California Regional Water Quality Control Board
North Coast Region

ORDER NO. R1-2006-0039

WATERSHED-WIDE WASTE DISCHARGE REQUIREMENTS FOR TIMBER HARVESTING PLAN ACTIVITIES CONDUCTED BY SCOTIA PACIFIC COMPANY, SALMON CREEK CORPORATION, AND THE PACIFIC LUMBER COMPANY IN THE ELK RIVER WATERSHED

Based on the findings set out in Resolution No. R1-2006-0038, which adopts these watershed-wide waste discharge requirements (hereinafter "watershed-wide WDRs" or "this Order"), the California Regional Water Quality Control Board, North Coast Region, (hereinafter "Regional Water Board") orders that Scotia Pacific Company, Salmon Creek Corporation, and the Pacific Lumber Company (hereinafter collectively referred to as the "Discharger") shall comply with the following:

SECTION I: OVERVIEW AND ORDER STRUCTURE

These watershed-wide WDRs apply to Timber Harvesting Plan (THP) Activities conducted on lands operated on and/or owned by the Discharger in the Elk River watershed. For purposes of this Order, the term "Elk River watershed" refers to the area comprised of the Lower North Fork Elk River (1110.000201), Upper North Fork Elk River (1110.000202), Lower South Fork Elk River (1110.000302), and Upper South Fork Elk River (1110.000301) planning watersheds (CalWater V2.2). A map delineating the planning watershed boundaries and the location of the Elk River watershed in the Humboldt Bay area is attached to this Order as Attachment A-1. A map delineating the Discharger's ownership within the Elk River watershed is attached as Attachment A-2.

As stated in the findings contained in Resolution No. R1-2006-0038, adopted with this Order, Elk River has been cumulatively impacted by discharges of sediment and nuisance flooding related to the intensity of Timber Harvesting Plan Activities. This Order, when coupled with applicable cleanup and abatement orders, addresses past, present and future impacts associated with discharges of Waste from THP Activities in the Elk River watershed.

The Discharger must apply for coverage of a THP under this Order by submitting an application and appropriate filing fee as detailed in Section VII: Application Procedures, below. Coverage does not take effect until the Discharger has received written notification from the Regional Water Board Executive Officer stating that coverage is approved. Under this Order, any initiation of a discharge (i.e., Timber Harvest Plan Activity) performed without Executive Officer approval (i.e., enrollment for coverage) is a violation of these watershed-wide WDRs and is subject to enforcement authorities provided to the Regional Water Board under the Porter-Cologne Water Quality Control Act[1] and the federal Clean Water Act.

[1] California Water Code (Water Code) § 13000 et seq.

This Order contains waste discharge prohibitions (Section II), discharge specifications (Section III) receiving water limitations (Section IV), specific provisions (Section V), general provisions (Section VI), application procedures (Section VII), procedures for termination of coverage (Section VIII), and grounds for rescission and denial of coverage (Section IX). All of these sections together are referred to as "Terms and Provisions." Definitions for key (capitalized) terms used in this Order are provided in Section X: Definitions.

SECTION II: WASTE DISCHARGE PROHIBITIONS

A. Discharges of Waste, which are not otherwise authorized by waste discharge requirements issued by the Regional Water Board or the State Water Resources Control Board, to waters of the State are prohibited.

B. Discharges shall not cause or threaten to cause pollution, contamination, or nuisance.

C. Discharges shall not adversely impact human health or the environment or the beneficial uses of water defined in the *Water Quality Control Plan for the North Coast Region* (Basin Plan).

D. Discharges of Waste shall not violate or exceed any applicable Water Quality Requirements as contained in, and as they may be modified from time to time pursuant to amendments to, water quality control plans adopted by the Regional Water Board and approved by the State Water Resources Control Board (Basin Plan), and all other applicable plans and policies adopted by the Regional Water Board or the State Water Resources Control Board.

E. The discharge of soil, silt, bark, slash, sawdust, or other earthen or organic material other than large woody debris from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the Elk River watershed in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited. (Based on the Basin Plan, section 4-28.00, "Action Plan for Logging, Construction, and Associated Activities," hereinafter "Action Plan for Logging.")

F. The discharge of soil, silt, bark, slash, sawdust, or other earthen or organic material other than large woody debris from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the Elk River watershed in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited. (based on the Basin Plan, section 4-28.00, "Action Plan for Logging, Construction, and Associated Activities.")

G. The controllable discharge or deposition of soil, silt, bark, slash, sawdust, or other earthen or organic material other than large woody debris from any logging, construction or associated activity into the Elk River or its tributaries or to a location where such material could pass into the Elk River is prohibited. Controllable discharges or depositions are those actions, conditions, or circumstances that may be reasonably controlled. (Basin Plan, section 3-1.00.)

SECTION III: DISCHARGE SPECIFICATIONS

A. Discharges shall not cause coloration that causes nuisance or adversely affects beneficial uses.

B. Discharges shall not cause the turbidity of Elk River or its tributaries to be increased more than 20 percent above naturally occurring background levels.

C. Discharges shall not cause waters to contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin or that cause nuisance or adversely affect beneficial uses.

D. Discharges shall not cause waters to contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.

E. Discharges shall not cause the suspended sediment load to be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

F. Waters shall not contain settleable materials in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.

G. Discharges shall not cause receiving waters in the Elk River watershed or its tributaries to contain any toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life.

H. Discharges shall not cause waters to contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.

SECTION IV: RECEIVING WATER LIMITATIONS

As set out in the Resolution adopting these watershed-wide WDRs, the receiving water limitations contained herein are numeric interpretations of applicable narrative objectives and prohibitions. Coupled with the other Terms and Provisions of this Order, the receiving water limitations are designed to address cumulative impacts from discharges related to Timber Harvesting Plan Activities. Specifically, the limitations set forth below are keyed to the discharge of runoff and sediment (wastewater) from Timber Harvesting Plan Activities, and are a function of the rate of cutting or felling of trees. In all cases, the more stringent of Limitation A or Limitation B shall apply.

