EXECUTIVE OFFICERS REPORT
North Coast Regional Water Quality Control Board

March 2014

Public Concern with Caltrans's Willits Bypass Project

Brendan Thompson

Citizens from Willits, concerned about Caltrans's Highway 101 Willits Bypass Project (Project), were heard during the Public Forum portion of the January 30, 2014, Board meeting. Staff also received 21 letters and 23 e-mails since January 23, 2014, expressing concerns and requesting North Coast Regional Water Quality Control Board (Regional Water Board) action related to the Project. The most common themes, concerns, and requests for action were:

- A request that the Regional Water Board place an item on the March 13, 2014, Board meeting agenda to consider issuance of a Cease and Desist Order and revoke the 401 water quality certification for the Project;
- An assertion that Caltrans should not be allowed to use large quantities of groundwater for dust control and compaction during a drought emergency;
- An assertion that Caltrans current Project design is unnecessarily large for a two-lane highway and the Regional Water Board should require a scaled-back northern interchange that still meets the Project needs while significantly avoiding impacts to wetlands;
- An assertion that Caltrans is in violation with its 401 water quality certification, the Regional Water Board has been overly generous with permit extensions, and no further extensions should be given; and
- Although the project is in the middle of construction, a mitigation and monitoring plan has not been approved by the Regional Water Board, and the mitigation is not yet adequately funded.

Follow-Up

In response to concerns regarding use of groundwater for dust control and compaction within the Project, Regional Water Board Staff alerted State Water Resources Control Board Division of Water Rights Staff of the issue.

Staff and the Executive Officer met with a contingent of the citizen representatives for two hours on February 14, 2014, and opened the meeting by sharing meeting objectives. Staff objectives were to:

1) Share information on Staff's coordination with Caltrans and other resource agencies on completing outstanding components of the Project's Mitigation and Monitoring Plan; and

2) To listen to the citizen representatives concerns and answer their questions.

The citizen representatives objectives were to:

1) Compel the Regional Water Board to consider a project Cease and Desist Order at the March 13, 2014 Board meeting; and

2) Pursued Regional Water Board staff to recognize a delay in mitigation implementation and evaluate avoidance of wetland impacts as compensation for the temporal loss of mitigation.

Cease and Desist

The Executive Officer (EO) informed the citizen representatives that Staff are also very concerned that Caltrans does not yet have an approved Mitigation and Monitoring Plan (MMP), which is reflected in a letter we sent to Caltrans on January 15, 2014. This letter notifies Caltrans that they must submit a revised MMP and that the Regional Water Board EO must find it acceptable prior to Caltrans resumption of fill import this construction season. The Willits contingent was under the impression that an action by the Regional Water Board would be necessary to issue a Cease and Desist Order and that the March Board meeting would be the last opportunity to vote on such an Order before resumption of the next construction season. The Executive Officer explained that he has the authority to pursue formal enforcement actions, including issuance of a Cease and Desist Order, where appropriate without authorization by Board Members. For this reason, the Executive Officer did not place an action item related to the Project on the March agenda.

We also explained that Regional Water Board staff is meeting with Caltrans, California Department of Fish and Wildlife, and Mendocino County Resource Conservation District staff on a regular basis to resolve outstanding mitigation and monitoring plan issues. The Willits contingent has requested to have their own auditors present at these meetings, but the respective agencies have not agreed to this. However, Regional Water Board staff did agree to provide verbal updates to a contingent representative on a regular basis.

Avoidance of Impacts

The Willits contingent also expressed concern that the mitigation implementation is significantly delayed from timelines put forward in the 2010, 2012, and 2013 draft MMP's. Caltrans is currently proposing to complete all mitigation installation approximately 2 years after completion of construction due to delays in securing mitigation contracts. The Willits contingent requested that we require Caltrans reduce the amount of permanent fill to wetlands by redesigning the Project's northern interchange as compensation for the delayed implementation of mitigation actions. They claim that Caltrans already has a northern interchange design that would meet the present traffic needs of a two-lane configuration while avoiding 20-30 acres of wetlands (see Figure 1).

