



**Humboldt  
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April 15, 2019

Mr. James Burke, Timberland Division  
North Coast Regional Water Quality Control Board  
5550 Skylane Blvd., Ste. A  
Santa Rosa, CA 95403-1072

**Subject: Discharger Comment regarding NCRWQCB Draft Order No. R1-2019-0021**

Dear Mr. Burke:

Humboldt Redwood Company (HRC) has reviewed the above referenced Draft Order (Waste Discharge Requirements) for its operations in the Upper Elk River watershed. Please consider the following comments in preparation of a final Order for adoption. Our submission is being supplemented by legal comments being submitted under separate cover by Wayne Whitlock.

We understand the NCRWQCB is seeking revision to the existing Water Quality Order R1-2016-0004 in response to findings by the State Water Resources Control Board (SWRCB) resolution (No. 2017-0046) adopting the Upper Elk River TMDL Action Plan. Specifically (pursuant Finding 9) “that the North Coast Water Board's WDRs and any other orders for the two major landowners that conduct timber harvesting will **incorporate specific provisions that implement all of the TMDL hillslope indicators and numeric targets, unless the regional board makes specific findings about why any omitted hillslope indicators or numeric targets are not appropriate or feasible.**” Related, we note the State Water Board also provided instruction that “the WDRs and any other orders for the two major landowners will also contain any additional specific provisions **to ensure that all anthropogenic discharges of sediment are eliminated to the extent feasible and, if not feasibly eliminated, minimized as soon as feasible but not later than 2031**” (amended via a letter dated October 15, 2018).

Per NCRWQCB request and as a matter of record, **HRC provided input (see Attachment A)** this past February 1, 2019 as to how the current Order R1-2016-0004 could be revised to address the SWRCB resolution. Specifically, this input included, but was not limited to, **further restriction of road use during the extended wet weather period (October 15 – May 1) and additional requirements for retention of well-distributed forest cover within the riparian management zones (RMZ) of Class III watercourses.** As the findings of Draft Order No. R1-2019-0021 report, numerous existing measures are already in effect to prevent and minimize sediment delivery in the Upper Elk River watershed. Not the least of these is HRC’s commitment, now in the form of a requirement, to use **uneven-age selection**

**silviculture watershed-wide**, where feasible, based on forest stocking conditions, **in place of the historic even-age clearcut management** commonly practiced in the watershed prior to 2008. In addition, we submitted a **matrix clearly demonstrating how requirements of the current WDR (Order R1-2016-0004) already fully implement all TMDL hillslope indicators and numeric targets**. This matrix is worth review by staff and Regional Water Board (RWB) Members not fully familiar with HRC's Habitat Conservation Plan (HCP), the California Forest Practice Rules (CFPRs), and additional specific requirements of the existing WDR.

As explained in our February 2019 submittal, additional measures addressing wet weather road use are consistent with scientific findings regarding control of anthropogenic road-associated sediment sources. We included *additional* canopy retention requirements *within existing Class III RMZ buffer widths* to address what we were told was a significant WQ concern, despite any empirical evidence to our knowledge, or substantiated by the NCRWQCB that Class III RMZs are currently a source of sediment delivery. **We stand by these recommendations and find their inclusion into the new WDR Order (R1-2019-0021) as acceptable and feasible to implement.**

However, there are several requirements found in the new Draft Order to which HRC must adamantly object as they are neither feasible, per legal definition, nor adequately explained and justified. We note the requirement for *feasibility* is referenced as an important consideration in both the Upper Elk River TMDL Action Plan and the SWRCB's adopting resolution. As you are aware, the Basin Plan defines 'feasible' as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technical factors."

### Objections

1. **I.B.3. - The Draft Order seeks to implement additional 'TMDL RMZs' (Riparian Management Zones) above and beyond those already in effect, out to inexplicable distances of 300 feet on Class I and II watercourses and 150 feet on Class III watercourses. If put into effect, these 'TMDL RMZ' buffer widths would nearly double the amount of RMZ-associated restricted acres compared to the current WDR Order and result in further restriction of HRC timber operations across nearly two-thirds (14,036 acres) (64%) of the company's Elk River ownership. Such restriction, when considered with the many factors that go into forest management, including choice of appropriate silviculture and economics, is simply not feasible, nor necessary to achieve water quality objectives.**

The Draft Order cites Table 2 of the TMDL Action Plan and the Tetra Tech Report as justification for these extended buffer widths, however **there is no explanation, scientific or otherwise, in either of these documents; they simply appear**. The only inference we can think of is that these widths are similar to those used in the USFS Pacific North West Plan for public lands. Those familiar with the USFS Plan are aware that extended riparian corridor widths were intended to benefit terrestrial and aviary species by providing late seral forest migration corridors; clearly something not applicable to the NCRWQC or SWRCB authority or jurisdiction.



HRC already has in place RMZs of adequate width to provide for the stated Numeric Targets of the TMDL Action Plan including improvements in the quality/health of the riparian stand so as to promote 1) delivery of wood to channels, 2) slope stability, and 3) ground cover (TMDL Action Plan Table 2). **HRC's RMZs currently exceed those of the CFPRs and were adopted and approved through multiple agency review, following several years of detailed watershed analysis specific to Elk River, for the purpose of maintaining and restoring the very same processes and conditions identified as the TMDL numeric targets.** The agencies participating in review and approval of HRC's riparian management zones include the California Department of Fish and Wildlife, United States Department of Fish and Wildlife, NOAA Marine Fisheries, California Geologic Survey, and CAL FIRE.

**These existing RMZs work in combination with other requirements for the protection of water quality including but not limited to the substantial geologic review every HRC Timber Harvest Plan (THP) undergoes as described in the Draft Order's findings (Findings 57-61), watershed-wide constraints on harvest acres set at the individual sub-basin level, established self-imposed and now required silvicultural constraints, and limitations on frequency of harvest within riparian areas (no more than once every twenty years). Those familiar with our ownership in the Upper Elk River watershed can testify that forest characteristics found within our riparian stands currently meet or are trending towards the TMDL's numeric targets for delivery of wood to stream channels, slope stability, and ground cover under the current enforceable management regime.**

It is important to recognize that many of these acceptable existing measures (i.e. no clearcutting, licensed geologic review, CFPR restrictions on ground-based equipment on steep slopes, etc.) apply to the 300 and 150 foot TMDL hillslope indicator areas upslope of HRC's RMZs. However, it remains economically essential that HRC maintain the right to occasionally harvest groups of trees outside of HCP RMZs (but within proposed TMDL RMZ distances) up to the 2.5 acre limits allowed under the CFPRs, as this practice provides for increased overall logging production, which in turn keeps the cost of single-tree selective harvest acceptable. Under certain stand conditions the inability to group harvest or otherwise reduce overstory canopy to less than 50 percent (as the new TMDL RMZ prescription proposes) would create environmental, legal, and economic conditions such that any harvest would be infeasible. The creation of small forest openings produces full-light conditions beneficial to the regeneration of future trees and necessary for the forest's achievement of maximum sustained production (MSP) of long-term sustained yield (LTSY); legal requirements of the CFPRS. The proposed new TMDL RMZ prescription would prohibit this.

Furthermore, as we discussed when this new measure was originally daylighted, it prevents the use of restorative silvicultural prescriptions across nearly 6,600 acres (30%) of the ownership where such management is currently allowed. This not only results in further adverse economic impacts as it eliminates near term timber harvest, it also degrades the overall long term productivity of the ownership by preventing HRC from restoring forest stocking levels

and associated growth rates, in one of the company's most productive, high site-class management tracts, again adversely impacting long term sustained yield. This has additional adverse environmental consequences such as limiting carbon sequestration, economic impacts in the form of short and long term reduced revenue, and legal impacts relative to CFPR requirements for MSP relative to LTSY. Such restriction also, work against the water quality objectives of the TMDL Action Plan relative to restoration of future large wood recruitment and increased overstory forest canopy. Bear and other animal damage, hardwood competition, fungal pathogens, wind and fire are all very real environmental agents affecting forest stand conditions. Foresters must maintain adequate silvicultural flexibility to address the range of forest conditions encountered.

The proposal for extended TMDL RMZs is further problematic as it relates to Porter Cologne's intent for WDRs to establish requirements as to the nature of discharge rather than to prescribe specific hillslope forestry prescriptions; the latter which clearly lies within the jurisdiction of California's State Board of Forestry. **No evidence has been presented to demonstrate sediment is being discharged through the current WDR HCP RMZs from contemporary operations upslope. Therefore, there is no or legal or otherwise justifiable cause for increasing the width of riparian buffers as proposed. The 2015 Tetra Tech Report attributed less than 3 percent of the total estimated anthropogenic sediment delivery as originating from harvest related surface erosion and open slope landslides, *combined*, in the most recent period assessed (TMDL Action Plan, Table 1.).** Presumably, in addition to large wood recruitment to streams which occurs from distances within HRC's existing buffer widths, the expanded TMDL RMZ buffers are intended to further control erosion (i.e. slope stability and ground cover), **however this erosion is not taking place under the current BMPs being applied. The proposal does not pass the Basin Plan's feasibility standard as it accomplishes nothing from a water quality and TMDL implementation perspective and is economically prohibitive for the landowner to implement.**

The SWRC Resolution (No. 2017-0046) is explicit in its findings for adopting the Upper Elk River TMDL Action Plan. (Resolution Finding 9) "that the North Coast Water Board's WDRs and any other orders for the two major landowners that conduct timber harvesting will incorporate specific provisions that implement all of the TMDL hillslope indicators and numeric targets, *unless the regional board makes specific findings about why any omitted hillslope indicators or numeric targets are not appropriate or feasible.*" Consistent with that exception language, Table 2 of the TMDL Action Plan specifically states hillslope indicators and targets are designed to inform Board Actions and to be incorporated into orders *as appropriate and feasible* (Draft Order Finding 22). **As explained herein, the staff's proposed additional measures are neither appropriate nor feasible, and importantly there are already feasible measures in place effectively addressing this specific hillslope indicator and its numeric targets.**

**As there are numerous overlapping measures already in place protecting riparian areas and preventing hydrologic effect on discharge from timber harvest operations watershed-wide to**

a level of non-significance, it is not necessary, and therefore not appropriate, to require extended TMDL RMZs, nor is it economically feasible for HRC to comply with such a requirement. Importantly, we note that the intent of this measure - to maintain forest canopy in proximity to watercourses and throughout the watershed - *will continue to be achieved under HRC's current predominantly selection silviculture practices*; however, a carte blanche requirement as currently proposed prohibiting ANY forest openings across 64 percent (14,036 acres) of the ownership is not feasible, nor does it represent an ecological best management practice.

We respectfully ask that the NCRWQCB take these factors into account and make a finding, as necessary, to this effect, removing, or at the very least replacing the language found in I.B.3 with requirements acceptable to the landowner, consistent with best management practices.

2. **I.A.4. – The Draft Order No. R1-2019-0021 proposes a new 5 year moratorium on timber harvest across 3,343 acres (15%) of HRC's ownership ('sensitive bedrock sub-basins') in the Upper Elk River watershed.** The current Order No. R1-2016-0004 established a 5 year period (2016-2021) in which harvest was limited in this area to a single THP (1-12-110 HUM). In addition, both the current and proposed Orders establish numerous additional erosion control requirements in this area to address local geologic and soil characteristics, many of which were proposed by HRC. A portion of THP 1-12-110 HUM is the subject of a collaborative third-party paired watershed study examining the measurable effects of timber harvest under the current WDR erosion control prescriptions. The results of this study are due 2021 and scheduled to be part of the discussion before the Board regarding future management in this area. **We object to the Draft Order No. R1-2019-0021 proposal to inexplicably restart the clock for this 5-year period without just cause, which was due to sunset in 2021 pending NCRWQCB review.**

**To date, no Notice of Discharges or other significant sediment delivery have been discovered or reported as resulting from implementation of THP 1-12-110 HUM.** Initiated in 2016 and phased over a 3 year period, all timber harvest operations on this THP were completed in 2018. Under current order and acceptable to HRC, this provides for a 3 year period of no further harvest in this area until 2021 in order to assess the efficacy of logging related erosion control practices. **The new Draft Order inexplicably and without justification extends this 'no harvest' period to 2024.** The Draft Order proposes to continue the current requirement for a 30 day public comment period and hearing at the end of its 5-year moratorium in 2024, at which time the Board may decide the extent to which further timber harvest in this area, if any, may take place. As worded, **this specific requirement brings significant new uncertainty regarding HRC's ability to manage a significant portion of its Upper Elk River ownership over the next 5-10 years** as there are no assurances HRC will be allowed to conduct timber harvest in this area of its ownership in the future. This proposed additional delay in addressing this uncertainty, **during which time the company is deprived of any economic return on its investment in its timber**

production zoned (TPZ) timberlands in excess of 3,300 acres, is not explained or justified and unwarranted and infeasible.

We propose an alternative approach to I.A.4 for NCRWQCB consideration. Maintain the current 5 year period allowing for timber harvest to commence again as soon as 2021 following a public hearing before the NCRWQCB during which the results of the scientific study and other relative considerations can be evaluated to inform any change in Best Management Practices (BMPs) to be applied during the next forest management entry.

3. I.H. – The Draft Order maintains requirements for a ‘feasibility study’ for control of in-channel sediment sources within HRC’s ownership. We continue to contest the idea that pre-existing in-channel sediment, the source of which is both natural and anthropogenic, is a controllable water quality factor subject to waste discharge requirements. This ‘sediment source’ as described by the Upper Elk River TMDL Action Plan is not the result of current and future forestry operations but is instead a pre-existing condition resulting from a combination of natural and anthropogenic processes than cannot be sorted out with any reasonable confidence as to proportional cause or origin.

HRC does indeed seek to manage and influence instream sediment routing for the benefit of water quality and aquatic habitat through prevention, to the extent feasible, and minimization of new anthropogenic sediment loading from hillslope sources AND through the recruitment and placement of large wood instream, and more recently through proposed floodplain restoration activities. However, to require of its current operations a feasibility study for the control of *sediment already in channel and past the point of discharge*, which by its very nature has speculative potential for control, seems inappropriate and unreasonable within the context of waste discharge requirements.

Restoration activities such as these, are something HRC does on a routine voluntary basis, often in partnership with NPOs and trustee agencies such as CDFW, NOAA Fisheries, and potentially the State and Regional Water Boards. The projects are proposed as feasible considering environmental and economic factors. A significant limiting factor for in and off-channel sediment settling ponds in the Upper Elk River watershed is the terrain. All but the lower North Fork and South Fork channels are situated within narrow valley walls, difficult to access and with limited sediment storage opportunity, and with banks and side-slopes susceptible to erosion if frequently disturbed. HRC does however implement voluntary restoration projects where the terrain is favorable.

As the most recent example, HRC recently submitted a nearly one million dollar, shared cost project to the SWRCB’s 319(h) non-point source grant program for work along the North Fork Elk River including relocation of a streamside haul road, placement of large wood into the channel for habitat and sediment routing benefit, and restoration of floodplains for the benefit of additional sediment storage and off-channel fish habitat. We report on voluntary



projects such as these, including effectiveness where there is a monitoring element, as part of our annual WDR report to the NCRWQCB.

We note both the existing and proposed WDR Orders supersede and incorporate pre-existing Clean Up and Abatement Orders (CAOs) HRC inherited from the previous landowner addressing all known controllable pre-existing sediment sources. The final remaining sites associated with these CAOs are scheduled for treatment per the approved Master Treatment Schedule by October 15, 2020.

**We respectfully request that the NCRWQCB remove this requirement for a feasibility study for the speculative control of historically discharged, in-channel sediment, not related to the Discharger's current or future operations applicable to these WDRs.**

We think it most practical and effective for the NCRWQCB to continue to work with HRC to address these three concerns prior to putting Draft Order No. R1-2019-0021 before the Board for adoption. However, if RWB staff elects not to address these concerns prior to the June adoption hearing, then we would ask that the Board not adopt the proposed Order at the June hearing but instead provide direction to staff to work with HRC on these matters such that the result is a WDR acceptable to both parties.

The TMDL Action Plan is explicit that **"The Regional Water Board has discretion in developing WDRs that can allow individual dischargers to tailor a compliance strategy"**. To this end we provide **acceptable language modification for these three items in Attachment B of this comment letter for your consideration**. We recognize the Board itself may be interested in specific language should the Board need to make modifications itself to the Draft Order at the June hearing prior to adoption. Again, it is our understanding of the Porter Cologne Act that the RWB is to establish feasible to attain water quality standards for which the Discharger is to provide methods by which to achieve.

The Upper Elk River TMDL Action Plan adopted by this Board back in 2016 is also clear that **the zero load allocation is 'conceptual in nature' as it is physically infeasible to achieve in the absolute sense**. The proposed Draft Order, with our recommended modifications as outlined above, nonetheless achieves **the highest bar feasible for erosion control as intended by the 0 load allocation**. And **with these modifications**, the revised draft WDRs would ensure that all anthropogenic discharges of sediment are eliminated to the extent feasible, and if not feasibly eliminated, minimized, as soon as feasible consistent with the SWRCB's October 15, 2018 amended resolution and directive.

**HRC's recommendations for changes to the proposed Order's 'Specific Requirements', for the reasons explained above, can be found in Attachment B - pages 36 - 42 of the Draft Order.**

### Additional Comments

**Attachment B to this letter also highlights important findings of Draft Order Findings sections (pages 1-35) along with a few recommendations.**

While most findings are accurate including representation of the many requirements in place for the protection and benefit of water quality and achievement of TMDL water quality standards, some of the findings weigh too heavily the conditions found downstream as a function of upstream timber practices, both past and present. An over-simplified misrepresentation of cause and effect underlies much of the regulatory action taken by the NCRWQCB over the last 20 years, including most recently the 0 load allocation for which the primary purpose is to justify excessive and unprecedented regulation of the new upstream timberland owner, HRC. **The fact that these past 20 years of substantial improvement in timber harvest practices, along with over 330,000 yards of clean up and abatement sediment control (Draft Order Finding 67), which has collectively resulted in well-documented, significant declines in sediment delivery, and improvements in upstream aquatic habitat conditions, have not resulted in significant findings by the NCRWQCB of improvements in downstream conditions relative to achievement of water quality standards, should give the Agency pause as to the cause of these persistent downstream conditions.**

Little to no mention continues to be made of the fact that the infrequent flood-affected rural subdivision lies completely within the FEMA designated Elk River floodplain. Nor does the discussion anywhere in the Draft Order's findings, meaningfully relay the most recent science assimilated, at the request of the NCRWQCB, in the 2018 *Elk River Recovery Assessment (ERRA): Recovery Framework*. While the ERRA report is referenced in Finding 75 relative to a 'modeled' maximum sediment reduction potential (30%), which the ERRA found as insufficient to improve conditions downstream, **the Draft Order does not discuss this report's other findings critical to understanding the larger geographic setting controlling the behavior and conditions of Elk River.**

For example, the ERRA report found that changes in floodplain land use including livestock and dairy, roads and bridges, and rural residential development, all affect stream channel, riparian vegetation, and salmonid habitat conditions. The WQ commissioned report explains early settlement and land use in the lower Elk River valley resulted in lasting, large-scale changes to historical vegetation patterns including removal of an overstory forest condition which led to increased understory and extensive in-channel vegetation condition, which without frequent removal, tends to 'lock' sediment into storage.

The historically extensive estuary that once was composed of tidal wetlands and a dense network of sinuous slough channels, much better suited to accommodate Elk River's sediment load, was diked and converted to pasture so that by 1941 the Elk River channel planform was locked into the nearly identical location is it today, unable to avulse over time in response to its sediment load as it would have naturally. Tidal prisms which historically moved sediment out of the lower channel were altered by levees and tide gates. The historic land use practice of removal of large woody debris and vegetation to improve flow conveyance for historic log drives, and to decrease flood frequency, was ended many decades ago. HRC knows the NCRWQCB recognizes these factors as significant, in part because we see

them briefly referenced in the TMDL Action Plan, and yet we do not see them meaningfully discussed in the findings section of this proposed Order.

Further, the ERRA analysis reveals a very telling locally convex-up section of the Elk River valley floor longitudinal profile. This naturally inherent, physical geologic feature, the ERRA reports, is explained by faulting or folding across the valley floor or a transition from a region of long term tectonic uplift to a region of long term subsidence. Either way this geomorphic feature, completely independent of land use practices, results in an entrenched channel through this area of up to 19 feet and a relatively narrow floodplain confined by older river terraces, which results in large scale hydraulic constriction; in other words an intrinsic geologic control that helps explain longitudinal trends in channel geometry, grain size, and reach-scale response to sediment loads. The ERRA goes on to explain how this intrinsic condition combined with hydraulics at the North Fork – South Fork Elk River confluence create backwater conditions that focus fine sediment deposition immediately upstream in the impaired reach. These inherent conditions affect how sediment is routed through the ‘impaired reach’ of Elk River, affected by but also independent of land use history.

Again, we note that despite the substantial decline in sediment production over the last 20 years consistently reported by the NCRWQCB, inherent depositional reaches located on the Elk River flood plain have continued to aggrade, albeit at a lesser rate, and will continue to aggrade, modeling indicates, even with a 30 percent reduction in sediment loading. While we remain hopeful, **it is unclear as to how or why the ERRA believes a 30 percent reduction in sediment loading is attainable** in the near term consistent with the SWRCB’s timeframe for recovery by 2031, as the extent to which additional restrictions on HRC’s timber operations including even a complete shut-down, which of course is not proposed, would result in an estimated reduction in sediment loading of less than 5 percent by our account. **The point of this commentary being that should the three measures currently proposed in this Draft Order to which HRC objects be put into effect, they will not as the WDR itself notes in Finding 75, result in or even contribute to the recovery of beneficial uses and the abatement of downstream nuisance flooding. In addition to the fact that these measures are infeasible to implement, they show no promise of contributing to the objective of the TMDL—increasing the downstream sediment loading capacity or significantly reducing upstream sediment loading.**

It strikes me as important and appropriate, that with this emerging broader understanding of geomorphic setting and land use history *beyond timber management*, that the regulatory approach does not remain entrenched in outdated assumptions and prejudice, such as wider stream buffers are somehow the answer.

**As the regulated discharger, and as partners with the NCRWQCB, we cannot support the proposed Order R1-2019-0021, without our requested changes. We can however agree to additional restrictions on wet weather road use and minimum canopy retention requirements within existing Class III watercourse riparian buffers as presented and discussed with the NCRWQCB staff this past February. These acceptable additional restrictions atop the existing WDRs reflect both rigorous best management practices (BMPs) and the maximum limits of feasibility considering economic, environmental, legal, social, and technical factors.**

In addition to its multi-variate, overlapping regulatory requirements, the WDRs will continue to require a robust and expensive **monitoring and reporting program**. All of this will continue to be implemented within the context of the **multi-disciplinary, multi-agency THP review process**. And importantly, as the **toughest most restrictive regulatory private forest management BMPs in California and likely the nation**, they meet the conceptual 0 load allocation standards set by the Upper Elk River TMDL Action Plan intended to reduce anthropogenic sediment loading towards the conceptual 0 load allocation, including a substantial margin of safety (MOS), until the sediment loading capacity of the impacted reaches has been expanded and water quality standards are attained or determined unattainable.

On behalf of the Humboldt Redwood Company, thank you for this opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read "m. miles", with a stylized flourish at the end.

Michael W. Miles, RPF  
Forest Manager – Northern Operations  
Humboldt Redwood Company LLC  
[Homepage](#) | [HRC LLC](#)

Enclosed:

**Attachment A** – Humboldt Redwood Company February 1, 2019 Recommendations Letter to Mr. Matt St. John, Executive Office, NCRWQCB

**Attachment B** – Draft Order R1-2019-0021 with Humboldt Redwood Company Highlights of Key Findings and Recommendations for Specific Language Revision



**ATTACHMENT A**

**HUMBOLDT REDWOOD COMPANY**

**FEBRUARY 1, 2019 LETTER**

**TO MR. MATT ST. JOHN, EXECUTIVE OFFICER, NCRWQCB**



Electronic Correspondence  
Sent to [mstjohn@waterboards.ca.gov](mailto:mstjohn@waterboards.ca.gov)  
No Hardcopy to Follow

**February 1, 2019**

Mr. Matt St. John, Executive Officer  
North Coast Regional Water Quality Control Board  
5550 Skylane Blvd Ste A  
Santa Rosa, CA 95403-1072

Dear Mr. St. John:

I apologize for the extended delay in responding to your letter of December 15, 2017 requesting input regarding the State Water Resources Control Board (SWRCB) Resolution No. 2017-0046. As you are aware, we sought and were given clarification by the SWRCB of the order in an additional letter to our counsel dated October 15, 2018. On behalf of our entire organization we are deeply disappointed, after so much effort was put into the process of adopting the Elk River TMDL and our subsequent WWDR that we find ourselves revisiting this issue. It was abundantly clear at the time of adoption of the TMDL it was the intent of your board for the WDR to be the mechanism where enforceable measures were developed. The TMDL was to provide guidance and goals and the zero-load allocation, was by its very nature, conceptual.

