

2012 Integrated Report  
303(d) List of Impaired Waters  
305(b) Surface Water Assessment  
Public Workshop April 8, 2014  
Santa Rosa, CA

Public Comments

**Ken Boche Campbell Global (formerly Campbell Timberland Management)**

1) Are the 2012 fact sheets on the website?

Katharine Carter: Yes, they are located on the Integrated Report webpage under the 2012 Integrated Report heading.

2) For the Ten Mile River temperature information, isn't the 16C temperature for core juvenile rearing a different temperature threshold than was utilized last listing cycle? Wasn't 16.3C utilized last time based on Sullivan?

Katharine Carter: Sullivan uses Maximum Weekly Average Temperatures (MWWT) which reflects the average temperature conditions in the watershed. To be the most protective of most extreme temperature conditions, we are using the Maximum Weekly Maximum Temperature (MWMT). Thus, a different temperature metric was utilized this listing cycle and the LOE explains the metric used.

**Don McEnhill, Russian Riverkeeper**

1) Rebecca mentioned that in the TMDL process, the Regional Board is addressing flows. However, I don't remember anything in the TMDLs from North Coast that got water back in the river or affected flows.

Rebecca Fitzgerald: The most prominent example is from the Shasta where Regional Water Board staff identified 45 cfs of dedicated cold water that needs to be left in the stream in order to obtain the temperature TMDL. The challenge is working to implement the TMDLs by working with the division of water rights and the landowners out there. We are participating in in-stream flow studies in the Scott River watershed as part of Implementation Plan.

Brian McFadin: So the Scott River TMDL called for the investigation of the interaction of surface and groundwater. We are well into the process of completing a groundwater study (being conducted by UC Davis under contract) we think it will answer the questions about the connection of groundwater and surface water. Also to mention, the USEPA TMDLs for the Eel River specifically evaluated flows from the Potter Valley Project. USPEA found those flows are consistent with the water quality objective for temperature. Therefore there was no action needed by the Potter Valley Project. We also evaluated the flows in Navarro and Mattole as well through the TMDL process.

2) What was the outcome of the TMDL for the Scott River, was the purpose to make a recommendation to the division of water rights?

Brian McFadin: We wanted to understand the connection between groundwater and surface water better because when we were developing the TMDL we didn't have that

information. We wanted to understand how groundwater pumping was affecting surface water temperatures. The study has been expanded to identify solutions.

Clayton Creager: To expand upon the Shasta TMDL efforts, we have 319 grants and are working on reducing tailwater return flows to the river, as the water warms as it runs over land and contributes warm water to the river. There are also efforts to develop a system for recycling of tailwater return flows so that a downstream user won't have to draw from the stream but can draw from the tailwater that is captured and it can be reused. We're also working on reconnecting springs in Shasta that were disconnected from the river through spring water rehab projects designed to return flows to river. We're working with Karuk Tribe and Water Rights (based upon a lawsuit brought by the Karuk tribe against the Montague Water District), which will result in reduced diversion from the river.

Don McEnhill: That's very helpful. Our purpose for recommending flow listings was to kick start other processes into occurring.

**Grant Wilson. Outreach and Policy coordinator at Earth Law Center**

1) I'm here today to urge the Water Board to revise 303d list to include water ways for impairment by altered flows. Water bodies along the north coast are being drained dry by diversion and exacerbated by drought and pumping. Federal biologists are saying that there are concerns over the loss of an entire year class of salmon and some North Coast salmon runs may go extinct. Various groups alongside us are advocating and working with state staff to list several waterways that are severely impacted by flows. The short list includes, amongst other water ways, Mark West Creek and the Scott River which both have sections that run dry. The CWA states that if standards are not being met it must be identified on the 303(d) List. Without water the water the beneficial uses that require water will be impaired. We understand that the Listing Policy does not have a statewide methodology for addressing flow, and that such guidance is necessary to make flow determinations, but the reliance of the Listing Policy is misplaced since it is the clean water act that is being implemented and is the legal basis for state action.

Additionally, the listing policy says that when the overall weight of the evidence indicates non-attainment of standards, then a water body must be listed. So use weight of evidence, because without water how can a water way meet standards. States such as Vermont, Wyoming, and Washington have done flow impairment listings. We also urge flow listings for the near term benefits such as 1) increasing the odds of receiving government funding for flow restoration, 2) flow listings would ease burden of proof for other government processes including waste and unreasonable use, public trust doctrine proceedings, new water diversion applications and FERC relicensing, 3) flow listings support local landuse and planning decisions by requiring decision makers to consider flow and the impact of flow from new development and redevelopment in their CEQA, and 4) would advance the development of a statewide database for flow impairments. For these reasons, we urge state water board staff to revise 303d list to include listings for water ways impaired by flow. Thank you very much.

Rebecca Fitzgerald: Thank you.

**Don McEnhill. Russian Riverkeeper**

1) Comment on the draft 303d list. Strongly supports decision to not delist Laguna de Santa Rosa for mercury. We've learned from International Bird Rescue center, many

juvenile birds have bone deficiencies from heavy metals. We asked the director for some biopsies.