A. The discharge of runoff and associated discharges of Waste from THP areas shall not be permitted at or above levels that inhibit recovery from existing conditions of nuisance flooding and pollution. The numeric receiving water limitation is the volume of permitted wastewater runoff, calculated using the Empirical Peak Flow Reduction Model (Peak Flow Model) described in Attachment B, as applied to all lands in the North and South Fork Elk River watersheds on an annual (calendar year) basis.[2]

[2] For purposes of this Order, the term "North Fork Elk River watershed" refers to the area comprised of the Lower North Fork Elk River (1110.000201) and Upper North Fork Elk River (1110.000202) planning watersheds (CalWater V2.2). Similarly, the term "South Fork Elk River watershed" refers to the Lower South Fork Elk River

1. North Fork Elk River

   a) Based on the design application of the Peak Flow Model described in Attachment B for a target peak flow increase of 7% after 10 years (see Figure 14 in Attachment B), compliance with this receiving water limitation (Receiving Water Limitation A) corresponds to the enrollment of a maximum annual harvest in the North Fork Elk River watershed of 264 Clearcut Equivalent Acres per year.[3]

   b) In the event that the Discharger's Timber Harvesting Plan Activities in any calendar year exceed the harvest acreage associated with this receiving water limitation, no additional acreage shall be enrolled for the remainder of that year, and the Discharger shall be liable for exceedence of said limitation as a violation of this Order. Furthermore, acres harvested in excess of this receiving water limitation for any year shall be counted against acres allowed under the limitation for the subsequent year(s).

   c) If the Regional Water Board staff or the Discharger identifies and demonstrates a significant change in the stage-discharge relationship or conveyance capacity of North Fork Elk River such that the design application of the Peak Flow Model described in Attachment B is no longer valid, either the Discharger or the Executive Officer can request that this receiving water limitation be adjusted and these watershed-wide WDRs modified. Monitoring required in the Monitoring and Reporting Program (MRP) associated with this Order (MRP No. R1-2006-0039) will inform the Discharger and Regional Water Board staff of changes in the stage-discharge relationship and conveyance capacity. Any revision to this receiving water limitation must be approved by the Regional Water Board and be subject to public review.

   d) The Regional Water Board supports efforts to modify infrastructure (roads, bridges, etc.), to improve conveyance capacity, and to make other instream improvements to reduce nuisance flooding in the North Fork Elk River. Significant changes in nuisance flooding conditions will trigger a revision to this receiving water limitation. Any revision of this receiving water limitation must be approved by the Regional Water Board and be subject to public review.

2. South Fork Elk River

   a) Based on the design application of the Peak Flow Model described in Attachment B, existing conditions in the South Fork Elk River do not constitute nuisance.

   b) If the Regional Water Board staff or the Discharger identifies and demonstrates a significant change in the stage-discharge relationship or conveyance capacity of South Fork Elk River such that the design application of the Peak Flow Model described in Attachment B is no longer valid, either the Discharger or the Executive Officer can request that this receiving water limitation be adjusted and these watershed-wide WDRs modified.

(1110.000302) and Upper South Fork Elk River (1110.000301) planning watersheds.

[3] The volume of permitted wastewater runoff calculated using the Peak Flow Model in Attachment B is based on existing conditions at the concrete bridge on Elk River Road at the intersection with Wrigley Road, which constitute nuisance at a recurrence interval of 0.25 years and a wetness index of 150.

c) Monitoring required in the Monitoring and Reporting Program (MRP) associated with this Order (MRP No. R1-2006-0039) will inform the Discharger and Regional Water Board staff of changes in the stage-discharge relationship and conveyance capacity. Any revision to this receiving water limitation must be approved by the Regional Water Board and be subject to public review.

B. The receiving water limitation for sediment discharges from harvest-related landsliding is 25% above background.[4] Sediment discharges from harvest-related landsliding are predicted using the Empirical Harvest-Related Landslide Sediment Delivery Reduction Model (Landslide Reduction Model) described in Attachment C, as applied to lands operated on and/or owned by the Discharger in the North and South Fork Elk River watersheds. Background is defined as predicted discharges from landslides on un-harvested areas.

1. North Fork Elk River

a) Based on the design application of the Landslide Reduction Model described in Attachment C, compliance with this receiving water limitation (Receiving Water Limitation B) corresponds to the enrollment of a maximum annual harvest on the Discharger's lands in the North Fork Elk watershed of 266 acres in low hazard zones, 21 acres in high hazard zones,[5] or any combination of acres between the high and low hazard zones that satisfies the following relationship:

Low Hazard Harvest Acres=-12.807(High Hazard Harvest Acreage)+266.01*

b) In the event that the Discharger's Timber Harvesting Plan Activities in any calendar year exceeds the harvest acreage associated with this receiving water limitation, no additional acreage shall be permitted for the remainder of that year, and the Discharger shall be liable for exceedence of said limitation as a violation of this Order, except as provided under Provision IV(B)(3) below. Furthermore, acres harvested in excess of this receiving water limitation for any year shall be counted against acres allowed under the limitation for the subsequent year(s).

c) If the Regional Water Board staff or the Discharger identifies and demonstrates a significant change in landslide patterns and sediment delivery rates in the North Fork Elk River watershed such that the design application of the Landslide Reduction Model described in Attachment C is no longer valid, either the Discharger or the Executive Officer can request that this receiving water limitation be adjusted and these watershed-wide WDRs modified. Monitoring required in the Monitoring and Reporting Program associated with this Order (MRP No. R1-2006-0039) will inform the Discharger and Regional Water Board staff of changes in landslide patterns and sediment delivery rates. Any

[4] As described in Attachment C, this receiving water limitation is based on sediment TMDLs completed to date for North Coast streams. Because of the stochastic nature of landslide triggering events, this limitation necessarily must be described as a relationship between anthropogenic and background inputs, rather than a fixed rate (volume per time) or sediment delivery per year.

[5] Hazard zones in the North Fork Elk River watershed are based on Hazard Map #3, as defined in the Landslide Reduction Model technical report (Attachment C).

revision to this receiving water limitation shall not occur more frequently than on an annual basis and must be approved by the Regional Water Board and be subject to public review.

2. South Fork Elk River

a) Based on the design application of the Landslide Reduction Model described in Attachment C, compliance with this receiving water limitation (Receiving Water Limitation B) corresponds to the enrollment of a maximum annual harvest of 114 acres on the Discharger's lands in the South Fork Elk River watershed for all hazard zones combined.[6]

b) In the event that the Discharger's Timber Harvesting Plan Activities in any calendar year exceeds the harvest acreage associated with this receiving water limitation, no additional acreage shall be permitted for the remainder of that year, and the Discharger shall be liable for exceedence of said limitation as a violation of this Order, except as provided under Provision IV(B)(3) below. Furthermore, acres harvested in excess of this receiving water limitation for any year shall be counted against acres allowed under the limitation for the subsequent year(s).

c) If the Regional Water Board staff or the Discharger identifies and demonstrates a significant change in the landslide patterns and sediment delivery rates in the South Fork Elk River watershed such that the design application of the Landslide Reduction Model described in Attachment C is no longer valid, either the Discharger or the Executive Officer can request that this receiving water limitation be adjusted and these watershed-wide WDRs modified. Monitoring required in the Monitoring and Reporting Program associated with this Order (MRP No. R1-2006-0039) will inform the Discharger and Regional Water Board staff of changes in landslide patterns and sediment delivery rates. Any revision to this receiving water limitation shall not occur more frequently than on an annual basis and must be approved by the Regional Water Board and be subject to public review.