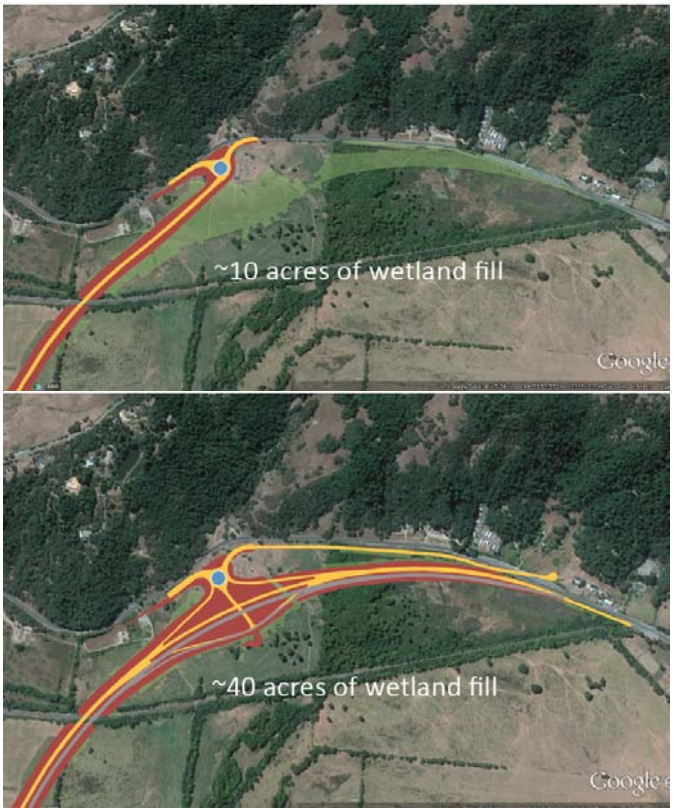

Figure 1: The proposed revised design(top image) of the northern interchange. (Graphics supplied by the Willits contingent)

Regional Water Board staff requires that 401 certification applicants implement avoidance, minimization, and mitigation opportunities, in that order of preference, when a request is made to impact State waters. Staff is also directed to require greater avoidance minimization, and mitigation measures in proportion to the time period that mitigation is provided beyond the date of impact to State waters to compensate for temporal loss of beneficial uses and impacts to the functions and values of the impacted waters of the State. Consistent with these guidelines, we told the Willits contingent that Caltrans may need to implement avoidance or minimization of impacts to waters of the State, or to mitigate for any delay in mitigation implementation. The Executive Officer directed staff to evaluate the degree of Caltrans' delay in mitigation implementation so that we may consider compensatory options. The Executive Officer told the Willits contingent that we would consider the possibility of avoidance as compensation for mitigation delays, and that a scaled-down northern interchange would be considered, if appropriate. Collaboration with other State and Federal regulatory resource agencies would likely be needed if the option of a scaled-down northern interchange were to be proposed.

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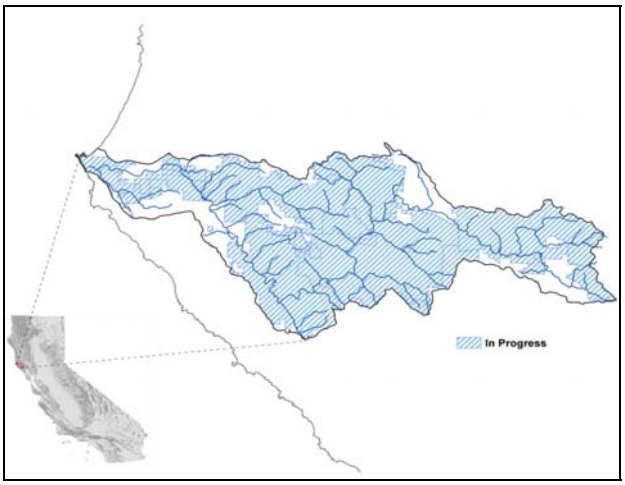
Garcia River Watershed Update

Jonathan Warmerdam

The implementation of the Garcia River Watershed Sediment Total Maximum Daily Load (Garcia TMDL) continues to progress, with over 80% of the entire watershed working to address controllable sediment delivery to the river and its tributaries.

Recent TMDL implementation activities include the development of three additional erosion control plans (ECPs) covering 20.3 miles of private roads and 370 linear feet of eroding streambanks on the Alden Ranch, Mountain View Ranch, and Wheeler Ranch.

The Pacific Watershed Associates inventoried the three properties which include an additional 10% of the entire Garcia River watershed. Development and implementation of these ECPs has been collaboratively funded through private and public partnerships including: landowner match funds, Clean Water Act 319(h) planning and implementation grants, and through the Natural Resource Conservation Service's National Water Quality Initiative (NWQI). On February 1, 2014, the *Garcia River Total Maximum Daily Load Project Phase II* Clean Water Act 319(h) grant was awarded to the Mendocino County Resource Conservation District (MCRCD). This new nonpoint source grant includes $750,000 in federal 319(h) funds and a landowner match of $648,945, for a combined total of $1,398,945.



