
North Coast Regional Water Quality Control Board

April 22, 2013

Mr. Eric Shott
National Marine Fisheries Service
777 Sonoma Avenue Room 325
Santa Rosa, CA 95404

Dear Mr. Shott:

Subject: Comments on the Public Draft of the Environmental Impact Statement/Program Timberland Environmental Impact Report for the Habitat Conservation Plan/Natural Communities Conservation Plan and Timber Management Plan for Mendocino Redwood Company

File: Timber, General

Thank you for the opportunity to comment on the Public Draft of the Environmental Impact Statement/Program Timberland Environmental Impact Report (EIS/PTEIR) for the Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) and Timber Management Plan (TMP) for Mendocino Redwood Company (MRC). Our comments are enclosed.

We appreciate having been invited to participate from the early stages in the development of the HCP. Throughout the process, MRC has cooperated with Regional Water Board staff to address water quality concerns. This spirit of cooperation is embodied in Regional Water Board Resolution No. R1-2007-0034, *A Collaborative Effort to Develop Ownership-Wide Waste Discharge Requirements for Timber Harvesting Activities Conducted by the Mendocino Redwoods Company on Their Lands in Mendocino and Sonoma Counties*.

With the incorporation of our suggested revisions regarding TMDLs, the temperature objective, and maximum weekly maximum temperatures, we believe the Public Draft of the EIS/PTEIR provides a reasonable analysis of the potential environmental impacts on the various listed aquatic species of implementing the HCP/NCCP (the Proposed Action).

If you or your staff have any questions regarding our comments, please contact David Fowler at (707) 576-2756.

Sincerely,

Original signed by

Fred J. Blatt
Division Chief
Nonpoint Source and Timber Harvest

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Enclosed: Regional Water Board staff comments

cc:

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North Coast Regional Water Quality Control Board

TO: Fred Blatt
Division Chief
Nonpoint Source and Timber Harvest
Original signed by

FROM: David Fowler
Representing review staff

DATE: April 22, 2013

SUBJECT: Review and Comments on the Public Draft of the Environmental Impact Statement/Program Timberland Environmental Impact Report for the Habitat Conservation Plan/Natural Communities Conservation Plan and Timber Management Plan for Mendocino Redwood Company

The North Coast Regional Water Quality Control Board staff (Regional Water Board staff) have completed reviewing the Public Draft of the *Environmental Impact Statement/Program Timberland Environmental Impact Report (EIS/PTEIR)* for the *Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP)* and *Timber Management Plan (TMP)* for Mendocino Redwood Company (MRC). It should be noted that these comments are focused on the EIS/PTEIR and not directly on the HCP/NCCP.

Summary

The purpose of Mendocino Redwood Company's HCP/NCCP is to provide long-term and ownership-wide protection of natural communities and individual listed species through implementation of habitat conservation measures. The HCP/NCCP includes specific measures and strategies developed to protect or enhance ecosystem health, and measures to minimize and mitigate potential effects on covered species. The HCP/NCCP is proposed to be in effect for a term 80 years.

MRC began developing the HCP/NCCP more than a decade ago, in 2002. From the early stages, MRC invited Regional Water Board to participate in the process. Over the years, Regional Water Board staff have reviewed the various drafts, provided extensive comments, and participated in multi-agency discussions. Throughout the process, MRC has cooperated with Regional Water Board staff to address water quality concerns. In June of 2007, the Regional Water Board adopted Resolution No. R1-2007-0034, *A Collaborative Effort to Develop Ownership-Wide Waste Discharge Requirements for Timber Harvesting*

Activities Conducted by the Mendocino Redwoods Company on Their Lands in Mendocino and Sonoma Counties. The resolution lists among its goals, to “incorporate the Porter-Cologne Act, the Basin Plan, and Clean Water Act requirements into the HCP/NCCP to the greatest extent practicable” and to “ensure that measures developed to meet the requirements of the ESA and the NCCPA are consistent with, and are complemented by, any measures required by the Porter-Cologne Act, the Basin Plan, and the Clean Water Act.”

The EIS/PTEIR contains a discussion and analysis of the Proposed Action and four alternatives. The alternatives include status quo (“No Action”), enhanced riparian protections (Alternative A, “Enhanced HCP/NCCP”), protections for terrestrial species only (Alternative B, “Terrestrial Reserves”), protections for a limited number of species and half the term of the Proposed Action (Alternative C, “Limited HCP”). Under the Proposed Action, MRC is requesting incidental take protection for 11 animal and 31 plant species for a term of 80 years. Covered activities include: silviculture and stand improvement; vegetation management, including planting, manual brush and tree removal, and burning for site preparation; commercial timber operations, which entail felling, limbing, bucking, yarding, loading, and hauling of timber, as well as maintenance and refueling of heavy equipment; road and landing construction, use, maintenance, and decommissioning; drafting of water in support of timber operations and road and landings programs; operation of non-commercial rock pits and quarries; habitat improvement and creation, including restoring drainage systems disrupted by past land use activities; and data collection for research and monitoring associated with the HCP/NCCP conservation measures.

