



**California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman**



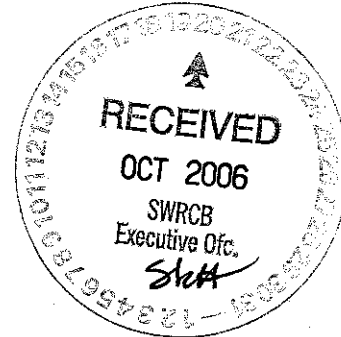
Linda S. Adams
Secretary for
Environmental Protection

www.waterboards.ca.gov/northcoast
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

**Arnold
Schwarzenegger**
Governor

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

To: Song Her,
Clerk to the Board
State Water Resources Control Board
Executive Office
1001 I Street, 24th Floor
Sacramento, CA 95814
Fax: (916) 341-5620
Email: commentletters@waterboards.ca.gov



From: Catherine E. Kuhlman
Executive Officer

Signature: Original signed by

Date: October 20, 2006

Subject: Comment Letter – 2006 Federal Clean Water Act Section 303(d) List

Thank you for the opportunity to comment on the proposed 2006 Federal Clean Water Act Section 303(d) List (Proposed List). A review of the Proposed List for the North Coast Region has led us to conclude that most of the recommendations are accurate, with a few corrections offered here for those which are not. Let me say the report clearly represents considerable effort by your staff, who are to be commended. As to factual inconsistencies, please accept the following recommendations for revisions.

Recommended corrections to the Proposed List:

Klamath River Sediment Pollution (Klamath Glen tributaries and part of the Lower Klamath River Hydrologic Sub-Area):

The Klamath River watershed has multiple impairments, including sediment impairment. Readily available information documents impairments to tributary watersheds in the Klamath Glen Hydrologic Sub-Area. This conclusion is supported in the SWRCB staff report for the Proposed List. Consideration of Yurok Management Area tribal lands along each side of the Klamath River, from the confluence of the Trinity River to the estuary, has led to some confusion about the responsibility of the State to control sources of pollution upstream of tribal management areas and reservations. The State has an obligation to control management related sources of pollution to protect both in-state and downstream beneficial uses. The State cannot forgo listing the impaired tributaries to the Klamath River simply because the most significant impairment occurs downstream of the discharge, in this case within tribal jurisdictional territory (See Attachment A). The State is obliged to control sources of pollution

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and impairment emanating from the state, even if, and especially if, impairment occurs outside of State jurisdiction. Listing State land of the tributaries of the Klamath River within the Klamath Glen Hydrologic Sub-Area for sediment is warranted.

Additional readily available information clearly documents extensive management related sediment impacts and sediment impairment along the Klamath River downstream from Iron Gate Dam to the confluence of the Trinity River. The primary landowner within this reach of watershed, the United States Forest Service, has published a comprehensive, detailed report on the numerous specific documented impairments generated in a single meteorological event, the storm of New Years Day, 1997 (Attachment B). Consideration of listing the Klamath River from Iron Gate Dam to the confluence of the Trinity River is warranted.

The “List as Being Addressed Recommendations to place waters and pollutants on the Being Addressed category of the section 303(d) List” portion of the Proposed List:

The “Being Addressed” portion of the Proposed List states, incorrectly, that TMDLs and Implementation Plans have been approved for fourteen North Coast Regional watersheds. The Salmon River TMDL will have an MOU with the US Forest Service, in lieu of an Implementation Plan. The following thirteen watersheds should not be included on this section of the Proposed List: Albion River, Big River, Eel River (Middle Fork), Eel River (North Fork), Gualala River, Mattole River, Navarro River, Noyo River, Redwood Creek, Ten Mile River, Trinity River, and Van Duzen River. Sediment TMDL Implementation Plans for these watersheds have not been adopted in our Basin Plan by the Regional Water Board, and therefore these waterbody-pollutant combinations should not be on the “Being Addressed” portion of the Proposed List. For clarification, on November 29, 2004 the North Coast Regional Water Quality Control Board adopted Resolution No. R1-2004-0087 that directed Regional Water Board staff to develop a workplan to “set watershed priorities for addressing sediment waste discharge at a watershed-specific level” for these thirteen watersheds.

Lake Pillsbury mercury pollutant source:

The Proposed List indicates that mercury contamination in the fish tissue of samples from Lake Pillsbury is from a “Natural Sources”. While all mercury arises from natural sources, the conditions of mercury contamination documented in Lake Pillsbury are not known to occur solely due to natural sources. In addition to the primary sources of mercury contamination of fish tissue in Lake Pillsbury, “Habitat Modification” and “Hydromodification”, likely additional sources included “Mercury Mine”, “Historic Mining Operations”, and “Nonpoint Source”.

Temperature listing determinations:

The temperature list/do not list recommendations in the Proposed List have been made following a single-line of evidence approach. For temperature listings, we think it is more appropriate to take a weight of evidence approach. In 2002, the North Coast Regional Water Board used the Sullivan *et al.* (2000) threshold values, along with information about current and historic salmonid presence and distribution to determine temperature impairment. Such an approach would be more likely to accurately identify and address temperature impairment of coldwater fisheries than the single-line of evidence approach.