Garcia River Watershed Sediment TMDL

In 2013, the Mendocino County Department of Transportation (MCDOT) continued to make progress with their implementation of erosion and sediment control efforts along the fourteen miles of county-maintained Fish Rock Road in the Garcia River watershed. To date, the

MCDOT has implemented the following project types along Fish Rock Road: 37 new or replaced ditch relief culverts, 8 culvert downspouts, 38 energy dissipaters, 1 overside drain, 4.9 miles of road side berm removed, and road rock surfacing along 4.9 miles of road. So far, the MCDOT's efforts to upgrade the road are estimated to have controlled approximately 900 cubic yards of sediment delivery to Garcia River tributaries each year. In 2014, the MCDOT will continue to implement: erosion and sediment control at stream crossings, installation of additional ditch relief culverts, and road resurfacing and reshaping. Significant progress has been made by restoration practitioners to **restore and improve instream habitat conditions** through streambank stabilization (bioengineering) and large wood augmentation. In 2014, the Mendocino Redwood Company and Trout Unlimited, in contract with Blencowe Watershed Associates, will begin introducing large woody material into 1.5 miles of the South Fork Garcia River. Funding for the project was provided for the project by CAL FIRE via the *Wood for Salmon Working Group* and is being administered by the MCRCD. Combined with previous large wood augmentation efforts conducted by The Nature Conservancy and The Conservation Fund, more than 10 miles of Garcia River tributaries, and core recovery areas for coho salmon, will have been treated with similar treatments, by introducing additional large woody material into the stream channel to improve habitat conditions for threatened and endangered salmonids.

The results from the **Garcia River Monitoring Project** – an effort jointly implemented by the Regional Water Board and The Nature Conservancy - are currently being evaluated in partnership with the U.S. EPA; results of the monitoring project are intended to be reported sometime in 2014. The project is based on the U.S. EPA's Environmental Monitoring and Assessment Program (EMAP-West) and the Water Board's Surface Water Ambient Monitoring Program (SWAMP). Physical habitat, water quality data, and biological data collected from more than 80 separate monitoring reaches throughout the Garcia River watershed, and within each of its twelve subwatersheds, are being analyzed to determine if instream habitat conditions are improving. The survey design for the project, which was developed with assistance from U.S. EPA staff in Corvalis, Oregon, required establishment of a random stratified reach selection process, multiple consecutive survey years to identify annual variability, and a large number of reaches to identify conditions at the watershed and subwatershed scale.

The impairment of the Garcia River that resulted from human activities over the past 150 years has affected many aspects of the river's natural conditions in which the salmonid populations evolved. Changes in sediment supply, temperature, riparian composition, and instream structure are only a few of the conditions that are affected, and likely took many decades to manifest. Although Regional Water Board staff, restoration practitioners, landowners, fisherman, and other agencies tend to agree that conditions within the Garcia appear to be improving, the procedures for detecting those trends was improved substantially in recent years. Unlike watersheds that are impaired due to point source pollution, sediment and temperature impaired watersheds - like the Garcia River – require a longer time horizon to recover. In the U.S. EPA's publication *Detecting Persistent Change in the Habitat of Salmon-Bearing Streams in the Pacific Northwest* (Larsen et al. 2004), EPA staff who developed the EMAP protocols determined that well-designed networks of 30-50 sites monitored consistently over years can detect underlying changes of 1-2% per year in a variety of key habitat characteristics within 10-20 years, or sooner, if such trends are present. The in-depth monitoring of the Garcia River watershed will provide critical data for assessing trends.

The **persistent drought** that California has been facing since 2012 has caused many watersheds in the North Coast Region to remain in a state of emergency, especially during the critical late fall and winter spawning period for salmonids. The Garcia River has also been impacted by the drought. On January 9, 2014, Jonathan Warmerdam participated with Joshua Fuller of the NOAA – National Marine Fisheries Service, in an investigation of river conditions in the lower Garcia and its estuary as a result of the drought. The investigation was conducted following reports from local citizens that the mouth of the Garcia River had closed and that fish were stuck in the estuary.

J. Warmerdam, Jan 2014. Evidence of recently constructed salmon redd (species unknown) within the tidal zone.

The results of the investigation were not good. We observed at least one salmon redd (or nest) that was constructed within the tidally influenced zone. It is unlikely that the eggs would survive the saltwater conditions that would inundate the redd during high tides.

We also briefly observed multiple adult fish – believed to have been Chinook salmon and coho salmon - that appeared to have been holding in the estuary for some time, as they appeared fairly degraded. We also observed a school of approximately one dozen steelhead trout that had likely just started entering the river as they were bright and silvery. At the end of the day, we found one recently deceased two-year old male coho salmon, known as a "jack", but could not determine the cause of its death.

