

Regional Water Quality Control Board  
North Coast Region

Executive Officer's Summary Report  
9:00 A.M., Thursday, May 2, 2013  
Wharfinger Building  
Eureka, CA

- ITEM: 9
- SUBJECT: **Public Hearing** to consider adoption of Order No. R1-2013-0004, Waiver of Waste Discharge Requirements and General Water Quality Certification for **County Road Management and Activities Conducted Under the Five Counties Salmonid Conservation Program in the Counties of Del Norte, Humboldt, Mendocino, Siskiyou, and Trinity Counties in the North Coast Region** (*Maggie Robinson*)
- BOARD ACTION: At the public hearing, the Regional Water Board will be asked to consider whether to affirm, reject, or modify the proposed 5C Waiver of Waste Discharge Requirements and General Water Quality Certification.
- BACKGROUND: The Five Counties Salmonid Conservation Program (5C Program) is a county road maintenance and project program which includes much of the North Coast Region, covering the counties of Humboldt, Del Norte, Trinity, and portions of Siskiyou and Mendocino, collectively referred to as the 5 Counties. The 5C Program is designed to protect salmonid species and water quality during county road maintenance and associated project activities.
- In 1997, coho salmon were listed as a “threatened” species under the Endangered Species Act. As a result of this listing, supervisors from the 5 Counties initiated the Five Counties Salmonid Conservation Program in 1998. That same year, as part of the program initiation, the 5 Counties commissioned a U.C. Davis study to evaluate the effects of county land use regulations and management on anadromous salmonids, *Effects of County Land Use Regulations and Management on Anadromous Salmonids and their Habitats: Humboldt, Del Norte, Mendocino, Siskiyou and Trinity Counties, CA*. The study conclusions had three main recommendations:
- Improve on the-ground-maintenance activities;
  - Standardize road and bridge maintenance policies; and
  - Provide continuing education and training of roads personnel.

The 5C Roads Manual was developed in 2002 as a result of these findings. Presently, the 5 Counties implement wholly, or in part, the 5C Program.

There are more than 20 Total Maximum Daily Loads (TMDLs) in the North Coast Region addressing sediment impaired watersheds and impacts to cold water fisheries habitats. Although it has been long recognized in the TMDLs and scientific literature that roads are a significant source of sediment, potential discharges from road maintenance activities in the North Coast have not been comprehensively covered.

In 2008, as part of the nonpoint source planning effort, the North Coast Regional Water Quality Control Board recognized the opportunity to use the already established 5C Program as a way for counties to achieve both Nonpoint Source and TMDL compliance for implementation of road management activities. Under direction of then Executive Officer, Cat Kuhlman, development of a waiver was initiated to cover county road management activities for counties who implemented the 5C Program. As part of waiver development, Regional Water Board staff conducted outreach and worked closely with the 5C Program staff, county representatives, and the staff at the California Department of Fish and Wildlife (CDFW). Preparation of the draft *Waiver of Waste Discharge Requirements and General Water Quality Certification for County Road Management and Activities Conducted Under the Five Counties Salmonid Conservation Program in the Counties of Del Norte, Humboldt, Mendocino, Siskiyou, and Trinity Counties in the North Coast Region* (Waiver) began in late 2011, and a draft was released for a 45-day public comment period beginning on January 4, 2013, and ending on February 19, 2013.

There are three main components to the proposed Waiver, all of which rely on the implementation of procedures and Best Management Practices (BMPs) contained within the 5C Road Manual. These are the Waiver itself, a General 401 Water Quality Certification, and a Monitoring and Reporting Program (MRP).

The proposed Waiver covers all road maintenance and project activities within the 5C Manual, with the exception of bridge painting. The main categories of activities covered are: road maintenance, culvert maintenance, soil disposal, maintenance yard management, bridge maintenance, emergency maintenance, snow and ice removal, and inventorying and treatment of legacy sediment discharge sites.

The proposed Waiver includes a General 401 Water Quality certification (General WQ Certification) which provides certification to county projects requiring Section 404 permits from the U.S. Army Corps of Engineers. In order to streamline the amount of paperwork counties need to submit, the proposed Waiver includes a provision allowing for use of the CDFW 1602 Agreement application to meet the requirements for application for General WQ Certification. The general certification fees are markedly lower than what would be otherwise required with a standard 401 certification.