Comments

Regulatory Context

Section 1.6 of the EIS/PTEIR describes the current federal and state regulatory framework. The Porter-Cologne Water Quality Control Act and how it applies to MRCs activities within its ownership is accurately described in section 1.6.2.5. This language is, however, inconsistent with the language in Chapter 2 of the HCP/NCCP, which appears to be somewhat out-of-date. Regional Water Board staff suggest that the HCP/NCCP Chapter 2 language should be revised to reflect the regulatory context discussion contained in the EIS-PTEIR.

Total Maximum Daily Loads (TMDLs)

Section 3.3.1.4, Affected Environment and Environmental Effects: Water Quality, includes a discussion of the Clean Water Act Section 303(d) (303(d)) and Total Maximum Daily Loads (TMDLs). The discussion in Section 3.3.1.4 is inconsistent with regard to the Gualala River. The HCP/NCCP primary assessment area includes approximately 1,000 acres in the Gualala River watershed. For purposes of the watershed analyses, this portion of the Gualala River watershed was included in the Garcia River watershed analysis. Although page 3-66 correctly states that the Gualala River is listed as impaired due to excessive aluminum, it does not include the Gualala River in the list of sediment and temperature impaired

waterbodies. Pages 3-66, 3-77, 3-92, 3-98, 3-102, and Table 3.3-7 on page 3-67 all lack acknowledgement of the 303(d) listing for sediment and temperature of the Gualala River watershed. Regional Water Board staff suggest that these sections should be revised to more accurately and completely describe the 303(d) listing of the Gualala River.

Basin Plan Temperature Objective

Although stated correctly in Table 3.3-6 on page 3-65, the water quality objective for temperature is misquoted on page 3-71 (lines 13-15) and again on page 3-84 (lines 7-10). The discussion appears to imply that management activities may increase water temperatures by up to five degrees Fahrenheit. It is important to note that *any* increase in temperature above natural may only occur *after* demonstrating that such an increase will not adversely effect the beneficial uses. Until such a demonstration is made, no increase in temperature is permitted. Regional Water Board staff suggest that these sections should be revised to correctly state the requirements of the Basin Plan water quality objective for temperature.

Maximum Weekly Average Temperatures

The discussion of water temperature on pages 3-71, states that the Regional Water Board recommends using maximum weekly average temperatures (MWATs) for evaluating temperature suitability thresholds for aquatic organisms. This is not correct. Regional Water Board staff recommend using maximum weekly *maximum* temperatures (MWMTs). The document *Effects of Temperature, Dissolved Oxygen/Total Dissolved Gas, Ammonia, and pH on Salmonids; Implications for California's North Coast TMDLs* (http://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/klamath_river/100927/staff_report/16_Appendix4_WaterQualityEffectsonSalmonids.pdf) may be useful in understanding the Regional Water Board's position on temperature tolerances and metrics.

Class II Watercourse Protections

Similar to the Anadromous Salmonid Protection (ASP) section of the CFPRs, the HCP/NCCP defines two sub-classes of Class II watercourses: Large Class IIs (having drainage areas 100 acres or greater) and Small Class IIs (having drainage areas of less than 100 acres). Large Class II water courses will receive essentially the same protection measures as Class I watercourse. Small Class IIs will receive essentially the same protection as standard Class II watercourses under the CFPRs. While Regional Water Board staff have expressed concern to the Board of Forestry and Fire Protection (BOF) about the minimum protection measures on standard Class II watercourses under the CFPRs, we do not have the same concerns about the Small Class II watercourses under the HCP/NCCP. This is because the geographic limitations on application of Class II-L protection measures of the ASP rules do not exist under the HCP/NCCP. Under the ASP rules of the CFPRs, Class II-L protections are not provided more than 1,000 feet upstream from a Class I watercourse, or for any Class II watercourse in any coastal tributary that lacks anadromy, or for any Class II watercourse in

any planning watershed that lacks anadromy and is not immediately upstream of a planning watershed with anadromy.

Under the HCP/NCCP, the entire length of any Class II watercourse with a drainage area of at least 100 acres will receive Large Class II protection measures, regardless of distance from a Class I watercourse and regardless of anadromy. The HCP/NCCP also provides Large Class II protection measures for Class II watercourses with less than 100 acres where there is sufficient indication that greater protections are warranted (such as cold, spring-fed Class II watercourses with small drainage areas).