California Regional Water Quality Control Board
North Coast Region

ORDER NO. R1-2009-0038

Categorical Waiver of Waste Discharge Requirements For Discharges Related to Timber Harvest Activities On Non-Federal Lands in the North Coast Region

The California Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Board) finds that:

1. California Water Code section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Regional Board a Report of Waste Discharge (ROWD) containing such information and data as may be required.

2. Pursuant to Water Code section 13260, regional boards prescribe waste discharge requirements except when it finds, pursuant to Water Code section 13269 that a waiver of waste discharge requirements (WDRs) for a specific type of discharge is in the public interest.

3. The State's Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Implementation Policy) requires that "all current and proposed nonpoint source discharges must be regulated under WDRs, waivers of WDRs, a basin plan prohibition, or some combination of these tools" (2007 Basin Plan, 4-33.00).

4. In the North Coast Region, discharges of waste resulting from timber harvest activities that pose a low or insignificant threat to water quality are regulated by conditional waivers of WDR. Individual or general WDRs are required for discharges of waste from all other timber activities.

5. In addition, the following waste discharge prohibitions from the Water Quality Control Plan for the North Coast Region (Basin Plan) pertain to timber harvest activities, including; logging, road construction, and associated activities in the North Coast Region:

   Prohibition 1: The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.

   Prohibition 2: The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.

6. On June 23, 2004, the Regional Board adopted Order No. R1-2004-0016, Categorical Waiver for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region (hereinafter Categorical Waiver), and superseded the previous Categorical Waiver (Order No. R1-2003-0116, Interim Categorical Waiver for Discharges Related to Timber Operations in the North Coast Region). This Order will supersede Order No. R1-2004-0016 consistent with the transition provisions in section III. This Categorical Waiver is similar to the existing 2004 waiver but makes both minor and substantial revisions and is structurally reorganized for clarity and usability. As described in more detail below, this Categorical Waiver adds conditions designed to meet Basin Plan temperature objectives.

7. This Categorical Waiver defines five categories of timber harvest activities, detailed in the Forest Practice Rules, and establishes general and specific conditions and eligibility criteria for each category for which WDRs can be waived. Implementation and compliance with the general and specific conditions result in timber harvesting projects that are considered to be low impact, and therefore pose no significant threat to water quality.

8. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan), including State Water Resources Control Board (State Water Board) Resolution No. 88-63, the existing and potential beneficial uses of waters potentially affected by the proposed activity include:

   a. Municipal and Domestic Supply (MUN)
   b. Agricultural Supply (AGR)
   c. Industrial Service Supply (IND)
   d. Industrial Process Supply (PROC)
   e. Groundwater Recharge (GWR)
   f. Freshwater Replenishment (FRSH)
   g. Navigation (NAV)
   h. Hydropower Generation (POW)
   i. Water Contact Recreation (REC-1)
   j. Non-contact Water Recreation (REC-2)
   k. Commercial and Sport Fishing (COMM)
   l. Cold Freshwater Habitat (COLD)
   m. Warm Freshwater Habitat (WARM)
   n. Wildlife habitat (WILD)
   o. Preservation of Areas of Special Biological Significance (BIOL)
   p. Rare, Threatened, or Endangered Species (RARE)
   q. Marine Habitat (MAR)
   r. Migration of Aquatic Organisms (MIGR)
   s. Spawning, Reproduction, and/or Early Development (SPWN)
   t. Shellfish Harvesting (SHELL)
   u. Estuarine Habitat (EST)
   v. Aquaculture (AQUA)
   w. Native American Culture (CUL)
   x. Flood Peak Attenuation/Flood Water Storage (FLD)
   y. Wetland Habitat (WET)
   z. Water Quality Enhancement (WQE)
   aa. Subsistence Fishing (FISH)

The Basin Plan contains water quality objectives developed to protect the above-listed beneficial uses of water. Economic considerations were evaluated as required by law during the development of these objectives. Prohibitions, provisions, and specifications contained in this Categorical Waiver implement these previously developed water quality objectives. Compliance with Water Quality Standards will protect these beneficial uses.

9. Populations of several species of anadromous salmonids listed as threatened or endangered under both the Federal Endangered Species Act or the California Endangered Species Act have declined significantly during the past half century in the majority of waterbodies in the North Coast Region. Degradation of freshwater habitat by land use activities is a major contributing factor to the decline in populations, with discharges of waste from timber harvesting and associated activities among the most significant factors.

10. Harvest methods resulting in intensive canopy removal, such as clearcutting, can cause impacts to water quality from higher and more intensive peak flows, increased surface erosion, and higher rates of mass wasting. Unevenaged management or evenaged management that retains a substantial overstory canopy is less likely to result in adverse impact to water quality. As such, harvesting methods that result in intensive canopy removal are limited under this Categorical Waiver. Intensive canopy removal, such as clearcutting, is allowed under this Categorical Waiver when buffers are provided for streams that are significantly larger than the minimum required under the Forest Practice Rules.