3. Zero Discharge Effluent Standard for North Fork and South Fork Elk River

For Timber Harvesting Plan Activities in excess of the harvest acreage associated with this receiving water limitation, the Regional Water Board adopts a zero discharge effluent standard for sediment from harvest-related landsliding. The Discharger will become eligible to exceed the harvest acreage associated with this receiving water limitation only upon receiving written approval by the Executive Officer of an enforceable monitoring program to prove that no discharge has occurred.

C. The numeric receiving water limitations specified above in this section are designed to comply with the waste discharge prohibitions and specifications listed in Sections II and III of this Order. These numeric limits are derived from the best available scientific methodologies, and according to the Regional Water Board staff's best professional judgment. Consistent with Section 13360(a) of the Porter-Cologne Water Quality Control Act, the Discharger may propose alternative means of compliance with the prohibitions as

[6] Hazard zones in the South Fork Elk River watershed are based on Hazard Map #3, as defined in the Landslide Reduction Model technical report (Attachment C).

implemented through the receiving water limitations. For example, by altering the location, timing, and methods employed in its THPs, the Discharger may maximize the rate and scale of its THP Activities, while minimizing THP contributions toward the annual limits.

SECTION V: SPECIFIC PROVISIONS

A. Required Technical Reports

1. Annual Pre-harvest Planning Reports

The Discharger shall provide the Regional Water Board Executive Officer by December 1st of each year an Annual Pre-harvest Planning Report in both hard copy and electronic formats. The report shall contain the following information organized in tabular form, and corresponding to a detailed map, delineating the Discharger's anticipated harvest for the upcoming year in the Elk River watershed:

- Acres to be felled, by silvicultural prescription
- Clearcut Equivalent Acres to be felled
- Acres to be yarded, by yarding technique
- Acres to be subject to site preparation, by site preparation technique

All acres reported shall be accompanied by the corresponding watershed (i.e., North or South Fork Elk River), THP number, harvest unit number, and hazard class.[7]

2. Monitoring

a) The Discharger shall develop and implement a Compliance Monitoring Plan to demonstrate that the Discharger's activities in the North and South Fork Elk River watersheds are consistent with the provisions of these watershed-wide WDRs.

i) The following parameters shall be measured under the Compliance Monitoring Plan, measured and reported to the 1/10 of an acre:

- Acres felled, by silvicultural prescription
- Clearcut Equivalent Acres felled
- Acres yarded, by yarding technique
- Acres subject to site preparation, by site preparation technique

All acres reported shall be accompanied by the corresponding watershed (i.e., North or South Fork Elk River), THP number, harvest unit number, and hazard class.[7]

ii) Locations

Any Timber Harvesting Plan Activities covered by these watershed-wide WDRs shall be tracked, recorded, and reported by the Discharger under the Compliance Monitoring Plan.

iii) Methods of Measurement

The Discharger shall develop and implement reliable and repeatable methods of measurement for the Compliance Monitoring Plan.

[7] Hazard zones in both the North and South Fork Elk River watersheds are based on Hazard Map #3, as defined in the Landslide Reduction Model technical report (Attachment C).

iv) Reporting

The Discharger shall submit electronic and hardcopy reports to the Regional Water Board Executive Officer by the tenth (10th) day of each month containing measurements taken pursuant to the Compliance Monitoring Plan during the previous calendar month. The reports shall contain the all data specified under Provision V(A)(2)(a)(i) above, organized in tabular form, and corresponding to a detailed map.

v) Program Documentation, Quality Assurance and Quality Control

The Discharger shall develop a Quality Assurance Project Plan (QAPP)[8] for the Compliance Monitoring Plan consistent with the terms described above.

vi) Time Schedule for Implementation

The Discharger shall provide the QAPP to the Executive Officer for review by June 1, 2006. The Executive Officer shall have 30 days to review and provide comments to the Discharger, and the Discharger shall make the necessary responsive revisions, and resubmit the QAPP within 14 days. If however, the Executive Officer does not provide comments within 30 days upon receipt, then the submitted QAPP shall be considered accepted and the Discharger shall implement the accepted QAPP. No timber falling activities shall be conducted until an accepted QAPP is implemented.

vii) Timing and Duration

The Compliance Monitoring Plan shall be implemented coincident with the adoption of this Order, and shall be in effect throughout the life of these watershed-wide WDRs.

b) Receiving water monitoring and reporting shall be conducted per the requirements detailed in the Monitoring and Reporting Program (MRP) associated with these watershed-wide WDRs (MRP No. R1-2006-0039).

3. Reports Attendant to the Application

The application for THP coverage under this Order requires submission of an Erosion Control Plan, which includes an inventory of Controllable Sediment Discharge Sources, a treatment implementation schedule, and an inspection plan as detailed in Section VII: Application Procedures.

4. Spill Prevention Control and Countermeasure Plan for Petroleum

a) Applicability

The requirement to submit a Spill Prevention Control and Countermeasure (SPCC) Plan applies only to THPs that make use of Petroleum stored in a single aboveground tank with a storage capacity of more than 660 gallons, or multiple tanks with a cumulative storage capacity more than 1,320 gallons. California Health and Safety Code, Section 25270.2 (k) of the Aboveground Petroleum Storage Act defines certain tank facilities not subject to this requirement. A

[8] Guidance on the development of Quality Assurance Project Plans is available from the US Environmental Protection Agency at: http://www.epa.gov/quality/

copy of the SPCC Plan must be kept at the storage facility for which it was developed.

b) Contents

The SPCC Plan shall be designed to prevent and minimize the discharge of Petroleum to waters of the State, and to ensure that THP Activities comply with all State and Federal regulations pertaining to the handling and storage of fuel. These regulations include the "California Aboveground Petroleum Storage Act with 1991 Amendments" (Cal. Health & Safety. Code, Section 25270 et seq.) and the "U.S. Environmental Protection Agency Regulations on Oil Pollution Prevention" (40 CFR 112). The SPCC Plan shall specify the construction and maintenance of impermeable secondary containment.

5. Other Technical Reports

The Executive Officer may require other technical reports as necessary to determine if the THP complies with the conditions for coverage under these watershed-wide WDRs.

B. Implementation of Technical Reports

Once coverage under these watershed-wide WDRs is granted, the provisions of all required technical reports shall be fully implemented as approved.

