PACIFIC COAST FEDERATION of FISHERMEN'S ASSOCIATIONS

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29 September, 2016

North Coast Regional Water Quality Control Board and
Mathias St. John, Executive Officer
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403
Attn: James.Burke@waterboards.ca.gov

Re: Waste Discharge Order No. R1-2016-0004

Dear Board Members:

The staff has done a very good job of presenting some of the best information available on the issues before us regarding Waste Discharge Order No. R1-2016-0004. The problem here is, staff and some board members may be drawing the wrong conclusions from their own best information.

Some conclusions drawn do not follow from the information presented in the WDR, and the WDR is not dealing with certain holes and gaps in the required monitoring and evaluation contained in the General WDRs and/or the watershed specific Upper Elk River WDRs, which we pointed out in earlier discussions regarding this draft. Therefore, based on the best information available, mostly from Order R1-2016-0004 (herein the WDR) itself, we intend to show how the WDR is inadequate on several levels:

-No additional sediment discharge from logging should be allowed at this time
-The Watershed Stewardship Program cannot yet mitigate for additional sediment
-CDF and responsible agencies that permitted degradation should help pay for accelerated remediation.
-The road inspection trigger of 3 inches of rain in 24 hours is inadequate
-No winter operations should be allowed
-Cumulative effects are compounding, not additive, and the WDR must allow for big storms and earthquakes.
-The water quality goal should be water clarity as that coming out of Headwaters Preserve.
-HRC should perform the feasibility study
-Enrollment should continue to be required and not automatically rescinded after five years unless and until considerable and measureable progress toward Water Quality

Objectives and support of the beneficial uses is achieved.
-Sediment and Salmon don't mix

No additional sediment discharge from logging should be allowed at this time.
Whereas the draft WDR refers to in-channel sources from "past and ongoing" timber harvest, and "In addition, limiting timber harvesting activities that are likely to generate additional sediment in high-risk subwatersheds…." (29)*
And, "Pursuant to Water Code section 13263, the Regional Water Board shall prescribe requirements as to the nature of any proposed or existing discharge with relation to the receiving water conditions." (27).

--The receiving water conditions have "Zero assimilative capacity."

Whereas the "loading capacity in the impacted reach for additional sediment is defined as zero until its capacity can be expanded through sediment remediation and channel restoration, nuisance conditions are abated, and beneficial uses are supported," (26)

And, "When water quality is already degraded, it may take time to achieve water quality objectives and immediate compliance may not be possible, even with complete cessation of a discharging activity,"(27)

We recommend "complete cessation of a discharging activity," with the exception of restoration activities under the Best Management Practices prescribed, jointly funded by the company and the public as an investment to avoid larger impacts to the public trust.

The Watershed Stewardship Program cannot yet mitigate for additional sediment
And, According to the Draft WDR, "In addition, limiting timber harvesting activities that are likely to generate additional sediment production in high risk areas is appropriate, and the Watershed Stewardship Program (see Finding 66) will take active measures to improve downstream beneficial uses." (29)

We disagree with the above statement. Actually, it is not appropriate to permit <u>any</u> "timber harvesting activities that are likely to generate additional sediment production in high risk areas." The "receiving water conditions" are "zero assimilative capacity." Assimilative capacity includes carrying capacity, and the WDR should not rely on the Stewardship Program that is still in the planning stages. Additional sediment generation will likely exacerbate fishery, safety and other loss of beneficial uses before any remediation downstream takes place.
*Numbers refer to numbered paragraphs in 160913_R1-2016-0004_ElkWDR-strikeout-underliine.pdf version of the draft UER HRC WDR.

According to the draft WDR, "The capacity of the UER for sediment is limited by the ongoing aggradation in the impacted reach and resulting nuisance conditions and compromised beneficial uses. Unless and until its capacity can be expanded through sediment remediation and channel restoration, nuisance conditions abated, and beneficial uses supported, the nonpoint source load allocation is defined as zero. Even with the implementation of current and much improved management practices and stringent restrictions described, ongoing timber harvesting and associated activities will result in some sediment discharge, further exacerbating the already impaired condition. Therefore, in addition to addressing existing, ongoing discharges, this Order addresses water quality

impacts that have already occurred." (87)

