

EXECUTIVE OFFICER'S SUMMARY REPORT  
8:30 a.m., October 1, 2009  
David C. Joseph Hearing Room  
Regional Water Quality Control Board  
5550 Skylane Boulevard, Suite A  
Santa Rosa, California

Item: 5

Subject: Workshop for the Elk River TMDL

### Background

The Elk River watershed, located in the coastal temperate forest of Humboldt County, California, drains 58.3 mi<sup>2</sup>, and is one of the largest freshwater tributaries to Humboldt Bay. Humboldt Bay, the second largest estuary in California, provides important habitat for numerous aquatic species and is an important economic resource for local communities. Port and marina facilities, recreation opportunities and the largest commercial shellfish rearing operation in the North Coast Region are all supported by Humboldt Bay.

The Elk River and its tributaries (Elk River watershed) were listed by the U.S. Environmental Protection Agency in 1998 as impaired by excessive amounts of sediment. The sediment impairment has significantly impacted several beneficial uses, including but not limited to, domestic and agricultural water supplies and cold water fisheries. The high instream sediment loads also result in increased incidence of nuisance flooding conditions in the lower Elk River watershed. The purpose of the TMDL is to establish sediment loading capacities (or load allocations) and an implementation program that will result in the restoration, protection and maintenance of all applicable beneficial uses of water. The TMDL will also include actions designed to reduce the nuisance flooding conditions.

In May 2009, Regional Water Board staff released the preliminary drafts of Chapters 1 and 2 of the draft Elk River Sediment TMDL Staff Report (Staff Report). Chapter 1 provides an introduction to the Elk River Sediment TMDL by describing the geographic scope and watershed characteristics of the Elk River watershed, the regulatory framework under which the TMDL will be developed and implemented, and a brief history of the Regional Water Board's regulatory and non-regulatory actions in the watershed. Chapter 2 describes the water quality standards (the beneficial uses of water and related water quality objectives) that are present in the watershed. It also includes a brief summary of the sediment conditions and associated impacts that are at play in the watershed. These preliminary-draft chapters are included with this report as Attachment A. They are also available on the Regional Water Board's Elk River TMDL website at: [http://www.swrcb.ca.gov/northcoast/water\\_issues/programs/tmdls/elk\\_river/](http://www.swrcb.ca.gov/northcoast/water_issues/programs/tmdls/elk_river/).

The remaining chapters of the draft Staff Report are still under development. Chapter 3 will likely include the *Source Analysis, Targets, Linkage, Loading Capacity, and Load Allocations*. The Source Analysis will be based on best available data which varies with land use. Considering the history of sediment source investigations and instream monitoring requirements on the former Pacific Lumber Company lands, there are significant data for these areas. Similarly, the Watershed-Wide Waste Discharge Requirements (WWDR) developed for Green Diamond Resources Company (GDRC) and the management planning and restoration work conducted by the Bureau of Land Management (BLM) in the Headwaters Forest Reserve provided a source of ample data for the upper watershed and industrial timber lands.

The lower watershed, dominated primarily by grazing and rural residential ownerships, has not been the focus of the Regional Water Board's efforts and actions. As such, there are limited data for these lands. However, these lands tend to be comprised of gentler slopes and are not among the highest sediment producers in the watershed. Similarly there is limited sediment source data for the Martin Slough sub-basin, which drains the Cutten area and other urbanized areas beyond the Eureka City limits. The implementation program developed as part of the TMDL will provide an opportunity to obtain relevant data for these areas necessary to ensure beneficial uses of water are recovered.

In May 2009, Regional Water Board staff also released a matrix (Attachment B) that contains the preliminary staff recommendations for implementation actions that landowners and operators and the Regional Water Board will be expected to undertake to comply with the TMDL. Chapter 4 of the draft Staff Report will describe in detail the implementation program that staff will recommend for the Regional Water Board's consideration as part of the TMDL.