C. Required Changes to Technical Reports

The Executive Officer may require the Discharger to amend and/or update the required technical reports for cause. Any amendments or update required must meet the licensure requirements in Section VI(N).

D. Required Corrective Actions

While implementing the provisions of the required technical reports, should the Discharger discover a previously undocumented Controllable Sediment Discharge Source, a previously documented but substantially changed Controllable Sediment Discharge Source, or any discharge of Waste that violates a waste discharge prohibition listed in Section II above, the Discharger shall:

1. Implement corrective measures immediately upon discovering the discharge, and notify the Regional Water Board by telephone as soon as possible, but no later than 48 hours after the discovery. The Discharger shall follow the notification with a written report within 14 days to the Regional Water Board, unless otherwise directed by the Executive Officer, that includes:

a) The date the discharge was discovered;

b) The name and title of the person(s) discovering the discharge;

c) A map showing the location of the discharge site;

d) An estimate of the volume and a description of the type of material discharged;

e) A description of the nature and cause of the discharge, including a description of any failed management measure(s) that appear(s) to have contributed;

f) A description of recent weather conditions prior to discovering the discharge;

g) Photos of the discharge site and affected downstream areas;

h) A description of corrective measures already implemented;

i) An implementation schedule and accompanying description of further corrective measures that will be implemented in the future; and

j) The signature and title of the person preparing the report.

2. Revise, as necessary, the required technical reports and subsequent Erosion Control Plans to account for the additional management measures that have been and will be implemented, to make necessary changes to implementation schedules, and to account for any additional inspections or required Monitoring as a result of the discharge. The Discharger shall submit the revised reports to the Regional Water Board within 14 days following the submission of the written notification described in Section V(D)(1) above.

E. THP Amendments

The Discharger shall certify in writing that all amendments to THPs covered under these watershed-wide WDRs comply with the Terms and Provisions of this Order. The certification shall be submitted to the Regional Water Board upon CDF approval of the amendment, and before Timber Harvesting Plan Activities under the amendment commence. The Discharger shall also update the required technical reports as necessary to ensure that amended THPs remain consistent with these watershed-wide WDRs, and shall submit the updated reports to the Regional Water Board Executive Officer before THP Activities under the amendment commence. If the Discharger does not provide the required certification and updated technical reports prior to commencing the amended THP Activities, the Executive Officer may terminate coverage for the THP under these watershed-wide WDRs pursuant to Section IX(A) of this Order.

F. Grandfathering

1. During the development of this Order, and in the absence of these watershed-wide WDRs, certain THPs were granted coverage under the General Timber WDRs (GWDRs). Those enrollments were vacated by the State Water Board on June 16, 2005 (SWRCB/OCC FILES A-1683 AND A-1692). To continue operations on those THPs, the Discharger must now enroll those THPs into these watershed-wide WDRs. No new application fee will be required.

2. Except for the THPs set out in Provision V(F)(1) above, previously enrolled THPs that have not yet been fully cut as of the date of the adoption of this Order, and were previously enrolled in either the old WDRs (Order No. R1 2003-0118) or the GWDRs (Order No. R1-2004-0030) shall be automatically grandfathered into these watershed-wide WDRs. No new application fee will be required.

3. Except for the THPs set out in Provision V(F)(1) above, previously enrolled THPs that have already been fully cut, yarded and hauled, and were covered by a previous WDR or waiver, and have only planting, maintenance requirements, or Monitoring activities remaining on the THP, do not have to be enrolled in these watershed-wide WDRs.

SECTION VI: GENERAL PROVISIONS

The following general Terms and Provisions apply to all THPs covered under these watershed-wide WDRs.

A. CEQA Compliance

All THPs covered under these watershed-wide WDRs shall be in compliance with CEQA prior to the Executive Officer issuing, authorizing, or otherwise approving coverage.

B. Inspection and Entry

Subject to the requirements of Water Code Section 13267(c), the Discharger shall allow the Regional Water Board staff entry onto the affected property, with reasonable notice, for the purposes of observing, inspecting, photographing, video taping, measuring, and/or collecting samples or other Monitoring information to document compliance or non-compliance with this Order.

C. Proposed Pesticide Applications

1. For those THPs where application of pesticides is proposed or being considered, the Discharger shall notify the Regional Water Board in writing at least 45 days prior to any proposed aerial application of pesticides and 30 days prior to any proposed ground-base application of pesticides.

2. For aerial application of pesticides, the Discharger shall submit a Report of Waste Discharge containing, at a minimum, the items listed under the *Action Plan for Control of Discharges of Herbicide Wastes From Silvicultural Applications* on pages 4-32.00 and 4-33.00, (a) through (e), of the Basin Plan. Waste discharge requirements will be prepared for the operation in conformance with the Basin Plan prohibitions and presented to the Regional Water Board for consideration.

3. The notification for ground-based application of pesticides shall include the type of pesticide(s), volume to be applied, method and area location of application (including Timber Harvesting Plan number, if associated with a THP), projected date of application, and measures that will be employed to ensure compliance with applicable Water Quality Requirements. Subsequent changes to the proposed application must be submitted in writing forthwith, and in no event less than 14 days prior to the pesticide application, unless Regional Water Board staff agrees in writing to a lesser notice. This Order does not authorize the application or the discharge of pesticides.

D. Civil Liability

As provided by Water Code Section 13350(a), any person may be subject to civil liability if that person in violation of waste discharge requirements, discharges Waste, or causes Waste to be deposited where it is discharged, into waters of the state.

E. Burden on Discharger

The burden is on the Discharger to demonstrate that the THP Activities proposed for enrollment will comply with the Terms and Provisions of these watershed-wide WDRs.

F. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the Terms and Provisions of these watershed-wide WDRs.

G. Proper Operation and Maintenance

The Discharger shall at all times properly operate and maintain all facilities and systems which are installed or used by the Discharger to achieve compliance with the Terms and Provisions of these watershed-wide WDRs and with the provisions of required technical reports. Proper operation and maintenance includes, but is not limited to, adequate laboratory controls and appropriate quality assurance procedures.

H. No Right to Discharge

As provided by Water Code § 13263(g), these watershed-wide WDRs do not create a vested right to continue discharge, nor do they convey any property rights of any sort or any exclusive privileges, nor do they authorize any injury to private property or any invasion of personal rights, nor do they authorize any infringement of Federal, State, or local laws or regulations.

I. Duty to Provide Information

Upon written request by the Executive Officer, the Discharger shall furnish the Regional Water Board, within a reasonable time, access to and copies of any requested information to determine compliance with these watershed-wide WDRs, including, but not limited to, records that must be kept under the Terms and Provisions of this Order.

