

BARNUM TIMBER COMPANY

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October 18, 2006



VIA EMAIL

Song Her
Clerk to the Board
State Water Resources Control Board
Executive Office
1001 I Street
Sacramento, CA 95814

**RE: COMMENT LETTER—2006 FEDERAL CWA SECTION 303(d) LIST
REDWOOD CREEK, HUMBOLDT COUNTY**

Dear Board Members:

I represent Barnum Timber Company, hereafter "Barnum," a landowner in the Redwood Creek watershed in Humboldt County, California. I have previously provided information to the State Water Board regarding conditions in Redwood Creek in response to the public solicitation for comments and information on proposed revisions of the federal Clean Water Act section 303(d) list of water quality limited segments.

My comments were apparently disregarded by your staff, as the recommendation is being made to list Redwood Creek as temperature and sediment impaired under CWA 303(d). A reproduction of my comment letter dated January 17, 2006 in the staff reports leading up to your October 25, 2006 meeting left out three pages of my cover letter and all of the attachments. I have checked my original email submission and the entire letter and attachments were submitted to your staff prior to the close of the public comment period. Perhaps your staff lost portions of my comment letter and thus did not respond to my substantive comments. In any case, I request that you remove Redwood Creek from the 303(d) list or delay your decision until your staff can fully evaluate the true conditions of that water body and respond to Barnum's comments in an adequate manner.

In response to the information provided about Redwood Creek in your staff report, I offer the following comments:

1. The fact sheet for sedimentation states that a sediment TMDL has been developed for Redwood Creek. In the EPA's guidance for TMDLs, development of a TMDL is justification for removal from the 303(d) list. Therefore, you should remove Redwood Creek from the 303(d) list for sediment.

2. Your staff erred significantly in its logic discussed in the fact sheet when it stated that "the weight of evidence indicates there is sufficient justification in favor of placing this water segment-pollutant combination" on the 303(d) list. The import of all previous submissions made by Barnum Timber Company regarding Redwood Creek have been to notify your staff that the original State Water Board and EPA listings of Redwood Creek for sediment were based upon faulty data. The primary premise relied upon by the State Water Board for listing Redwood Creek for both sediment and temperature was that fish populations in Redwood Creek were diminished over some level in the past. Barnum Timber Company's submissions have all been aimed to inform your staff of this mistake, and to supply information that demonstrates 1) that Redwood Creek's fish populations are as healthy or healthier than any time in the documented past; 2) that the fish population data that the SWB staff has heretofore referred to is useless because it is anecdotal and contains no actual population census data; 3) that the current productivity of Redwood Creek for salmonids is as high or higher than any other level documented for any stream in the Pacific Northwest; and, 4) that fish populations and water quality conditions are naturally cyclical and current conditions do not exhibit any abnormality.
3. The staff comment noted above regarding the "weight of evidence" analysis is curious because no such analysis is described or documented in the staff reports. Prior to adopting your staff recommendation, please require your staff to produce the "weight of evidence" analysis and provide it to the public for adequate review. How the public to provide comments on a staff analysis that is not available? Is there a written "weight of evidence" analysis? Or, was the data for Redwood Creek simply weighed in staff's mind and only the conclusion presented? In any case, please provide evidence of exactly what evidence was weighed by staff so the public can determine the relative weight of various lines of evidence.
4. A pollution control scheme is already in place to ensure that Redwood Creek is not adversely affected by discharges that could significantly impact the sediment or temperature conditions of Redwood Creek. The pollution control scheme is mandated by the California Forest Practices Act, which governs the primary land use in Redwood Creek, forestry operations. EPA's guidance for delisting waterbodies from the 303(d) list allows for delisting if other regulatory controls that address the impairment(s) are in place.
5. Reducing the many-thousands of pages of comment and data provided by Barnum Timber Company on the sediment and temperature listing of Redwood Creek to a few incomplete sentences and even fewer words as a response by your staff is irresponsible. Barnum has been long requesting of the State Water Board to provide an objective review of the conditions of Redwood Creek in regards to the alleged temperature and sediment impairment: It is unfortunate that the current review disregarded this request yet again. I request that you provide a review and document that your staff has reviewed the available information.

6. The temperature criteria established in previous temperature impairment listings of Redwood Creek is unreasonably low, impossible to achieve and is premised upon presence of fish species that don't exist in Redwood Creek. Your staff has concluded that coho salmon temperature criteria are necessary for Redwood Creek without conducting an analysis to determine if the physical characteristics of Redwood Creek are capable of producing viable populations of coho salmon. For example, Redwood Creek, upstream of Prairie Creek, is a confined linear stream. Also, a very steep stretch of stream channel exists just upstream of Bridge Creek, which is a natural cascade barrier that prevents coho from accessing the upper 2/3 of Redwood Creek. Because of this barrier, occasional sightings of coho in upper Redwood Creek are likely strays and coho-based criteria are inapplicable. In any event, your staff needs to conduct a rational analysis of the physical conditions of Redwood Creek before it can determine temperature or sediment impairment and what beneficial uses require protection. I have included a report (Attachment 1) that may be valuable for your staff as they conduct an analysis of the physical conditions of Redwood Creek.
7. I am attaching yet more information (Attachments 2 & 3) that has become available since the last public comment period that demonstrates Redwood Creek is producing salmonids in record numbers. This data, collected in two reports by the California Department of Fish and Game, demonstrates that the logic employed by the State Water Board and EPA in listing Redwood Creek for sediment and temperature is flawed.

Barnum has been concerned about the listing of Redwood Creek as an impaired water body under Section 303(d) of the Clean Water Act since its original listing in 1993. Since that time, Barnum has endeavored to gather and assimilate all available information relating to conditions in Redwood Creek. Barnum submits this information to assist you in making better informed decisions regarding Redwood Creek and other North Coast water bodies, particularly in deciding whether, in fact, Redwood Creek should continue to be listed as impaired. Please take the time to fully review the information provided. This compilation of information is likely the most comprehensive ever assimilated regarding conditions of a California water body and has been produced over a time spanning nearly a decade at a cost of several hundred thousand dollars.

Barnum believes, based upon the scientific information available, that Redwood Creek is not impaired by sediment, temperature or any other pollutant; that, in fact, Redwood Creek is today in as good a condition as has existed in the historical past and is a healthy and productive water body.

If there are any questions regarding the information provided, please contact me. My address and telephone numbers are shown on the letterhead. My email address is s_horner@cox.net.

State Water Resources Control Board
October 18, 2006
Page 4 of 4

Thank you for the opportunity to assist you in making fully informed decisions.

Sincerely,



Stephen R. Horner
General Manager

Attachments:

1. *Investigation of the Physical and Biological Conditions Affecting Fish Passage Success at Culverts and Waterfalls. DOE/BP-36523-1*
2. *2005 Annual Report Upper Redwood Creek Juvenile Salmonid (Smolt) Downstream Migration Study, 2000-2005 Seasons Project 2a5*
3. *2005 Annual Report Lower Redwood Creek Juvenile Salmonid (Smolt) Downstream Migration Study, 2004-2005 Seasons Project 2a7*