



# California Regional Water Quality Control Board

## North Coast Region

**William R. Massey, Chairman**



**Winston H. Hickox**  
*Secretary for  
Environmental  
Protection*

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**Gray Davis**  
*Governor*

Transmitted via email on November 10, 2003

Leslie Markham  
California Department of Forestry  
135 Ridgeway Avenue  
Santa Rosa, CA 95401

Dear Ms. Markham:

**Subject: Non-concurrence with Second Review Team Chair's Recommendation of Approval for Timber Harvesting Plan 1-03-177 HUM**

Second Review for Timber Harvesting Plan (THP) 1-03-177 HUM was completed on November 6, 2003. North Coast Regional Water Quality Control Board (Regional Water Board) staff participated in the review team meeting for this THP, but did not participate in the pre-harvest inspection (PHI). We disagree with the Second Review Team Chair's recommendation for THP approval because of the reasons provided below.

Since raising the issue in December 2001, Regional Water Board staff have long held that the rate of harvest and associated cumulative impacts to the beneficial uses of water under the California Department of Forestry's (CDF's) implementation of the Scotia Pacific Company's (the landowner's) Sustained Yield Plan (SYP) cannot meet the goals of the Water Quality Control Plan for the North Coast Region (Basin Plan). Our position has been painstakingly documented in numerous PHI Reports, non-concurrence letters to CDF, an issue paper presented to policy makers at CDF and the Board of Forestry, and finally a request for Head of Agency Appeal for THP 1-02-218 HUM. Nevertheless, CDF continues to fail to address our concerns on what has come to be known as the "SYP issue."

Recently, a Humboldt County Superior Court judge ruled that the SYP is invalid under the California Environmental Quality Act (CEQA). Despite this turn of events, our concerns have not changed relative to the cumulative impacts from harvest rates on the lands covered by the SYP, especially in the Van Duzen watershed. Rather than reiterate the rationale for our position on this rate of harvest issue, we refer the reader to the our July 22, 2003 non-concurrence letter for THP 1-02-197 HUM, and the Basis for Appeal in our September 18, 2003 request for Head for Agency Appeal for THP 1-02-218 HUM, and reserve the rest of this letter to pose a recommendation to CDF in light of recent developments.

As a result of the recent court ruling, all references to the SYP in the landowner's THPs have been removed, and CDF has proceeded to approve these THPs for maximum sustained production under Option "C" of section 913.11 of the Forest Practice Rules (FPRs). Per the FPRs, Option "C" may be

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utilized by a large landowner provided that an Option "A" document is on file (i.e., under review) with CDF. The landowner has such a document on file, associated with THP 1-02-223 HUM.

We disagree with CDF's decision to continue to approve plans under Option "C", considering the fact that the landowner's Option "A" document appears to project harvest rates that are even greater than those projected in original SYP. The SYP has already been found to be invalid under CEQA. Furthermore, our numerous non-concurrence letters have demonstrated that CDF has approved plans with harvest rates that far exceed the projections in the invalid SYP. In fact, as of the date of this letter, CDF has approved 135% of the total 10-year harvest projections for the Van Duzen watershed in approximately 5.8 years, and 163% of the clearcutting projections. Prior to allowing impaired conditions in the Van Duzen watershed to become further degraded by excessive rates of harvest and related activities, CDF needs to analyze the relationship between rates of harvest in the Van Duzen watershed (and on all other covered lands) and cumulative impacts to the beneficial uses of water. THPs in these watersheds should not be approved until such an analysis demonstrates that the current rates of harvest provide adequate protection for the beneficial uses of water under the Basin Plan.

We recommend that THP 1-03-177 HUM not be approved until CDF can produce an adequate cumulative effects analysis demonstrating that the rate of harvest in the Van Duzen watershed will not further degrade or impede the recovery of the impaired beneficial uses of water in the Van Duzen River. This may be accomplished by approving a new SYP, or by approving an Option "A" document capable of addressing our concerns. This cannot be accomplished by approving this THP under "Option C". At a minimum, we request that CDF not approve this THP until members of the Interagency Liaison Committee, who were briefed on the issue at an October 21, 2003 meeting, have provided some direction to CDF and Regional Water Board staff.

The above recommendations and comments are provided pursuant to the statutory authority contained in the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.), the Water Quality Control Plan for the North Coast Region (Basin Plan), and the Z'Berg Nejedly Forest Practice Act (California Public Resources Code section 1037.5).

We trust the information presented herein provides guidance that will be helpful in protecting the beneficial uses of waters of the State of California. Please include this letter in the official files for THP 1-03-177 HUM. If you have any questions, please feel free to contact me at (707) 576-2689.

Respectfully submitted,

Original Signed By

Mark Neely, CEG #1582  
Senior Engineering Geologist  
Eel River / Humboldt Bay Unit

cc: Sheryl Freeman, Staff Counsel  
Erik Spiess, Staff Counsel

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**References:**

California Forest Practice Rules, 2003.

North Coast Regional Water Quality Control Board, Water Quality Control Plan (Basin Plan), including 2002 amendments.

North Coast Regional Water Quality Control Board. Non-concurrence letter for Timber Harvesting Plan 1-02-197 HUM (July 22, 2003).

North Coast Regional Water Quality Control Board. Request for Filing a Head of Agency Appeal of Timber Harvesting Plan 1-02-218 HUM (September 18, 2003).

Timber Harvesting Plan 1-03-177 HUM.