

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**SUPPLEMENTAL SHEET FOR REGULAR MEETING OF SEPTEMBER 20, 2002**

Prepared on September 5, 2002

**ITEM: 24**

**SUBJECT: San Lorenzo River Total Maximum Daily Load for Sediment (Including Carbonera Creek, Lompico Creek, and Shingle Mill Creek) as a Basin Plan Amendment**

**KEY INFORMATION**

Staff received a letter on September 4, 2002 from Betsy Herbert of the Sierra Club Forestry Task Force. It is apparent from the comments presented that the commenter did not read the attachments to the Staff Report. Many of the comments ask for information that is already included in Attachment B, TMDL Technical Report. Another letter was received September 9, 2002 from Lawrence Prather, President, Board of Directors, San Lorenzo Valley Water District.

**COMMENTS**

**The Sierra Club, Betsy Herbert, Forestry Task Force**

1. The report fails to mention the impacts to drinking water from sediment in the San Lorenzo River Watershed.

**Staff Response:** The Problem Statement (pp. 2-4, 2-5 Attachment B of the Staff Report) explains the Board's current understanding of the extent of potential impacts to drinking water supplies.

2. The report understates the contribution of timber harvests as a sediment source since timber harvests contribute significantly to mass wasting and the report presents these as separate sediment source categories.

**Staff Response:** Staff based the Source Analysis largely on the report by Swanson Hydrology and Geomorphology, which presented the category for mass wasting as distinct from categories relating to timber harvests. The Mass Wasting category includes mass wasting from timberlands and roads not accounted for in other road and THP categories. For a complete explanation of the mass wasting category, see Attachment B (TMDL Technical Report) of the Staff Report: p. 6-8,

Allocations, and p. 18, Appendix B—Background Data for Source Analysis. The contribution of roads to the process of mass wasting in the San Lorenzo River watershed has not been quantified. However, it is widely understood that volumetrically the vast majority of sediment delivered to waterbodies through mass wasting occurs in major, infrequent landslides, which derive from factors other than human disturbance (e.g., large storms, earthquakes). Further, staff anticipates that the reduction of sediment from mass wasting called for in the Implementation Plan and TMDL allocation will be achieved, not by preventing large slides, but by addressing chronic sources like those described by the commenter.

3. The Staff Report Table 1: Sediment Sources, is misleading since it greatly de-emphasizes the impact of timber harvesting, does not consider that timber harvest roads are a major contributor to mass wasting, and to channel/bank erosion, and fails to define terms such as "timber harvest lands."

**Staff Response:** Table 1 of the Staff Report is intended as a summary of sediment sources, not an explanation of source categories. Table 4-1, p. 4-3, Attachment B to the Staff Report includes a

description of source categories. Regarding mass wasting, see response to Comment 2, above.

4. The report does not discuss how data reported in Tables 1 and 2 were collected. What methods were used to derive sediment volumes delivered from each source? How was the volume of sediment delivered from a THP or a road measured? It is widely acknowledged that most of the sediment from timber operations is delivered from Class III streams.

**Staff Response:** Refer to Section 4: Source Analysis of the TMDL Report (Attachment B to the Staff Report) for the discussion of how data were collected. Additional detail is provided in Appendix B — Background Data for Source Analysis, of the same document. Erosion rates for roads and THP parcels were based on the Soquel Demonstration Forest Study (Cafferata, 1993).

5. Table 4, p. 5 of the Staff Report is incomplete and does not list current estimated loads.

**Staff Response:** The table is complete. Current estimated loads are in Table 2.

6. Three-Tier Framework for Nonpoint Source Pollution Control:

The commenter “strongly encourages the RWQCB to skip the first two tiers” of the three-tier framework with regards to timber harvests, and objects to allowing timber industry representatives and California Department of Forestry and Fire Protection staff to formulate BMPs on a voluntary basis.

**Staff Response:** The Implementation Plan for this TMDL is consistent with the California Nonpoint Source Plan, which lays out the three-tier approach to nonpoint source pollution prevention. The Implementation Plan further sets forth a schedule for completion of specific actions relative to timber harvest planning in the watershed. Staff contends that BMPs developed in a voluntary, cooperative manner, as required in the Implementation Plan, are more likely to result in successful implementation and sediment reductions.

7. Trackable Implementation Action A

Commenter suggests changing Action A (Table 5, p. 7 of Staff Report) to include increasing RWQCB staff presence at Timber Harvest Plan Review Team meetings to 100% where Class I and Class II watercourses are concerned.

**Staff Response:** Staff anticipates the need to attend Review Team meetings only when issues of concern arise during the Pre-Harvest Inspection.

8. Trackable Implementation Action C  
Commenter objects to BMPs developed by the Working Group being voluntary and insists that the Working Group include members of the public, including representatives from neighborhood and environmental groups.

**Staff Response:** The purpose of the Working Group is for practitioners and regulators to develop specific timber harvesting management practices that would be protective of water quality. The Working Group will include agency representatives with expertise in the resource protection issues in discussion. Similarly, the regulated community of timber owners and professional foresters possess the relevant expertise to respond to the agencies’ concerns. Local stakeholder input would be most appropriately provided through the San Lorenzo River Technical Advisory Council, which will be provided with Working Group status reports and work products. Also, see response to Comment 6.