The proposed Waiver contains a MRP which contains four types of monitoring outlined in Chapter 10 of the 5C Manual. They are: implementation, effectiveness, photopoint, and project monitoring. Implementation and effectiveness monitoring are required for all projects. Photopoint and project monitoring are reserved for more complex projects that may require an evaluation of BMP performance over an extended period of time, and are implemented at the discretion of the Executive Officer.

Annual reports are also required as part of the MRP. Annual reports are required to contain summaries of implementation and effectiveness monitoring, corrective actions taken in the event of BMP failure, progress on legacy site inventories and treatment, illicit discharge investigations, and trainings attended by county road staff.

As the lead agency for development of the proposed Waiver, Regional Water Board staff prepared a Mitigated Negative Declaration for the project (SCH No. 2013032042). One of the goals in preparing a Mitigated Negative Declaration is to reduce the time and cost for California Environmental Quality Act (CEQA) analysis for projects done under the 5C Program and to free up county resources for project implementation. Presently, county roads projects are evaluated under CEQA one at a time, with CDFW conducting the individual analyses. The Mitigated Negative Declaration CEQA document is designed to cover *all* projects done under the 5C Program, eliminating the need for individual CEQA analyses to be done. Regional Water Board staff collaborated with CDFW staff to ensure that the Mitigated Negative Declaration would meet their needs as a project reviewing agency. The Mitigated Negative Declaration was submitted to the State Clearinghouse on March 15, 2013, and a 30 day public comment period began on March 19, 2013, and will end at 5:00 p.m. on April 17, 2013.

ISSUES:

Regional Water Board staff revised the draft Waiver to clarify the two categories of road management activities – routine maintenance

activities, which require a one-time submittal of a notice of intent to comply with the requirements of the Waiver, and road project activities which likely require 401 general water quality certification. The revised proposed Waiver retains the substantive elements of the January 4, 2013 draft.

Because the close of public comment period for the CEQA document is April 17, 2013, any comments and response to CEQA comments will be transmitted to the Board prior to the May 2, 2013, Board Meeting.

**SIGNIFICANT  
CHANGES:**

The Regional Water Board received four comment letters on the draft Waiver during the public comment period. Comments covered a variety of categories including:

- Comments from county representatives and staff of the Five Counties Salmonid Conservation Program (5C Program) requesting clarification on which road management activities in Finding 2 of the Waiver require 401 General Water Quality Certification and which do not;
- Comments from county representatives and staff of the 5C Program requesting clarification on the application and reporting process for activities requiring Waiver coverage and those activities requiring 401 General Water Quality Certification;
- Comments from county representatives and staff of the 5C Program requesting clarification on the notification process for road project activities;
- Comments from county representatives regarding how the draft Waiver TMDL implementation requirements will be implemented in areas where there are existing TMDL implementation plans; and
- Comments from county representatives expressing concern about the potential for increased workload and resource requirements for Waiver implementation, as well as the requirement for all counties to obtain permit coverage for road management activities.

In response to comments, modifications were made to the draft Waiver to clarify the two categories of road management activities: 1) Road Maintenance Activities which require the submittal of a Notice of Intent to be covered during the life of the Waiver, and 2) Road Project Activities that likely require 401 General Water Quality Certification and are covered during project implementation. Revisions also included a more clearly outlined Waiver enrollment process for road maintenance activities, and a streamlined roads project application process, including submission of an annual list of

upcoming projects and use of the California Department of Fish and Wildlife 1600 notification application to reduce paperwork.

Remaining comments were addressed in the response to comments and did not require additional revisions to the Waiver.

**RECOMMENDATION:** Staff recommends adoption of proposed Order R1-2013-0004, including the associated Monitoring and Reporting Program.

**SUPPORTING  
DOCUMENTS:**

1. Order No. R1-2013-0004, *Waiver of Waste Discharge Requirements and General Water Quality Certification for County Road Management and Activities Conducted Under the Five Counties Salmonid Conservation Program In the Counties of Del Norte, Humboldt, Mendocino, Siskiyou, and Trinity in the North Coast Region*
2. Monitoring and Reporting Program for Order No. R1-2013-0004
3. Initial Study and Mitigated Negative Declaration for the *Waiver of Waste Discharge Requirements and General Water Quality Certification For County Road Management and Activities Conducted Under the Five Counties Salmonid Conservation Program in the Counties of Del Norte, Humboldt, Mendocino, Siskiyou, and Trinity in the North Coast Region*
4. Response to comments
5. Comment Letters
6. Notice of Public Hearing on proposed Order No. R1-2013-0004