J. Severability

The Terms and Provisions of this Order are severable; and, if any term or provision of these watershed-wide WDRs or the application of any term or provision of these watershed-wide WDRs to any circumstance is held invalid, the application of such Terms and Provisions to other circumstances and the remainder of these watershed-wide WDRs shall not be affected thereby.

K. Reopener Clause

These watershed-wide WDRs may be modified, revoked and reissued, or terminated for cause. Should data become available suggesting that the receiving water limitations set out herein, or other Terms and Provisions, are either too restrictive or not sufficiently restrictive to protect water quality, the Discharger, the Executive Officer, or any other affected member of the public, may request that the Regional Water Board consider appropriate amendments to these watershed-wide WDRs.

L. Availability

The Discharger shall provide copies of these watershed-wide WDRs, required technical reports, and other applicable and associated documents to appropriate operating personnel, including, but not limited to, Registered Professional Foresters, Licensed Timber Operators and Monitoring staff. The Discharger shall maintain copies of these documents and reports and shall make them available for review by affected personnel at appropriate facilities.

M. Transfers

Coverage under these watershed-wide WDRs is not transferable. A new owner of an enrolled THP must submit an application package, including filing fee, in accordance with the requirements of these watershed-wide WDRs to be authorized to discharge. An owner who sells property covered by these watershed-wide WDRs shall inform the new owner of the duty to file an application and shall provide the new owner with a copy of these watershed-wide WDRs. Failure to inform the new owner shall not release the buyer or the seller from any potential liability for failure to comply for coverage under these watershed-wide WDRs, or other provisions of the Porter-Cologne Water Quality Control Act.

N. Work Conducted by Licensed Professionals

The practice of geology is identified and regulated under Chapter 12.5 (Geologists and Geophysicists Act) of the Business and Professions (B&P) Code, including Rules and Regulations (CCR Title 16, Division 29) and any related sections of the B&P Code, Government Code, Penal Code, and/or Evidence Code. The practice of engineering in California is identified and regulated under Chapter 7 (Professional Engineers Act) of the B&P Code, including rules and regulations (CCR Title 16, Division 5) and any related sections of the B&P Code, Government Code, Penal Code, and/or Evidence Code. The Discharger shall fully comply with all aspects of existing statutes and regulations regarding the practice of geology and/or engineering while satisfying the Terms and Provisions of this Order.

O. Signatory Requirements

1. All applications, Notices of Termination, required technical reports, inspection reports, certifications, and other reports prepared in accordance with the Terms and Provisions of this Order submitted to the Regional Water Board shall be signed by the Discharger or the Discharger's duly authorized representative(s). All persons signing a document under this provision shall make the following certification:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete."

2. Duly authorized representatives include Registered Professional Foresters, Licensed Timber Operators, and other licensed professionals hired by the Discharger and responsible for some portion of the conduct of the THP and/or Monitoring activities. Irrespective of who signs any required documents, the timberland owner is ultimately responsible for compliance with all requirements of these watershed-wide WDRs.

P. Failure to Obtain Coverage

Dischargers who fail to obtain coverage for a THP under this Order or another applicable order will be subject to enforcement under Water Code § 13265 and other applicable laws.

Q. Regional Water Board Authority Not Limited

Compliance with the Terms and Provisions of these watershed-wide WDRs shall not prevent the Regional Water Board or the Executive Officer from taking enforcement action under its authority as appropriate for violations of applicable laws outside the scope of these watershed-wide WDRs.

R. Applicability to National Pollutant Discharge Elimination System Permits

This Order does not apply to discharges requiring a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act, including, but not limited to, silvicultural point sources as defined in 40 Code of Federal Register (CFR) 122.27.

SECTION VII: APPLICATION PROCEDURES

A. To seek coverage for a THP under these watershed-wide WDRs, the Discharger shall submit an application and filing fee to the Executive Officer. The application shall consist of:

1. A letter requesting coverage under these watershed-wide WDRs, using a Report of Waste Discharge Form 200 or equivalent document that meets the requirements of Section VII(C)(1) below;
2. The approved THP document when directed by the Executive Officer;[9]
3. Required technical reports, which, if included by the Discharger in the approved THP document, shall be presented in clearly delineated sections as detailed in Section VII(C) below;
4. A statement certifying that, while the THP is covered under these watershed-wide WDRs, the Discharger is and will remain in compliance with the Terms and Provisions of this Order; and
5. The appropriate filing fee.
6. All elements of an application shall comply with the signatory requirements contained in Section VI(O), above.

B. Coverage under these watershed-wide WDRs shall not take effect until: (1) the Discharger's application is determined to be complete; and (2) the Discharger has received written notification from the Executive Officer stating that coverage under these watershed-wide WDRs is appropriate. It is anticipated that THPs which have had thorough Regional Water Board staff involvement in the review and approval process, and which have no unresolved water quality or procedural issues, will receive written notification of coverage within twenty (20) working days of receipt of a complete application.

C. The Discharger shall incorporate the following technical reports into the THP document as clearly delineated sections or submit them with its application when seeking coverage under these watershed-wide WDRs:

[9] Generally, the Regional Water Board receives approved or accepted THP documents from the lead agency, the CDF. These documents are part of the record for each THP covered by these watershed-wide WDRs. Provided the approved or accepted THP documents are received from the lead agency, the Discharger will not be required to submit a copy to the Regional Water Board when applying for coverage under these watershed-wide WDRs, unless directed by the Executive Officer.

1. Watershed-wide WDRs Application Letter

   The application letter, in addition to asking for coverage under this Order, shall include the THP number, location of the THP by watershed, intended harvest acreages by silviculture, calculated clear cut equivalent acres, and acreages in high and low hazard areas consistent with the requirements in Section V(A)(1). The letter must be signed by the Discharger's representative.

2. Erosion Control Plan

   a) Overview

      The Discharger shall develop and implement an Erosion Control Plan (ECP) for each THP covered under these watershed-wide WDRs. The ECP shall be developed for the entire THP area, including roads used for THP Activities owned by or under the control of the Discharger. The ECP shall be designed to prevent and minimize the discharge or threatened discharge of sediment or other earthen material from Controllable Sediment Discharge Sources into waters of the State to the degree necessary to avoid a violation of applicable Water Quality Requirements or other Terms and Provisions of this Order.

      The ECP shall be developed by a qualified professional, included in the approved THP or submitted with the application when seeking coverage under these watershed-wide WDRs, and shall incorporate Regional Water Board staff recommendations generated as part of the THP review and approval process that were designed to prevent and minimize discharge of sediment.