I want to reiterate our concern that the SWRCB and the RWQCB have now adopted a policy that, if left unchanged, will result in our company being forced to cease all operations in Elk River in 12 years. Zero sediment discharge is an unattainable standard for our operations. We have implemented necessary measures for our operations, consistent with the intent of the TMDL, to limit sediment discharge associated with our current management practices to a level of insignificance. The adoption of a policy that requires the elimination of all discharges within the next 12 years is unattainable.

It has been made clear to us, it is not the intent of the RWQCB to force us to cease all operations in Elk River. It is also clear that all parties involved in this process anticipate that progress will be made to address sedimentation, specifically within the lower Elk River watershed over this twelve-year time frame thereby allowing this order to be modified. None the less, our company is faced with the dire certainty, that without specific intervening action to modify this order within these twelve years, we will be prohibited from managing our timberlands within Elk River in 2031.

You have asked for input as to how the current WDRS (Order R1-2016-0004) should be revised to ensure the WDRs fully address the hillslope indicators and numeric targets listed in Table 2 of the Upper Elk River TMDL Action Plan; and what additional specific provision(s)

does HRC propose to ensure that all anthropogenic discharges of sediment are eliminated or minimized to the extent feasible.

HRC has carefully reviewed its current approved WDRs within the context of implementing Table 2 of the TMDL Action Plan for consistency with the SWRCB resolution. A 'crosswalk' (Attachment A) was developed to evaluate the extent to which the WDRs address all the TMDL indicator and numeric targets listed in Table 2. This crosswalk is helpful in demonstrating how the existing WDRs implement the complete suite of hillslope indicators and numeric targets. Additional provisions we are proposing to be incorporated into revised WDRs are also shown in response to your request for further certainty that all discharge be eliminated or minimized to the extent feasible. These additional provisions address wet weather road use and timber operations within 300 feet of Class I and II watercourses and 150 feet of Class III watercourses. Specific WDR revisions are proposed in Attachment B.

*The Upper Elk River: Technical Analysis for Sediment* (Tetra Tech 2015) identifies roads and stream channels as the most significant anthropogenic sediment sources of the most recent period analyzed (2004-2011) compared to other controllable sources such as landslides and surface erosion from harvest areas. Tetra Tech estimates harvest related landslides and surface erosion sediment delivery combine to be less than 2 percent of total loading compared to roads, which are estimated to deliver 16 percent, and 38 percent from in-channel sources (i.e. low order channel incision, bank erosion, and streamside landslides). While delivery from roads is effectively controlled and reduced through improved BMPs, in-channel sources are more complicated. Channel conditions have been altered by historic practices which prior to the 1970s commonly used stream channels for transportation corridors. These altered channel conditions are presumed to have higher rates of chronic erosion in response to winter storms than undisturbed channels. The practices which led to these in-channel conditions have long since been abandoned and are prohibited under the current WDRs and FPRs. Modern road building and harvesting techniques have relocated disturbance out of and away from sensitive riparian areas.

We are therefore left to consider what additional actions might be taken to eliminate and minimize the effects of these past stream channel impacts. Class I, II, and III watercourses are currently afforded substantial protection during timber operations under the current WDRs promoting the restoration of mature riparian forest structure and canopy cover, large wood recruitment to channels, slope stability, and ground cover. Harvest-related peak flow effects have been addressed through harvest acre limitations established at the sub-watershed level. Stream restoration activities reflecting the most feasible approach for addressing stream channel conditions include:

- HRC's removal of over 170,000 cubic yards of sediment from stream channels at historic crossing locations since 2008
- HRC's North Fork Elk River Coho Help Act large wood introduction project (completed)
- Cal-Trout's Wrigley floodplain restoration project (completed by HRC)
- Redwood Community Action Association (RCAA) and the North Coast Regional Land Trust (NRLT) joint floodplain restoration project on Martin Slough (completed; lower Elk River)



- HRC/Trout Unlimited North Fork Elk River riparian road decommissioning, large wood introduction, and flood plain restoration project recently submitted to the State Water Board's 319h grant program, reflect the most feasible approach for addressing stream channel conditions.

#### Riparian Zones (Existing and New Provisions)

1. Recognition that the characteristics found within 300 feet of either side of Class I and II watercourses, and within 150 feet of either side of Class III watercourses are the indicators used to evaluate riparian forest conditions specific to delivery of wood to channels, slope stability, and ground cover pursuant Table 2 of the TMDL Action Plan. We continue to ensure these characteristics meet numeric targets through the combination of existing measures found in the WDRs along with new measures.
2. Existing measures occurring within these TMDL Action Plan prescribed indicator zones of influence include, but are not limited to (1) primarily selection silviculture and total exclusion of clearcutting; (2) use of a slope stability checklist and licensed geologic review for the identification and mitigation of slope stability issues; (3) no harvest zones adjacent Class I and II watercourses providing for maximum shade, wood delivery, slope and bank stability, and undisturbed ground cover; (4) established HCP riparian management zones (RMZs) which exclude the entry of heavy ground based equipment, require the retention of significant forest canopy cover and all down wood, and allow for only single-tree selection/no group harvest; (5) retention of 18 largest trees per acre within 100 feet of Class I watercourses; (6) no ignition of burning or mechanical site preparation within RMZs; (7) no harvest of Class III channel trees or trees located on unstable slopes adjacent Class III watercourses; (8) no watercourse crossings except at regulatorily permitted locations; (9) additional riparian management requirements and harvest limitations for the WDR identified High Risk Areas including the Clapp Gulch, Railroad Gulch, Tom Gulch, McCloud Creek, and portion of Lower South Fork Elk River sub-basins.
3. New proposed WDR provisions include (1) retention of a minimum of 50 percent post harvest forest canopy cover well distributed throughout the HCP Class III RMZs; (2) exclusion of group selection harvest areas from within Class III RMZs; (3) no new road construction or re-construction, ground-based logging or site preparation within 300 feet of a Class I or II watercourse or within 150 feet of a Class III watercourse between October 15 and May 1.

#### Wet Weather Road Use (New Provisions)

1. Limit log hauling operations to permanent rocked all-season roads meeting HCP storm-proof standards between November 15<sup>th</sup> and April 1<sup>st</sup>.
2. Require a minimum of 48 hours (two days) for roads to dry out following any rain-related shut down of hauling caused by a precipitation event of greater than 0.25 inches rainfall within any 24-hour period before resuming log hauling. All other existing requirements for specific road conditions to be met prior to resuming hauling continue to apply.
3. Require erosion control materials be stock-piled on site for all road construction activities occurring between September 15<sup>th</sup> and October 15<sup>th</sup>, and that these materials to be applied by the end of day prior to any day for which the National Weather Forecast is for a 'chance' (30 percent or greater) of rain.





As noted above, the TMDL Action Plan identifies the characteristics of riparian zones 300 feet on either side of Class I and II watercourses, and 150 feet on either side of Class III watercourses, as the indicator for meeting numeric targets related to recruitment of wood to channels, slope stability, and ground cover. Actual riparian zones in the ecological sense rarely if ever extend 300 feet upslope of Class I and II watercourses and 150 feet of Class III watercourses; however, activities occurring at these distances have the potential to influence processes within the actual riparian area. HRC's approach to riparian conservation and restoration involves a suite of provisions nested within the 300-foot and 150-foot indicator zones including licensed geologic review and exclusion of clearcutting throughout these zones along with limitations on road construction and ground-based yarding operations. The variable width riparian management zones (RMZ) and associated management restrictions found within the TMDL indicator widths have been established specific to the upper Elk River watershed in consultation with state and federal wildlife agencies for the purpose of maximizing large wood recruitment, riparian and aquatic temperature control, and minimization of ground disturbance and related potential for sediment delivery. The forest characteristics found within the identified TMDL riparian zones resulting from current management indicate riparian health associated with active and potential wood recruitment, slope stability, and ground cover are all improving over time consistent with the goal of the TMDL's numeric target.

The current WDR prohibition of road construction and re-construction beginning September 15<sup>th</sup>, and prohibition of ground-based yarding beginning October 1<sup>st</sup>, has proven infeasible as these restrictions are excessive in shortening the logging season, particularly where seasonal wildlife restrictions for the Northern Spotted Owl and Marbled Murrelet prohibit timber operations until September 1<sup>st</sup>, and September 15<sup>th</sup>, respectively; and have not demonstrated benefit for reducing and eliminating discharge. Analysis of coastal California weather patterns, including those performed by NCRWQCB staff, demonstrate October as a seasonally dry month with minimal potential for erosion-producing precipitation in the first half of the month. The proposed modification above linking road construction and ground-based yarding restrictions to the indicators listed in Table 2 of the Action Plan will improve the efficiency and feasibility of these measures.

We are optimistic you will find our proposed amendment to the WDR satisfy your request to address the SWRCB resolution.

Sincerely:

*/s/ Dennis Thibeault*

Dennis Thibeault  
Executive Vice-President, Forestry

## Attachment A

Table 2: Hillslope Water Quality Indicators and Numeric Targets			
Indicator	Numeric Target	Associated Area	Applicable WDR/FPR/HCP Requirements Addressing Hillslope Water Quality Indicators and Numeric Targets
<b>Common Road Indicators</b>			
Hydrologic Connectivity of Roads to watercourses	100% of road segments hydrologically disconnected	All roads	(1) All haul roads stormproofed by October 15, 2018. Storm-proofed roads include 100% hydrologic disconnection to extent feasible, watercourse crossings constructed to accommodate 100-year storm flow event, unstable fill stabilized or removed from potential discharge locations, rocking or other treatment of remaining hydrologically connected road segments where disconnection is infeasible; (2) No new road construction or reconstruction (November 15 - April 1); (3) No new road construction or reconstruction within 300 feet of Class I or II watercourse and 150 feet of Class III watercourse (October 15-May 1); (4) No construction or reconstruction of watercourse crossings on any day there is a forecast for chance (>30%) of rain that day or the next day; (5) No resulting visible increase in turbidity during or after road construction, reconstruction, and road upgrading; (6) Refueling and maintenance of equipment and vehicles to be performed only outside of RMZs; (7) All applicable measures of a CDFW streambed alteration agreement adhered to; (8) No construction or reconstruction of roads across inner gorge or headwall swale slopes or other unstable areas without licensed geologic review; (9) Exposed mineral soil within Class I, II, and III equipment exclusion zones shall be treated with effective erosion control measures; (10) All open roads shall be inspected for development of new erosion sources at least once during the winter following 3"/24 hours and 10" cumulative rainfall AND at least once annually between April 15 and October 15; (11) Any newly-discovered road-related CSDS shall be addressed within one year of discovery; (12) All hauling, construction, reconstruction, and maintenance operations on non-paved roads shall cease when precipitation is sufficient to generate overland flow off the road surface in hydrologically-connected road segments AND use of road shall not resume until overland flow has abated and the road surface within hydrologically-connected segments do not exhibit saturated soil conditions; (13) No hauling shall occur from October 15 - May 1 on roads that do not meet the HCP Permanent Road standard; (14) Hauling shall not resume on any road for at least 48 hours following a precipitation event that results in 0.25 inches or more of rainfall within a 48 hour period (October 15 - May 1); (16) Between September 15 and October 15 erosion control materials shall be on-site of any new road construction or reconstruction and deployed prior to any day for which a chance of rain (30% or greater) is forecast by the National Weather Service AND no more new road construction shall be in progress than can be effectively stabilized with erosion control measures.
Sediment Delivery due to surface erosion from roads	Decreasing road surface erosion		
Sediment Delivery due to road related landslides	Decrease in sediment delivery from new and reactivated road-related landslides		
<b>Common Harvest-Related Indicators</b>			
Sediment Delivery due to surface erosion from harvest areas	100% of harvest areas have ground cover sufficient to prevent surface erosion	All harvest areas	(1) HRC shall not utilize the clearcut harvest method; (2) HRC shall not utilize group selection harvest method within Class I, II, and III Riparian Management Zones; (3) Average annual harvest rate near or below 2% clear cut equivalent acreage at the sub-watershed level over rolling 10 year period minimizing cumulative ground disturbance watershed-wide; (4) No ground based logging or removal of large down wood from within Class I, II, and III Equipment Exclusion Zones minimizing ground disturbance adjacent watercourses; (5) 50' foot and 30' No Harvest zones adjacent Class I and II watercourses respectively minimizing ground disturbance and canopy removal; (6) No Harvest on Class I Inner Gorge slopes within 400 feet of Class I watercourse; (7) No Harvest on Class II inner gorge slopes or other unstable areas with potential for discharge unless reviewed and approved by state licensed geologist using an assessment consistent with California State Standards and Practices (e.g. California Geologic Survey Note 45); (8) Use of Hillslope Management Checklist for Elk River and Salmon Creek Watershed Analysis Unit to guide in identifying potential unstable areas including deep-seated landslides; (9) Requirement to treat all areas of mineral soil exceeding 100 contiguous square feet exposed by forestry/logging activities within RMZs and EEZs with 'effective erosion control measures' as defined in HCP 6.3.3.9; (10) Requirement to treat ALL areas of mineral soil exposed within RMZs and EEZs by forestry/logging activities on slopes greater than 30 percent regardless of size with 'effective erosion control measures' as defined in HCP 6.3.3.9; (11) Requirement to install waterbreaks on cable corridors, firelines, and skid trails that divert or carry water away from natural drainage pattern or channelize runoff such that sediment delivery to waters could otherwise occur; (12) Expanded riparian buffers and canopy retention requirements in the WDR delineated High Risk Areas (Hookton Soils); (13) Avoid and minimize canopy removal in areas with elevated landslide hazard including on and upslope of vulnerable portions of deep-seated landslides; (14) Tractor roads limited in number and width to minimum necessary for removal of logs; (15) No tractor operations on any of the following unless explained, justified, and approved by Lead Agency: slopes greater than 65 percent, slopes 50-65 percent where erosion hazard rating is high or extreme, or slopes over 50% which lead without flattening sufficiently to dissipate water flow and trap sediment before it reaches a watercourse; (16) Prohibition of ground based yarding and mechanical site preparation within 300 feet of Class I and II watercourses and 150 feet of Class III watercourses between October 15 and May 1; (17) No ground-based yarding or mechanical site preparation between November 15 and April 1.
Sediment Delivery from open slope landslides due to harvest-related activities	Decrease in sediment delivery from new and reactivated open-slope landslides	All open slopes	
Sediment Delivery from deep-seated landslides due to harvest-related activities	Zero increase in discharge from deep-seated landslides due to management related activities	All deep-seated landslides	
<b>Common Management Discharge Site Indicators</b>			
New Management Discharge Sites	No New Management discharge sites created	Class I, II, and III watercourses	(1) Class I, II, and III No Harvest Zones; (2) Class I No Harvest Inner Gorge; (3) 150' No Harvest Zone along lower 8 miles of North Fork Elk River; (4) Class I, II, and III Equipment Exclusion Zones; (5) Average annual harvest rate near or below 2% clear cut equivalent acreage at the sub-watershed level over rolling 10 year period minimizing affect on peak flows relative to channel and bank erosion; (6) Annual Erosion Control Inspection, Reporting, and Notification of Discharge requirements for THPs; (7) See Harvest-Related Indicators Applicable Erosion Control Measures above
<b>Specific Upper Elk River Watershed Indicators</b>			
Headward incision in low order channels	Zero increase in the existing drainage network	Class II/III catchments	(1) Average annual harvest rate near or below 2% clear cut equivalent acreage at the sub-watershed level over rolling 10 year period minimizing affect on peak flows relative to channel and bank erosion including headward incision in low order channels; (2) No Harvest on Headwall Swale areas unless reviewed and approved by state licensed geologist using an assessment consistent with California State Standards and Practices (e.g. California Geologic Survey Note 45) AND minimum of 50% total canopy retained; (3) 100 percent hydrologic disconnection of roads to extent feasible preventing concentration of runoff into low order channels; (4) Class III watercourse EEZs preventing ground disturbance and concentration of flows immediately upslope of low order channels; (5) Avoid tractor crossings of non-channel swales; (6) No harvest of channel trees.
Peak Flows	Less than 10% increase in peak flows in 10 years related to timber harvest	Class II/III catchments	(1) Average annual harvest rate near or below 2% clear cut equivalent acreage at the sub-watershed level over rolling 10 year period minimizing affect on peak flows relative to channel and bank erosion
Channels with actively eroding banks	Decreasing lengths of channel with actively eroding banks	Class I, II, and III watercourses	(1) Average annual harvest rate near or below 2% clear cut equivalent acreage at the sub-watershed level over rolling 10 year period; (2) No harvest adjacent Class I and II watercourses; (3) No harvest on unstable banks adjacent Class III watercourses; (4) No harvest zone adjacent Class III watercourses in High Risk Areas; (5) road stormproofing removing and stabilizing unstable fills at watercourse crossings and adjacent watercourses
Characteristics of riparian zones (i.e. 300 feet on either side of the channel) associated with Class I and II watercourses	Improvement in the quality/health of riparian stand so as to promote 1) delivery of wood to channels, 2) slope stability, and 3) ground cover	Class I and II watercourses	(1) No Clearcutting; (2) No harvest on inner gorge slopes; (3) required licensed geologic review; (4) Variable width RMZs and associated prescriptions dependent on slope sensitivity and resource risk; (5) no harvest zones adjacent Class I, II, and III watercourses including 150' no harvest zone along lower North Fork Elk River for the benefit of shade canopy and large wood recruitment; (6) Retention of 18 largest trees per acre within 100 feet of Class I watercourses; (7) retention of all down wood within Class I, II, and III RMZs; (8) ground-based equipment exclusion zones adjacent Class I, II, and III watercourses; (9) no group selection harvest openings within RMZs; (10) no new road construction or re-construction, ground-based logging or site preparation within 300 feet of a Class I or II watercourse or within 150 feet of a Class III watercourse between October 15 and May 1.
Characteristics of riparian zones (i.e. 150 feet on either side of the channel) associated with Class III	Improvement in the quality/health of riparian stand so as to promote 1) delivery of wood to channels, 2) slope stability, and 3) ground cover	Class III watercourses	

## Attachment B

Excerpt from Order No. R1-2016-0004

### I. SPECIFIC REQUIREMENTS<sup>1</sup>

#### A. Forest Management

1. HRC shall utilize uneven-aged single-tree and small group selection silviculture as defined in California Code of Regulations, title 14, section 913.1 within its timberlands in the UER watershed. Variable Retention may be used in some instances to address certain stand conditions, such as high levels of whitewood or hardwood species, animal damage, or general poor form and vigor due to past logging history. Other silvicultural methods that may be applied infrequently include Rehabilitation of Understocked Areas, Seed Tree Removal, and Sanitation Salvage. HRC shall not utilize the clearcut harvest method.
2. HRC shall not utilize group selection harvest method as defined in California Code of Regulations, title 14, section 913.2 within Riparian Management Zones.
3. Subwatershed average annual harvest rates from the ROWD (Attachment D) fall near or below 2% equivalent clearcut acres averaged over any 10 year period and are generally reasonable. Harvest rates above this threshold may cause concern for cumulative impacts on water quality. Where an individual, or multiple, THP(s) would result in an average annual harvest rate in any subwatershed above 2% equivalent clearcut acres over any 10 year period, the Executive Officer may decline to enroll the THP(s), or portions of the THP, or may require additional mitigations or monitoring as a condition of enrollment.
4. Harvesting in High Risk Areas
  - a. High risk areas are defined as those areas identified in HRC's ROWD amendment request dated October 4, 2016 submitted to the Regional Water Board with associated map titled Sensitive Bedrock Sub-Basin and Elk River Geologic Map.
  - b. For the first five year period (2016-2020) following adoption of this Order timber harvesting activities on HRC's timberlands in the high risk areas, as described in Findings 60 and 61 of this Order, is limited to units of THP 1-12-110 HUM.
  - c. At the required update to the Regional Water Board no later than five years from the date of adoption of this Order, the Regional Water Board will consider the Order conditions limiting harvest activities in high risk areas, and after public notice and comment, may provide staff direction on potential changes to the harvest limitations. Any changes to this Order regarding

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<sup>1</sup> Several of the Specific Requirements are from HRC's ROWD. These include: I.A.1-2; I.B.1.a-d; I.B.2.b; I.B.4-6.a-b; I.D.1-8; I.E.1-4; I.G.1-2; I.I.1-2; IV.A.1-2



harvest limitations in the subsequent five year period or beyond shall consider available data and information to assess watershed conditions, including beneficial use recovery in the impacted reach, and shall be subject to a 30-day review and public comment period and Regional Water Board hearing. In the absence of changes to this Order, harvesting in high risk areas for the next five year period (2021-2025) shall be limited to 550 acres total.

**B. Riparian Zones**

1. The Action Plan for the Upper Elk River TMDL identifies characteristics of riparian zones within 300 feet on either side of Class I and II watercourses and within 150 on either side of Class III watercourses as the *Indicator* associated with numeric targets for riparian forest conservation and restoration specific to delivery of wood to channels, slope stability, and ground cover.
2. HRC shall implement ERSC WA prescriptions for Class I and II watercourse riparian protection as specified in sections 6.3.3.7, 6.3.4.1.2, and 6.3.4.1.3 of the HCP and as outlined in the ROWD submitted by HRC on September 22, 2015.
3. HRC shall implement ERSC WA prescriptions for Class III watercourse riparian protection as specified in sections 6.3.3.7 and 6.3.4.1.4 of the HCP and as outlined in the ROWD submitted by HRC on September 22, 2015; and in addition, shall:
  - a. retain a minimum of 50% post harvest forest canopy cover well distributed throughout the HCP Class III riparian management zones.
  - b. Exclude group selection areas from the HCP Class III riparian management zones.
4. No ground-based logging or site preparation shall occur within 300 feet of a Class I or II watercourse or within 150 feet of a Class III watercourse between October 15<sup>th</sup> and May 1<sup>st</sup>.
5. No new road construction or reconstruction shall occur within 300 feet of a Class I or II watercourse or within 150 feet of a Class III watercourse between October 15<sup>th</sup> and May 1<sup>st</sup> except in response to failure of a road segment or watercourse crossing that is resulting in ongoing or imminent sediment discharge.
6. Only single tree selection shall be utilized in RMZs for Class I, II, and III watercourses. No group clearing shall take place in these RMZs.
7. Additional Riparian Zone Protection in High Risk Areas (Clapp Gulch, Railroad Gulch, Tom Gulch, McCloud Creek, and portion of Lower South Fork Elk River sub-basins):
  - a. Class II Watercourse Riparian Protection (High Risk Areas)
    - a. Riparian Management Zones (RMZs) for Class II watercourses extend up to 200 feet or to the hydrologic divide on both sides of the channel;
    - b. No harvesting within 30 feet of Class II watercourses; and
    - c. Between 30 feet and 200 feet or to the hydrologic divide of Class II watercourses, retain a minimum of 60% post-harvest conifer canopy coverage.
  - b. Class III Watercourse Riparian Protection (High Risk Areas)



- a. Riparian Management Zones for Class III watercourses extend to 100 feet or to the hydrologic divide on both sides of the channel;
  - b. No harvesting within 20 feet of Class III watercourses; and
  - c. Between 20 feet and 100 feet or the hydrologic divide of Class III watercourse, retain a minimum of 70% post-harvest conifer canopy coverage.
- c. No use of ground based equipment within (High Risk Areas):
    - a. 150 feet of a Class I watercourses;
    - b. 100 feet of a Class II watercourse;
    - c. 50 feet of a Class III watercourse, or to the closest hydrologic divide; except on existing roads and permitted watercourse crossings
  - d. Erosion control practices in riparian management zones (High Risk Areas):
    - a. Implement erosion controls including surfacing all segments of road and skid trails within riparian areas with pavement, rock, slash, mulch, straw, or other adequate materials to prevent the discharge of sediment to a watercourse;
    - b. Trap and filter all road and skid trail surface drainage within riparian areas to prevent the discharge of sediment to watercourse; and
    - c. Cover all disturbed soil areas with slash, mulch, straw, or other adequate materials, or apply other effective erosion control measures to prevent the discharge of sediment to a watercourse.
  - e. Avoid tractor crossings in unchanneled swales (High Risk Areas).
  - f. Retain trees along the center line of swales and areas of subsurface flow paths (High Risk Areas).