Bodega Bay non-native species (crab):

Regional Water Board staff acknowledge that presence of “exotic” non-native species can impair water quality standards. However, regulation and control of both native and non-native wildlife species appropriately falls within the purview of State and Federal Fish and Game, Fish and Wildlife, and Marine Fisheries regulations, respectively, and is not appropriately addressed through a TMDL. This listing is unwarranted.

Accuracy of comments (*italics*) on the tabular list:

Numerous factual inaccuracies are contained in the italic comments on the Proposed List. Only comments describing the extent of the impairment or listing should be retained. All other comments should be stricken. Regional Water Board staff will add comments, where needed, for the upcoming 2008 update of the 303(d) List.

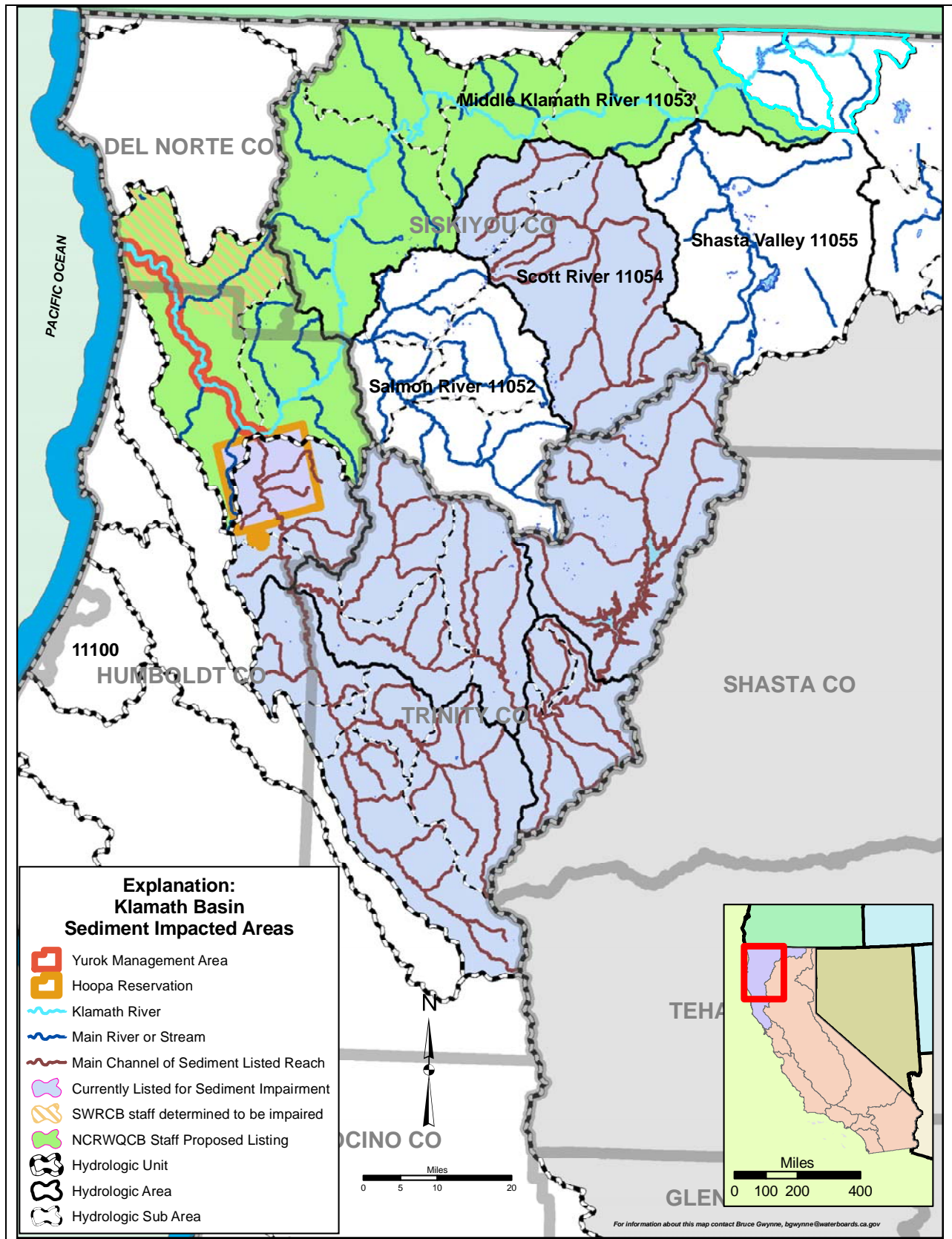
Attachments:

- A. Map figure of Klamath Basin Sediment Impacted Areas
- B. De La Fuente, J. and D. Elder. 1998. The Flood of 1997 Klamath National Forest. US Forest Service, Klamath National Forest, Yreka, CA.

Cc: SWRCB members

David Smith
USEPA Region 9
75 Hawthorne Street
San Francisco, CA 94105

Craig J. Wilson
Division of Water Quality
State Water Resources Control Board



ATTACHMENT 1: Sediment Impacted Areas of the Klamath River Basin