Permitting addition discharges would permit the timber company to continue externalizing the cost of timber production by having the Stewardship Program clean up after them using public funds. Funding for the Program does not yet exist, and no remediation is currently planned or Permitted. Elk River does not act in isolation as a highly degraded but potentially excellent home for salmon. Nearby watersheds such as Freshwater, Stitz, Jordan and Bear Creek are impaired freshwater salmon habitat that is still bleeding sediment. The Army Corps of Engineers devoted $7.5 million this year alone in public funds to dredge the harbor entrance, ironically so that the mountain of today's "quality timber products," wood chips, can be shipped out. Currently, Humboldt Bay Harbor is only safe for shipping seven months of the year. The siltation, which also creates a notoriously dangerous bar crossing for the winter commercial crab fishery, largely exacerbated by sediment pollution from the similarly over-logged and sediment–impaired watersheds, Stitz, Jordan, Bear Creek in the Eel River, is compounded by large sediment loads from Freshwater Creek and Elk River, leading to large public expenditures for Humboldt Bay Harbor channel and boat slip dredging.

CDF and responsible agencies that permitted degradation should help pay for accelerated remediation.

Some additional background: The Murphy family, owners of PALCO before Maxxam, commissioned a study in 1985 predicting the impacts of their logging management. The study suggests limiting timber harvest to 24m board feet per year across their holdings would keep old growth mills A and B open in perpetuity with 30-inch saw logs.

And, in 1987, Maxxam's PALCO hired Pacific Meridian to re-do the inventory and positive/negative impacts to environment, inventory and jobs on PALCO lands as well as "the rest of the redwood region." The study showed PALCO to be "in a unique position in the region for stability," and projected that if they went much above a certain rate of cut it would produce a steep reduction of timber and jobs in 20 years. Maxxam chose the higher rate of cut.

Whereas California Department of Forestry (CDF-now-CalFIRE) knew, from analyses in the mid-1980's, that there would be environmental damage, liquidation of timber inventory and subsequent loss of jobs, by routinely overriding Regional Board water quality non-concurrences on Timber Harvest Plans, CDF was criminally negligent.

CDF knowingly and willfully permitted degradation of the watershed—it didn't just happen!

Which is why, due to growing public concern reflected in the legislature, in 2004, California Senate Bill 810 gave the Executive Director of the Regional Board authority to stop a logging plan to protect water quality.

Therefore, we recommend that since the state agencies, particularly CDF, are responsible for having permitted the logging that compounded with storm events and geological disturbances to create the impairment of the receiving waters, R1 should pursue an aggressive and rigorous search for additional public funds to match with HRC's efforts to speed up complete cleanup of the list of identified Controllable Sediment Discharge Sources (CSDS.) This could provide employment for HRC timber workers in lieu of enrollment of

timber harvest in the South Fork Elk River "high risk areas." This investment of public money could remediate and relieve other public costs that are greater.

Road inspection trigger of 3" in 24 hours is inadequate

The road inspection trigger of 3 inches of rain in 24 hours (Road Management C7) was clearly shown to be inadequate by the flood road pictures shown by Alydda Mangelsdorf and the muddy runoff from roads pictures shown at the May 12, 2016, hearing. There were not 3 inches of rain on any of the days preceding massive flooding and sediment delivery on January 17, 2016. See January rainfall data, 2016.

January 2016 rainfall

Elk River South Fork Monitoring (SFM) Station Guage

Jan 10	00"
Jan 11	00"
Jan 12	.91"
Jan 13	.94"
Jan 14	.58"
Jan 15	.14"
Jan 16	.38"
Jan 17	2.12" by SMF Guage, (2.92 by Woodley Island Station)

There has not been 3 inches of rain in 24 hours except once in ten years, in February, 2015. It caused "debris torrents" according to the ROWD, and made road inspection difficult until flood waters subsided, making places with road runoff connectivity to the stream difficult to identify. We recommend a road inspection trigger of no more than three inches over three consecutive days that takes into account cumulative saturation of soils, or two inches in one day. The photographs Ms. Mangelsdorf showed of muddy runoff and extreme flooding conditions occurred with the rainfall recorded above, yet did not trigger road inspection. See attached photos.

Staff tells us that the public is responsible to find and notify them of connected runoff from roads to the stream. This is an impossible task for the public to perform. HRC and HCP monitors, or Region 1 enforcement, are better equipped to follow the leads provided and track down problems that need to be fixed.

Winter operations should not be allowed

Winter operations being allowed after rainstorms is a weak compromise with industry that is likely to cause more damage. What is your evidence that roads will not pump sediment when hauled on after four consecutive days of .25 inches of rain? Allowing activities that would cause up to a 10% increase in peak flows seems counterproductive as well. Why allow any increase, when peak flows correlate with additional sediment delivery? Allowing more sediment discharge and expecting the Stewardship Program to fix it downstream will allow the additional sediment to make the problems worse downstream for a couple years before any relief can be actually provided. Where is the additional sediment supposed to go, when there is no assimilative capacity?