#### C. Road Management

1. All roads shall be hydrologically disconnected from watercourses to the extent feasible.
2. HRC shall implement management practices and specifications described in Appendix B of the ROWD to prevent and minimize sediment discharge from active roads.
3. By October 15, 2018, HRC shall upgrade all roads to meet the storm-proofed standard as described above in Finding 46 and Appendix B of the ROWD.
4. By October 15, 2018, HRC shall treat those road related controllable sediment discharge sources currently identified in Attachment C.
5. HRC shall address any newly-discovered road-related CSDSs within a year of discovery in accordance with the ARIP (section 6.2 of the ROWD).

6. HRC shall inspect all roads (accessible by standard 4-wheel drive pick-up or ATV) within their Elk River ownership at least annually between April 1 and October 15.
7. HRC shall inspect storm-proofed roads as soon as conditions permit following any storm event that generates 3 inches or more of precipitation in a 24-hour period, as measured at the Elk River rain gauge.
8. Within one year of identifying new sediment discharge sources from roads HRC shall document, notify the Regional Water Board, and implement measures to prevent or minimize sediment discharge at any new controllable sediment discharge sources identified during the road inspections.

D. Landslide Prevention

1. Prior to conducting timber harvesting activities or construction or decommissioning roads and watercourse crossings on its ownership in the UER, HRC shall prepare and submit an engineering geologic report to the Regional Water Board Executive Officer for review and approval.  
The engineering geologic report shall be prepared by a California Licensed Professional Geologist (PG) in conformance with the guidelines of California Geologic Survey Note 45 to evaluate the potential impacts of the proposed harvesting to water quality. At a minimum, the report shall characterize geologic hazards using a combination of the following data and methods of investigation:
  - Existing hazard maps derived from slope stability models;
  - Available maps and reports;
  - Aerial photographs;
  - Field investigation and mapping; and
  - Applicable studies and technical models.
2. The PG shall evaluate potential effects on slope stability and surface soil erosion, and landslide related sediment discharge from the proposed management activity, identify vulnerable areas, and describe specific mitigation measures needed to avoid and minimize potential effects for identified areas of concern.

The mitigations shall be based on the potential hazard, and where appropriate, shall include, but are not necessarily limited to the following:

- Avoid and minimize canopy removal in areas with elevated landslide hazard;
  - Avoid and minimize activities upslope of existing landslide and on vulnerable portions of deep seated landslides; and
  - Stabilization of existing landslides where applicable by methods such as planting, manipulating drainage, buttressing, and other feasible engineering techniques.
3. The engineering geologic report may be submitted before or during the THP review process conducted by CAL FIRE, or by request of the Executive Officer. The Regional Water Board staff shall review the engineering geologic report and may request additional information or require additional conditions be incorporated to further reduce or mitigate the potential for sediment discharge. If additional information or mitigation is required, HRC shall not proceed with the proposed activity until demonstration that the potential impacts to the beneficial uses of water will be adequately mitigated.
  4. HRC shall maintain and update the landslide inventory included in Appendix C of the ROWD according to the specifications described in the Monitoring and Reporting Program in Section IV of this Order.

E. Wet Weather Requirements

1. Between November 15 and April 1, hauling shall be limited to permanent rocked all-season roads that meet the HCP stormproofed standard.
2. Between November 15 and April 1, hauling on permanent rocked all-season roads shall cease for a period of at least 48 hours (two days) following a precipitation event that results in 0.25 inches or more of rainfall within any 24 hour period.
3. Road construction or reconstruction is prohibited between November 15 and April 1 except in response to failure of a road segment or watercourse crossing that is resulting in ongoing or imminent sediment discharge.
4. No new road construction or reconstruction shall occur within 300 feet of a Class I or II watercourse or within 150 feet of a Class III watercourse between October 15<sup>th</sup> and May 1<sup>st</sup> except in response to failure of a road segment or watercourse crossing that is resulting in ongoing or imminent sediment discharge.
5. Between September 15 and October 15, erosion control materials shall be stockpiled on the site of any road construction or reconstruction operations. Erosion control measures shall be applied using BMPs prior to any day for which the National Weather Forecast is for a 'chance' of rain 30 percent or greater.

Erosion control measures shall be fully in place by the end of the day prior to the day for which a chance of rain is forecast.

6. Ground-based yarding and mechanical site preparation are prohibited between November 15 and April 1st. No ground-based logging or site preparation shall occur within 300 feet of a Class I or II watercourse or within 150 feet of a Class III watercourse between October 15<sup>th</sup> and May 1<sup>st</sup>.
7. Additional wet weather operations shall be consistent with the ROWD and HCP wet weather prescriptions.

**B. Erosion Control Plans**

1. HRC shall prepare and submit an inventory of CSDS within, and in the vicinity of, the logging area for all THPs it submits in the UER. Any CSDS not previously inventoried and treated as part of the Road Management activities described in Section I.D. of this Order shall be inventoried and scheduled for treatment concurrently with THP operations, including those off-road sites from the master treatment schedule in the vicinity of the THP.
2. These CSDS will be subject to the following:
  - a. Each CSDS shall be inventoried in an ECP, which will include: a description of the current condition of each site, an estimate of the potential sediment volume that could discharge from the site, a narrative description of the proposed management measures, and a schedule for implementation;
  - b. Inventoried CSDS must be treated per the site specific ECP schedule;
  - c. The ECP shall be submitted to the Regional Water Board for review and approval with the THP it is associated with; and
  - d. If treatment of such sites "strands" any other CSDS, HRC does not relinquish responsibility for also treating the stranded sites. For logistical reasons, it is recommended that measures be taken to prevent sites from becoming stranded.

**C. Feasibility Study for Control of In-channel Sediment Sources within HRC's Ownership Boundaries**

HRC shall conduct a feasibility study to evaluate potential methods to control, trap, or meter sediment from in-channel sources in the UER before such sediment can be transported to the impacted reach. The feasibility study shall identify potential methods to reduce transport of sediment from tributaries in the UER to the impacted reach that may include design and implementation of small scale pilot projects. If the pilot projects demonstrate the success of methods to reduce sediment discharge from in-channel sources, HRC shall develop a plan to implement these methods on a wider scale throughout the UER.

1. By October 15, 2017, HRC shall submit to the Regional Water Board Executive Officer for approval, an initial plan describing in-channel sediment sources,

potential methods to control, meter, or trap sediment from these sources, and propose pilot scale projects to test the effectiveness of proposed methods.

2. Starting October 15, 2018, HRC shall submit to the Regional Water Board Executive Officer for approval, annual updates on progress in implementing the feasibility study.
3. By October 15, 2020, HRC shall submit to the Regional Water Board Executive Officer for approval, the final feasibility study, including results of pilot scale projects, description of feasible methods to control sediment from in-channel sources, and a detailed workplan to implement full scale projects to control in-channel sediment sources throughout their ownership, including an implementation schedule.

**D. Implementation and Maintenance of the Sediment Reduction and Master Treatment Schedule**

1. This Order supersedes and incorporates the requirements of Cleanup and Abatement Order (CAO) R1-2004-0028 for HRC's ownership in the Mainstem Elk River and South Fork Elk River and CAO R1-2006-0055, for HRC's ownership in the North Fork Elk River.
2. By October 15, 2018, HRC shall complete corrective action for all remaining road related CSDS described in the master treatment schedule in Attachment C. HRC will continue to prioritize and treat CSDS associated with legacy skid trails according to the schedule described in the master treatment schedule. The annual report described in Section IV.B.1. shall include a list of those sites treated during the previous year and those scheduled for treatment during the upcoming year.

**E. Alternatives Methods of Compliance**

Many measures proposed in the ROWD are incorporated as enforceable specific requirements above. Additional water quality protection measures include subwatershed harvest rates, limited harvesting and additional riparian protections for Class II and III streams in high risk areas, and a feasibility study for controlling in-channel sediment sources. HRC may propose and submit for approval by the Regional Water Board, alternative measures that can be demonstrated to provide beneficial uses protection and nuisance abatement that is equal or better than that provided by these specific requirements. Any proposed alternative measures shall be submitted in writing to the Regional Water Board Executive Officer. The proposal shall include a description of the alternative measure(s), accompanied by supporting documentation that the alternative measures will achieve equal or better protection than those specific requirements. The Executive Officer shall bring any meritorious proposal to the Regional Water Board for its consideration after public notice and a hearing.



## II. GENERAL REQUIREMENTS

- A. HRC shall comply with all applicable water quality standards, requirements, and prohibitions specified in the Basin Plan as modified, and policies adopted by the State Water Board.
- B. HRC shall allow Regional Water Board staff entry onto all land within the Elk River Watershed covered by the WDR including appurtenant roads for the purposes of observing, inspecting, photographing, videotaping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with this Order.
- C. HRC shall comply with all water quality related HCP prescriptions, conditions included in an approved THP, and any additional mitigation measures identified and required pursuant to CAL FIRE CEQA process.
- D. HRC shall comply with all mitigation measures identified in Attachment A of the Initial Study and Mitigated Negative Declaration.
- E. This Order does not authorize discharges from the aerial application of herbicides or pesticides. HRC shall submit a ROWD prior to any proposed aerial application of pesticides that could discharge to waters of the state.
- F. HRC shall notify the Regional Water Board in writing at least 30 days prior to any proposed ground-based application of pesticides within 100 feet of Class I, Class II or Class III watercourses. The notification shall include the type of pesticide(s), method and area of application, projected date of application, and measures that will be employed to assure compliance with applicable water quality requirements.
- G. Water quality issues identified on any particular THP and not resolved prior to THP approval by CAL FIRE, shall be resolved to the satisfaction of Regional Water Board Executive Officer, prior to commencement of that THP.
- H. HRC shall maintain copies of all correspondence and records collected and prepared to document compliance with this Order and provide access to Regional Water Board to review and copy.
- I. No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights. (Wat. Code, § 13262, subd.(g).)
- J. Prior to implementing any change to the project or activity that may have a significant or material effect on the findings, conclusions, or conditions of this Order, HRC shall obtain the written approval of the Regional Water Board Executive Officer.

- K. The Regional Water Board may reopen this Order to add to or modify the conditions of this Order, with notice and as appropriate in response to monitoring results or to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or the Clean Water Act.
- L. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state law.
- M. Should it be determined by HRC or the Regional Water Board that unauthorized discharge of waste are causing or contributing to a violation or an exceedance of an applicable water quality requirement or a violation of a WDR prohibition (below), HRC shall:
  - 1. Implement corrective measures immediately following discovery that applicable water quality requirements were exceeded or a prohibition violated, followed by notification to the Regional Water Board by telephone or email as soon as possible, but no later than 48 hours after the discharge has been discovered. This notification shall be followed by a report within 14 days to the Regional Board, unless otherwise directed by the Executive Officer, that includes:
    - a. the date the violation was discovered;
    - b. the name and title of the person(s) discovering the violation;
    - c. a map showing the location of the violation site;
    - d. a description of recent weather conditions prior to discovering the violation;
    - e. the nature and cause of the water quality requirement violation or exceedance or WDR prohibition violation;
    - f. photos of the site documenting the violation;
    - g. a description of the management measure(s) currently being implemented to address the violation;
    - h. any necessary maintenance or repair of management measures;
    - i. any additional management measures which will be implemented to prevent or reduce discharges that are causing or contributing to the violation or exceedance of applicable water quality requirements or WDR prohibition violation;
    - j. an implementation schedule for corrective actions; and,
    - k. the signature and title of the person preparing the report.
- N. HRC shall revise the appropriate technical report (i.e. ECP, Inventory, or other required information as applicable) immediately after the report to the Regional Board to incorporate the additional management measures that have been and will be implemented, the implementation schedule, and any additional inspections or monitoring that is needed.

O. Emergency Maintenance

If there is an imminent threat to life, property, or public safety, or a potential for sediment discharge with catastrophic environmental consequences, HRC will notify Regional Water Board staff of the emergency and the planned or implemented action within 14 calendar days. HRC shall meet with the Regional Water Board Executive Officer within six months of a major fire to discuss modifications to this Order as may be warranted due to changed conditions.

III. DISCHARGE PROHIBITIONS

- A. The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.
- B. The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.

IV. MONITORING AND REPORTING

This Monitoring and Reporting Program (MRP) is issued pursuant to Water Code section 13267, subdivision (b) and requires HRC to implement the monitoring and reporting described below. The Regional Water Board has delegated its authority to the Executive Officer to revise, modify, and reissue the MRP.

A. Monitoring

HRC shall monitor watershed conditions according to the monitoring program described below.

1. Inspections

Roads

- a. HRC shall inspect all roads within the UER according to the following schedule:
  - i. At least once annually between April 1 and October 15 to ensure that drainage structures and facilities are intact and fully functional, and to identify any active or imminent road-related failures of the road prism, cutbanks, or fills which can deliver sediment to streams, and identify and schedule any corrective action needed to control sediment discharge;

- ii. As soon as conditions permit following any storm event that generates 3 inches or more of precipitation in a 24-hour period, as measured at HRC's UER rain gauge.

THP areas

- b. HRC shall inspect the entire logging area of all active THPs, including roads, harvest units, and CSDS sites, a minimum of three times per year according to the following schedule:
  - i. By October 15 to assure project areas are secure for the winter; and/or immediately following cessation of winter period timber harvest activities;
  - ii. Between October 15 and April 1 after at least 10 inches of cumulative rainfall has fallen to assess the effectiveness of management measures designed to address controllable sediment discharges and to determine if any new CSDS sites have developed;
  - iii. Between April 1 and June 15 to assess the effectiveness of management measures designed to address existing CSDS sites and to identify if any new CSDS sites have developed.

2. Landslides Monitoring

HRC shall conduct the following monitoring to identify new or reactivated mass wasting activity:

- a. HRC shall maintain and update the landslide inventory included in Appendix C of the ROWD according to the specifications described below;
- b. HRC shall inspect harvest THP units at least annually during the life of the THP and through the three year erosion control maintenance period following completion of the plan. The inspections shall cover both harvested areas as well as RMZs and channel zones and shall be designed to identify any new, or reactivated mass wasting, including open slope landslides and streamside landslides;
- c. Additional on-the-ground monitoring and reporting to identify new, or reactivated mass wasting activity shall include HRC field staff (i.e. forestry, physical sciences), notifying the HRC Geology Department in the event a new or recently active landslide is observed during the course of daily duties (i.e. road inspections, wildlife surveys, aquatics monitoring, THP layout and logging supervision);
- d. HRC shall obtain new aerial photographs of the Upper Elk River watershed at intervals no greater than 5 years;
- e. HRC shall utilize color, high-angle, stereo pair aerial photographs at a scale of 1:12,000 of the UER to update the landslide inventory; and
- f. By June 15, 2022, HRC shall conduct a representative survey of streamside landslides.



3. Water Quality Monitoring

HRC shall continue to conduct the following water quality trend monitoring, including Aquatic Trends Monitoring (ATM) every three years and Hydrology Trends Monitoring (HTM) annually, according to the sampling procedures described in detail in the ROWD and applicable Standard Watershed Operating Protocols for the following parameters:

- a. Pebble counts
- b. Pool dimension and frequency
- c. Large wood
- d. Riparian and overstory canopy measurements
- e. Water temperature
- f. Fish surveys
- g. Channel cross section measurements
- h. Hydrology and suspended sediment

B. Reporting

HRC shall provide the following reports to the Regional Water Board Executive Officer according to schedule specified below. Reports must contain sufficient information that Regional Water Board staff can clearly identify the types of work planned and monitoring conducted throughout the UER including key results, findings, problems encountered, and corrective actions taken. HRC shall summarize any information pertinent to corrective actions that have been or need to be taken to ensure adequate water quality protection.

1. Annual Summary Report and Work Plan

By January 31 of each year, HRC shall submit to the Regional Water Board a summary report of all management activities, including monitoring, conducted during the previous calendar year and a work plan, describing all management activities planned for the current calendar year (January 1 to December 31). HRC shall certify that the activities included in the report are in compliance with the provisions of this Order.

Regional Water Board staff will review and may provide written comments and or request additional information as necessary by February 15. If requested, HRC shall submit a revised final annual work plan to the Regional Water Board by March 1.

Regional Water Board and HRC staff shall also meet annually, if requested by either party, to review proposed work to discuss the timing of and type of activities planned for the year.

The annual work plan is a planning document. The actual work conducted in the upcoming year may differ from what is described in the plan due to changes in conditions or other considerations. HRC shall notify the Regional Water Board

no less than quarterly in writing when it becomes apparent that a deviation from the current annual work plan is necessary. The notification shall include a description of how the work differs from the annual work plan and an explanation for the change. The annual summary shall describe all of the management activities actually conducted during the previous year.

The annual report shall include, at a minimum, the following information:

a. Timber harvest

The report shall at a minimum describe all harvesting conducted during the previous year as well as anticipated harvest planned for the coming year pursuant to Section I.A. of the Order, including;

- i. Acres by subwatershed;
- ii. Silviculture method;
- iii. THP name and number;

b. Roads

HRC shall describe all road work conducted during the previous year and work planned for the upcoming year, including a description and map locations of all road construction, reconstruction, and maintenance work, pursuant to Section I.D. of the Order.

c. Inventory of CSDS

HRC shall provide a detailed list of CSDS sites treated during the previous year and sites that are proposed for treatment prior to that calendar year's winter period. The list of sites shall include remaining CSDS from the master treatment schedule, road related CSDS identified during annual road inspections, CSDS identified in ECPs for individual THPs, and any other CSDS identified during the previous year, including those associated with watercourse crossings, roads, skid trails, gullies, road-related and non-road-related landslides, and any other sediment generating features associated with timber harvest activities. For each CSDS site scheduled for treatment, the annual work plan shall contain:

- i. A treatment site identification number and location shown on a scaled map;
- ii. The volume of sediment to be treated;
- iii. Treatment status (pending or completed); and
- iv. A description of the selected treatment alternative.

d. Restoration Projects

HRC shall provide a description of any restoration projects conducted during the previous year and that are scheduled for implementation during the upcoming year. Restoration projects that shall be included in the annual report include any projects implemented as part of the Feasibility Study for control of in-channel sediment sources or the Stewardship Program, including:

- i. Large wood augmentation for the purposes of improving fish habitat and sediment routing. Methods could include falling riparian zone trees or placement of logs using heavy equipment;
- ii. Construction of off-channel sediment detention basins;
- iii. Streambank stabilization using large wood, excavation, planting, or other bioengineering methods;
- iv. Removal or reconstruction of watercourse crossings and near stream road segments;
- v. Excavation of in-stream sediment deposits.

e. Inspections

The annual summary report shall describe all inspections of roads, erosion control plans associated with timber harvest plans, and landslides conducted during the previous year according to the specifications described in Section IV.A. The annual summary report shall include at a minimum, the following information for each inspection:

- i. date of the inspection;
- ii. inspector(s) name;
- iii. area or sites inspected;
- iv. observations, including problems identified that result, or have the potential to result in controllable sediment discharge, including discharge notifications;
- v. actions needed to prevent or minimize sediment discharge;
- vi. actions taken to prevent or minimize sediment discharge;
- vii. a brief evaluation of the causes of the erosional problems and the adaptive management measures that must be taken to prevent recurrence.

f. Landslide Reporting

The annual summary report shall include an updated landslide inventory, describing any landslide activity observed within the past year, including;

- i. A map showing locations of landslide activity;
- ii. Whether landslide is new or reactivation of existing landslide;
- iii. Estimated volume of sediment discharged; and
- iv. Management activities (such as timber harvesting or road work) that may reasonably be considered to have caused or affected landslide activity.

g. Water Quality Trends Monitoring Data

The annual summary report shall include water quality and hydrology monitoring data collected during the previous year as specified in Section IV.A., including: stream flow, sediment, water temperature, channel form, and large wood in the channel, according to the specifications of the ROWD.

h. Watershed Stewardship Report

The annual report shall describe HRC's participation in Elk River Watershed Stewardship. The report shall provide a brief description of its participation in meetings as well as its contributions supporting stewardship efforts.

2. Five-year Synthesis Report

Following adoption of this Order, HRC shall provide a five-year synthesis and evaluation of the effectiveness of its management activity in preventing and minimizing discharges of sediment and protection of water temperature increases that may impact the beneficial uses of water in UER.

By no later than November 15, 2021, HRC shall submit the first five year synthesis report to the Regional Water Board for approval by the Executive Officer. By no later than October 15, 2020, the content of the report will be developed in consultation with Regional Water Board staff in order to assure that the report will be useful to evaluate compliance with the General and Specific requirements of the Order and inform decisions regarding potential revisions to the Order. The five year update and evaluation shall include the following information:

a. Harvest Summary

HRC shall submit a summary of total acres harvested over the previous five year period, by:

- i. Acres harvested by subwatershed;
- ii. Silviculture method;
- iii. THP name and number.

b. Road update

HRC shall submit a summary report of roadwork conducted throughout their ownership in the UER. The purpose of the report is to provide a status report on the road network and the effectiveness of their program for controlling sediment discharge from roads. The report shall include the following:

- i. Total length of active roads, including total amount of seasonal and permanent roads;
- ii. Total length of road that meets the stormproofed standard (this shall confirm that HRC's entire road network has been stormproofed);
- iii. Total length of road decommissioned over the previous five year period;
- iv. A map of the current road network.

c. Landslide Summary

An updated landslide inventory and evaluation of the effectiveness of management measures intended to reduce the potential for management related landslides. The updated inventory shall be prepared by a PG and shall include a description of all landslide activity identified during the previous



five years based on field observations, interpretation of updated aerial photographs, and other available data sources, including;

- i. An updated landslide inventory, describing all landslide activity observed within the past five years and whether observed landslides are new or reactivation of existing landslides;
- ii. Estimated volume of sediment discharged by landslides over the previous five year period by subwatershed;
- iii. A map showing locations of landslide activity that has occurred during the previous five years;
- iv. A description of data sources (aerial photograph, road inspection, THP layout, etc.);
- v. Copies of aerial photographs of the UER from the previous five year period (may be scanned); and
- vi. A discussion of overall landslide activity during the previous five years and any conclusions that can be made with respect to an association between management and landslide activity. This section shall include a discussion of potential modifications to management practices necessary to further minimize management related sediment discharge.

d. Water Quality Trends

HRC shall submit a water quality trends reports, providing a summary of water quality monitoring results for the previous five years. This report shall be developed in coordination with the Watershed Stewardship Program, to the extent possible. The summary should provide a discussion of any observable water quality trends detected during the previous five years and any conclusions that can be made, in particular with respect to sediment loads, anadromous salmonid habit, and any possible association between management activities and in-stream conditions. This section shall include a discussion of potential modifications to management practices necessary to further minimize management related sediment discharge.

e. Restoration Summary

HRC shall submit a summary report of all restoration projects it has conducted, participated in, or contributed to, within the Elk River watershed. Restoration activities are those projects designed to control in-stream sediment production and transport, improve beneficial uses of water, and abate nuisance conditions, and may include, but are not necessarily limited to:

- i. Stabilizing banks through provision of root cohesion on banks and floodplains;
- ii. Filtering sediment, chemicals, and nutrients from upslope sources;
- iii. Supplying large wood to the channel, which maintains channel form and improves in-stream habitat complexity;

- iv. Maintaining channel form, in-stream habitat, and an appropriate sediment regime through the restriction of sediment inputs or metering of sediment through the system;
  - v. Moderating downstream flood peaks through temporary upstream off-channel storage of water;
  - vi. Maintaining cool water temperatures through provision of shade and creation of a cool and humid microclimate over the stream;
  - vii. Providing both plant and animal food resources for the aquatic ecosystem in the form of, for example, leaves, branches, and terrestrial insects.
- f. Effectiveness Monitoring Summary
- HRC shall submit a summary report(s) describing the results of their effectiveness monitoring programs for roads throughout the UER and timber harvest related management practices in Railroad Gulch. The reports shall include a description of monitoring methods used, the location of sites evaluated, the results of the monitoring, a discussion the results, and any conclusion regarding the effects of their management practices with respect to sediment production from roads, watercourse crossings, harvest units, landslides, in-channel sources, and sensitive riparian zones.

