

Regional Water Quality Control Board  
North Coast Region

Executive Officer's Summary Report  
Thursday, June 16, 2016  
North Coast Regional Water Quality Control Board  
Santa Rosa, CA 95403

- ITEM: 13
- SUBJECT: Public Hearing to consider adoption of Proposed Order No. R1-2016-0004, Waste Discharge Requirements for Nonpoint Source Discharges and Other Controllable Water Quality Factors Related to Timber Harvesting and Associated Activities Conducted by Humboldt Redwood Company, LLC in the Upper Elk River Watershed, Humboldt County (proposed Order) (Jim Burke).
- BOARD ACTION: Consider Adoption of proposed Order No. R1-2016-0004.
- BACKGROUND: On May 12, 2016, the North Coast Regional Water Quality Control Board (Regional Water Board) commenced a public hearing to consider adoption of the above-referenced Order No. R1-2016-0004 to Humboldt Redwood Company, LLC (HRC) in the Upper Elk River Watershed. At that hearing, the Regional Water Board heard the Staff presentation and comments from HRC and interested parties. The Regional Water Board closed the public comment period and continued the hearing to a future date. With the exception of the revisions discussed below, proposed Order No. R1-2016-0004 remains unchanged. On June 2, 2016, the Regional Water Board sent a revised public notice with the date and time of the continued hearing (Attachment 1) to its Lyris list subscribers and posted it on its website.
- DISCUSSION: **Clarifying Information**  
After public comment and Board deliberation on May 12, Regional Water Board members requested clarification from staff regarding:  
1) a comparison of riparian management zones (RMZ) proposed by HRC and the proposed Order;  
2) harvest rates proposed by HRC; and,  
3) details of required hydrology and aquatic trends monitoring.
- Staff have provided materials clarifying RMZ protection measures (Attachment 2), HRC's proposed harvest projections, as revised March 11, 2016 (Attachment 3), and hydrology and aquatic trends monitoring information (Attachments 4 and 5). These materials are described below. This information already exists in the record and is provided here in a readily accessible format in response to Board members' specific requests.

### Attachment 2 - *Riparian Management Zones*

Two infographics have been included to graphically illustrate and compare RMZ protection measures required under several different regulatory frameworks. These include:

- a. A general comparison of RMZ widths and tree retention requirements from the proposed Order, HRC's RMZ prescriptions from their report of waste discharge (ROWD), watercourse and lake protection zone requirements (WLPZ) from the California Forest Practice Rules anadromous salmonid protection rules, and Green Diamond Resource Company's prescriptions from their Elk River/Salmon Creek management plan; and,
- b. A detailed comparison between HRC's ROWD-proposed RMZs and those in the proposed Order.

### Attachment 3 - *Harvest Acreage and Rates*

This table shows HRC's projected harvest over the next twenty years from their ROWD (revised March 11, 2016). The table includes the total acreage of each subwatershed as well as acres owned by HRC, the acres HRC proposes to harvest in each subwatershed for each five year periods though the year 2034, and average annual harvest rates for 10 year periods expressed as equivalent clearcut acres (ECA)(see also discussion below in Proposed Order Revisions).

### Attachment 4 - *HRC's Elk River Water Quality Monitoring Program*

HRC submitted a detailed description of their monitoring program to the Regional Water Board on May 24, 2016 as an addendum to their ROWD. The document describes the aquatic trends monitoring, which was described in Appendix F of their ROWD, as well as the hydrology monitoring program, and includes an updated map showing locations of all current sampling conducted by HRC in Elk River. The water quality monitoring is currently required under HRC's existing WDR for Elk River, Order No. R1-2006-0039, and Habitat Conservation Plan (HCP).

### Attachment 5 - *Additional Elk River Watershed Monitoring Activities*

This document summarizes additional monitoring activities being conducted or planned as part of the Elk River Recovery Assessment project, the associated pilot sediment remediation projects, and the science and monitoring coordination function of the Elk River Watershed Stewardship Program. These monitoring efforts augment HRC's *Elk River Water Quality Monitoring Program*, and in combination will provide the data necessary over time to track system recovery and assess the trajectory of recovery towards attainment of beneficial uses.