2) Support decision to list Laguna and Mark West mainstems for phosphorus, especially if you are delisting them for nitrogen...you must have them listed for phosphorus.

3) Support sediment listing for the Laguna de Santa Rosa watershed, especially because it is so interrelated with phosphorus. You can't address one without addressing the other.

4) We're concerned about the delisting of nitrogen, but won't go so far as to say we oppose it. There is so much nitrogen loading in the Laguna and we are worried that taking our eyes off that pollutant would allow it to increase to the point where it would be put right back on the list.

5) Question: You are only listing the mainstem Laguna for phosphorus, obviously it is being conveyed there so does the TMDL look upstream?

Rebecca Fitzgerald: Yes it does look upstream.

6) Supports the re-segmentation of the Laguna watershed.

7) Reconsider decision to not include flow impairments on the draft list. There is evidence from various rivers (Mark West and Maacama Creeks) that natural historic flows have been altered by human activity and have changed over time. There is historic data that the streams flowed year round during the summer, in the 80s we started to see less and less base flow, and now sections of the stream dry up during the summer. We are very concerned for the coho populations and maintaining the steelhead, it is not supportive of the beneficial uses. The altered flows also affect temperature and dissolved oxygen in these streams. Other states look at flow alteration, and California should take their lead and not start from scratch. On our watch the salmonids are either going to make it or not make it. We've worked with the DFW, and the anadromous fish are not as highly prioritized as we'd like, they won't be working on this system for many years. Including these streams on the list under section 4C will lead to other policy mechanisms being influenced (including water rights and CDFW). The fish may not exist by the time we have a new integrative report 4 years from now. We have a lot of evidence that is needed. We appreciate your work and the state boards work, but we urge you to list the 5 streams we've put for flow

Katharine Carter: Related to Nitrogen, we are working towards conducting more biostimulatory conditions assessments and not just focusing solely on Nitrogen and Phosphorus without looking if they are causing impacts to the system. Nitrogen will be listed on its own accord if it is causing a toxicity affect (violating the toxicity objective), we are not going to disregard nitrogen in the Laguna watershed if its affecting toxicity (like creating ammonia toxicity).

### **Brenda Adelman. Russian River Protection Committee**

1) Concerned about flow, as processed such as the Biological Opinion to lower flow in the summer time in the Russian river may very well be amended if there were a flow listing. From personal experience in 2009, has seen and documented in photos the extent of algal blooms in the Russian River and has concerns about cyanobacteria in the Russian river. There are nutrient problems at steelhead beach near Forestville. When flow drops, algae proliferates. Has concerns about the decision to lower Russian River flows which affects algae growth.

2) Is the entire Russian watershed being listed for Mercury or just the Laguna?

Katharine Carter: The data we have is for the mainstem Laguna and that is what we are recommending be listed.

Brenda Adelman: There have been tests showing that the area around the mouth of Willow Creek has shown mercury. I'm concerned about endocrine disruptors. Am I correct that listings come first and then the TMDL?

Katharine Carter: It's cyclical. The listing is confined to the information we have available and what area we have it for. The TMDL does a more holistic study that reviews other areas that contribute to full scope of impairment. The information from the TMDL is utilized as evidence supporting new listings. The integrated report usually has less data before TMDL is developed, thus listing is smaller in scope.

Brenda Adelman: We requested sediment samplings in estuary and we were hoping your organization would contribute funding to that effort.

Rebecca Fitzgerald: We're aware of the requests for us to participate in sediment monitoring in the estuary and it is on our list of things to monitor should we have the resources to do so.

Brenda Adelman: This is an opportunity to stretch resources to get important information by collaborating with the SCWA.

Katharine Carter: Data for mercury mentioned, please send the info to us so we can have it for when we review additional information. Please send us everything you can.

Rebecca Fitzgerald: This brings up a good point. We do have a formal data solicitation process, but you don't need to wait to submit data to us. We still continually compile data and information before the next cycle.

Clayton Creager: There is a monitoring program associated with the low flow study in the Russian river and we have required that periphyton data be collected.

**Rickey Russell. California Coast keeper alliance. They represent 12 organizations statewide such as Humboldt Bay, Klamath Riverkeeper and Russian Riverkeeper.**

1) We encourage you to reconsider to list flows as source of impairment for water bodies. Think the board has clear authority and an obligation to list flows before there is irreversible ecological harm. As a starting point, list the five rivers in our written comments. We believe there is clear authority to list for flow as a precedent of CWA, as evidenced by federal supreme court cases, other states listing, and listings in the State of CA such as the Ventura watershed. Most importantly, to list for flow would be inline with you're the North Coast's own strategic plan, specifically goal #3 which recognizes the need to increase flows for fish and wildlife habitats. We please urge you to reconsider the flow listings.

Rebecca Fitzgerald: Thank you for your comment.

Katharine Carter: I encourage you to submit any other comments or concerns in writing by mail or email before 5PM on April 18<sup>th</sup>.

\*\*\*End of Public Hearing\*\*\*