## V. APPLICATION AND ENROLLMENT PROCEDURE

Pursuant to this Order, for the first five years following adoption of this Order, HRC must apply to the Regional Water Board Executive Officer for coverage of individual THPs as described below. After five years, an enrollment process is not required to commence operations for CAL FIRE-approved THPs that fully comply with requirements of this Order, unless notified in writing by the Regional Water Board Executive Officer that the plan is not eligible for coverage.

For the first five years, before operations may commence on an approved THP, HRC must apply for enrollment of the THP under this Order by submitting an enrollment application to the Regional Water Board Executive Officer. The enrollment application must be signed by a designated representative of HRC certifying that the THP complies with the terms and provisions of this Order. Prior to enrollment, Regional Water Board staff will evaluate the THP for compliance with the Order, and at that time may require additional measures for water quality protection as warranted. Timber harvesting activities may not commence until HRC receives written notification from the Regional Water Board Executive Officer that the THP is covered under this Order. It is anticipated that Projects which have had thorough Regional Water Board staff involvement in the review and approval process will receive written notification of coverage within ten (10) working days of receipt of a complete application.

After the first five years, HRC must submit a notice of commencement of operation to the Regional Water Board at least 10 days prior to commencement of operations for a specific THP.

The Regional Water Board Executive Officer, upon finding that a plan may violate any of the terms of the Order, may at any time notify HRC that they must refrain from commencing, or cease, operations.

## VI. RESCISSION AND DENIAL OF COVERAGE

The Executive Officer may rescind or deny coverage for a THP under this Order if, based on substantial evidence, the Executive Officer makes any of the following determinations:

1. The THP does not comply with Terms and Provisions of this Order;
2. The THP is reasonably likely to result in or has resulted in a violation or exceedence of any applicable Water Quality Standards, US EPA approved load allocation, or other water quality requirement<sup>2</sup>;
3. The THP has varied in whole or in any part from the approved THP in any way that could adversely affect water quality;
4. The THP is the subject of an unresolved water quality or procedural issue including, but not limited to, a non-concurrence filed by the Regional Water Board staff with CAL FIRE;
5. The THP meets the Terms and Provisions of this Order, but may still result in a discharge of waste that could adversely affect water quality from any of the following:
  - a. An observable increase in sediment discharge from landslides, channel or streambank erosion, or surface or gully erosion associated with harvest activities;
  - b. A measurable and significant increase in turbidity or suspended sediment concentration as a result of harvest related activities;
6. Any operations on an individual, or multiple, THP(s) that would result in an average annual harvest rate in any subwatershed above 2% equivalent clearcut acres over

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<sup>2</sup> "Water Quality Requirements" means a water quality objective (narrative or numeric), prohibition, TMDL implementation plan, policy, or other requirement contained in a Water Quality Control Plan (Basin Plan) adopted by the Regional Water Board and approved by the State Water Board, and all other applicable plans or policies adopted by the Regional Water Board or State Water Board, including, but not limited to, State Water Board Resolution No. 68-16, (Statement of Policy with Respect to Maintaining High Quality Waters in California).

any 10 year period that has resulted, or would be likely to result in any of the following:

- a. An observable increase in sediment discharge from landslides, channel or streambank erosion, or surface or gully erosion associated with harvest activities;
  - b. A measurable and significant increase in turbidity or suspended sediment concentration as a result of harvest related activities; or
7. There are substantive errors or inaccuracies found in information submitted as part of the THP and enrollment application package that, if known at the time of application, would have resulted in a denial or limitation of coverage under this Order.

Upon receipt of a written notice of rescission or denial of coverage for a THP under this Order, the coverage of the THP under this Order is immediately terminated. Upon termination, Discharger shall immediately cease all THP activities other than activities necessary to control further discharges. Projects that are denied coverage may be required to submit a report of waste discharge for site-specific individual WDRs.

#### CERTIFICATION

All reports required by this Monitoring and Reporting program or other information requested by the Regional Water Board determination of compliance shall be signed by a duly authorized representative of HRC. Any person signing a document under this requirement shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Any person failing to furnish technical or monitoring reports or falsifying any information therein is guilty of a misdemeanor, and may be subject to civil liability. (Water Code section 13268)



VII.Certification:

I, Matthias St. John, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on November 30, 2016.

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Matthias St. John  
Executive Officer

LIST OF ATTACHMENTS

Attachment A – Map

Attachment B – Upper *Elk River: Technical Analysis for Sediment* (Tetra Tech, 2015)

Attachment C – Master Sediment Reduction and Master Treatment Schedule

Attachment D – HRC's August 28, 2015, Report of Waste Discharge with amendments dated March 11, 2016 and October 4, 2016.

**ATTACHMENT B**

**DRAFT ORDER R1-2019-0021**

**With**

**HUMBOLDT REDWOOD COMPANY**

**HIGHLIGHTS OF KEY FINDINGS AND RECOMMENDATIONS**

**FOR**

**SPECIFIC REQUIREMENT LANGUAGE REVISION**

California Regional Water Quality Control Board  
North Coast Region

DRAFT ORDER NO. R1-2019-0021

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

The California Regional Water Quality Control Board, North Coast Region, (hereinafter  
Regional Water Board) finds that:

**OVERVIEW**

1. The purpose of this Order is to update the 2016 Order so that specific requirements ensure that: 1) HRC manages its timberlands in the Elk River watershed in such a manner that will lead to compliance with hillslope indicators and numeric targets from Table 2 of the TMDL Action Plan; 2) all anthropogenic discharges of sediment are eliminated to the extent feasible, and if not feasibly eliminated, minimized, as soon as feasible to implement the TMDL zero load allocation; and 3) HRC implement the TMDL Action Plan by complying with the specific and general requirements and prohibitions as prescribed in this Order, which apply throughout its timberlands in the Elk River watershed, not solely in areas with active timber operations.
2. The Elk River, one of the primary tributaries of Humboldt Bay and an important salmon spawning and rearing habitat, was identified in 1998 as impaired due to excessive sedimentation/siltation and was subsequently placed on the federal Clean Water Act section 303(d) list. The impairment is primarily attributed to land use activities that have been occurring since the 1850s, including but not limited to timber harvesting, forest conversion, agriculture, grazing, road construction, and rural housing development. Water quality impacts resulting from this history of land management activities include:
  - Sedimentation and threat of sedimentation;
  - Impaired domestic and agricultural water quality;
  - Impaired spawning habitat; and
  - Increased frequency and depth of flooding due to sediment.

3. The Upper Elk River (UER) Watershed (see Attachment A), comprises 44.2 square miles of predominately timberland. In 1997, the Regional Water Board and other state agencies began to receive reports from downstream residents of increased turbidity, channel filling, and flood frequency that were resulting from timber management activities in the UER.
4. 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, the Pacific Lumber Company (PALCO). Additional factors include poorly regulated logging practices, a series of winters with above average precipitation and a series of large storm events, and potentially the effects of a magnitude 7.2 earthquake off Cape Mendocino in 1992.
5. Over time, sediment transported from the UER has deposited in low gradient downstream reaches and has resulted in ongoing aggradation, encroachment of riparian vegetation onto relatively recent fine sediment deposits, and an increased incidence of overbank flooding which has impacted the residential community for the past 20 years. The Technical Analysis for Sediment (Tetra Tech, Inc., 2015) estimated that approximately 640,000 cubic yards of sediment have accumulated within the past two decades in the low gradient stream reaches of the UER. In addition to elevated sediment loads, hydromodification from channel stabilization, removal of large woody material, dredging, and channel constrictions in lower portions of the watershed, such as bridges and roads, have diminished the ability of the river to assimilate increased sediment loads.
6. This most recent period of increased disturbance, which peaked from the mid-1980s to 1998 and has gradually diminished through the present, is most closely attributed to the degradation of conditions in the impacted reach<sup>1</sup>. In 2008, the Humboldt Redwood Company (HRC) took ownership of PALCO's Elk River property, and is now the largest landowner in the UER, with 79 percent ownership. Prior to the transfer of ownership, the Regional Water Board adopted waste discharge requirements (WDRs) for PALCO's ownership in Elk River through Order No. R1-2006-0039.
7. Starting in 1997, the Regional Water Board issued a series of Cleanup and Abatement Orders (CAOs) that required the inventory, prioritization, treatment, and monitoring of existing sediment sources associated with land management activities, prevention of new sediment sources, and monitoring of in-stream sediment-related indices. Treatment of existing controllable sediment discharge sources (CSDS)<sup>2</sup> have been conducted under CAO Nos. R1-2004-0028 (for the South Fork and Mainstem Elk River)

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<sup>1</sup> The term "impacted reach" applies to the North Fork Elk River below Browns Gulch, the South Fork Elk River below Tom Gulch, and the mainstem of Elk River from the confluence of the North and South Forks downstream to Berta Road.

<sup>2</sup> Sites that discharge or have the potential to discharge sediment to waters of the state in violation of water quality standards, that are caused or affected by human activity, and that may feasibly and reasonably respond to prevention and minimization management measures.

and R1-2006-0055 (for the North Fork Elk River). By 2011, 80% of the top 100 sites with the greatest potential for environmental impact were treated. In 2012, HRC submitted a new master treatment schedule to inventory and schedule implementation of treatment to control sediment discharge of the remaining CSDS in the watershed, which is included as Attachment C of this Order.

8. In September of 1998, the Regional Water Board issued Cleanup and Abatement Order No. 98-100, requiring cleanup and abatement of THP-related discharges by restoring damaged domestic and agricultural water supplies in the North Fork Elk River. HRC currently provides drinking water service to twelve residences, while seeking final resolution and termination of the CAO.
9. Following HRC's acquisition of PALCO's timberlands in 2008, HRC had been operating under Order No. R1-2006-0039, Elk River Watershed-specific Waste Discharge Requirements (WWDR) issued by the Regional Water Board in 2006. Among other requirements, the WWDR included receiving water limitations, including rate of harvest (ROH) limitations, which were established based on two scientific models intended to limit peak flow increases and sediment discharge from harvest-related landslides. All Regional Water Board Orders that pertain to HRC's current activities were originally issued to PALCO and amended by Order No. R1-2008-0100 to reflect HRC's ownership of the former PALCO holdings.
10. The WWDR (Order No. R1-2006-0039) was not tailored to the management practices of HRC and did not comprehensively address HRC's obligations for cleanups and total maximum daily load (TMDL) implementation. An updated WDR would provide a more comprehensive permit that reflects current watershed conditions, changes in management practices, and new technical analyses of watershed sediment conditions.
11. Therefore, on September 22, 2015, pursuant to Water Code section 13260(a), HRC submitted a report of waste discharges (ROWD) for its timber harvesting and related management activities. HRC's ROWD was subsequently amended on March 11, 2016 and October 4, 2016. The ROWD includes HRC's proposed long term strategy, including measures designed to prevent or minimize water quality impacts from activities associated with its forest management, including:
  - Timber harvesting;
  - Road use, construction, reconstruction, decommissioning, repair, and maintenance;
  - Measures to prevent or minimize controllable sediment discharge from roads, skid trails, landslides, and other sources related to timberland management;
  - Retention of riparian vegetation to preserve and/or restore shade, supply large wood, filter sediment from upslope sources, help maintain and restore channel form and in-stream habitat, and moderate peak flows;
  - Treatment of controllable sediment discharge sources;
  - In-stream and riparian zone habitat restoration by enhancement of in-stream large wood for habitat restoration;



- Implementation and Effectiveness Monitoring; and
- Watershed trend monitoring.

While the ROWD, including amendments, was deemed complete, it was not considered fully adequate to meet all water quality requirements associated with Elk River. As such, on November 30, 2016, the Regional Water Board adopted 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* [the 2016 Order]. The 2016 Order established specific requirements based largely on the ROWD, with additional measures as warranted to meet applicable water quality requirements. As discussed in Finding 27 below, subsequent to adoption of the 2016 Order, the State Water Resource Control Board's resolution (No. 2017-0046) adopting the Upper Elk River Sediment TMDL Action Plan (TMDL Action Plan)(Attachment E) included a finding (Finding 9) "that the North Coast Water Board's WDRs and any other orders for the two major landowners that conduct timber harvesting will incorporate specific provisions that implement all of the TMDL hillslope indicators and numeric targets, unless the regional board makes specific findings about why any omitted hillslope indicators or numeric targets are not appropriate or feasible." The State Water Board further required "the WDRs and any other orders for the two major landowners will also contain any additional specific provisions to ensure that all anthropogenic discharges of sediment are eliminated to the extent feasible and, if not feasibly eliminated, minimized as soon as feasible but not later than 2031" (amended via a letter dated October 15, 2018). The State Water Board's understanding of the TMDL is that absent amendment of the TMDL, "the WDRs and any other orders will require the landowners to achieve the zero-load allocation for all anthropogenic discharges of sediment as soon as feasible, but no later than 2031."

This Order modifies the 2016 Order to include revised requirements to fully implement the TMDL hillslope indicators and numeric targets and ensure that all anthropogenic discharges of sediment are eliminated or minimized, and includes findings expanding on how the requirements of the Order implement those indicators and targets.

#### **REGULATORY ACTIONS IN THE UPPER ELK RIVER**

12. CAL FIRE is the state agency responsible for overseeing timber harvesting activities through implementation of the Forest Practice Rules (FPR). (Cal. Code Regs., tit. 14, §§895 *et seq.*<sup>3</sup>) Under the Forest Practices Act, non-federal landowners proposing to harvest timber are required to have an approved timber harvest plan (THP) prior to commencing timber harvesting. The Regional Water Board, California Department of Fish and Wildlife (CDFW), California Geologic Survey (CGS), and other agencies are

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<sup>3</sup> Citations to the Forest Practice Rules contained in title 14 of the California Code of Regulations will be indicated by "FPR" followed by the relevant section number.

responsible agencies charged with the multidisciplinary review of THPs to ensure compliance with applicable state laws.

13. The FPRs include rules for protection of the beneficial uses of water, including rules for enhanced protection in watersheds with listed anadromous salmonids. The FPRs provide measures designed to prevent sediment discharge; (See FPR §§ 914, 934 [harvesting practices and erosion control]; §§ 923, 943 [prescriptions for construction, reconstruction, use, maintenance, and decommissioning of roads and landings]; §§ 916.4, 936.4 [requiring evaluation of sites that could adversely impact beneficial uses of water and treatment of such sites when feasible]). FPR § 916.9 requires that every timber operation shall be planned and conducted to comply with the terms of a total maximum daily load (TMDL). The FPRs also provide measures to limit reductions in riparian shade to moderate water temperature. Public Resource Code § 4581.71 specifies that a timber harvesting plan may not be approved if the appropriate regional water quality control board finds, based on substantial evidence, that the timber operations proposed in the plan will result in a discharge into a watercourse that has been classified as impaired due to sediment under Clean Water Act section 303(d). Full and proper implementation of the FPRs related to sediment discharge from timberlands can contribute greatly towards achieving water quality standards. (See e.g. RB1-2013-0005 [FPRs are generally adequate to implement water quality standards from the Water Quality Control Plan for the North Coast Region (Basin Plan) if implemented correctly]). Accordingly, this Order relies in part upon the water quality protection provided by the FPRs. Additional protection measures are necessary to protect the beneficial uses of water for site-specific conditions, prevent nuisance, and to comply with a TMDL load allocation.
14. HRC ownership in the Elk River watershed is covered by a multi-species state and federal Habitat Conservation Plan (HCP) approved in 1999. The HCP implements state and federal Incidental Take Permits (ITP) issued for aquatic species including Chinook salmon, coho salmon, steelhead trout, southern torrent salamander, tailed-frog, red-legged frog, foothill yellow-legged frog, and the northwestern pond turtle in conformance with the state and federal Endangered Species Acts. The HCP includes a Watershed Analysis (WA) component for focused inventory and investigation of conditions and processes related to mass wasting, surface erosion, riparian function, stream channel, and aquatic habitat. The most recent WA iteration for the Elk River is the Elk River/Salmon Creek Watershed Analysis (ERSC WA) Revisited, prepared by HRC in June 2014. The ERSC WA establishes forest management prescriptions pertaining to slope stability, and riparian forest protection are established in consultation with multiple state and federal resource agencies. While the HCP and WA impose prescriptions and other requirements helpful for water quality protection needs and therefore can be relied upon in this Order, they cannot ensure full compliance with federal and state water quality laws, including protection of all the designated beneficial uses of water listed in Finding 17 below.

#### **TMDL AND REVISED WASTE DISCHARGE REQUIREMENTS**

15. In spite of efforts to control sediment discharge, beneficial uses in the downstream impacted reaches remain impaired, the stream channel continues to aggrade, and flooding frequency has increased. It appears that the river's capacity to transport sediment out of the aggraded reach is limited by hydrologic and geomorphic constraints and sediment continues to work its way down through the fluvial system. In addition, even with implementation of current management practices and restrictions, ongoing timber harvesting and associated activities will result in increased sediment discharge, further exacerbating the already impaired condition.
16. The Basin Plan, last updated in 2018, is the Regional Water Board's master water quality control planning document. It identifies beneficial uses and water quality objectives for waters of the state, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives.

17. The beneficial uses for the Upper Elk River and its tributaries include:

Municipal – Domestic Water Supply (MUN)	Non-Contact Water Recreation (REC-2)
Agricultural Supply (AGR)	Commercial or Sport Fishing (COMM)
Industrial Service Supply (IND)	Cold Freshwater Habitat (COLD)
Industrial Process Supply (PRO)	Wildlife Habitat (WILD)
Groundwater Recharge (GWR)	Rare, Threatened, or Endangered Species (RARE)
Freshwater Replenishment (FRSH)	Migration of Aquatic Organisms (MIGR)
Navigation (NAV)	Spawning, Reproduction, and/or Early Development (SPWN)
Hydropower Generation (POW)	Aquaculture (AQUA)
Water Contact Recreation (REC-1)	

18. On May 12, 2016, the Regional Water Board approved the Action Plan for the Upper Elk River Sediment TMDL (TMDL Action Plan). On April 4, 2018, the United States Environmental Protection Agency approved the TMDL Action Plan, the final step in the process necessary for it to be amended into the Basin Plan, following approvals by the State Water Resources Control Board on August 1, 2017, and the Office of Administrative Law on March 8, 2018.
19. The TMDL Action Plan includes a phased total maximum daily load (TMDL) for sediment and describes the implementation actions necessary to attain water quality standards in the Upper Elk River Watershed. The goal of the TMDL Action Plan is to achieve sediment related water quality standards, including the protection of the beneficial uses of water in the upper watershed and prevention of nuisance conditions. The TMDL Action Plan establishes the sediment load consistent with current conditions in the impacted reaches, identifies a process for assessing and implementing necessary



and feasible remediation and restoration actions, and describes a program of implementation to be considered and incorporated into regulatory and non-regulatory actions of the Regional Water Board and other stewardship partners in the watershed.

20. Site specific assessment of water quality conditions in the Upper Elk River Watershed confirm that sediment discharges from timberlands in the upper watershed and sedimentation in the impacted reaches, combining with other natural (e.g., tectonics, geology, soil characteristics, geomorphology, climate and vegetation) and anthropogenic (e.g., pre-Forest Practices Act logging, ranching, farming, roads, and residential development) factors exceed the water quality objectives for sediment, suspended material, settleable matter, and turbidity and result in adverse impact to several beneficial uses, including domestic water supplies (MUN), agricultural water supplies (AGR), cold-water habitat (COLD); spawning, reproduction and early development (SPWN); rare, threatened, or endangered species (RARE), and recreation (REC-1 and REC-2). Sedimentation in the impacted reaches also has resulted in conditions of nuisance, including increased rates and depth of annual flooding and loss of property, use of property, access to property, and risk to human health and welfare.
21. The Technical Analysis for Sediment identifies the key sediment source categories that produce sediment in the Upper Elk River Watershed. Sediment discharges resulting from timber harvest and other land-management activities in the most recent analysis time period (2004-2011) are (in order of significance): in-channel sources (headward channel incision, bank erosion, and streamside landslides), discharges from existing land use-related sediment discharge sites, other road-related discharges, and harvest-related discharges.
22. Water quality indicators and associated numeric targets outlined in the TMDL are not independently enforceable and are designed to measure progress towards attaining water quality objectives for suspended material, settleable material, turbidity and sediment. The water quality indicators are divided into hillslope and instream, as identified in Tables 2 and 3 of the Action Plan, respectively. The Action Plan states that the hillslope indicators and numeric targets in Table 2 are designed to inform Board actions and can be incorporated into orders, as appropriate and to the maximum extent feasible. The instream water quality indicators and targets are designed to help assess the overall effectiveness of the program of implementation and confirm progress towards attainment of applicable water quality standards.
23. TMDLs must be established at levels necessary to attain and maintain the applicable water quality standards with seasonal variations and a margin of safety (MOS) (40 CFR § 130.7(c)(1)). The TMDL represents the maximum amount of a pollutant that can be discharged to a waterbody, taking into account critical conditions of stream flow, loading, and water quality parameters. The TMDL is equivalent to the loading capacity of the waterbody for the pollutant in question.
24. The Upper Elk River Sediment TMDL is set equal to the loading capacity of the waterbody. The loading capacity of the Upper Elk River Watershed is defined as the



total sediment load (natural and management-related) that can be discharged into the Upper Elk River and its tributaries without impacting beneficial uses of water, causing an exceedance of water quality objectives, reducing the quality of high-quality water, or creating nuisance conditions. Because capacity for sediment is limited by the ongoing aggradation in the impacted reaches, the loading capacity for additional sediment is defined as zero until the capacity of the impacted reaches can be expanded.

25. The program of implementation identifies a combination of regulatory and non-regulatory actions that will lead to the attainment of water quality objectives, recovery of beneficial uses, protection of high-quality waters, and prevention of nuisance conditions in the Upper Elk River Watershed. Phase 1 of the Upper Elk River Sediment TMDL Implementation Plan requires control of all existing and potential future sediment sources in the upper watershed while the Elk River Recovery Assessment is completed and the Elk River Watershed Stewardship Program is developed, initiated, and successfully results in the activities necessary to expand the sediment loading capacity of the impacted reaches and abate nuisance conditions.
26. WDRs are the primary regulatory mechanism utilized by the Regional Water Board to control the nonpoint source pollution resulting from past and ongoing timber harvesting activities, the dominant land use in Upper Elk River Watershed. Existing adverse cumulative impacts from current and past land management practices combined with watershed characteristics (such as sensitive geology and altered hydrologic conditions) require that additional actions be taken beyond those currently being implemented in the Upper Elk River Watershed. Updated management actions are necessary to prevent continued impact to beneficial uses and contributions to downstream nuisance conditions that result from ongoing timberland management. The WDRs must consider the unique watershed factors that influence the discharge of sediment so as to properly update management practices and better manage watershed effects.
27. In its resolution adopting the TMDL Action Plan, the State Water Board included the finding that its "understandings of the TMDL Action Plan's requirements and statements described above are (1) that hillslope indicators and numeric targets in Table 2 apply throughout a discharger's area of land ownership and not solely in areas of active harvest, (2) that the Regional Water Board's WDRs and any other orders for the two major landowners that conduct timber harvesting will incorporate specific provisions that implement all of the hillslope indicators and numeric targets in Table 2, unless the regional board makes specific findings about why any omitted hillslope indicators or numeric targets are not appropriate or feasible, (3) the WDRs and any other orders for the two major landowners will also contain any additional specific provisions to ensure that all anthropogenic discharges of sediment are minimized and eliminated, and (4) in the absence of a future amendment to the TMDL Action Plan, including an amendment based on successful implementation of the Watershed Stewardship Program resulting in expanded sediment loading capacity in the impacted reach, the WDRs and any other orders will require the landowners to achieve the zero



load allocation for all anthropogenic discharges of sediment as soon as feasible, but no later than 2031." In a letter dated October 15, 2018, the State Water Board provided the following clarification to understanding 3 above, as follows: "the WDRs and any other orders for the two major landowners will also contain any additional specific provisions to ensure that all anthropogenic discharges of sediment are ~~minimized and eliminated to the extent feasible and, if not feasibly eliminated, minimized, as soon as feasible but not later than 2031~~" [strikeout and underline are from the original October 15, 2018 letter].