**Proposed Order Revisions**

In addition to the information requested by Board members and described above, a few Board members expressed concerns about the temporary prohibition on harvesting in high risk subwatersheds and requested additional definition regarding the intended duration of the prohibition and the specific criteria that would be used to consider lifting of the temporary prohibition. Staff have revised the proposed Order to clarify the temporary nature of the prohibition and changed the hard cap harvest rate limit to a threshold of concern. These revisions to the proposed Order are presented below.

In addition, section IV.B.2 was revised to clarify that the Five Year Synthesis Report must be approved by the Executive Officer, and a date was added by which HRC and Regional Water Board staff will consult on the content of the Report.

**Temporary Prohibition** (Findings #5, #57, and #58 and section I.A.4)

“The temporary prohibition on harvesting in high risk subwatersheds shall expire in 10 years from the date of adoption of the Order unless, subject to a 30-day review and public comment period, the Regional Water Board finds that the temporary prohibition should remain in effect for an additional five years. In making this determination, the Regional Water Board shall consider monitoring data and other information to assess whether beneficial uses are supported in the impacted reach.”

In addition to the revision quoted above, the option for the Regional Water Board to lift the temporary prohibition based on a finding that beneficial uses are supported in the impacted reach has been removed. These revisions address Board member concerns about the undefined duration of the prohibition and the lack of clearly defined criteria for lifting the prohibition, while still providing a limit on harvesting in high risk areas while watershed restoration efforts move forward. While the revised provision is written with a “sunset clause”, it retains the Regional Water Board’s ability to extend the prohibition if warranted by lack of progress towards improving beneficial uses.

The temporary prohibition does not apply to THP 1-12-110 HUM, which was approved by CAL FIRE prior to completion of the TMDL and supporting technical report. Unit 2 of THP 1-12-110 HUM is the management unit of a paired watershed study in Railroad Gulch designed to evaluate the effectiveness of HRC’s HCP management practices. The Executive Officer enrolled Unit 2 on April 22, 2016, under Order No. R1-2004-0030, *General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region*.

Findings #5, #57, and #58 and section I.A.4 have been revised accordingly.

Subwatershed harvest limits (Finding 37 and section I.A.3)

The proposed Order establishes enforceable limits on the intensity and rate of harvest on both the watershed and subwatershed scale proposed by HRC in Tables 4.2 and 4.3 of their ROWD.

HRC's proposed annual harvest rates fall near or below 2% ECA averaged over any 10 year period in most subwatersheds. As discussed in Findings 30 through 37 of the proposed Order, as well as in the response to comments dated April 7, 2016, Regional Water Board staff have determined that when considered within the context of sediment prevention measures described in the ROWD and the proposed Order, HRC's proposed harvest projections are generally protective of water quality. The April 7<sup>th</sup> version of proposed Order required that the harvest rate in any subwatershed not exceed 2% ECA averaged over any 10 year period. Regional Water Board staff revised the proposed Order to treat the 2% ECA 10 year harvest rate as a threshold of concern rather than a hard limit. Finding 37 and section I.A.3 have been revised accordingly. The proposed Order retains the Executive Officer's authority to decline or modify THP enrollments based on concerns over harvest rates, but also provides for flexibility to adapt to the specific subwatershed conditions and concerns.

RECOMMENDATION: Adopt proposed Order No. R1-2016-0004 (including the Mitigated Negative Declaration) with the following additional revisions:

1. The temporary prohibition will expire 10 years after the date of adoption of the Order, unless the Regional Water Board takes action to extend it. The temporary prohibition does not apply to THP 1-10-110 HUM.
2. The 2% ECA 10 year average annual harvest rate will be treated as a threshold of concern rather than a hard limit.

Attached to this EOSR is a clean version of the revised proposed Order (Attachment 6) and a redline-strikeout version highlighting proposed revisions (Attachment 7). These changes are consistent with the scope of protection provided in the public review draft and April 7<sup>th</sup> version of the proposed Order.

**SUPPORTING  
DOCUMENTS:**

1. Revised Public Notice, dated June 1, 2016
2. Riparian zone protection comparison infographics
  - a. General
  - b. Detailed
3. Twenty year harvest projections, from HRC's ROWD Table 4.3 (revised March 11, 2016)
4. HRC Elk River Stream Monitoring Program
5. Additional Elk River Watershed Monitoring Activities
6. Proposed Order No. R1-2016-0004 (revised clean version dated June 16, 2016)
7. Proposed Order No. R1-2016-0004 (underline/strikeout version dated June 16, 2016)