      Controllable Sediment Discharge Sources may include, but are not limited to, failing or failed watercourse crossings, road failures, road surfaces, landslides, unstable features discharging to or near watercourses, unstable watercourse banks, soil stockpiles, instream and floodplain sediment deposits, vehicle and equipment storage and service areas, skid trails, landings, harvested areas, or any other location discharging sediment or earthen materials. The ECP shall be amended and revised, when necessary, to meet this standard.

   b) Inventory of Controllable Sediment Discharge Sources

      As part of the ECP, the Discharger shall prepare an inventory of Controllable Sediment Discharge Sources to identify all existing or threatened discharge sites within the THP area and develop a time schedule for implementation of prescribed management measures (i.e., cleanup efforts and corrective work). Any method or model used to develop the inventory shall be briefly described and shall be of demonstrated effectiveness and applicability for the inventoried area to attain compliance with applicable Water Quality Requirements. The Discharger shall conduct thorough site evaluations to fully assess on-the-ground conditions and to facilitate the detection of Controllable Sediment Discharge Sources during inventory preparation. Sites already satisfactorily covered by formal, existing agreements with the Regional Water Board designed to prevent and minimize discharges do not need to be addressed in the ECP, but should be briefly described in the inventory. The inventory shall include:

i) A brief description of the inventory method(s) and/or model(s) used,

ii) A topographic map, at a scale of 1:12,000 or higher (e.g. 1:6,000) with no more than 80-foot contours, showing the THP area and the location of all inventoried Controllable Sediment Discharge Sources, and

iii) An estimate of the total sediment volume and an estimate of the relative potential for sediment delivery to a watercourse at each inventoried site.

c) Treatment and Implementation Schedule

As part of the ECP, the Discharger shall prescribe management measures and develop an implementation schedule for cleanup efforts and corrective work to be conducted on Controllable Sediment Discharge Sources listed in the inventory. Prescribed management measures shall be of demonstrated effectiveness and applicability for the inventoried sites to attain compliance with applicable Water Quality Requirements. The implementation schedule must provide for the completion of work on all inventoried sites prior to the termination of coverage for the THP under these watershed-wide WDRs. The implementation schedule must also provide for the timely application of prescribed measures on inventoried sites based on assigned priority. The treatment and implementation schedule shall include:

i) A narrative description of the site-specific management measure(s) prescribed for each Controllable Sediment Discharge Source in the inventory, and

ii) A time schedule for implementing the prescribed management measures for each Controllable Sediment Discharge Source in the inventory on a priority basis. The priority for treatment shall be based, in general, on the threat to water quality, and in particular, on the total sediment volume and the relative potential for sediment delivery at each inventoried site. The highest priorities will be assigned to sites that pose the largest threat to water quality.

d) ECP Inspection Plan

i) Overview

The Discharger shall develop and implement an ECP inspection plan to ensure that all prescribed management measures have been implemented and are functioning as designed at each Controllable Sediment Discharge Source site identified in the ECP and that no new Controllable Sediment Discharge Source sites were created during the previous year. Inspections shall occur at least once before, once during, and once after each winter period during which the THP is covered under these watershed-wide WDRs. Inspections shall include an evaluation of the adequacy and proper implementation of the corrective action undertaken at the site. Inspections shall also include a determination if additional management measures are required to comply with the Terms and Provisions of this Order.

ii) Required Inspections

For each Controllable Sediment Discharge Source corrected under the ECP, the ECP inspection plan shall require at least three inspections to occur annually:

- Prior to October 15th of each year, an inspection shall be conducted to assess and document the adequate implementation of the prescribed management measures at the site and state of readiness for the winter period. If additional management measures are required at the site to comply with the Terms and Provisions of this Order, the Discharger shall implement such measures prior to November 15th and make appropriate revisions to the ECP. Any revisions to the ECP shall be submitted to the Regional Water Board within 14 days following implementation of the additional measures.
- Once following ten (10) inches of cumulative rainfall commencing on November 15 and prior to March 1 of each year, as worker safety and access allows, an inspection shall be conducted to assure and assess management measure performance and to determine if new Controllable Sediment Discharge Sources have developed. If a discharge is identified, corrective action according to Section V(D) of this Order shall be conducted.
- After April 1st, but before June 30, an inspection shall be conducted to assess and document the effectiveness of the prescribed management measures at the site. If additional management measures are required at the site to comply with the Terms and Provisions of this Order, the Discharger shall implement such measures prior to October 15th, and shall make appropriate revisions to the ECP. Any revisions to the ECP shall be submitted to the Regional Water Board within 14 days following implementation of the additional measures.

iii) Required Reports

The Discharger shall submit an annual summary report on ECP implementation to the Executive Officer by June 30th for each year the THP is covered under these watershed-wide WDRs, and upon termination of coverage. Each summary report shall include, at a minimum, the date of each inspection, the inspector's name, the location of each inspection, the effectiveness of management measures employed, whether and what additional management measures were required to comply with the Terms and Provisions of this Order, and the title and name of the person submitting the summary report.

Any additional Controllable Sediment Discharge Sources identified during any of the annual ECP inspections shall be documented in the appropriate annual summary inspection report. The additional site(s) shall be amended into the ECP inventory prior to the next operating season.

SECTION VIII: TERMINATION OF COVERAGE

A. The Discharger may terminate coverage for a THP under these watershed-wide WDRs by submitting to the Regional Water Board a Notice of Termination form (NOT). The NOT shall be signed in accordance with Section VI(O) of this Order. A THP is considered complete and eligible for termination when all of the following conditions have been met:

1. THP Activities are completed;
2. The THP site is stabilized (i.e., there is no potential for discharges of Waste from the THP in violation of the Terms and Provisions of these watershed-wide WDRs);
3. All elements of required technical reports have been completed; and
4. All earthen materials and other Wastes have been disposed of properly.

B. The Executive Officer shall review the NOT and determine its appropriateness by assessing Items VIII(A)(1)-(4) above. The review may include a field inspection to verify NOT completeness. The Executive Officer shall notify the Discharger in writing regarding approval or disapproval of the NOT within six (6) months after receiving the NOT.

SECTION IX: RECISION AND DENIAL OF COVERAGE

A. The Executive Officer shall rescind or deny coverage for a THP under these watershed-wide WDRs if the Executive Officer makes any of the following determinations:

1. The THP does not comply with all Terms and Provisions of these watershed-wide WDRs, including, but not limited to, the receiving water limitations;
2. The THP is reasonably likely to result in or has resulted in a violation or exceedence of any applicable Water Quality Requirement;
3. The THP has varied in whole or in any part from the approved THP in any way that could adversely affect water quality;
4. When requested by another State agency, a subdivision of the State (county) or a Federal agency, and with concurrence by the Executive Officer;
5. The THP is the subject of an unresolved water quality or procedural issue including, but not limited to, a non-concurrence filed by the Regional Water Board staff with CDF;
6. The THP meets the Terms and Provisions of these watershed-wide WDRs, but may still result in a discharge of Waste that could adversely affect water quality; or
7. There are substantive errors or inaccuracies found in information submitted as part of the THP and enrollment application package that, if known at the time of application, would have resulted in a denial or limitation of coverage under these watershed-wide WDRs.