28. The Order provides a water quality regulatory structure for HRC to prevent and/or address discharges of waste and other controllable water quality factors associated with timber harvest activities in the UER watershed. The Order provides for implementation of rigorous best management practices (BMP) prepared in collaboration with HRC, according to the sediment loading risk of subwatersheds (see Attachment A, Elk River Location Map). It provides a minimum 5-year interim program where HRC will limit timber harvest activities in high risk areas to allow time for stewardship efforts (see Findings 66 through 68) to move forward and improve conditions in the impacted reach. High risk areas are defined as those areas identified in HRC's ROWD amendment request dated October 4, 2016 submitted to the Regional Water Board with associated map titled Sensitive Bedrock Sub-Basin and Elk River Geologic Map (see Finding 66).
29. Table 2 from the TMDL Action Plan describes Hillslope Water Quality Indictors and Numeric targets. Hillslope indicators fall into four general categories; roads, harvest related, management discharge sites, and specific Upper Elk River watershed indicators. Following final adoption and approval of the TMDL Action Plan, Regional Water Board staff evaluated the specific requirements of the 2016 Order to: 1) determine whether the provisions are adequate to fully implement all the TMDL hillslope indicators and numeric targets, and 2) where the provisions of the 2016 Order may not fully implement indicators and targets, request that HRC propose additional measures, where such feasible and appropriate measures exist, to implement the hillslope indicators and numeric targets. The results of that evaluation are described in Findings 34 through 79 below. The Regional Water Board found that in large part, the 2016 Order is expected to implement the TMDL Hillslope Water Quality Indicators but may not be fully adequate to implement certain Specific Upper Elk River Watershed Indicators. As such, following discussions with Regional Water Board staff, HRC proposed revisions to specific provisions of the 2016 Order to implement TMDL hillslope targets and load allocation and on February 15, 2019, submitted the proposed revisions. The revisions primarily address expanded riparian zone protection measures and seasonal restrictions on hauling. This Order supersedes the 2016 Order and establishes new requirements deemed necessary and appropriate by the Regional Water Board for HRC's Management Activities conducted within the Upper Elk River watershed to fully comply with the TMDL Action Plan.

Table 2: Hillslope Water Quality Indicators and Numeric Targets <sup>†</sup>		
Indicator	Numeric Target	Associated Area
Common Road Indicators		
Hydrologic connectivity of roads to watercourses	100% of road segments hydrologically disconnected from watercourses	All roads
Sediment delivery due to surface erosion from roads	Decreasing road surface erosion	
Sediment delivery due to road-related landslides	Decreasing sediment delivery from new and reactivated road-related landslides	
Common Harvest-Related Indicators		
Sediment delivery due to surface erosion from harvest areas	100% of harvest areas have ground cover sufficient to prevent surface erosion	All harvest areas
Sediment delivery from open slope landslides due to harvest-related activities	Decreasing sediment delivery from new and reactivated open-slope landslides	All open slopes
Sediment delivery from deep seated landslides due to harvest-related activities	Zero increase in discharge from deep-seated landslides due to management-related activities	All deep-seated landslides
Common Management Discharge Site Indicators		
New management discharge sites	No new management discharge sites created	Class I, II, and III watercourses
Specific Upper Elk River Watershed Indicators		
Headward incision in low order channels	Zero increase in the existing drainage network	Class II/III catchments
Peak flows	Less than 10% increase in peak flows in 10 years related to timber harvest	Class II/III catchments
Channels with actively eroding banks	Decreasing length of channel with actively eroding banks	Class I, II, and III watercourses
Characteristics of riparian zones (i.e., 300 feet on either side of the channel) associated with	Improvement in the quality/health of the riparian stand so as to promote 1) delivery of wood to channels, 2) slope stability, and 3) ground cover	Class I and II watercourses



Table 2: Hillslope Water Quality Indicators and Numeric Targets <sup>†</sup>		
Indicator	Numeric Target	Associated Area
Class I and II watercourses		
Characteristics of riparian zones (i.e., 150 feet on either side of the channel) associated with Class III watercourses	Improvement in the quality/health of the riparian stand so as to promote 1) delivery of wood to channels, 2) slope stability, and 3) ground cover	Class III watercourses

<sup>†</sup> The hillslope indicators and numeric targets in Table 2 are designed to inform Regional Water Board actions and can be incorporated into orders, as appropriate and to the maximum extent feasible.

30. This Order authorizes discharges from certain cleanup and restoration activities as well as from ongoing timber harvesting and associated activities. Cleanup and restoration activities may result in small short-term discharges associated with restoration work to control sediment discharge from roads, landings, skid trails, and watercourse crossings and placement of large wood into streams or excavation to stabilize or remove fill material stored in channels and adjacent riparian zones. The potential impacts of minor short-term discharges are outweighed by the benefits of long-term sediment control derived by such projects.
31. The ROWD, as amended in a request dated October 4, 2016, identified high-risk areas with respect to water quality. Sediment production from these high-risk areas, which are also located directly above and adjacent to the impacted reach of the South Fork Elk River, is among the highest observed throughout the UER. The relative risk rating informs specific protection measures applicable to these high-risk areas, including limited timber harvest activities. (See Order Section I.A.4.)
32. The findings below describe reasonable waste discharge requirements for HRC timber management and associated activities in the UER watershed. In this case, a significant portion of in-channel sources are likely to be mobilized and transported to the impacted reach over time, regardless of whether additional upslope timber harvesting occurs. In-channel sources include headward migration of low order channels, streamside landslides and unstable streambanks resulting from ground disturbances from past and on-going timber harvesting activities. Stringent controls are necessary to prevent exacerbation of these sources from continuing timber harvesting activities. The sediment source analysis estimated that approximately 56% of the sediment loading in the UER is from in-channel sources. This increases the need to further constrain any additional sediment inputs that are controllable in order to make

progress toward attainment of the load allocation and protection of beneficial uses. Therefore, this Order includes stringent waste discharge requirements designed to minimize new sediment production and to control and remediate existing sediment inputs to the extent feasible. Monitoring will be required to determine whether implementation is leading to measurable improvements. In addition, limiting timber harvesting activities that are likely to generate additional sediment in high-risk areas is appropriate, and the Watershed Stewardship Program (see Findings 76 through 79) will take active measures to improve downstream beneficial uses.

33. Findings below provide a discussion of HRC's management plan addressing water quality controls, including measures proposed in its February 1, 2019 submittal (Attachment F of this Order). This Order includes requirements in addition to those HRC has proposed as deemed necessary by the Regional Water Board in order to implement water quality regulations contained in the Basin Plan, including hillslope indicators and numeric targets from Table 2 of the TMDL Action Plan and the zero-load allocation. The additional requirements are based on information contained in the evidentiary record that supports this Order, including the Technical Report and additional evidence that informed the Regional Water Board's decision to adopt the TMDL Action Plan. The Order incorporates and includes the following components:

- Measures to Prevent Sediment Discharge;
  - Forest Management;
  - Riparian Zones Protection;
  - Roads Management;
  - Landslide Prevention;
  - Wet Weather Restrictions; and
  - Limiting Timber Harvesting Activities in High Risk Areas
- Inventory and Treatment of Existing Controllable Sediment Sources;
- Watershed Restoration Efforts; and
- Monitoring and Reporting Program.

### **SPECIFIC REQUIREMENTS AND RATIONALE**

#### *Measures to Prevent Sediment Discharge*

34. Specific requirements to prevent new sediment discharge fall into several categories discussed below, including forest management (including harvest rate limitations), riparian protection, roads management, landslide prevention, and wet weather prescriptions. Management measures in separate categories often overlap, and also provide benefits relevant to other categories. For example, riparian protections and proper road management can help reduce landslides. The categories below are provided as a way to organize the discussion but should not be viewed in isolation.

Also, practices implemented to prevent and minimize elevated sediment discharges may also help control elevated water temperatures. While the UER is not listed as impaired for temperature, removal of trees providing shade to watercourses and decreased channel depth due to in-filling of pools with sediment can result in elevated water temperature. Due to the proximity of the UER to the ocean and the moderating



effects of the marine influences and stringent BMPs for control of sediment that include significant tree retention the will provide shade along all watercourses, elevated water temperatures are not anticipated to result from HRC's management activities.

Forest Management/Harvest Rate

35. Specific UER watershed hillslope indicators and associated numeric targets generally address protection of channels and riparian zones from impacts related to ground disturbance and tree removal. Hillslope indicators include headward incision in low-order channels, actively eroding channel banks, peak flow, and characteristics of riparian zones. All of these indicators are interrelated and closely associated with the effects of tree removal on hydrologic processes and hillslope and riparian ground disturbance. Tree removal can result in reduced interception, evaporation, and evapotranspiration of rainfall by forest canopy and can therefore potentially increase the peak flows and landslides (Lewis, 2003) (Reid and Lewis, 2007) (Pearse and Rowe, 1979). Tree roots enhance the strength of shallow soils, increasing the soil's ability to resist failure. When trees are harvested, their roots gradually decay, reducing the reinforcement they provide and increasing the potential for shallow landslides (Ziemer, 1981). Harvesting trees can potentially increase peak flows and decrease root strength, which can contribute to landslides and increase erosion throughout a watershed. These impacts can be reduced or prevented by limiting the intensity and rate of canopy removal through silvicultural prescriptions designed to protect riparian zone function and limit hydrologic changes related to upslope canopy removal.
36. Limiting the rate of harvest in a watershed is an important management variable to control peak flow increases and the effects of loss of root strength due to tree removal. Various studies cite specific thresholds for the rate of harvest, above which, cumulative impacts become more likely to occur and have linked specific processes to watershed impacts, such as increased peak flows from road and canopy removal (Lisle et al. 2000, Lewis et al. 2001), landslide related sediment discharge (Reid, 1998), road density (Cedarholm et al. 1981, Gucinski et al. 2001, Trombulak et al, 2000), or equivalent clearcut area<sup>4</sup> (USDA Forest Service, 1974). It is unknown to what extent increased impacts related to high harvest rates documented in these studies may be due to management practices in effect at the time of these studies that are not considered to be as protective as current practices or whether the impacts may be the result of changes in inherent watershed processes due to reductions in canopy and ground disturbance.

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<sup>4</sup> Equivalent clearcut area (ECA) is a widely used methodology developed by the USFS to account for the relative impacts of different types of silvicultural treatment. It assigns a weighting factor of one to clearcutting and a value less than one for partial harvesting silvicultural treatments. The weighting factor for a silvicultural treatment is multiplied by total area treated under each silviculture to arrive at a normalized disturbance calculation. Therefore, 100 acres of selection harvest, which is typically assigned a ECA factor of 0.5, would be counted as 50 equivalent clearcut acres.



37. HRC has implemented a significantly different silvicultural strategy from PALCO that predominantly utilizes partial harvesting methods such as uneven-aged single-tree and small group selection (ROWD section 4.1). Partial harvesting results in post-harvest conditions that are less susceptible to mass wasting and increased erosional processes as compared to clearcut harvesting. HRC does not utilize the clearcut harvest method and does not harvest old growth<sup>5</sup>. In addition, HRC's management practices include measures to control erosion and sediment production.

38. Section 4.0 of the ROWD describes HRC's Forest Management Plan, including projected timber harvesting over a twenty-year period between 2015 and 2034 based on multiple management factors such as growth and inventory, forest canopy, protection of critical terrestrial and aquatic habitat, and watershed analysis constraints. HRC's projected harvest can be described as: 1) average annual harvest acreage (and equivalent clearcut acres) and average overlapping crown canopy for each five-year period throughout the UER (ROWD Figure 4-2); as well as 2) for individual subwatersheds (ROWD Figures 4-3 and 4-4). HRC's projected harvest scenario shows increases in standing timber inventory and yield over 20 years.

39. Watershed-wide average annual harvest rates proposed in the ROWD for each five-year period vary between 466 and 605 acres (223 to 303 equivalent clearcut acres). These rates are lower than required under the 2006 WWDRs, which allowed annual harvest rates of 1.9% in the North Fork and 1.8% and upwards in the South Fork. Based on the transition to uneven-aged management under HRC's ownership, the proposed average annual harvest rate for each five-year period through the year 2034 for the entire UER watershed is less than 1.5% equivalent clearcut acres, the harvest rate above which Klein et.al. (2012) found elevated chronic turbidity levels.

Figures 4-3 and 4-4 of the ROWD show projected harvest acreage and overlapping overstory canopy by subwatershed in each five-year period over a 20-year time period. Modeled canopy changes for each five-year increment over the 20-year period generally show a balance between reductions in canopy due to harvesting and increases from regrowth. For the majority of individual subbasins, canopy changes tend to be positive (increased canopy) for the first three five-year periods, with some decreases. Decreases in canopy occur more frequently during the period between 2030 and 2034.

40. The numeric target for peak flows specifies limiting increases in peak flows related to timber harvesting in individual Class II and III catchment to less than 10% in ten years. Significant challenges are presented when attempting to manage for specific peak flow changes resulting from specific canopy reduction at a small catchment scale. Grant et al (2008) found the minimum detectable change in peak flow for site scale analysis to be

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<sup>5</sup> Variable Retention may be used in some instances as an alternative silviculture to address certain stand conditions, such as high levels of whitewood or hardwood species, animal damage, or general poor form and vigor due to past logging history. Other silvicultural methods that may be applied infrequently include Rehabilitation of Understocked Areas, Seed Tree Removal, and Sanitation Salvage.



±10%. Annual variation in peak flows in small catchments can be up to two orders of magnitude. Grant et al also report that peak flow effects are not present in streams with slopes greater than 10%, which would include most Class II and III streams. The peak flow model derived from work in Caspar Creek is widely used to estimate peak flow changes from canopy removal and a modified version of that model was used in the 2006 Elk River and Freshwater Creek WDRs. However, that model was not calibrated for drainage areas less than 25 acres, which would also exclude many Class II and III catchments in Elk River. Further confounding use of a specific peak flow target is that peak flow changes are greatest in early season smaller storms and low recurrence interval storms and diminish with increasing storm size and seasonal watershed saturation. In addition, hydrologic effects from canopy removal typically recover to near pre-harvest levels after approximately ten years due to revegetation (Keppeler, et al, 2003). HRC's partial harvesting strategy and prescriptions for canopy retention in riparian zones (discussed further in Findings 45 through 50) result in post-harvest canopy retention within Class II or III catchments that meet the numeric target of less than 10% in ten years. Modeled changes in peak flows from canopy removal on HRC's timberlands in Elk River using the regression equation developed from the North Fork Caspar Creek (Lisle et al. 2000; Lewis et al. 2001; Cafferata and Reid, 2012), indicated that implementation of the numeric target for peak flow can generally be met by limiting canopy reduction by appropriate harvest rate limits and robust riparian buffers.

41. HRC's modeled harvest rates from Figure 4.3 of the ROWD (Attachment D) will comply with hillslope numeric targets for peak flow. Average annual harvest rates in subwatersheds fall near or below 2% equivalent clearcut acres averaged over any 10-year period in most subwatersheds. Harvest rates above this threshold would cause concern for cumulative impacts on water quality that have been observed from intensive logging practices in the past. Each timber harvest plan (THP) is evaluated individually for impacts to water quality and that review may reveal the need for additional constraints. Where an individual, or multiple, THP(s) would exceed this threshold of concern in any subwatershed, the Regional Water Board Executive Officer may decline to enroll the THP(s), or portions of the THP, or may require additional mitigations or monitoring as a condition of enrollment. (See also Section I.A.3 and Section VI.)

#### Riparian Zone Protection

42. Specific UER watershed indicators and numeric targets from the TMDL Action Plan associated with channel stability and riparian zone protection include the following:
- Improvement in the quality/health of the riparian stand so as to promote: 1) delivery of wood to channels, 2) slope stability, and 3) ground cover within 300 feet of Class I and II watercourses and within 150 feet of a Class III watercourse;
  - No increase in the existing drainage network through headward incision in low order channels; and
  - Decreasing length of channel with actively eroding banks.

43. Properly functioning riparian areas in UER can promote complexity in stream channels, both in the steep upper watershed as well as in the depositional reach. A riparian zone helps maintain healthy stream ecosystems and supports beneficial uses by:

- Stabilizing banks through provision of root cohesion on banks and floodplains;
- Filtering sediment and nutrients from upslope sources;
- Supplying large wood to the channel, which maintains channel form and improves in-stream habitat complexity;
- Helping to maintain channel form, in-stream habitat, and an appropriate sediment regime through the restriction of sediment inputs or metering of sediment through the system;
- Moderating downstream flood peaks through temporary upstream storage and infiltration of flood water;
- Helping maintain cool water temperatures through provision of shade and creation of a cool and humid microclimate over the stream; and
- Providing both plant and animal food resources for the aquatic ecosystem in the form of, for example, leaves, branches, and terrestrial insects.

44. Alteration of physical processes in riparian zones have led to reduced forest stand complexity, including reduction in the number of trees available within riparian areas for recruitment to streams, increased surface erosion and landsliding, and destabilization of stream channels. Increased peak flows from tree removal can result in alteration of stream hydrographs by increasing the magnitude and shortening the duration of peak flows in watercourses. Changes in hydrographs can result in channel scour and increases in streamside landslides. Subsurface erosion of soil pipes is prevalent in the UER, particularly in swales above small headwater channels. Preferential flow through soil pipes results in internal erosion of the pipe, which may produce gullies by tunnel collapse. Expansion of the existing drainage network by the process of headward erosion and upslope migration of channel initiation points likely resulted from a combination of hydrology (increased peak flow) and channel disturbance from operation of heavy equipment and dragging logs in streams and riparian areas. Considerations of the interactions between sediment processes, water temperature, and riparian trees are essential for evaluating and avoiding management-related impacts to streams. Due to the highly erosive nature of underlying geologic units, channels in the watershed are naturally vulnerable to destabilization, which has been exacerbated by logging. Management of riparian zones must be designed to preserve and restore the function of riparian vegetation and hillslope processes, including retention of adequate riparian zone trees and avoiding use of roads and heavy equipment on vulnerable hillslopes and swales. Impacts to channels can be reduced or prevented by excluding tractor yarding and minimizing peak flow increases by limiting canopy removal through requirements for riparian zone protection and harvest rate limits.



45. HRC's timber operations in riparian zones are subject to the ERSC WA prescriptions designed to prevent or minimize sediment delivery to streams and maintain and restore riparian forests for the benefit of shade canopy and large woody debris recruitment. These prescriptions are enforced through specific requirements for timber harvest and road construction, re-construction, and maintenance activities. The ERSC WA established riparian management zones (hereinafter referred to as HCP RMZs) with specified widths and prescriptions including the following:

- No harvesting within 150 feet of the lower eight miles of the North Fork Elk River, within 50 feet of all other Class I watercourses, and 30 feet of Class II watercourses;
- Retention of the 18 largest trees per acre within 100 feet of Class I watercourses;
- Large tree, down wood, and canopy retention requirements throughout the remainder of the HCP RMZ;
- Entry into Class I and II riparian zones are permitted no more than once every 20 years;
- Additional hillslope prescriptions that restrict harvesting, road use/construction, and heavy equipment use on inner gorge slopes and headwall swales;
- A "Hillslope Management Checklist" to identify areas that are vulnerable to mass wasting;
- No harvesting of Class III channel trees or trees located on unstable slopes adjacent to Class III watercourses;
- Silvicultural treatments in HCP RMZs to develop or maintain late seral forest conditions, such as thinning from below or individual tree selection;
- Unevenage silviculture practices and post-harvest conditions upslope from HCP RMZs.

46. Section I.B of this Order establishes additional protection measures for watercourses and riparian zones throughout HRC's timberlands in the UER. This Order extends protections beyond the HCP RMZs to comply with the TMDL hillslope indicators and numeric targets. These expanded riparian protection zones are referred to as the TMDL RMZs. This Order incorporates HCP RMZ prescriptions for riparian protection as minimum protection standards but includes additional requirements within the TMDL RMZs that achieve the following objectives: extend protections upslope beyond the HCP RMZ widths, provide post-harvest tree retention standards, minimize ground disturbing activities, and eliminate activities near sensitive areas. These additional protection measures within the TMDL RMZs, include:

- Implementation of prescriptions for HCP RMZs as described in Finding 48, above;
- Single tree selection silviculture in HCP RMZs for Class I, II, and III watercourses and within TMDL RMZs;
- No group openings in the TMDL RMZs;
- Retention of 50% post-harvest overstory canopy within 300 feet of Class I and II watercourses;



- Retention of 50% post-harvest overstory canopy within 150 feet of Class III watercourses;
- Limits on ground-based equipment and enhanced erosion control practices in TMDL RMZs;
- Avoidance of tractor crossings in unchanneled swales;
- Retention of trees along the center line of swales and areas of subsurface flow paths.

47. Section I.C of this Order establishes the following riparian zone management measures for high risk areas (hereinafter referred to as High Risk RMZs) that are in addition to the HCP RMZ prescriptions specified in Section I.B. High Risk RMZs were established in the 2016 Order and remain unchanged in this Order:

- High Risk RMZs for Class II and III watercourses extend up to 200 feet and 100 feet, respectively, on either side of the channel or to the hydrologic divide;
- No harvesting between 30 feet and 20 feet of Class II and III watercourses, respectively;
- Between 30 feet and 200 feet or to the hydrologic divide of Class II watercourses, retain a minimum of 60% post-harvest canopy coverage;
- Between 20 feet and 100 feet or the hydrologic divide of Class III watercourse, retain a minimum of 70% post-harvest conifer canopy coverage.

#### Control of Sediment from Roads

48. Road-related numeric targets from Table 2 include: 100% of road segments hydrologically disconnected from watercourses to the maximum extent feasible, decreasing road surface erosion, and decrease in sediment delivery from new and reactivated road-related landslides. Sediment TMDLs adopted for watersheds throughout the North Coast Region have identified logging roads as one of the most significant sources of anthropogenic sediment discharge. Logging roads can alter hillslope hydrologic processes and increase sediment discharge from surface and gully erosion and landslides. Roads can contribute to landsliding by undermining and oversteepening slopes and placing fill material on steep slopes. Roads also intercept and concentrate shallow groundwater and surface runoff, which can cause gully erosion and saturate vulnerable slopes, increasing the potential for failure. Road crossings of watercourses are subject to the force of high stream flows and failure usually results in direct delivery of sediment to streams. Road crossings of watercourses are one of the most common controllable sediment sources. Management practices have become standard in timberlands throughout the North Coast to reduce the potential for road related sediment discharge. Inventory and treatment of existing roads is addressed under a separate heading below.

49. A programmatic approach to road construction, reconstruction, maintenance, decommissioning, and regular inspections is essential to controlling sediment discharge from roads. A widely used reference document for planning, designing, constructing, reconstructing, maintaining, and decommissioning roads on forestlands in the North



Coast is the Handbook of Forest and Ranch Roads (Weaver and Hagans, 1994)<sup>6</sup>. The Handbook contains a comprehensive suite of measures for forestland roads that the Regional Water Board consider adequate and necessary to control sediment discharge from roads. Roads that have implemented all feasible site-specific sediment control measures as described in the Handbook are referred to as “storm-proofed.” Storm-proofed roads incorporate the design features as summarized below into construction of new roads or reconstruction of existing roads:

- Hydrologically disconnecting road segments from watercourses and minimizing concentration of surface runoff by installing drainage structures at sufficient intervals to disperse runoff so as to avoid gully formation and minimize erosion of the road surface and inside ditches;
- Identifying and treating potential road failures (mostly fill slope failures) that deliver sediments to streams;
- Watercourse crossing shall be designed to minimize the potential for crossing failure and diversion of streams. Watercourse crossings shall be sized adequately to accommodate estimated 100-year flood flow, including wood and sediment;
- Inspecting and maintaining roads annually; and
- Wet weather road use shall be avoided or limited to well rocked, paved, or chip sealed surfaces.

50. Appendix B of the ROWD includes the description of sediment control measures for roads from HCP section 6.3.3, which largely rely on implementation of standards identified in Weaver and Hagans Handbook. By 2014, HRC storm-proofed 206 miles of the approximately 260-mile active road system in the UER and decommissioned 50 miles. Implementation of these road prescriptions are established as specific requirements in Section I.D. of this Order. Section I.D.3. of this Order requires that all of HRC's roads in the UER shall be upgraded to storm-proofed standards by October 15, 2021. The management practices described above to control of road related sediment discharge establish specific requirements deemed adequate to implement TMDL numeric targets for common road indicators.