We recommend a return to no winter operations between October 15-April 1, as in your earlier draft, or after 3 inches of total accumulated rain.

The WDR states, “The Order requires control and remediation of existing sediment inputs to the extent feasible, and monitoring to determine whether implementation is leading to measurable improvements. The Order also limits logging activity in the most sensitive subwatersheds to allow active measures to be taken by the Watershed Stewardship Program to improve downstream beneficial uses. The Order ensures that any new discharges are subject to the best practicable treatment or control.” How does “logging activity in the most sensitive subwatersheds” “allow active measures to be taken by the Watershed Stewardship Program”? That sentence makes no sense, unless HRC’s participation in the Watershed Stewardship Program is considered a payoff or mitigation for logging permits. None of the rest of us are paid for our participation while we try to regain lost fisheries, etc.

Cummulative effects are compounding, not additional.
According to the Draft WDR, “ High sediment production during the period between 1988-1997 is due to several factors, including an approximate four-fold increase in logging under prior ownership of the primary landowner, PALCO. Additional factors include poorly regulated logging practices, a series of winters with above average precipitation, a series of large storm events, and potentially the effects of a magnitude 7.2 off Cape Mendocino in 1992.”(10)

Rather than being “additional,” these events coincided and compounded to create the disaster that we are now living with and trying to remediate. The regulatory framework includes the underlying geographic features of the area: the North Coast includes highly mobile soils, seismic activity, and sometimes has extreme storm events. The new WDR must take into account the compounding interaction of human activities and possible natural events over time.

Enrollment should continue to be required and not automatically rescinded after five years unless and until considerable and measureable progress toward Water Quality Objectives and support of the beneficial uses is achieved.

We agree that HRC should carry out the feasibility study for in channel sediment sources.(Erosion Control Plans (Erosion Control Plans, G. pg 38)

However, adding the words “when feasible” allows HRC to determine, in a cost analysis balancing their own profits with remediation, whether or not to perform.

The water quality goal should be water clarity as that coming out of Headwaters Preserve.

Sediment and salmon don’t mix.
I’m sure many of you know the connection between sediment and endangered salmon; the requirements of salmon are well known through various stages of their life cycle. Juveniles in their freshwater habitat need cold, deep pools to grow up in, especially coho, which spend a year in fresh water before going to the sea. Complexity for cover and insects for food, clean spawning gravel for the adult salmon returning, are all destroyed by large amounts of sediment.
The WDR needs to identify the factors that promote or limit salmon production over time.

The salmon can't choose; they are driven by years of evolution to these watersheds. We can choose to not destroy their habitat..

The commercial fishing community relies on a "harvestable surplus," as called for in the California Coho Strategy, to not just recover the listed species to viable, self-sustaining populations and then stop protecting them.
These salmon are your fish, an incredibly rich local food public resource that is literally in danger of extinction. My husband, a lifetime commercial fisherman, did not even gear up for salmon this year for the first time in 45 years, which he found was a good financial choice as there were not many salmon available in the ocean this year to harvest. In the 1980s, coho salmon were about a third of our commercial catch, and we received three dollars per pound for them when we sold them off the boat to the public. I actually bought some U.S wild-caught coho salmon in the market the other day, caught in another state, so our family could eat some healthy fish.

Each year of interruption of the life cycle of a year-class of salmon accelerates the management of their decline, so it is important to choose actions that quickly remediate the sediment impairment.
The Habitat Conservation Plan is not adequate to restore these State and Federal Endangered Species Act-listed and potentially commercially valuable fishes, and the Water Board is responsible—is required—to develop prohibitions and guidelines that restore and protect the public trust "beneficial uses," including cold-water fisheries (COLD) in accordance with other state and federal law.

Your conclusions are not supported by the statement of facts in this Draft WDR. This WDR violates the ESA, CESA, the Basin Plan, the Non-source Point Policy, ignores the Coho Recovery Strategy and the state legislature's intent to double salmon populations. Please strengthen this WDR in the ways recommended and put us on a faster track to recover the beneficial uses.
This WDR permit needs to go on to the next higher level of review, as some members of this regional board have publicly stated having an overriding interest in company profits over their mandate to protect water quality, the beneficial uses and the Public Trust. The measures are mostly weaker than the last time we commented.

Green Diamond owns property and actively logs in the "high-risk subwatersheds," so please address their sediment contribution in a timely manner.

Thank you for considering our comments.

Vivian Helliwell

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