10	Ongoing	

  

Date Issued	Discharger	Action Type
1/18/11	Patricia Plowright and Thomas Rider Plowright III	CAO
Violation Type	Status as of February 25, 2011	
Unpermitted sediment discharges to water-courses within the Navarro River watershed	Ongoing	

Discussion: On January 18, 2011, the Regional Water Board AEO issued Cleanup and Abatement Order (CAO) No. R1-2011-0014 to Patricia Plowright and Thomas Rider Plowright III for grading and bulldozing of earthen materials in and

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adjacent to Little Mill Creek, causing unauthorized discharge of soil, sediment, and/or other earthen materials into the Navarro River watershed in violation of the Water Code and the Basin Plan. The Order requires the Dischargers to submit and implement workplans and monitoring plans to address the violations onsite and document and report correction efforts. The Discharger has provided the first progress report as required under the CAO. The Discharger has also petitioned to both the State and Regional Water Boards for reconsideration of the CAO.

Date Issued	Discharger	Action Type
1/28/11	Eric Windschitl	CAO
Violation Type	Status as of February 25, 2011	
Unpermitted sediment discharges to water-courses within the Trinity River watershed	Ongoing	

Discussion: On January 28, 2011, the Regional Water Board AEO issued a CAO to Eric Windschitl for grading and bulldozing of earthen materials in swales and adjacent to streams that lead to Mill Creek and the Trinity River, threatening

unauthorized discharge of soil, sediment, and/or other earthen materials into the Trinity River watershed in violation of the Water Code and the Basin Plan. The Order requires the Discharger to submit and implement workplans and monitoring plans to address the violations onsite and document and report on correction efforts. This is part of a joint enforcement effort with Cal Fire and the Trinity County District Attorney's office. The Discharger, his attorney, and consultants have been in contact with enforcing agencies and have met onsite with CalFire and Regional Water Board staff to discuss violations and compliance requirements.

Date Issued	Discharger	Action Type
2/4/11	Town of Windsor	NOV/ Expedited Payment Letter
Violation Type	Status as of February 25, 2011	
WDR violations	Ongoing	

Discussion: On February 4, 2011, the Regional Water Board AEO issued a NOV and Conditional Offer to Participate in the Expedited Payment Program relating to violations in the Discharger's WDRs.

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The EPL cites WDR violations, subject to MMPs, in the amount of \$6,000.

Date Issued	Discharger	Action Type
2/11/11	Colin Barret Voitek	CAO
<b>Violation Type</b>	<b>Status as of February 25, 2011</b>	
<b>Discharge and threatened discharge of sediment to water-courses within the South Fork Trinity River watershed</b>	<b>Revised restoration workplan submitted 2/23/11</b>	

Discussion: On February 11, 2011, the Regional Water Board AEO issued a CAO to Colin Barrett Voitek for grading and unauthorized dredge and fill activities within and adjacent to an ephemeral watercourse tributary to Post Creek, which is tributary to Rattlesnake Creek, which is tributary to South Fork Trinity River, causing unauthorized discharge of soil, sediment, and/or other earthen materials into the South Fork Trinity River watershed in violation of the Water Code and the Basin Plan. The Order requires the Discharger to submit and implement

site restoration/pollution control plans. This is part of a joint enforcement effort with Cal Fire and his behalf, subject to review and comment by both Regional Water Board staff and Cal Fire staff.

Date Issued	Discharger	Action Type
2/11/11	John Curry and Ian Asher	CAO
<b>Violation Type</b>	<b>Status as of February 25, 2011</b>	
<b>Discharge and threatened discharge of sediment to watercourses within the South Fork Trinity River watershed</b>	<b>Ongoing</b>	

Discussion: On February 11, 2011, the Regional Water Board AEO issued a CAO to John Curry and Ian Asher for grading and unauthorized dredge and fill activities within and adjacent to an ephemeral watercourse tributary to Post Creek, which is tributary to Rattlesnake Creek, which is tributary to South Fork Trinity River causing unauthorized discharge of soil, sediment, and/or other earthen materials into the South Fork Trinity

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watershed in violation of the Water Code and the Basin Plan. The Order requires the Discharger to implement short and long term site stabilization and restoration efforts. This is part of a joint enforcement effort with Cal Fire and the Trinity County District Attorney's office. The Dischargers engaged a Registered Professional Forester who developed a restoration workplan; the CAO directs the Dischargers to complete plan implementation by July 1, 2011.

Waiver are expected to be distributed to State Clearinghouse and stakeholders for a 45 day review period prior to this May meeting. After comments are collected and the draft permits are revised, they will be readied for adoption at the Regional Board meeting scheduled for August 2011.

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### **Dairy Program** by Cherie Blatt

Staff is continuing with stakeholder involvement in the formation of the Dairy Program for the North Coast Region. The three (3) draft permits within the Dairy Program will be the National Pollution Discharge Elimination System (NPDES) permit, the general waste discharge requirements (GWDRs), and the waiver of waste discharge requirements (Waiver). Each will require best management practices, nutrient management planning, and monitoring and reporting for the improvement of water quality. A report on our progress is tentatively scheduled for the May 2011 Regional Water Board meeting. The Draft NPDES, GWDR and