#### Landslide Prevention

51. Due to the weak geologic bedrock underlying much of the watershed, relatively high rates of tectonic uplift, and high annual precipitation rates, hillslopes throughout much of the UER are naturally vulnerable to landsliding. Many of the TMDL hillslope water quality indicators and numeric targets are related to landslides and management impacts to slope stability. Natural rates of landslide related sediment production vary based on the occurrence of landscape disturbance such as large storms, fires, earthquakes or other infrequent natural events. Timber harvesting and associated

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<sup>6</sup> Handbook for Forest, Ranch, and Rural Roads, A Guide for Planning, Design, Constructing, Reconstructing, Maintaining, and Closing Wildland Roads. The handbook was updated in 2014, funded in part by a State Water Board 319(h) nonpoint source grant.

ground disturbance can result in increased rates of shallow landslides on vulnerable slopes due to decreases in root strength, increased soil moisture, altering of hillslope hydrologic process, and oversteepening or loading slopes by cut and fill road construction.

52. Tree roots can enhance the strength of shallow soils, decreasing the risk of landslide activation. When trees are harvested, their roots gradually decay, reducing the reinforcement they provide and increasing the potential for shallow landslides. The loss of root strength gradually increases over a period of several years, with the critical period of maximum loss occurring approximately 5 to 15 years after harvesting. As new roots grow into the space previously occupied by the older root system, the support they provide gradually increases. Loss of root strength varies with species and intensity of harvest. Interception, evaporation, and evapotranspiration of rainfall by forest canopy can reduce the volume of precipitation that infiltrates and remains in soils. Harvesting trees can therefore increase peak flows, which can contribute to landsliding and increased erosion. Vulnerability to shallow landsliding processes varies throughout a hillslope, primarily as a function of soil depth, slope gradient, contributing drainage area, subsurface hydrology, and soil characteristics.
53. Construction of roads, skid trails, and landings can also increase landsliding. Excavations on vulnerable areas to construct roads and skid trails can undermine steep slopes. In addition, fill material placed on steep slopes on the outboard edge of roads can fail. Such failures can trigger larger failures on slopes below, often displacing large volumes of debris which can be transported considerable distances down slope.
54. The TMDL sediment source analysis found that landslide-related sediment production increased over two-fold above natural rates during the period between 1955 and 2001, with the highest rates (almost 5 times natural landslide rates) observed during the 1988 to 1997 time period. Open-slope landslides and road-related landslides were the dominant sediment sources during this period. Landslide-related sediment production has declined in the UER during subsequent time periods, notwithstanding large storm events that occurred in 2003 and 2006. Substantial declines in landsliding rates are thought to be partially the result of the HCP mass wasting avoidance strategy, which limits or precludes operations on areas identified as high landslide hazard as well as the ERSC WA prescriptions for landslide prevention.
55. The 2006 WWDRs included a “zero landslide-related discharge” requirement for harvest acreage in excess of the landslide reduction model limits. In 2008, Regional Water Board staff in collaboration with PALCO staff and other interested parties developed a methodology for evaluating enrollment of harvest acreage in excess of the limits based on the landslide reduction model and monitoring compliance with the zero landslide discharge requirement. Applications for this additional acreage, referred to as “Tier 2”, were evaluated in a watershed context, and were subject to a far more rigorous level of geologic review than standard THPs, including consideration of geomorphology, topography, engineering geologic characteristics, management history, and hydrology.



56. In 2008, Regional Water Board staff developed Monitoring and Reporting Program (MRP) R1-2008-0071 in collaboration with PALCO and other interested parties to establish a process to ensure compliance with Tier 2 zero discharge requirements. The MRP specifies clear guidelines for application, review, and enrollment of THPs under Tier 2. The MRP also requires that following harvest all Tier 2 units be inspected at a minimum two times per year to identify new landslides or enlargement of existing landslides. HRC submits annual Tier 2 monitoring reports to the Regional Water Board. To date, no sediment discharge from harvest related landslides in units enrolled under Tier 2 has been reported. The current inventory of landslides based on interpretation of aerial photographs from 2003, 2006, and 2010 is discussed in the Landslide Prevention section of this Order and provided as Appendix C of the ROWD. Section IV of this Order requires HRC to maintain and update the landslide inventory according to the specifications described in the Monitoring and Reporting Program (MRP).
57. In addition to periodic air photo analysis, monitoring and reporting requirements included in Section IV of this Order rely upon annual field and helicopter fly-over inspections of harvested areas and road systems to evaluate the effectiveness of required measures to prevent landslides.
58. HRC's approach for evaluating landslide hazards includes ERSC WA prescriptions. As part of THP planning, a review of pertinent technical data is conducted to denote potential high risk slopes, including landslide inventories, regional geomorphic maps, stereoscopic aerial photographs, and a shallow landslide potential map developed using the SHALSTAB landslide model. Appendix D of the ROWD (HCP section 6.3.3.7, ERSC WA) includes the following prescriptions for hillslope management mass wasting strategy:
- A hillslope management checklist is used to identify areas that are particularly vulnerable to mass wasting;
  - No harvesting or road construction or reconstruction on Class I inner gorges;
  - No harvesting or road construction or reconstruction on the following areas without characterization and development of measures to protect water quality prescribed by a California Professional Geologist (PG);
    - Inner gorges adjacent to class II or III watercourses;
    - Headwall swales;
    - Other areas with very high mass wasting hazard (including slopes greater than 60%); and
    - Earthworks (skid trails, landings, road prisms, or other earthen structures) exhibiting characteristics identified in the hillslope management checklist.
59. In addition to the hillslope management mass wasting strategy described above, a comprehensive approach to preventing increases in landslide related sediment discharge resulting from timber harvesting and associated activities includes characterization of landslide hazards, designing projects to minimize impacts to slope



stability based on site specific hazards, and ongoing monitoring of landslide activity to better understand landslide patterns and modify management practices based on observed activity. The California Geological Survey Note 45 provides guidelines for Engineering Geologic Reports for Timber Harvesting Plans<sup>7</sup>, which must be prepared by a PG who is familiar with watershed characteristics. Section I.E. of this Order establishes requirements for characterization of geologic hazards by a PG and development of site-specific mitigations. Characterization of landslide hazard should at a minimum consider the following information:

- Existing hazard maps derived from slope stability models;
- Available maps and reports;
- Aerial photographs;
- Field investigation and mapping; and
- Applicable studies and technical models.

60. The Engineering Geologic report must include an evaluation of potential effects on slope stability, surface soil erosion, and landslide related sediment discharge from the proposed management activity, identify problem areas, and describe specific mitigation measures needed to minimize potential effects for identified areas of concern. The mitigations should be based on the potential hazard process (likelihood of landslide initiation or acceleration in sediment mobilization or water flow, and the potential risk to water quality or public safety). Where appropriate, mitigations shall include, but are not necessarily limited to, the following:

- Limit canopy removal in areas with elevated landslide hazard;
- Limit activities upslope of existing landslide and on vulnerable portions of deep-seated landslides;
- Avoid road or skid trail construction on steep or vulnerable slopes; and
- Stabilize existing landslides where applicable by methods such as planting, drainage manipulation, buttressing, and other feasible engineering techniques.

61. This Order establishes enforceable provisions to prevent increases in sediment discharge from landslides associated with HRC's timber harvest activities and meet TMDL numeric targets related to landslides and slope stability. The provisions entail an overall strategy that includes HRC's hillslope management mass wasting strategy from the ERSC WA, as well as additional measures included in their ROWD and those deemed necessary by Regional Water Board to prevent management-related landsliding. These are summarized below as follows:

- Harvest rates throughout HRC's ownership in the UER that must be less than those allowed under the limits set by the landslide reduction model under the 2006 WWDRs;
- Use of partial harvesting methods that retain a significant component of post-harvest root strength;

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<sup>7</sup> California Department of Conservation, California Geological Survey Note 45, 2013.

- Limiting timber harvesting in high risk areas;
- Riparian protection zones, in high risk areas which include no harvesting within 50 feet of Class I watercourses, 30 feet of Class II watercourses, 20 feet of Class III watercourses and specific tree retention up to 150, 200, and 100 feet of Class I, II and III watercourses, respectively;
- Implementation of HRCs RMZ and TMDL RMZ prescriptions outside of high-risk areas;
- Primarily selection silviculture throughout HRC's timberlands in the UER, resulting in post-harvest forest conditions with significant canopy, basal area, and ground cover; and
- Review by a PG of all proposed activities, including harvesting and construction or reconstruction of roads and watercourse crossings.

#### Wet Weather Requirements

62. Conducting timber operations during wet weather increases the potential for sediment production and discharge from roads, landing, and skid trails. Use of trucks and heavy equipment during saturated soil conditions can result in soil compaction, create ruts which affect road drainage, and increase production of fine sediment. Typically, the most effective way to prevent impacts from operations during saturated soil conditions is to avoid operations during the period of the year when rain is likely to occur. This allows for timely implementation of seasonal erosion control, and the completion and stabilization of construction and reconstruction of roads, landings, skid trails and watercourse crossings. In the North Coast, over 90% of average annual precipitation falls between October 1 and May 1.

In order to minimize the impacts of conducting timber operations during wet weather and implement the TMDL numeric target of decreasing road surface erosion, section I.F of the Order establishes the following seasonal restrictions:

- a. From October 15 to May 1<sup>8</sup>, hauling shall be limited to permanent rocked all-season roads that meet the HCP storm-proofed standard and shall cease for a period of 48 hours following any precipitation event that produces 0.25 inches of rainfall within any 24-hour period.
- b. Road construction or reconstruction may not take place from October 15 to May 1 except in response to failure of a road segment or watercourse crossing resulting in ongoing or imminent sediment discharge.
- c. From October 15 to May 1, ground-based yarding and site preparation are prohibited. During this period, timber falling and cable yarding are permitted.

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<sup>8</sup> To clarify, these activities must cease beginning October 15 and May resume on May 1.



- d. From September 15 to October 15, erosion control BMPs shall be on-site and ready to deploy. Erosion control stabilization measures shall be applied to the entire length of new road construction, reconstruction, or open skid trail prior to any day for which a chance of rain of 30 percent or greater is forecast by the National Weather Service<sup>9</sup>.

Limited Harvesting in High Risk Areas

63. Regional Water Board staff evaluated the relative risk of sediment production and discharge in each subwatershed in the UER based on probabilistic landslide hazard, bedrock geology, and observed sediment production from 2000-2011. This evaluation was used to establish a ranking of relative risk to water quality of low, moderate, or high for each subwatershed. Similarly, section 5.4 of the ROWD identifies five subwatersheds predominantly underlain by the Hookton Formation, a geologically young sandstone/siltstone bedrock unit that is highly vulnerable to surface erosion and mass wasting. These areas closely correlate with Regional Water Board assessment which includes Clapp, Tom, and Railroad Gulches, McCloud Creek, Mainstem Elk River, and the Lower South Fork Elk River. Sediment production from these subwatersheds, which are also located directly above and adjacent to the impacted reach of the South Fork Elk River, is among the highest observed throughout the UER. Further refinement of the relative risk ranking based on subwatershed sediment production, landslide hazard, and observations by field staff of areas dominated by the Hookton Formation, have resulted in identification of areas within portions of the six subwatersheds identified above that are appropriately considered as high water quality risk for the purposes of this Order. The relative risk rating informs specific protection measures applicable in high risk areas, including limiting timber harvest activities.

In order to make progress toward attaining beneficial uses by further reducing sediment discharge from timber harvesting and associated activities, prevent nuisance conditions, and to meet the Regional Water Board-adopted zero load allocation for the UER watershed, while fully recognizing that halting all timber harvest activity in the UER watershed is not necessarily feasible or helpful in promoting HRC's participation in cleanup and restoration efforts, for the five year period following adoption of this Order timber harvesting in the high risk areas is limited to units of THP 1-12-110 HUM, which was approved by CAL FIRE on April 26, 2013 prior to the completion of the Upper Elk River TMDL and supporting Technical Report<sup>10</sup>. Following this five-year period, as outlined below, the Board may modify the harvest limitations of this Order.

64. No later than five years from the date of adoption of this Order, Regional Water Board staff will provide an update to the Regional Water Board on the effectiveness of the

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<sup>9</sup> Rainfall forecast shall be as provided by the National Weather Service website [weather.gov](http://weather.gov) for Eureka, Ca.

<sup>10</sup> On May 20, 2015, Regional Water Board staff notified HRC that their requested enrollment of one harvest unit in THP 1-12-110 HUM would be postponed pending finalization of the Elk River TMDL and development of additional measures to address impaired conditions in revised WDRs. Enrollment of harvest units of THP 1-12-110 HUM is conditioned on implementing the applicable requirements of this Order

harvest limitations in the high-risk areas. In providing the update, the Regional Water Board staff shall consider monitoring data and other relevant information to assess whether water quality conditions in the impacted reach are improving and beneficial uses will be supported within a reasonable period of time. Staff will provide the update at a scheduled Board meeting, after providing notice and an opportunity for HRC and interested persons to comment. At the meeting, the Board will consider whether to reopen the Order, or continue the existing limited harvest provisions as outlined in I.A.4 of this Order. If the Board determines to reopen the Order to modify the limited harvest conditions based on staff recommendations, comments, and evidence received, it will provide further direction to staff on the conditions under which harvesting in the high risk areas may proceed. After a minimum 30-day public review and comment period, the Board will consider a modified Order in a public hearing that addresses the limited harvest provisions in high risk areas<sup>11</sup>.

65. Support for beneficial uses may result, but is not limited to, projects that focus on:

- Flood flow routing improvement (e.g. replace earthen approaches to bridges with culverts and riparian plantation thinning) to reduce the current flooding frequency in the impacted reach;
- Reduction of the volume of stored sediment (e.g. slowing, trapping, removing of accumulated sediment) in the impact reach to a level which reduces the current flooding frequency in the impacted reach;
- Water supply reliability (e.g. implement alternative supplies)<sup>12</sup>; and
- Infrastructure enhancement (e.g. roads, bridges, septic systems, houses) to alleviate impacts from flooding.

#### Inventory and Treatment of Controllable Sediment Discharge Sources

66. Timber harvesting and associated road construction and use have left disturbed areas throughout the landscape that have the potential to discharge sediment over extended periods of time. These legacy sites, which should be treated as CSDS, may include failing or failed watercourse crossings, road failures, road surfaces, landslides, unstable watercourse banks, soil stockpiles, skid trails, landings, exposed harvest units, or any other site discharging or threatening to discharge waste or earthen materials.
67. The identification, evaluation, and treatment of CSDS are important components of a strategy to prevent or minimize ongoing sediment discharge in order to support beneficial uses in the watershed, prevent nuisance conditions, and to also contribute towards achieving Regional Water Board adopted sediment load allocations for HRC's

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<sup>11</sup> This Order specifically requires the Board to reconsider the limited harvest conditions of this Order within five years. It does not require modifications to the Order, and does not limit the Board's authority to reopen the Order before or after the required five-year update if it determines changes are necessary.

<sup>12</sup> Note: A project that provides reliable, permanent water supplies to those residents whose water supplies have been impaired by excess sediment from timber operations may also be considered for final resolution and termination of the existing CAO No. 98-100.



timberlands. The 2016 Order superseded the two existing CAO Nos. R1-2004-0028 and R1-2006-0055. The CAOs required off-road surveys of large tracts of land known to have experienced significant ground-based logging operations, in addition to inventories conducted during the development of individual THPs. As a result, over 12,300 acres have been surveyed since 2007 and 143 off-road CSDSs, primarily associated with skid trails, were identified. As of 2019, corrective actions had been implemented at all inventoried sites in the North Fork Elk River. Ten CSDS remain in the South Fork Elk River, seven of which are located in the Railroad Gulch BMP Evaluation study (see Finding 86) control watershed and are scheduled for treatment upon completion of the study in 2021. The remaining three are located in current THPs and scheduled for treatment in 2019. The CAOs also addressed road-related CSDSs. The CAOs required inventories of road related CSDS. To date, it is estimated that over 330,000 cubic yards of road related sediment has been controlled. All remaining road related CSDS are scheduled to be treated by the end of 2021. Sites in the Railroad Gulch control watershed will not be treated until after completion of the study (see Finding 85) in 2021. Attachment C of this Order includes a master treatment schedule that identifies the remaining potential sources to be treated. HRC will continue to treat these sites annually according to the prioritization described in the master treatment schedule in Attachment C, as well as concurrently with timber operations for those sites located in the vicinity of THPs. In order to demonstrate continued progress in treating remaining sites, monitoring and reporting requirements in Section IV of this Order require that HRC provide annual reports identifying sites to be treated each year. Submittal of monthly status reports will no longer be required. Order Section I.D.4. requires treatment of the remaining CSDSs identified in Attachment C by October 15, 2021.

68. New active or potential sediment sources are identified through implementation of an Annual Road Inspection Program (ARIP). This program requires that all accessible roads be inspected for maintenance needs at least once annually. CSDS identified by ARIP, storm-triggered inspections, and active THP inspections are typically scheduled and treated within one year of discovery during the drier months of the year (May-November) and will be included in annual reports pursuant to Section IV of this Order. Order Section I.D.5. requires that HRC address these new CSDS as they are identified and subsequently treated in accordance with the ARIP. Additional non-scheduled routine minor maintenance (i.e. shaping of road surface, cleaning of inboard ditches and culvert inlets, maintenance of energy dissipation/downspouts, and roadside brush maintenance) will also occur as needed in response to road inspection and results in directives by HRC management or Regional Water Board.
69. CSDS not previously identified are also addressed by preparation and submittal of Erosion Control Plans (ECPs) for individual THPs. ECPs must include an inventory of CSDS within the logging area of all THPs submitted by HRC. The inventory must include a description of each CSDS and corrective actions that can reasonably be expected to control sediment discharge from each source. Corrective action for each source must be implemented during the life of the THP.



70. In addition, HRC must conduct annual inspection requirements of the THP project area as outlined below, including appurtenant roads and harvest units where timber operations are or have been active. Inspections will be scheduled as follows:

- Prior to October 16<sup>th</sup> – to ensure erosion control measures are in place;
- Between October 16<sup>th</sup> and April 1<sup>st</sup> – Storm-triggered inspections following any storm that generates over 3 inches of rain falling in a 24-hour period; and
- After April 1<sup>st</sup> – Inspection of THP areas including all appurtenant roads to document any discharges resulting from the preceding winter period and to schedule any required road maintenance or other corrective action.

#### In-channel Sediment Sources

71. As described in Finding 5, the sediment source analysis estimates that in-channel sources such as low order channel incision, bank erosion, and streamside landslides, represent approximately 56% of the potential sediment load from UER. Due to limited access and the sensitive nature of riparian zones, controlling sediment discharge from these in-channel sources can be difficult. Section I.H. of the Order requires that HRC conduct a Feasibility Study to evaluate potential projects or methods to control, trap, or meter sediment from in-channel sources in the UER before it can be transported to the impacted reach.

72. The feasibility study shall identify potential projects or methods to reduce transport of sediment from tributaries in the UER to the impacted reach that may include design and implementation of small-scale pilot projects. If the pilot projects demonstrate the success of methods, HRC shall develop a plan to implement these methods on a wider scale throughout the UER.

#### In-stream Restoration and Watershed Stewardship

73. In-stream restoration and enhancement work consisting primarily of large wood placement to provide increased aquatic habitat complexity (e.g. pool development, sediment sorting, shelter and refuge) has been implemented since the 1990s. In addition to on-property conservation, restoration, and enhancement activities, HRC is also partnering with the Regional Water Board, NGOs, and other agencies to address chronic downstream health and safety concerns relative to water quality, domestic water supply, winter storm flooding, and associated threats to public and private infrastructure. HRC's participation includes voluntary financial and in-kind contributions to the Elk River Watershed Stewardship Program. HRC has indicated a willingness to continue development and implementation of in-stream restoration projects in the UER as well as a long-term commitment to participation in Watershed Stewardship to address beneficial use impairments in the impacted reach. The Monitoring and Reporting Plan in Section IV of the Order requires that HRC provide an annual report to the Regional Water Board summarizing its participation in Watershed Stewardship and other restoration efforts.



74. The purpose of the Watershed Stewardship Program is to convene a participatory program that engages community members, residents, scientists, land managers, and regulatory agencies in developing a collaborative planning process that seeks to enhance conditions in the Elk River watershed. The Watershed Stewardship Program will include the entire Elk River Watershed, and will work to accomplish the following goals:

- Promote shared understanding and seek agreements among diverse participants; and
- Identify strategies and solutions to:
  - Improve the hydrologic, water quality, and habitat functions of Elk River;
  - Reduce nuisance flooding and improve transportation routes during high water conditions;
  - Improve residential and agricultural water supplies; and
  - Promote coordinated monitoring and adaptive management.

75. The Watershed Stewardship Program also endeavors to incorporate and advance the findings of the *Elk River Recovery Assessment (ERRA): Recovery Framework* through the Stewardship Program. The Recovery Assessment utilized a hydrodynamic and sediment transport (HST) model to develop a suite of actions to recover beneficial uses in the Elk River. The ERRA HST model incorporates a larger geographic scope within the watershed than was considered in the TMDL. For example, management actions below the impacted reach are included in the model scenarios. The model highlights the necessity and efficacy of employing multiple types of management actions at multiple locations to restore the Elk River's reduced assimilative capacity. The ERRA findings suggest that to restore lost hydrologic function, increase supporting fish habitat, and improve water quality conditions will require both stream remediation (e.g., sediment removal, channel shaping, and riparian management) as well as sediment source reduction from the upper watershed.

One of the scenarios modeled by the ERRA HST model evaluated a 30% reduction in suspended sediment entering the impacted reach. The model findings did not show that a 30% property-wide reduction alone would sufficiently improve conditions downstream to support beneficial uses or achieve TMDL allocations. The ERRA recommended pursuing opportunities to reduce sediment loading from the UER at levels well above 30% to achieve meaningful benefits. This could be accomplished with a single project, or suite of projects in sub-basins known to produce high rates of suspended sediment, such as Tom Gulch. The ERRA HST model scenarios indicate five classes of actions needed to restore beneficial uses and reduce nuisance flooding: sediment reduction from the upper basin; mechanical channel rehabilitation; retention and improvement of floodplain connectivity; infrastructure improvements; and estuary enhancements. The ERRA HST model provides technical support for the Elk River Watershed Stewardship Program to identify strategies and solutions to achieve TMDL goals.

76. In addition to the work discussed in Finding 74, HRC may conduct various types of restoration projects intended to improve fish habitat and control sediment delivery from in-channel and near-stream sources. Restoration covered under the Order would include projects such as:

- Large wood augmentation for the purposes of improving fish habitat and sediment routing. Methods could include falling riparian zone trees or placement of logs using heavy equipment;
- Construction of off-channel sediment detention basins;
- Streambank stabilization using large wood, excavation, planting, or other bioengineering methods;
- Removal or reconstruction of watercourse crossings and near-stream road segments; and
- Excavation of in-stream sediment deposits.

#### **MONITORING AND REPORTING**

77. Section IV of this Order contains monitoring and reporting requirements to achieve the following objectives:

- a. Provide regular reports on all timber harvesting and associated activities covered under this Order, including harvesting, road use and construction, and implementation of corrective action to control sediment discharge, in order to evaluate compliance with requirements of this Order and consistency with the TMDL Action Plan;
- b. Provide for a five-year summary report to evaluate the effectiveness of this Order in contributing towards control of sediment discharge and watershed recovery and providing an efficient mechanism to ensure water quality requirements are implemented for timber harvesting and associated activities in the UER;
- c. Determine the effectiveness of management measures designed to protect water quality and inform adaptive management decisions;
- d. Identify potential new sources of sediment discharge and implement corrective action in a timely manner;
- e. Track HRC's participation in Watershed Stewardship efforts working towards recovery of beneficial uses in Elk River;
- f. Track water quality trends; and,
- g. Help inform re-evaluation of the UER's assimilative capacity for sediment and sediment load allocations.

78. HRC conducts various types of monitoring, including water quality monitoring, and regular inspections of all roads; inspections for landslides, including annual and periodic aerial photographic flights; all treated sediment sources included in the master treatment schedule (Attachment C) for road and non-road CSDS; and all CSDS identified in ECPs for individual THPs following implementation of corrective action.

Inspections and Inspection Reports

79. HRC conducts inspections of: 1) all harvest areas during the period a THP is active and throughout the three-year erosion control maintenance period following completion of operations, 2) all treated CSDS, and 3) all roads on their ownership in the UER.

Regular inspection by HRC of those areas and activities described above are essential in ensuring the management practices designed to control sediment have been adequately implemented and are functioning properly, to identify areas where management practices are not functioning as intended or where additional corrective action is needed to control sediment discharge, and to allow for timely implementation of additional corrective action when needed.

