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November 11, 2004

Mr. William R. Massey, Chairman  
North Coast Regional Water Quality Control Board  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA. 95403

RE: ORDER NO. R1-2004-0087. Total Maximum Daily Load Implementation for Sediment Impaired Receiving Waters In The North Coast Region.

Dear Chairman Massey and Members of the Board:

The California Licensed Foresters Association (CLFA) appreciates this opportunity to provide some important input to the North Coast Regional Water Quality Control Board (NCRWQCB) on this matter. CLFA has concerns regarding the order as proposed. Our comments are as follows:

#### **Implementation Prior to Assessment**

The proposed Order R1-2004-0087 (Order) cites numerous laws and statutes that are currently available to deal with sediment discharges. As stated in the Order, the goal is to “accelerate the restoration of sediment impaired water bodies in the North Coast Region” beyond what has been realized under the current TMDL process.

This appears to be somewhat out of sequence with the intent of the TMDL process. The TMDL process is designed to assess impairments, analyze their potential sources, and subsequently propose implementation strategies and a regulatory framework to meet specified goals. Under this Order, the assessment and analysis phases of the process are skipped and the process is taken directly to implementation without the specific information needed to guide that implementation.

An important aspect of the TMDL process is the validation of a water body listing as impaired under 303(d), and if valid, to assess what portions are contributed by anthropogenic activity. It is entirely plausible that this implementation policy will be carried out on water bodies that, under scientific scrutiny, are not impaired significantly from anthropogenic causes. This blanket policy could cause considerable financial and regulatory burden to address a problem that does not exist.

The following is an additional illustration of why we cannot support a policy of TMDL implementation prior to TMDL development. At the workshop for this Order held in Yreka, NCRWQCB Staff indicated that they will be recommending that the listing of the Salmon River in northern California be lifted in regards to the nutrient stressor. Staff came to this conclusion after conducting the TMDL analysis. By adopting this Order, the NCRWQCB would, in effect, be potentially setting up the scenario in which additional regulations such as the proposed Regional Sediment Amendment are promulgated on water bodies which ultimately get delisted for the sediment stressor after the TMDL analysis is completed.

Regional Boards have considerable existing authority and tools available to deal with site-specific problems or discharges outside the TMDL process. The implementation of TMDL regulations prior to the supporting scientific analysis seems inappropriate, as does the circumvention of the TMDL process merely because it is inherently complex and involved.

### **Duplicative Regulation**

The proposed Order cites the recent adoption of a Conditional Waiver (R1-2004-0016), and General Waste Discharge Requirements (R1-2004-0030), both adopted to regulate timber operations on private land in the North Coast Region.

These Orders represent a significant increase in the regulatory oversight of timber harvesting over previous approaches within the region. The justification for the accompanying increase in regulation and oversight on the timber harvesting process was due to perceived regulatory need. These aforementioned policy changes address the very same issues that are being offered as justification for the proposed Order R1-2004-0087.

Given that these items were adopted in June of 2004, insufficient time has passed to allow the assessment of the performance of these Orders to meet stated goals. Adopting this Order will be duplicative in nature given significant overlap in targeted land use activities.

### **Emphasis on Non-Regulatory Actions**

The pursuit of non-regulatory actions and the undertaking of public outreach and education should be emphasized more throughout the proposed Order. Collaborative and cooperative efforts could be an effective methodology to address current water quality issues. These issues are Basin wide and, as noted, have not been dealt with adequately to protect water quality in some cases. A large number of landowners willingly participate in cooperative efforts to improve land management techniques and strategies. This willingness should be capitalized upon.

In summary, the proposed order should be revised to: (1) rely on the scientific analysis of a water body prior to implementing regulatory framework (2) allow time to assess the efficacy of recently adopted programs relating to timber harvesting and (3) focus on education, outreach and collaboration as a primary tool to achieve landscape wide goals with a wide variety of landowners and land uses.

Very truly yours,

Chris Quirnbach, RPF #2623  
President, CLFA

*The California Licensed Foresters Association, with approximately 700 members, represents the common interests of Registered Professional Foresters in the State of California. The Association provides opportunities for continuing education and public outreach to its membership, which includes diverse professionals affiliated with public agencies, private timber companies, consultants and the academic community. Governed by an elected Board of Directors, CLFA was established in 1980 after the passage of the landmark California Professional Foresters Law.*