J. Warmerdam, January 2014. Deceased two-year old, male coho salmon. Lower Garcia River.

Although the mouth of the Garcia River remained open, the persistent low flow conditions in the estuary and lower river may have prohibited migration upstream for the salmon that entered the river during the start of their typical migration periods, in November and December. As such, some adult Chinook salmon and coho salmon may have been holding in the lowest part of the river for weeks or months. Fortunately, the first major storm event to bring precipitation to the area raised the river stage from its low of ~2.5 feet that persisted through much of 2013, to over 7.5 feet on February 8, 2014. The increased flows may have come in time for some of these stranded adults to move upstream to spawn, but we will not know until surveys are conducted later in 2014.

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Fly Ash Update

Lisa Bernard

There are four wood-fired power plants operating in the North Coast Region. As a result of normal operations these facilities generate bottom ash and fly ash as byproducts of wood burning activity. During the April 2012 meeting of the North Coast Regional Water Board, members of the

public raised concern regarding the management of wood ash in the North Coast Region. Specifically, concern was expressed regarding potential dioxin contamination of soil where wood ash is applied to land as a soil amendment and associated management practices, which commenters assert may not adequately prevent erosion and uncontrolled movement of ash materials to or towards waters of the State.

In August 2012, the Executive Officer issued an Order requiring information regarding the current management practices at each of the four biomass power plants (generators) in the region. Staff evaluated the resulting information and reported our findings to the Board at the December 2012 Board meeting. At this Board meeting, staff confirmed that in the ash generated on the North Coast constituents of concern, including dioxin, were found to be generally below regulatory criteria for the protection of human health. Because pollutant levels are low there are a variety of opportunities for beneficial reuse of wood ash byproducts in the region using assorted regulatory mechanisms applied for the protection of water quality. One mechanism available is Resolution No. R1-2012-0099, the Policy for Waiving Waste Discharge Requirements for Specific Types of Waste Discharge in the North Coast Region (General Waiver). The General Waiver may be used to regulate ash as an industrial waste utilized for soil amendment.

A second pass over the field with the tandem disk at a 45 to 90 angle to the first disking assures more complete incorporation of the ash. Photo by University of California

Other permitting options could allow for ash reuse in various aspects of construction, or incorporation into concrete. Alternatively, ash can be legally disposed at a permitted landfill or other facility permitted to receive ash, such as a composting facility which uses ash as part of their feedstock.

Currently, all four generators in the North Coast region are managing wood ash byproducts in a manner protective of water quality. Two ash generators have successfully obtained coverage under the General Waiver , which includes criteria for Industrial Wastes Utilized for Soil Amendments. Coverage under the General Waiver includes implementation of enforceable best management practices (BMPs), identification of thresholds protective of water quality and human health, as well as requirements for routine monitoring and reporting of the waste and application areas under an individual Monitoring and Reporting Program Order (MRP). One generator continues to operate in accordance with BMPs and monitoring and reporting obligations established over 10 years ago, in accordance with Regional Water Board staff requirements. Regional Water Board staff is currently working with this generator to explore coverage and associated monitoring in accordance with the General Waiver and an individual MRP. The fourth ash generator has expressed interest in coverage under the General Waiver, but continues to legally dispose of ash at a permitted composting facility in the region. Regional Water Board staff will continue to work with all four generators to manage wood ash in the North Coast in a manner protective of human health and water quality.

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Enforcement Report for March 2014 Executive Officer's Report

Diana Henrioulle

Date Issued	Discharger	Action Type	Violation Type	Status as of February 20, 2014
1/17/14	Crescent City Harbor District	NOV	1/17/14	Ongoing

Comments: On January 17, 2014, the Chief of the Nonpoint Source and Timber Harvest Division issued a Notice of Violation (NOV) to Crescent City Harbor District (CCHD) for illegal disposal of construction material on the "Pappas Property." The NOV directs the Discharger to immediately cease any activities that involve the disposal of any construction debris or other materials from CCHD projects at any location that does not have all the appropriate and required permits in place prior to their use, and in any manner that may adversely affect water quality. The NOV also directs the Discharger to obtain all the required permits for past and potential future use of the "Pappas Property" including coverage under the General Stormwater Permit, and preparation and implementation of an appropriate Storm Water Pollution Prevention Plan.

Date Issued	Discharger	Action Type	Violation Type	Status as of February 20, 2014
1/17/14	Dry Creek Properties	NOV	Storm Water Permit	Ongoing

Comments: On January 17, 2014, the Assistant Executive Officer issued a NOV to Dry Creek Properties for threatened or potential threat to discharge sediment to waters of the State from grading activities. The Discharger was directed to submit reports and properly winterize exposed soil by January 27, 2014.

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