Inspection reports serve to document that inspections have been conducted as required and to provide Regional Water Board staff with a mechanism to evaluate effectiveness of management practices designed to control sediment discharge.

Water Quality Monitoring

80. Water Quality Monitoring conducted by HRC includes the following:
- Aquatic trends monitoring of Class I stream habitat at seven locations for channel substrate (pebble counts), pools, large wood, riparian canopy, water temperature, fish surveys, and channel cross sections; and
  - Hydrology and suspended sediment trends monitoring at nine locations throughout UER for discharge, and suspended sediment concentration.

Collecting data on in-stream physical habitat characteristics and suspended sediment loads and discharge is essential for tracking watershed conditions and trends and the distribution and movement of sediment throughout the watershed. These monitoring data can also improve understanding of the spatial and temporal association between sediment loads and management activities such as timber harvesting, sediment control efforts, and restoration activities.

Annual Summary Report and Work Plan

81. By January 31 of each year, HRC must submit an annual summary report and work plan describing all activities covered under this Order conducted during the previous year and planned for the upcoming year. Annual reports will provide specific information on the following activities:
- The total harvest acreage by THP number, silviculture method, and subwatershed;
  - Corrective action to treat CSDS from the master treatment schedule (Attachment C), ARIP activities, ECPs for individual THPs, and any additional sites identified during required inspections;
  - Road construction, reconstruction, or decommissioning;
  - All inspections and water quality monitoring;
  - In-stream Restoration and Riparian Restoration activities; and



- Participation in Watershed Stewardship efforts.

HRC must certify in the annual work plan (and Regional Water Board staff verify during the CAL FIRE THP review and implementation process, including additional field inspections as warranted) that approved THPs comply with the requirements of the WDRs. Annual reports provide a mechanism for Regional Water Board to review and comment on activities planned for the coming year, track compliance with Order requirements and progress in sediment control and restoration, and efficiently focus staff resources and prioritize inspection efforts.

Five-year Synthesis Report

82. By November 15, 2021, and every five years thereafter, HRC shall submit a report summarizing current watershed conditions and any trends observed over the previous five-year period, including water quality, effectiveness of measures to control sediment discharge, landslide rates and distribution, watershed recovery efforts, including Watershed Stewardship. This will allow Regional Water Board, HRC, and other stakeholders to evaluate the effectiveness of the requirements of this Order and the Regional Water Board to modify them if warranted.
83. HRC conducts additional monitoring as described below to evaluate the effectiveness of management practices in controlling sediment discharge.

Best Management Practice Evaluation Program (BMPEP)

HRC forestry staff inspects all completed stream crossing related roadwork to ensure HCP storm-proofing standards are correctly implemented and that each work site has been properly treated for erosion control in advance of the wet weather season. In coordination with ARIP and Storm-Triggered Inspections, these newly treated sites are specifically inspected for sediment prevention and minimization performance following the first winter. Accessible sites then continue to be monitored over time per the ARIP and storm triggered inspection requirements.

Railroad Gulch BMP Evaluation Study

HRC has designed and is implementing a paired watershed study in the Railroad Gulch subwatershed. The objective of the study is to collect and evaluate specific sediment production, storage, and delivery data to test the effectiveness of HCP prescriptions in limiting sediment production and delivery from potential sources (roads, landslides, bank erosion, upslope stream channel head-cutting, and harvest unit surface erosion) as it relates to its management practices. The study presents ten hypotheses that are intended to test whether THP-related HCP and ERSC WA harvest prescriptions are effective at minimizing the impact that land management has on the delivery rate of fine sediment to Railroad Gulch. The hypotheses include overall THP effectiveness relating to mass wasting, stream channel erosion, and road-related sediment delivery.



## **PROCEDURE**

### **THP Enrollment and Administration**

84. During the first five years following adoption of this Order, HRC must apply to the Regional Water Board Executive Officer for coverage of individual THPs as described below. After the first five years, an enrollment process is not required to commence operations for CAL FIRE-approved THPs that fully comply with requirements of this Order; however, HRC must submit a notice of commencement of operation to the Regional Water Board at least 10 days prior to commencement of operations for a specific THP.
85. THPs, or portions of a THP in the UER watershed, enrolled under Orders R1-2004-0030, R1-2006-0039, or R1-2016-0004 prior to June 19, 2019 will retain coverage under, and be subject to the terms and provisions of, those Orders.
86. The Regional Water Board Executive Officer, upon finding that a THP may violate any of the terms of the Order, may at any time notify HRC that they must refrain from commencing, or cease, operations.
87. Regional Water Board staff will continue to review and inspect all proposed THPs in the UER watershed as part of the CAL FIRE review team pursuant to the FPRs. In addition, staff will conduct regular inspections of harvest areas, roads, riparian zones, and unstable areas to verify and evaluate compliance with the requirements of this Order and watershed conditions.
88. Prior to June 19, 2024 before operations may commence on an approved THP, HRC must apply for enrollment of the THP under this Order by submitting an enrollment application to the Regional Water Board Executive Officer. The enrollment application must be signed by a designated representative of HRC certifying that the THP complies with the terms and provisions of this Order. Prior to enrollment, Regional Water Board staff will evaluate the THP for compliance with the Order, and at that time may require additional measures for water quality protection as warranted and as consistent with this Order. Timber harvesting activities must not commence until HRC receives written notification from the Regional Water Board Executive Officer that the THP is covered under this Order. It is anticipated that Projects which have had thorough Regional Water Board staff involvement in the review and approval process will receive written notification of coverage within ten (10) working days of receipt of a complete application.
89. Water quality issues identified on any particular THP and not resolved prior to THP approval by CAL FIRE, shall be resolved to the satisfaction of Regional Water Board Executive Officer, prior to enrolling that THP under this Order.

## **ADDITIONAL FINDINGS**

90. The Regional Water Board finds that all the combined measures required under this Order, as itemized below, are protective of water quality standards and implement

TMDL numeric targets, hillslope indicators and load allocation within the UER watershed; the transition from even-aged to uneven-aged management under HRC's ownership; harvest rate limits throughout the UER and for each subwatershed that limit canopy reduction and anticipated peak flow changes; HCP RMZ protections; TMDL RMZ protections, High Risk Area RMZs; geologic review of all harvest activities; wet weather limitations, management practices designed to prevent or minimize sediment discharge; cleanup and remediation of existing sediment source discharge sites; ongoing oversight of HRC's management activities through participation in the THP review process; and the monitoring and reporting program.

91. State Water Board Resolution No. 68-16 Statement of Policy with Respect to Maintaining High Quality of Waters in California (Antidegradation Policy) requires that regional water boards, in regulating the discharge of waste, to maintain high quality waters of the state, require that any discharge not unreasonably affect beneficial uses, and not result in water quality less than that described in regional water board's policies. The Policy applies whenever: a) there is high quality water, and b) an activity which produces or may produce waste or an increased volume or concentration of waste that will discharge into such high-quality water. "Existing quality of water" has been interpreted to mean the best quality that has existed since the Policy was adopted in 1968. Thus, the Regional Water Board must determine this "baseline" water quality and compare with current water quality objectives. If the baseline water quality is equal to or less than the objectives, the water is not "high quality" and the Policy does not apply. In this case, the water quality objectives govern the water quality that must be maintained or achieved. (*Asociación de Gente Unida por el Agua v. Central Valley Regional Water Quality Control Board* (2012) 210 Cal. App. 4<sup>th</sup> 1255, 1270 (AGUA).)
92. If baseline water quality is better than water quality objectives, the Policy applies and baseline water quality must be "maintained" unless the Board makes the requisite findings. To permit a proposed discharge that will degrade high quality water, the Board must find that the discharge: 1) will be consistent with maximum benefit to the people of the state; 2) will not unreasonably affect present and anticipated beneficial uses of the water; and 3) will not result in water quality less than that prescribed in water quality plans and policies. (AGUA at 1278.) In addition, the Board must ensure the discharge is utilizing the "best practicable treatment or control" to ensure pollution or nuisance will not occur and that the highest quality consistent with the maximum benefit to the people of the state will be maintained. (*Id.*)
93. Following a century of logging, and in particular, following the post-World War II era of intensive tractor logging, water quality conditions in Elk River in 1968 were likely already impacted by sediment. Further impairment occurred after 1968 as a result of excessive and poorly-regulated logging and large storm events. 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 Regional Water Board determined

that the nonpoint source load allocation be 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.

94. This Order requires compliance with water quality objectives in receiving water in order to restore the beneficial uses, and requires compliance with water quality objectives in receiving water through implementation of stringent management practices designed to minimize discharges including harvest rate restrictions, riparian protection, roads management, landslide prevention, and wet weather prescriptions, limited logging activities in high risk areas, and continued efforts to inventory, prioritize and implement cleanup and remediation of existing sediment source discharge sites. This Order authorizes discharges from certain cleanup and restoration activities as well as from ongoing timber harvesting and associated activities. Cleanup and restoration activities may result in small short-term discharges associated with placement of large wood into streams or excavation to stabilize or remove fill material stored in channels and adjacent riparian zones. The potential impacts of minor short-term discharges are outweighed by the benefits of long term sediment control derived by such projects.

To the extent that the UER had existing higher quality water in 1968, the Regional Water Board finds that the authorization of some sediment discharges from ongoing timber operations (subject to proper management and stringent restrictions) and cleanups is necessary to accommodate important economic and social development in the area and is consistent with the maximum benefit to the people of the state. The Regional Water Board recognizes that a significant portion of in-stream sources are likely to be mobilized and transported to the impacted reach over time, regardless of whether or not timber operations are conducted. Allowing some timber harvest activity to continue enables HRC's participation in cleanup and restoration efforts. 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 areas 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.

95. Compliance with the terms of this Order will further the TMDL Action Plan goals of minimizing and eliminating sediment discharges from HRCs timber operations in the UER watershed. The monitoring and reporting program in Section IV of this Order is designed to provide a feedback mechanism to ensure that management measures are implemented and functioning as intended and provide data on in-stream sediment conditions. The Order provides for ongoing assessment of the effectiveness of management measures and progress in meeting TMDL load allocations.



96. To the extent that the Antidegradation Policy applies, the Order is consistent with the Policy because: 1) compliance with the Order will result in a net improvement over existing conditions and any degradation authorized by prior Orders; 2) implementation of management measures required by this Order constitute BPTC to control discharges from timber operations; and 3) the Regional Water Board finds the authorization of some discharges is to the maximum benefit of the people of the state.
97. The Order is consistent with the Policy for Implementation and Enforcement of the Non-Point Source Pollution Control Program (Non-Point Source Policy). Implementation of the Order will promote attainment of Water Quality Objectives and TMDL Action Plan requirements. The Order incorporates antidegradation requirements as described in Findings 93-98; describes management practices and performance standards to be met; requires annual monitoring and reporting, and cumulative reports to provide a feedback mechanism to the Regional Water Board on the effectiveness of the management practices; sets clear milestones for meeting objectives; and states the consequences for failure to meet Order requirements, which may include: modification of Order requirements to require additional management measures and mitigations, rescission of coverage for individual THPs and/or denial of THP enrollment; and enforcement action for failure to comply with Order conditions including reporting requirements.
98. As lead agency under the California Environmental Quality Act (CEQA), the Regional Water Board provided notice of intent to adopt a subsequent mitigated negative declaration (SCH No. XXXXXXXXX) for this Order on March 14, 2019 (Cal. Code Regs., tit. 14, § 15162).<sup>13</sup> The mitigated negative declaration reflects the Regional Water Board's independent judgment and analysis. The Regional Water Board hereby determines that the proposed project, with incorporated project design features and mitigation measures, will not have a significant effect on the environment. The documents and other material, which constitute the record, are located at 5550 Skylane Blvd, Suite A, Santa Rosa, CA 95403. The Regional Water Board will file a Notice of Determination within five days from the issuance of this Order. Mitigation measures necessary to reduce or eliminate significant impacts on the environment, and monitoring and reporting are incorporated as conditions of approval below.
99. The Regional Water Board has reviewed the contents of this Order, its accompanying Initial Study and Subsequent Mitigated Negative Declaration, written public comments and testimony provided after notice and hearing. The Order prescribes requirements that implement the Basin Plan, in consideration of relevant factors pursuant to water

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<sup>13</sup> The draft Order and associated Initial Study and Subsequent Mitigated Negative Declaration developed pursuant to the California Environmental Quality Act (CEQA) to analyze potential impacts from the proposed Order were originally released for public comment on December 4, 2015. Revisions to this Order do not alter the original analysis and conclusions that all project design features and mitigation measures will reduce potential environmental impacts to a less than significant level.

code section 13263. This Order establishes requirements to implement the Basin Plan, prevent nuisance conditions, and attain beneficial uses in the watershed. The Order supports the Regional Water Board adopted sediment load allocation for the UER watershed, while still permitting discharges from timberland management, including harvesting. This Order is a component of the Regional Water Board's overall strategy to restore ecosystem functions, abate nuisance flood conditions, attain ambient water quality objectives and recover beneficial uses. In-stream remediation and channel restoration is anticipated as a means of recovering the ecosystem functions of the impacted reaches of Elk River, in combination with reduction in sediment loads from the upper watershed.

THEREFORE, IT IS HEREBY ORDERED that pursuant to Water Code section 13263, the Regional Water Board hereby adopts Order No. R1-2019-0021, and directs the Executive Officer to file all appropriate notices.

IT IS FURTHER ORDERED that this Order supersedes Order No. R1-2016-0004 (Elk River WDR). THPs, or portions of THPs, enrolled under Order R1-2004-0030, R1-2006-0039, or R1-2016-0004 prior to June 19, 2019 will retain coverage under, and be subject to the terms and provisions of, those Orders.

IT IS FURTHER ORDERED that, no more than five years after adoption of this Order, HRC and Regional Water Board staff shall provide an update to the Regional Water Board on the status of the Order implementation and watershed condition. The update shall include the evaluation of compliance and assessment of the efficacy of this Order based on review of the annual work plans and five-year report, progress of Elk River Stewardship Program efforts directed at remediation, and any other relevant information. Staff shall include any recommendations for modifying Order requirements.

IT IS FURTHER ORDERED that pursuant to Water Code section 13263 and Water Code section 13267, Humboldt Redwood Company, LLC, shall comply with the following on its timberlands in the Elk River watershed:

I. **SPECIFIC REQUIREMENTS**<sup>14</sup>

A. Forest Management

1. HRC shall utilize uneven-aged single-tree and small group selection silviculture as defined in California Code of Regulations, title 14, section 913.1 within its timberlands in the UER watershed. Variable Retention may be used in some instances to address certain stand conditions, such as high levels of whitewood or hardwood species, animal damage, or general poor form and vigor due to past logging history. Other silvicultural methods that may be applied infrequently include Rehabilitation of Understocked Areas, Seed Tree Removal, and

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<sup>14</sup> Several of the Specific Requirements are from HRC's ROWD (Attachment D) and February 1, 2019 submittal (Attachment F). These include: I.A.1-2; I.B.2; I.B.4; I.D.2; I.D.5-8; I.E.1-4; I.F.1 and 5



Sanitation Salvage. Consistent with the ROWD, HRC shall not utilize the clearcut harvest method.

2. HRC shall only utilize single-tree selection silviculture within areas defined in this Order as HCP RMZs, ~~TMDL RMZs~~, or High-Risk Area RMZs.
3. Subwatershed average annual harvest rates from the ROWD (Attachment D) fall near or below 2% equivalent clearcut acres averaged over any 10-year period. Harvest rates above this threshold may cause concern for cumulative impacts on water quality. Where an individual, or multiple, THP(s) would result in an average annual harvest rate in any subwatershed above 2% equivalent clearcut acres over any 10-year period, the Executive Officer may decline to enroll the THP(s), or portions of the THP, or may require additional management measures, mitigations, or monitoring as a condition of enrollment.
4. Harvesting in High Risk Areas
  - a. High risk areas are defined as those areas identified in HRC's ROWD amendment request dated October 4, 2016 submitted to the Regional Water Board with associated map titled Sensitive Bedrock Sub-Basin and Elk River Geologic Map.
  - b. For the first five-year period following 2016 adoption of ~~the prior~~this Order R1-2016-0004, timber harvesting activities on HRC's timberlands in the high-risk areas, as described in Findings 66 through 68 of this Order, is limited to units of THP 1-12-110 HUM.
  - c. Upon receipt of the 5-year synthesis monitoring report from HRC, due by November 15, 2021. At the required update to the Regional Water Board no later than five years from the date of adoption of this Order, the Regional Water Board will consider the Order conditions limiting harvest activities in the Sensitive Bedrock Sub-basin~~high risk areas~~, and after public notice and comment will provide staff direction on potential changes to the harvest limitations. Any changes to this Order regarding harvest limitations in the subsequent five-year period or beyond shall consider available data and information to assess watershed conditions, including beneficial use recovery in the impacted reach, and shall be subject to a 30-day review and public comment period and Regional Water Board hearing. In the absence of changes to this Order, harvesting in high risk areas for the five-year period beginning January 1<sup>st</sup>, 2022 ~~five years after the adoption of this Order~~ shall be limited to the acreage included in Figure 4.3 (revised March 11, 2016) of the ROWD.

B. Riparian Zone Protection

1. The following requirements for riparian zone protection apply throughout HRC's timberlands in the UER and are designed to ensure that HRC's management



activities shall be conducted so as to implement the following TMDL hillslope indicators and numeric targets associated with watercourses and riparian zones:

- Improvement in the quality/health of the riparian stand so as to promote: 1) delivery of wood to channels, 2) slope stability, and 3) ground cover within 300 feet of Class I and II watercourses and 150 feet of a Class III watercourse;
  - No increase in the existing drainage network through headward incision in low order channels; and
  - Decreasing length of channel with actively eroding banks.
2. HRC shall implement HCP RMZ prescriptions for riparian protection as specified in section 6.3.3.7 of the HCP and as outlined in the ROWD submitted by HRC on September 22, 2015 with modifications as described in its February 1, 2019 proposal.
3. HRC shall retain a minimum of 50% post harvest forest overstory canopy cover well distributed throughout the area within 300 feet, or closest topographic hydrologic divide, from Class I and II watercourses and; 150 feet, or to topographic hydrologic divide, from Class III watercourses, with the following exceptions:
- a. Small group openings less than 2.5 acres in area consistent with the - HRC shall not utilize group selection harvest method as defined in California Code of Regulations, title 14, section 913.2.
  - b. Restoration of poorly stocked areas through application of Variable Retention, Rehabilitation of Understocked Areas, or Sanitation Salvage consistent with California Code of Regulations, title 14, section 913.2, within these areas.
  - a.c. Subsections 3.a and 3.b are prohibited within and do not apply to HCP RMZs.
4. With the exception of at existing roads and to access permitted watercourse crossings, no use of ground-based equipment shall occur within:
- a. 150 feet of a Class I watercourses;
  - b. 75 feet of a Class II watercourse;
  - c. 50 feet of a Class III watercourse, or to the closest hydrologic divide;
5. Erosion control practices in riparian management zones:
- a. Implement erosion controls including surfacing all segments of road and skid trails within riparian areas with pavement, rock, slash, mulch, straw, or other adequate materials to prevent the discharge of sediment to a watercourse;
  - b. Cover all disturbed soil areas with slash, mulch, straw, or other adequate materials, or apply other effective erosion control measures to prevent the discharge of sediment to a watercourse.

6. Avoid tractor crossings in unchanneled swales.
  7. Retain trees along the center line of swales and areas of subsurface flow paths.
- C. Riparian Zone Protection in High Risk Areas
- In addition to all of the requirements from section I.B, the following requirements apply in high risk areas:
1. Class II Watercourse Riparian Protection
    - a. Between 30 feet and 200 feet or to the hydrologic divide of Class II watercourses, retain a minimum of 60% post-harvest canopy coverage.
  2. Class III Watercourse Riparian Protection
    - a. No harvesting within 20 feet of Class III watercourses; and
    - b. Between 20 feet and 100 feet or the hydrologic divide of Class III watercourse, retain a minimum of 70% post-harvest conifer canopy coverage.
- D. Road Management
1. All roads shall be hydrologically disconnected from watercourses to the extent feasible.
  2. HRC shall implement management practices and specifications described in Appendix B of the ROWD to prevent and minimize sediment discharge from active roads.
  3. By October 15, 2021, HRC shall upgrade all roads to meet the storm-proofed standard as described above in Finding 53 and Appendix B of the ROWD.
  4. By October 15, 2021, HRC shall treat those road related controllable sediment discharge sources currently identified in Attachment C.
  5. HRC shall address any newly-discovered road-related CSDSs within a year of discovery in accordance with the ARIP (section 6.2 of the ROWD).
  6. HRC shall inspect all roads that are accessible by standard 4-wheel drive pick-up or ATV within their Elk River ownership at least annually between April 1 and October 15.
  7. HRC shall inspect storm-proofed roads as soon as conditions permit following any storm event that generates 3 inches or more of precipitation in a 24-hour period, as measured at the Elk River rain gauge.
  8. Within one year of identifying new sediment discharge sources from roads HRC shall document, notify the Regional Water Board, and implement measures to

prevent or minimize sediment discharge at any new controllable sediment discharge sources identified during the road inspections.

**E. Landslide Prevention**

1. Prior to conducting timber harvesting activities or construction or decommissioning roads and watercourse crossings on its ownership in the UER, HRC shall prepare and submit an engineering geologic report to the Regional Water Board Executive Officer for review and approval.

The engineering geologic report shall be prepared by a California Licensed Professional Geologist (PG) in conformance with the guidelines of California Geologic Survey Note 45 to evaluate the potential impacts of the proposed harvesting to water quality. At a minimum, the report shall characterize geologic hazards using a combination of the following data and methods of investigation:

- Existing hazard maps derived from slope stability models;
  - Available maps and reports;
  - Aerial photographs;
  - Field investigation and mapping; and
  - Applicable studies and technical models.
2. The PG shall evaluate potential effects on slope stability and surface soil erosion, and landslide related sediment discharge from the proposed management activity, identify vulnerable areas, and describe specific mitigation measures needed to avoid and minimize potential effects for identified areas of concern. The mitigations shall be based on the potential hazard, and where appropriate, shall include, but are not necessarily limited to the following:
    - Avoid and minimize canopy removal in areas with elevated landslide hazard;
    - Avoid and minimize activities upslope of existing landslide and on vulnerable portions of deep-seated landslides; and
    - Stabilization of existing landslides where applicable by methods such as planting, manipulating drainage, buttressing, and other feasible engineering techniques.
  3. The engineering geologic report may be submitted before or during the THP review process conducted by CAL FIRE, or by request of the Executive Officer. The Regional Water Board staff shall review the engineering geologic report and may request additional information or require additional conditions be incorporated to further reduce or mitigate the potential for sediment discharge. If additional information or mitigation is required, HRC shall not proceed with the proposed activity until demonstration that the potential impacts to the beneficial uses of water will be adequately mitigated.



4. HRC shall maintain and update the landslide inventory included in Appendix C of the ROWD according to the specifications described in the Monitoring and Reporting Program in Section IV of this Order.

**F. Wet Weather Requirements**

1. From October 15<sup>th</sup> to May 1, the following wet weather requirements apply:
  - a. Hauling shall be limited to permanent rocked all-season roads that meet the HCP storm-proofed standard;
  - b. Hauling shall cease for a period of 48 hours following a precipitation event that results in 0.25 inches or more of rainfall within any 24-hour period.
2. Road construction or reconstruction is prohibited from October 15 to May 1 except in response to failure of a road segment or watercourse crossing that is resulting in ongoing or imminent sediment discharge.
3. From September 15 to October 15, erosion control BMPs shall be on-site and ready to deploy prior to any day for which a chance of rain of 30 percent or greater is forecast by the National Weather Service. During this period, erosion control stabilization measures shall be applied to the entire length of new road construction prior to any day for which a chance of rain of 30 percent or greater is forecast by the National Weather Service.
4. From October 15 to May 1, timber falling, and cable yarding are permitted. Ground-based yarding and mechanical site preparation are prohibited.
5. Additional wet weather operations shall be consistent with the ROWD and HCP wet weather prescriptions.