B. Upon receipt of a written notice of rescission or denial of coverage for a THP under these watershed-wide WDRs, the applicability of this Order to the covered THP is immediately terminated. Upon termination, Discharger shall immediately cease all THP Activities that may result in un-permitted discharges of Waste to waters of the State, other than activities necessary to control further discharges.

SECTION X: DEFINITIONS

Terms defined below are capitalized in this Order for ease of recognition. All other terms shall have the same definitions as prescribed by the California Forest Practice Rules as of January 1, 2006, and the Porter-Cologne Water Quality Control Act, as the latter may be amended from time to time.

A. "Erosion Control Plan" or "ECP" means a plan designed and implemented to prevent and minimize the discharge of sediment to waters of the state in violation of applicable Water Quality Requirements or other conditions of this Order. The Erosion Control Plan is developed by a qualified professional, and includes but is not limited to, a map clearly showing the location(s) of the site(s) that could discharge sediment, site specific designs and/or management measures to prevent and minimize the discharge of sediment, and a time schedule for implementation of site specific designs and/or management measures.

B. "Controllable Sediment Discharge Sources" refers to sites or locations that meet all the following conditions:

1. Is discharging or has the potential to discharge sediment to waters of the State in violation of applicable Water Quality Requirements or other Terms and Provisions of these watershed-wide WDRs;
2. Was caused or may be affected by human activity; and
3. May feasibly and reasonably respond to management measures (i.e., cleanup efforts and corrective work).

C. "Monitoring" refers to all types of monitoring undertaken in connection with determining water quality conditions and factors that may affect water quality conditions. This includes, but is not limited to, assessment monitoring, trends monitoring, water quality compliance monitoring, forensic monitoring, hillslope and instream effectiveness monitoring, and implementation monitoring.

D. "Petroleum" means crude oil or any fraction that is liquid at a temperature of 60 degrees Fahrenheit at normal atmospheric pressure. This includes petroleum based substances comprised of a complex blend of hydrocarbons, such as gasoline, diesel, jet fuels, residual fuel oils, lubricants, some petroleum solvents, and used oils.

E. "Terms and Provisions" refers to waste discharge prohibitions, receiving water limitations, specific and general provisions, application and termination procedures, and grounds for rescission and denial of coverage, and all other conditions and requirements set out in this Order and the Monitoring and Reporting Program.

F. "Timber Harvesting Plan Activities" or "THP Activities" means the cutting or removal of both timber or other solid wood forest products from timberland for commercial purposes, together with all the work incidental thereto, including but not limited to, construction, reconstruction, use and maintenance of roads, fuel breaks, firebreaks, watercourse crossings, landings, skid trails, beds for the falling of trees, fire hazard abatement, and site preparation.

G. "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal. Wastes specifically regulated under this Order include: earthen materials including soil, silt, sand, clay, rock; organic materials such as slash, sawdust, or bark that enter or threaten to enter into waters of the State; heat; Petroleum products; and nutrients. Not all wastes are covered by these watershed-wide WDRs. Examples of wastes not specifically regulated under these watershed-wide WDRs include: pesticides, hazardous materials, or human wastes.

H. "Water Quality Requirements" means all applicable water quality objectives (narrative or numeric), prohibitions, TMDL implementation plans, policies, or other requirements contained in water quality control plans adopted by the Regional Water Board and approved by the State Water Resources Control Board, and all other applicable plans and policies adopted by the Regional Water Board or the State Water Resources Control Board, including, but not limited to, the State Water Board Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality Waters in California.

I. "Clearcut Equivalent Acres" shall be calculated as follows: Various harvest types are converted to clear cut equivalent acres (CCE) through the use of canopy removal factors for each harvest type. The appropriate factors shall be multiplied by the acreage corresponding to the proposed silviculture. The factors are 1.0 for clear cut, right-of-way, rehabilitation, or other comparable prescription; 0.75 for shelterwood removal, shelterwood step, seed tree removal, seed tree step, salvage, or other comparable prescription; and 0.5 for selection, commercial thin, thin, and HCP3 or other comparable prescription. Harvest areas employing the variable retention silvicultural prescription shall be calculated as a combination of clearcut and selection, with the retention areas being calculated as selection.

J. "THP," for purposes of these watershed-wide WDRs, means a Timber Harvesting Plan approved by CDF, and in compliance with CEQA.