The TMDL Implementation Plan will address such controllable factors<sup>1</sup> as: channel, riparian, and floodplain restoration and protection, management of timber harvest operations and roads, management of grazing and agricultural operations, urban stormwater runoff and hydromodification. The Implementation Plan at a minimum will contain the following:

- A description of the legal and regulatory controls available to the Regional Water Board to ensure that adequate and timely implementation of the TMDL occurs.
- A description of the implementation actions and management measures necessary to meet the TMDL load allocations and restore the beneficial uses of water in the Elk River.
- A time line for implementing the identified management measures.

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<sup>1</sup> Controllable factors are defined in the Basin Plan as "those actions, conditions, or circumstances resulting from man's activities that may influence the quality of waters of the State and that may be reasonably controlled.

- A monitoring plan for tracking compliance with the TMDL management measures and progress toward meeting TMDL load allocations and water quality objectives and proposed targets.

### CEQA Scoping

On April 17, 2009, Regional Water Board staff announced the start of the required California Environmental Quality Act (CEQA) scoping period for the Elk River Sediment TMDL. On May 20, 2009, Regional Water Board staff held a CEQA scoping meeting in Eureka. The purpose of the CEQA scoping meeting was to describe the Regional Water Board staff's approach for development of the Elk River Sediment TMDL. Staff provided examples of best management practices (BMPs) that might reasonably be implemented to comply with a sediment TMDL and to seek the public's input on potential environmental impacts that might result from construction and maintenance of this type of BMPs. Along with the preliminary-drafts of Chapters 1 and 2 of the Staff Report, the implementation action matrix and a summary of source categories, staff presented the following preliminary recommendations for the TMDL implementation program.

- A new prohibition on excess sediment discharge in Elk River (not limited just to Logging, Construction, and Associated Activities as is currently contained in the Basin Plan), consistent with what was previously proposed by Regional Water Board staff in the draft Region-wide Sediment Amendment.
- Revisions to the existing Watershed-Wide Waste Discharge Requirements for industrial timber harvesting activities for Humboldt Redwood Company and Green Diamond Resource Company lands in Elk River to be consistent with the TMDL load allocations and implementation measures.
- Development of a new Conditional Waiver (and/or general WDR) for grazing and agricultural uses to be consistent with the TMDL load allocations and implementation measures and to be compliant with the State Water Resource Control Board's 2004 Non-Point Source Policy.
- Enroll landowners engaged in timber harvesting activities on non-industrial lands under the recently adopted timber harvest Conditional Waiver.
- Designate areas that are proposed for rapid development in the Humboldt County General that are adjacent to, but beyond, the Eureka City limits, as stormwater Phase II Municipalities. This will trigger the requirement to develop a stormwater management program consistent with the new Phase II stormwater permit adopted by the State Water Resources Control Board.
- Broaden partnership for the development and implementation of a lower Elk River Restoration and Enhancement plan to help recover beneficial uses of water and abate nuisance flooding conditions resulting from altered channel and floodplain conditions associated with the sediment impairment.

Initially, numerous participants in the meeting sought greater understanding of the TMDL development approach, including detail on the data sources used in the TMDL analyses. The most vocal participants represented grazing activities and expressed concern over pending regulations. Staff view the meeting as a success as it was well

attended (with approximately 50-60 participants) and additional stakeholders are now engaged in the process.

The scoping period remained open until June 22, 2009, during which the public was invited to submit additional comments. A summary of the written CEQA Scoping Comments received by Regional Water Board staff are provided in Attachment C.

#### Public Workshop

Staff is currently scheduling an additional workshop for November 10, 2009 in the Eureka area to provide an update to the local stakeholders whom are unable to attend the October 1<sup>st</sup> Regional Water Board workshop while providing for additional opportunities for discussion. Staff will provide the same basic information at both the October 1 Board workshop and the November 10 Staff workshop.

Preliminary Staff Recommendation:      None.