**G. Erosion Control Plans**

1. HRC shall prepare and submit an inventory of CSDS within, and in the vicinity of, the logging area for all THPs it submits in the UER. Any CSDS not previously inventoried and treated as part of the Road Management activities described in Section I.D. of this Order shall be inventoried and scheduled for treatment concurrently with THP operations, including those off-road sites from the master treatment schedule in the vicinity of the THP.
2. These CSDS will be subject to the following:
  - a. Each CSDS shall be inventoried in an ECP, which will include: a description of the current condition of each site, an estimate of the potential sediment volume that could discharge from the site, a narrative description of the proposed management measures, and a schedule for implementation;
  - b. Inventoried CSDS must be treated per the site specific ECP schedule;
  - c. The ECP shall be submitted to the Regional Water Board for review and approval with the THP it is associated with; and

- d. If treatment of such sites “strands” any other CSDS, HRC does not relinquish responsibility for also treating the stranded sites. For logistical reasons, it is recommended that measures be taken to prevent sites from becoming stranded.

#### **H. Feasibility Study for Control of In-channel Sediment Sources within HRC's Ownership Boundaries**

HRC shall complete the feasibility study initiated pursuant to Order No. 2016-0004 to evaluate potential methods to control, trap, or meter sediment from in-channel sources in the UER before such sediment can be transported to the impacted reach. The feasibility study shall identify potential methods to reduce transport of sediment from tributaries in the UER to the impacted reach that may include design and implementation of pilot projects. If the pilot projects demonstrate the success of methods to reduce sediment discharge from in-channel sources, HRC shall develop a plan to implement these methods on a wider scale throughout the UER. To date, HRC has completed several tasks outlined in Order No. 2016-0004. The following final task is required:

1. By October 15, 2020, HRC shall submit to the Regional Water Board Executive Officer for approval, the final feasibility study, including results of pilot scale projects, description of feasible methods to control sediment from in-channel sources, and a detailed workplan to implement full scale projects to control in-channel sediment sources throughout their ownership, including an implementation schedule.

- I. Implementation and Maintenance of the Sediment Reduction and Master Treatment Schedule
  1. This Order supersedes and incorporates the requirements of Cleanup and Abatement Order (CAO) R1-2004-0028 for HRC's ownership in the Mainstem Elk River and South Fork Elk River and CAO R1-2006-0055, for HRC's ownership in the North Fork Elk River.
  2. By October 15, 2020, HRC shall complete corrective action for all remaining road related CSDS described in the master treatment schedule in Attachment C. HRC will continue to prioritize and treat CSDS associated with legacy skid trails according to the schedule described in the master treatment schedule. The annual report described in Section IV.B.1.
  3. shall include a list of those sites treated during the previous year and those scheduled for treatment during the upcoming year.
- J. Alternatives Methods of Compliance

Many measures proposed in the ROWD are incorporated as enforceable specific requirements above. Additional water quality protection measures include subwatershed harvest rates, limited harvesting and additional riparian protections



for Class II and III streams in high risk areas, and wet weather limitations. HRC may propose and submit for approval by the Regional Water Board, alternative measures that can be demonstrated to provide beneficial uses protection and nuisance abatement that is equal or better than that provided by these specific requirements. Any proposed alternative measures shall be submitted in writing to the Regional Water Board Executive Officer. The proposal shall include a description of the alternative measure(s), accompanied by supporting documentation that the alternative measures will achieve equal or better protection than those specific requirements. The Executive Officer shall bring any meritorious proposal to the Regional Water Board for its consideration after public notice and a hearing.

## II. GENERAL REQUIREMENTS

- A. HRC shall comply with all applicable water quality standards, requirements, and prohibitions specified in the Basin Plan as modified, and policies adopted by the State Water Board.
- B. HRC shall allow Regional Water Board staff entry onto all land within the Elk River Watershed covered by the WDR including appurtenant roads for the purposes of observing, inspecting, photographing, videotaping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with this Order.
- C. HRC shall comply with all water quality related HCP prescriptions, conditions included in an approved THP, and any additional mitigation measures identified and required pursuant to CAL FIRE CEQA process.
- D. HRC shall comply with all mitigation measures identified in Attachment A of the Initial Study and Subsequent Mitigated Negative Declaration.
- E. This Order does not authorize discharges from the aerial application of herbicides or pesticides. HRC shall submit a ROWD prior to any proposed aerial application of pesticides that could discharge to waters of the state.
- F. HRC shall notify the Regional Water Board in writing at least 30 days prior to any proposed ground-based application of pesticides within 100 feet of Class I, Class II or Class III watercourses. The notification shall include the type of pesticide(s), method and area of application, projected date of application, and measures that will be employed to assure compliance with applicable water quality requirements.
- G. Water quality issues identified on any particular THP and not resolved prior to THP approval by CAL FIRE, shall be resolved to the satisfaction of Regional Water Board Executive Officer, prior to commencement of that THP.



- H. HRC shall maintain copies of all correspondence and records collected and prepared to document compliance with this Order and provide access to Regional Water Board to review and copy.
- I. No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights. (Wat. Code, § 13262, subd.(g).)
- J. Prior to implementing any change to the project or activity that may have a significant or material effect on the findings, conclusions, or conditions of this Order, HRC shall obtain the written approval of the Regional Water Board Executive Officer.
- K. The Regional Water Board may reopen, add to, or modify the conditions of this Order, with notice and as appropriate in response to monitoring results or to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or the Clean Water Act.
- L. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state law.
- M. Should it be determined by HRC or the Regional Water Board that unauthorized discharge of waste is causing or contributing to a violation or an exceedance of an applicable water quality requirement or a violation of a WDR prohibition (below), HRC shall:
  - 1. Implement corrective measures immediately following discovery that applicable water quality requirements were exceeded or a prohibition violated, followed by notification to the Regional Water Board by telephone or email as soon as possible, but no later than 48 hours after the discharge has been discovered. This notification shall be followed by a report within 14 days to the Regional Board, unless otherwise directed by the Executive Officer, that includes:
    - a. the date the violation was discovered;
    - b. the name and title of the person(s) discovering the violation;
    - c. a map showing the location of the violation site;
    - d. a description of recent weather conditions prior to discovering the violation;
    - e. the nature and cause of the water quality requirement violation or exceedance or WDR prohibition violation;
    - f. photos of the site documenting the violation;
    - g. a description of the management measure(s) currently being implemented to address the violation;
    - h. any necessary maintenance or repair of management measures;

- i. any additional management measures which will be implemented to prevent or reduce discharges that are causing or contributing to the violation or exceedance of applicable water quality requirements or WDR prohibition violation;
  - j. an implementation schedule for corrective actions; and,
  - k. the signature and title of the person preparing the report.
- N. HRC shall revise the appropriate technical report (i.e. ECP, Inventory, or other required information as applicable) immediately after the report to the Regional Board to incorporate the additional management measures that have been and will be implemented, the implementation schedule, and any additional inspections or monitoring that is needed.
- O. Emergency Maintenance  
If there is an imminent threat to life, property, or public safety, or a potential for sediment discharge with catastrophic environmental consequences, HRC will notify Regional Water Board staff of the emergency and the planned or implemented action within 14 calendar days. HRC shall meet with the Regional Water Board Executive Officer within six months of a major fire to discuss modifications to this Order as may be warranted due to changed conditions.

### III. DISCHARGE PROHIBITIONS

- A. The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.
- B. The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.

### IV. MONITORING AND REPORTING

This Monitoring and Reporting Program (MRP) is issued pursuant to Water Code section 13267, subdivision (b) and requires HRC to implement the monitoring and reporting described below. The Regional Water Board has delegated its authority to the Executive Officer to revise, modify, and reissue the MRP.

- A. Monitoring  
HRC shall monitor watershed conditions according to the monitoring program described below.

1. Inspections

Roads

- a. HRC shall inspect all roads that are accessible by standard 4-wheel drive pick-up or ATV within the UER according to the following schedule:
  - i. At least once annually between April 1 and October 15 to ensure that drainage structures and facilities are intact and fully functional, and to identify any active or imminent road-related failures of the road prism, cutbanks, or fills which can deliver sediment to streams, and identify and schedule any corrective action needed to control sediment discharge;
  - ii. As soon as conditions permit following any storm event that generates 3 inches or more of precipitation in a 24-hour period, as measured at HRC's UER rain gauge.

THP areas

- b. HRC shall inspect the entire logging area of all active THPs, including roads, harvest units, and CSDS sites, according to the following schedule:
  - i. By October 15 to assure project areas are secure for the winter; and/or immediately following cessation of winter period timber harvest activities;
  - ii. Between October 15 and April 1 after at least 3 inches of cumulative rainfall has fallen within a 24-hour period and as soon as conditions permit, assess the effectiveness of management measures designed to address controllable sediment discharges and to determine if any new CSDS sites have developed;
  - iii. Between April 1 and June 15 to assess the effectiveness of management measures designed to address existing CSDS sites and to identify if any new CSDS sites have developed.

2. Landslides Monitoring

HRC shall conduct the following monitoring to identify new or reactivated mass wasting activity:

- a. HRC shall maintain and update the landslide inventory included in Appendix C of the ROWD according to the specifications described below;
- b. HRC shall inspect harvest THP units at least annually during the life of the THP and through the three-year erosion control maintenance period following completion of the plan. The inspections shall cover both harvested areas as well as RMZs and channel zones and shall be designed to identify any new, or reactivated mass wasting, including open slope landslides and streamside landslides;



- c. Additional on-the-ground monitoring and reporting to identify new, or reactivated mass wasting activity shall include HRC field staff (i.e. forestry, physical sciences), notifying the HRC Geology Department in the event a new or recently active landslide is observed during the course of daily duties (i.e. road inspections, wildlife surveys, aquatics monitoring, THP layout and logging supervision);
- d. HRC shall obtain new aerial photographs of the Upper Elk River watershed at intervals no greater than 5 years;
- e. HRC shall utilize color, high-angle, stereo pair aerial photographs at a scale of 1:12,000 of the UER to update the landslide inventory.

3. Water Quality Monitoring

HRC shall continue to conduct the following water quality trend monitoring, including Aquatic Trends Monitoring (ATM) every three years and Hydrology Trends Monitoring (HTM) annually, according to the sampling procedures described in detail in the ROWD and applicable Standard Watershed Operating Protocols for the following parameters:

- a. Pebble counts
- b. Pool dimension and frequency
- c. Large wood
- d. Riparian and overstory canopy measurements
- e. Water temperature
- f. Fish surveys
- g. Channel cross section measurements
- h. Hydrology and suspended sediment

B. Reporting

HRC shall provide the following reports to the Regional Water Board Executive Officer according to schedule specified below. Reports must contain sufficient information that Regional Water Board staff can clearly identify the types of work planned and monitoring conducted throughout the UER including key results, findings, problems encountered, and corrective actions taken. HRC shall summarize any information pertinent to corrective actions that have been or need to be taken to ensure adequate water quality protection.

1. Annual Summary Report and Work Plan

By January 31 of each year, HRC shall submit to the Regional Water Board a summary report of all management activities, including monitoring, conducted during the previous calendar year and a work plan, describing all management activities planned for the current calendar year (January 1 to December 31). HRC shall certify that the activities included in the report are in compliance with the provisions of this Order.

Regional Water Board staff will review and may provide written comments and or request additional information as necessary by February 15. If requested, HRC shall submit a revised final annual work plan to the Regional Water Board by March 1.

Regional Water Board and HRC staff shall also meet annually, if requested by either party, to review proposed work to discuss the timing of and type of activities planned for the year.

The annual work plan is a planning document. The actual work conducted in the upcoming year may differ from what is described in the plan due to changes in conditions or other considerations. HRC shall notify the Regional Water Board no less than quarterly in writing when it becomes apparent that a deviation from the current annual work plan is necessary. The notification shall include a description of how the work differs from the annual work plan and an explanation for the change. The annual summary shall describe all of the management activities actually conducted during the previous year.

The annual report shall include, at a minimum, the following information:

- a. Timber harvest  
The report shall at a minimum describe all harvesting conducted during the previous year as well as anticipated harvest planned for the coming year pursuant to Section I.A. of the Order, including:
  - i. Acres by subwatershed;
  - ii. Silviculture method;
  - iii. THP name and number;
- b. Roads  
HRC shall describe all road work conducted during the previous year and work planned for the upcoming year, including a description and map locations of all road construction, reconstruction, and maintenance work, pursuant to Section I.D. of the Order.
- c. Inventory of CSDS  
HRC shall provide a detailed list of CSDS sites treated during the previous year and sites that are proposed for treatment prior to that calendar year's winter period. The list of sites shall include remaining CSDS from the master treatment schedule, road related CSDS identified during annual road inspections, CSDS identified in ECPs for individual THPs, and any other CSDS identified during the previous year, including those associated with watercourse crossings, roads, skid trails, gullies, road-related and non-road-related landslides, and any other sediment generating features associated with timber harvest activities. For each CSDS site scheduled for treatment, the annual work plan shall contain:

- i. A treatment site identification number and location shown on a scaled map;
  - ii. The volume of sediment to be treated;
  - iii. Treatment status (pending or completed); and
  - iv. A description of the selected treatment alternative.
- d. **Restoration Projects**  
HRC shall provide a description of any restoration projects conducted during the previous year and that are scheduled for implementation during the upcoming year. Restoration projects that shall be included in the annual report include any projects implemented as part of the Feasibility Study for control of in-channel sediment sources or the Stewardship Program, including:
  - i. Large wood augmentation for the purposes of improving fish habitat and sediment routing. Methods could include falling riparian zone trees or placement of logs using heavy equipment;
  - ii. Construction of off-channel sediment detention basins;
  - iii. Streambank stabilization using large wood, excavation, planting, or other bioengineering methods;
  - iv. Removal or reconstruction of watercourse crossings and near stream road segments;
  - v. Excavation of in-stream sediment deposits.
- e. **Inspections**  
The annual summary report shall describe all inspections of roads, erosion control plans associated with timber harvest plans, and landslides conducted during the previous year according to the specifications described in Section IV.A. The annual summary report shall include at a minimum, the following information for each inspection:
  - i. date of the inspection;
  - ii. inspector(s) name;
  - iii. area or sites inspected;
  - iv. observations, including problems identified that result, or have the potential to result in controllable sediment discharge, including discharge notifications;
  - v. actions needed to prevent or minimize sediment discharge;
  - vi. actions taken to prevent or minimize sediment discharge;
  - vii. a brief evaluation of the causes of the erosional problems and the adaptive management measures that must be taken to prevent recurrence.
- f. **Landslide Reporting**  
The annual summary report shall include an updated landslide inventory, describing any landslide activity observed within the past year, including:
  - i. A map showing locations of landslide activity;



- ii. Whether landslide is new or reactivation of existing landslide;
- iii. Estimated volume of sediment discharged; and
- iv. Management activities (such as timber harvesting or road work) that may reasonably be considered to have caused or affected landslide activity.

**g. Water Quality Trends Monitoring Data**

The annual summary report shall include water quality and hydrology monitoring data collected during the previous year as specified in Section IV.A., including: stream flow, sediment, water temperature, channel form, and large wood in the channel, according to the specifications of the ROWD. Tabular data shall be submitted electronically and, in a format directly compatible with Microsoft Excel and similar computer software for data processing. Spatial data shall be georeferenced and openable in ArcGIS and equivalent geographic information system (GIS) software. For tabular data, acceptable file formats and their extensions comprise: Microsoft Excel spreadsheet (\*.xls or \*.xlsx); American Standard Code for Information Interchange (ASCII) delimited text (\*.csv, \*.txt, and \*.asc); and extensible markup language (\*.xml). Vector spatial data shall be formatted as ESRI shapefiles or GeoJSON (\*.shp or \*.json). Raster spatial data shall be formatted as GeoTIFFs (\*.tif or \*.tiff).

**h. Watershed Stewardship Report**

The annual report shall describe HRC's participation in Elk River Watershed Stewardship. The report shall provide a brief description of its participation in meetings as well as its contributions supporting stewardship efforts.

**2. Five-year Synthesis Report**

Following adoption of this Order, HRC shall provide a five-year synthesis and evaluation of the effectiveness of its management activity in preventing and minimizing discharges of sediment and protection of water temperature increases that may impact the beneficial uses of water in UER.

By no later than November 15, 2021, HRC shall submit the first five-year synthesis report (five years after adoption of the 2016 Order) to the Regional Water Board for approval by the Executive Officer. By no later than October 15, 2020, the content of the report will be developed in consultation with Regional Water Board staff in order to assure that the report will be useful to evaluate compliance with the General and Specific requirements of the Order and inform decisions regarding potential revisions to the Order. The five-year update and evaluation shall include the following information:

**a. Harvest Summary**

HRC shall submit a summary of total acres harvested over the previous five-year period, by:

- i. Acres harvested by subwatershed;
- ii. Silviculture method;
- iii. THP name and number.

b. Road update

HRC shall submit a summary report of roadwork conducted throughout their ownership in the UER. The purpose of the report is to provide a status report on the road network and the effectiveness of their program for controlling sediment discharge from roads. The report shall include the following:

- i. Total length of active roads, including total amount of seasonal and permanent roads;
- ii. Total length of road that meets the storm-proofed standard (this shall confirm that HRC's entire road network has been storm-proofed);
- iii. Total length of road decommissioned over the previous five-year period;
- iv. A map of the current road network.

c. Landslide Summary

An updated landslide inventory and evaluation of the effectiveness of management measures intended to reduce the potential for management-related landslides. The updated inventory shall be prepared by a PG and shall include a description of all landslide activity identified during the previous five years based on field observations, interpretation of updated aerial photographs, and other available data sources, including:

- i. An updated landslide inventory, describing all landslide activity observed within the past five years and whether observed landslides are new or reactivation of existing landslides;
- ii. Estimated volume of sediment discharged by landslides over the previous five-year period by subwatershed;
- iii. A map showing locations of landslide activity that has occurred during the previous five years;
- iv. A description of data sources (aerial photograph, road inspection, THP layout, etc.);
- v. Copies of aerial photographs of the UER from the previous five-year period (may be scanned); and
- vi. A discussion of overall landslide activity during the previous five years and any conclusions that can be made with respect to an association between management and landslide activity. This section shall include a discussion of potential modifications to management practices necessary to further minimize management-related sediment discharge.

d. Water Quality Trends

HRC shall submit a water quality trends reports, providing a summary of water quality monitoring results for the previous five years. This report shall be developed in coordination with the Watershed Stewardship Program, to the extent possible. The summary should provide a discussion of any observable water quality trends detected during the previous five years and any conclusions that can be made, in particular with respect to sediment loads, anadromous salmonid habit, and any possible association between management activities and in-stream conditions. This section shall include a discussion of potential modifications to management practices necessary to further minimize management-related sediment discharge.

e. Restoration Summary

HRC shall submit a summary report of all restoration projects it has conducted, participated in, or contributed to, within the Elk River watershed. Restoration activities are those projects designed to control in-stream sediment production and transport, improve beneficial uses of water, and abate nuisance conditions, and may include, but are not necessarily limited to:

- i. Stabilizing banks through provision of root cohesion on banks and floodplains;
- ii. Filtering sediment, chemicals, and nutrients from upslope sources;
- iii. Supplying large wood to the channel, which maintains channel form and improves in-stream habitat complexity;
- iv. Maintaining channel form, in-stream habitat, and an appropriate sediment regime through the restriction of sediment inputs or metering of sediment through the system;
- v. Moderating downstream flood peaks through temporary upstream off-channel storage of water;
- vi. Maintaining cool water temperatures through provision of shade and creation of a cool and humid microclimate over the stream;
- vii. Providing both plant and animal food resources for the aquatic ecosystem in the form of, for example, leaves, branches, and terrestrial insects.

f. Effectiveness Monitoring Summary

HRC shall submit a summary report(s) describing the results of their effectiveness monitoring programs for roads throughout the UER and timber harvest related management practices in Railroad Gulch. The reports shall include a description of monitoring methods used, the location of sites evaluated, the results of the monitoring, a discussion the results, and any conclusion regarding the effects of their management practices with respect to sediment production from roads, watercourse crossings, harvest units, landslides, in-channel sources, and sensitive riparian zones.



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## V. APPLICATION AND ENROLLMENT PROCEDURE

Pursuant to this Order, for the first five years following adoption of this Order, HRC must apply to the Regional Water Board Executive Officer for coverage of individual THPs as described below. After five years, an enrollment process is not required to commence operations for CAL FIRE-approved THPs that fully comply with requirements of this Order, unless notified in writing by the Regional Water Board Executive Officer that the plan is not eligible for coverage.

For the first five years, before operations may commence on an approved THP, HRC must apply for enrollment of the THP under this Order by submitting an enrollment application to the Regional Water Board Executive Officer. The enrollment application must be signed by a designated representative of HRC certifying that the THP complies with the terms and provisions of this Order. Prior to enrollment, Regional Water Board staff will evaluate the THP for compliance with the Order, and at that time may require additional measures for water quality protection as warranted. Timber harvesting activities may not commence until HRC receives written notification from the Regional Water Board Executive Officer that the THP is covered under this Order. It is anticipated that Projects which have had thorough Regional Water Board staff involvement in the review and approval process will receive written notification of coverage within ten (10) working days of receipt of a complete application.

After the first five years, HRC must submit a notice of commencement of operation to the Regional Water Board at least 10 days prior to commencement of operations for a specific THP.

The Regional Water Board Executive Officer, upon finding that a plan may violate any of the terms of the Order, may at any time notify HRC that they must refrain from commencing, or cease, operations.

## VI. RESCISSION AND DENIAL OF COVERAGE

The Executive Officer may rescind or deny coverage for a THP under this Order if the Executive Officer makes any of the following determinations:

1. The THP does not comply with Terms and Provisions of this Order;
2. The THP is reasonably likely to result in or has resulted in a violation or exceedance of any applicable Water Quality Standards, US EPA approved load allocation, or other water quality requirement<sup>15</sup>;

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<sup>15</sup> "Water Quality Requirements" means a water quality objective (narrative or numeric), prohibition, TMDL implementation plan, policy, or other requirement contained in a Water Quality Control Plan (Basin Plan) adopted by the Regional Water Board and approved by the State Water Board, and all other applicable plans or  
(footnote continued on next page)

3. The THP has varied in whole or in any part from the approved THP in any way that could adversely affect water quality;
4. The THP is the subject of an unresolved water quality or procedural issue including, but not limited to, a non-concurrence filed by the Regional Water Board staff with CAL FIRE;
5. The THP meets the Terms and Provisions of this Order, but may still result in a discharge of waste that could adversely affect water quality from any of the following:
  - a. An observable increase in sediment discharge from landslides, channel or streambank erosion, or surface or gully erosion associated with harvest activities;
  - b. A measurable and significant increase in turbidity or suspended sediment concentration as a result of harvest related activities;
6. Any operations on an individual, or multiple, THP(s) that would result in an average annual harvest rate in any subwatershed above 2% equivalent clearcut acres over any 10-year period that has resulted, or would be likely to result in any of the following:
  - a. An observable increase in sediment discharge from landslides, channel or streambank erosion, or surface or gully erosion associated with harvest activities;
  - b. A measurable and significant increase in turbidity or suspended sediment concentration as a result of harvest related activities; or
7. There are substantive errors or inaccuracies found in information submitted as part of the THP and enrollment application package that, if known at the time of application, would have resulted in a denial or limitation of coverage under this Order.

Upon receipt of a written notice of rescission or denial of coverage for a THP under this Order, the coverage of the THP under this Order is immediately terminated. Upon termination, Discharger shall immediately cease all THP activities other than activities necessary to control further discharges. Projects that are denied coverage may be required to submit a report of waste discharge for site-specific individual WDRs.



#### CERTIFICATION

All reports required by this Monitoring and Reporting program or other information requested by the Regional Water Board determination of compliance shall be signed by a duly authorized representative of HRC. Any person signing a document under this requirement shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Any person failing to furnish technical or monitoring reports or falsifying any information therein is guilty of a misdemeanor and may be subject to civil liability. (Water Code section 13268)

#### VII. Certification:

I, Matthias St. John, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on June 19, 2019.

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Matthias St. John  
Executive Officer

#### LIST OF ATTACHMENTS

Attachment A – Elk River Location Map

Attachment B – Upper *Elk River: Technical Analysis for Sediment* (Tetra Tech, 2015)

Attachment C – Master Sediment Reduction and Master Treatment Schedule

Attachment D – HRC's August 28, 2015, Report of Waste Discharge with amendments dated March 11, 2016 and October 4, 2016.

Attachment E – Upper Elk River Sediment TMDL Action Plan (TMDL Action Plan)

Attachment F – HRC's February 1, 2019, response to Regional Water Board Executive Officer's request for Revisions to Order No. R1-2016-0030.

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