CERTIFICATION

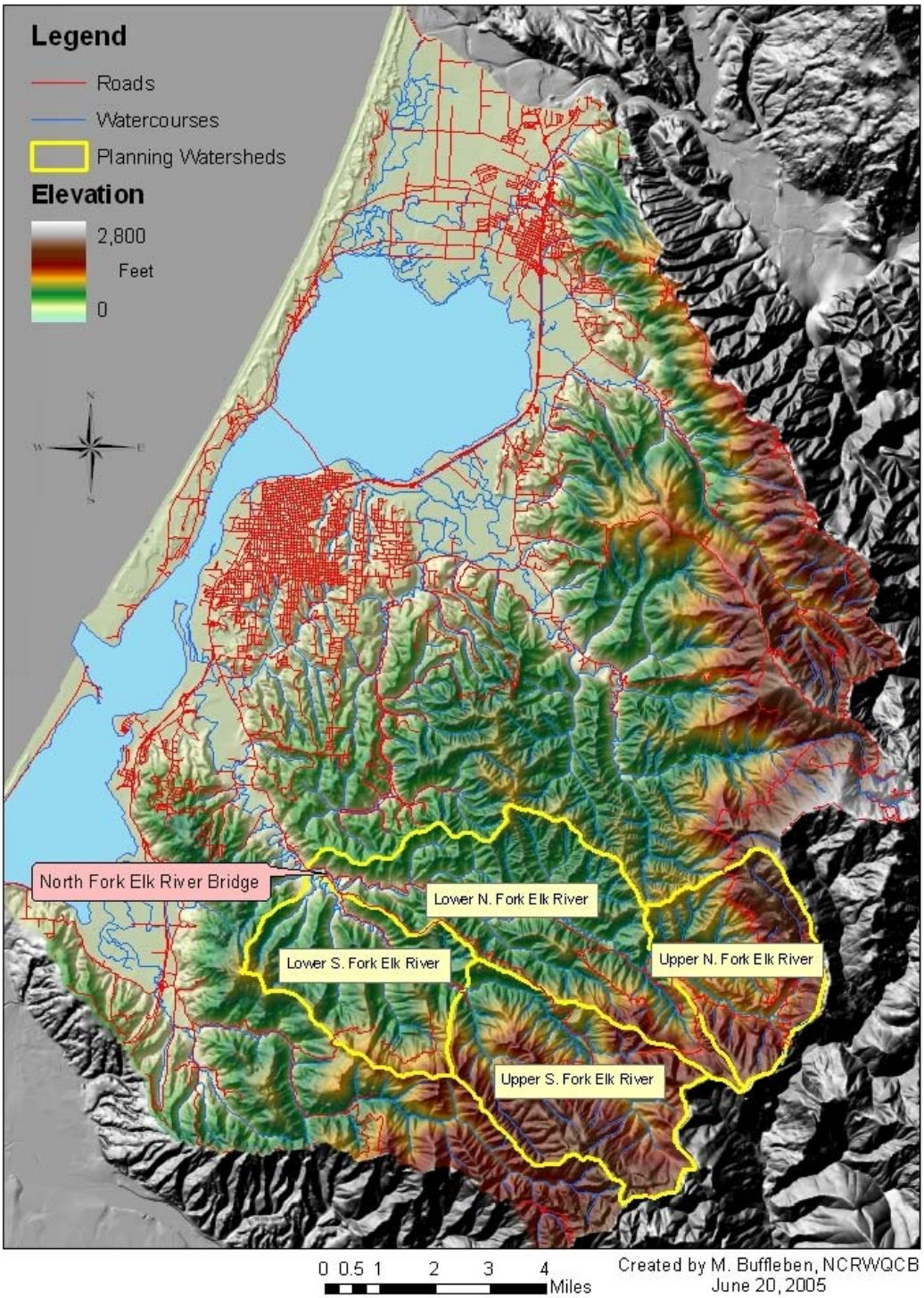
I, Catherine Kuhlman, Executive Officer
do hereby certify that the foregoing is a full,
true, and correct copy of an Order adopted by
the California Regional Water Quality Control Board,
North Coast Region, on May 8, 2006.

Catherine Kuhlman

Catherine Kuhlman
Executive Officer

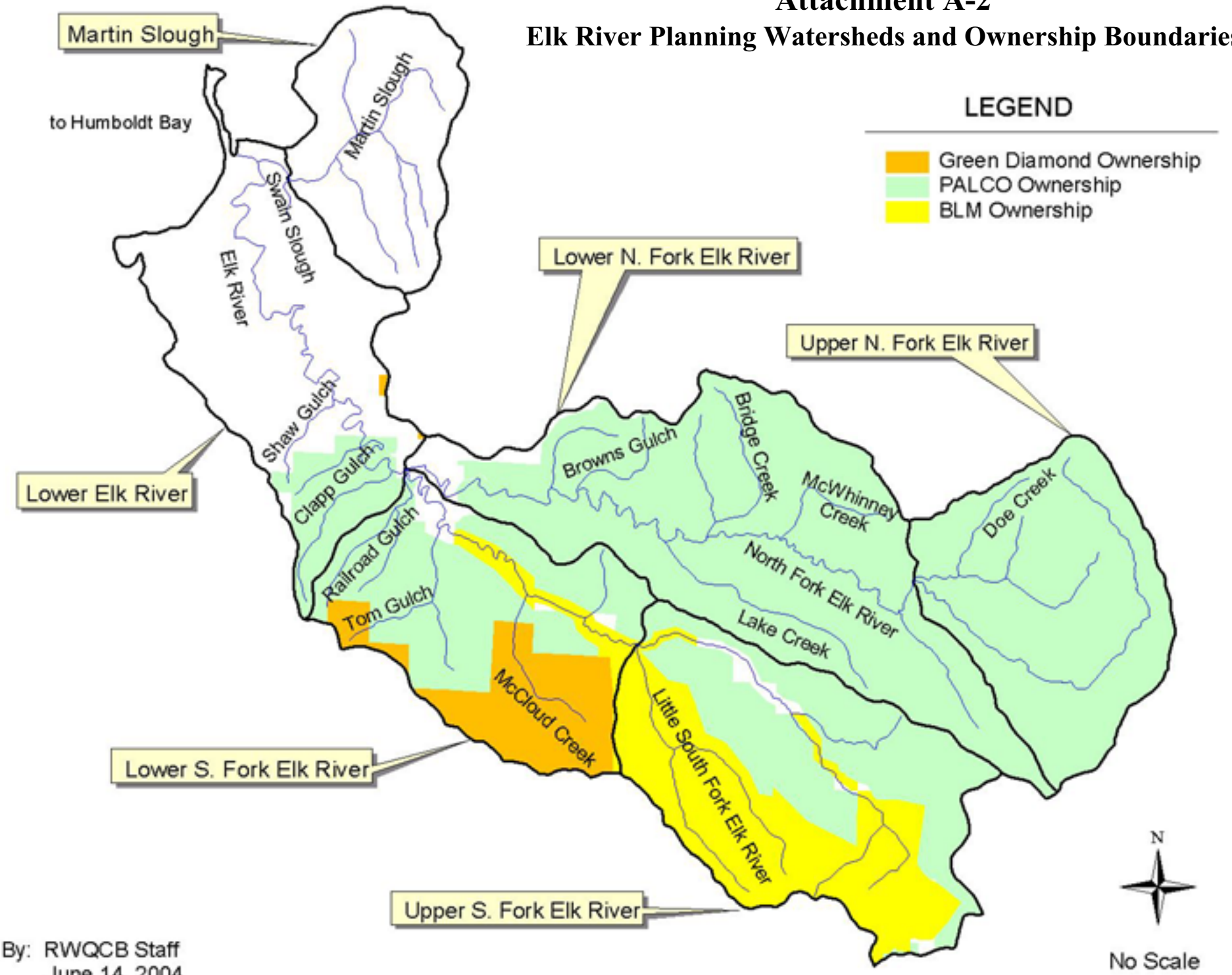
Attachment A-1

Elk River and Planning Watersheds
Humboldt County, California



Attachment A-2

Elk River Planning Watersheds and Ownership Boundaries



Prepared By: RWQCB Staff
June 14, 2004

Empirical Peak Flow Reduction Model for the

Watershed-wide Waste Discharge Requirements for Elk River and Freshwater Creek, Humboldt County, California

September 2, 2005

California Regional Water Quality Control Board
North Coast Region
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Attachment C

Empirical Harvest-Related Landslide
Sediment Delivery Reduction Model

Prepared By

Staff of the North Coast
Regional Water Quality Control Board
September 2, 2005