9. Trackable Implementation Action D  
a. Commenter questions whether county erosion control enforcement is legally possible after the Timber Harvest Plan maintenance period, since the County needs permission to enter lands when no complaints have been filed.  
b. She further recommends that the Board take more preventative actions before Plans are approved, such as requiring larger stream setbacks, cutting restrictions on steep slopes, and water quality monitoring.

**Staff Response:**  
a. The County’s Erosion Control Ordinance is not enforceable during the Timber Harvest Plan (THP) when the California Department of Forestry and Fire Protection has jurisdiction. However, once the THP maintenance period has ended

(usually three years), the Erosion Control Ordinance is enforceable. The County Planning Department is usually alerted to a potential violation of the ordinance through a complaint, but County staff may also observe conditions in publicly accessible portions of the watershed downstream of a previously harvested area that compel them to investigate further. In either case, the County staff would request permission to enter the property to inspect. If the landowner does not voluntarily permit the County access, the County can obtain an inspection warrant from the District Attorney.

The intent of this Implementation Action (D in Table of Trackable Implementation Actions, see Resolution) is to have the County Planning Department, 1) respond to complaints concerning recently harvested areas in a timely manner, and/or 2) conduct a minimum of surveillance activity in areas adjacent to, or downstream of these areas.

b. The Regional Board has the authority to require BMPs on a case-by-case basis. Article 4, Chapter 4 of Division 7 of the California Water Code (Porter-Cologne) provides authority to the Regional Board to issue requirements for waste discharge that could include BMPs. To require a defined set of BMPs for all THPs throughout the watershed, Staff would have to propose a Basin Plan Amendment identifying the specific requirements (BMPs). The Implementation Actions identified in the Implementation Plan do not identify the specific management practices that will result in sediment reduction. As such the management practices developed through completing Implementation Action C are not intended to be independently enforceable by the Regional Board. The Regional Board will rely on scheduled 3-year reviews, as well as Pre- and Post-Harvest Inspections on timber harvests, to track Implementation Actions and the effectiveness of management practices and determine whether to continue with Tier 1, self-determined implementation. If progress toward sediment reductions were not satisfactory, staff would develop a

regulatory approach (rather than a Tier 1, self-determined approach) and present it to the Regional Board as a revised Basin Plan Amendment.

10. Trackable Implementation Action F  
Timber Harvest Best Management Practices Best Management Practices “should include one tree-height no-cut buffer zones, and restriction on new forest roads.”

**Staff Response:** See response to Comment 9.

11. The commenter questions whether Board staff has interpreted the language in the 2001 Forest Practice Rules in the same way that the California Department of Forestry and Fire Protection does, regarding Interim Rules for protection of threatened or impaired waterbodies.

**Staff Response:** The TMDL Implementation Plan presents staff’s interpretation of the Interim Rules explicitly to eliminate any ambiguity regarding what watersheds they pertain to. Regional Board staff are not responsible for California Department of Forestry and Fire Protection’s interpretation.

12. The commenter asks how implementation monitoring will ensure that identified management actions are undertaken.

**Staff Response:** The Implementation Plan explains the schedule of review and reporting activities that are required of implementing parties and responsible discharges. Regional Board staff will conduct the review in consultation with the San Lorenzo River Technical Advisory Committee on an annual basis.

**San Lorenzo Valley Water District, Lawrence Prather, President, Board of Directors**

13. The commenter asks if the Regional Board has the legal authority to compel Timber Harvest Plans to be regulated by BMPs: a) developed through this TMDL’s Implementation Action C, or b) consistent with Section 916.9 of the Forest Practices Rules (Implementation Action F).

**Staff Response:** Yes, we have the legal authority to require BMPs on a case-by-case basis. Article 4,

Chapter 4 of Division 7 of the California Water Code (Porter-Cologne) provides authority to the Regional Board to issue requirements for waste discharge that could affect water quality. Timber operations are not exempt from waste discharge requirements, since the U.S. Environmental Protection has not certified that the Forest Practice Rules constitute best management practices for silviculture (Section 4514.3 of the California Public Resources Code).

14. San Lorenzo Valley Water District staff in consultation with numerous hydrologists and geomorphologists suggests that monitoring must be at least on an annual basis to detect trends in sediment loading.

**Staff Response:** Staff chose the proposed triennial frequency for monitoring based on consideration of the number of sampling reaches (15) and the number of locations within each reach (5 to 10). Staff considers this number of samples (up to 150) is adequate to identify trends in the parameters examined (percent fines and portion of pools filled with fine sediment). Staff also considered the significant resource commitment this amount of monitoring represents. Staff is prepared to increase the frequency should it become apparent that triennial monitoring fails to capture trends identified by complimentary monitoring efforts of the County and partnering agencies, pursuant to the Draft San Lorenzo River Salmonid Enhancement Plan.

## **ATTACHMENTS**

1. Letter from Sierra Club, dated August 28, 2002.
2. Letter from San Lorenzo Valley Water District dated September 9, 2002.

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