11. Timber harvesting activities on landslides, or on those portions of the landscape that are vulnerable to landsliding, can increase rates of sediment delivery from landslides. This increase in the rate of landslide related sediment delivery can be prevented or minimized by avoiding or minimizing ground disturbance and canopy removal on vulnerable areas, or implementing recommendations made as a result of site characterization by a licensed geologist experienced in slope stability investigations. As such, no timber harvesting activities may be conducted under THPs covered by this Categorical Waiver on landslides and geomorphic features related to landsliding without site characterization and input into Project design by a licensed geologist.

12. Sediment discharge sources, or threatened discharge sources, from past timber harvest activities are present throughout the north coast region and continue to pose risks to water quality. A condition of the Categorical Waiver requires Timber Harvesting proponents to prepare Erosion Control Plans, which identify controllable sediment discharge sources and implement prevention and minimization measures, thereby eliminating a significant pollutant source from those Project areas.

Impaired Waterbodies and TMDLs

13. Most water bodies in the North Coast Region are listed as impaired due to either excess sediment and/or elevated water temperature (Section 303(d) of the Clean

Water Act). Discharges of sediment resulting from past land use activities, with timber harvest being one of the leading sources, are recognized as major contributing factors causing the impaired conditions. Federal regulations require that a total maximum daily load (TMDL) be established for 303(d) listed water bodies for each pollutant of concern.

14. The United States Environmental Protection Agency (EPA) has established sediment TMDLs for 19 watersheds in the North Coast Region. The majority of these TMDLs identified erosion from roads and timber harvest as major contributing factors to sediment discharge from anthropogenic sources and called for significant reductions in such discharges. The EPA includes recommendations to reduce sediment delivery from the major sources identified in those TMDLs. The Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region (TMDL Implementation Policy) provides that the Regional Board shall control sediment pollution by using existing permitting and enforcement tools. The goals of the Policy are to control sediment waste discharges to impaired water bodies so that the TMDLs are met, sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment.

15. The TMDL Implementation Policy also directed staff to develop the Staff Work Plan to Control Excess Sediment in Sediment-Impaired Watersheds (Work Plan) that describes the actions staff are currently taking or intend to take over the next ten years, as resources allow, to control human-caused excess sediment in the sediment-impaired water bodies of the North Coast Region. This Categorical Waiver furthers the objectives defined in the TMDL Implementation Policy and Work Plan. Conditions and eligibility criteria required for enrollment in this Categorical Waiver are intended to contribute to reductions in anthropogenic sediment discharges from the sources identified by EPA and constitute early implementation of TMDLs, thus furthering the objectives contained in the Work Plan.

16. The temperature of a stream is significantly influenced by the amount of solar radiation the stream receives. Removing shade canopy in riparian zones can increase the amount of solar radiation that reaches a watercourse, potentially resulting in an increase in water temperature. Canopy retention standards above the minimums established in the Forest Practice Rules and restrictions on shade reduction required under this Categorical Waiver are necessary to meet Basin Plan temperature objective.

17. The North Coast Regional Board has Temperature TMDLs for 12 watersheds in the north coast region of California. These watersheds include three of the major Klamath River tributaries: the Salmon, Scott, and Shasta River watersheds. The twelve temperature TMDLs have evaluated the effects of shade on stream temperatures and have consistently reached the same conclusion regarding stream shade. These conclusions are consistent with published literature and temperature analyses conducted in the Pacific Northwest.

The Basin Plan contains the following temperature objectives, which apply to surface waters:

- The natural receiving water temperature of intrastate waters shall not be altered unless it can be demonstrated to the satisfaction of the Regional Board that such alteration in temperature does not adversely affect beneficial uses.
- At no time or place shall the temperature of any COLD water be increased by more than 5°F above natural receiving water temperature.
- At no time or place shall the temperature of WARM intrastate waters be increased more than 5°F above natural receiving water temperature.

18. Given the similarity among the majority of north coast watersheds and the universal nature of the laws of thermodynamics, the conclusions of shade-related analyses from previous temperature TMDLs apply region-wide, and especially to those tributaries not already assigned TMDL shade allocations. In order to protect, maintain, or restore natural water temperature, riparian shade controls are also needed in many watersheds not subject to an existing TMDL Action Plan or in watersheds that are not currently impaired due to elevated water temperatures.

19. The load allocation for excess solar radiation assigned in previous TMDLs is also an appropriate allocation for excess solar radiation to meet Basin Plan temperature objective in watersheds throughout the North Coast Region. The load allocation for solar radiation is expressed as its inverse, shade. The load allocations for this source category are the shade provided by topography and full potential vegetation conditions at a site, with an allowance for natural disturbances such as floods, wind throw, disease, landslides, and fire. Riparian zone canopy and shade retention standards included as conditions of this Categorical Waiver are intended to preserve natural shade to meet the Basin Plan temperature objective.

Waiver Categories

20. The General and Specific Conditions of this Categorical Waiver limit the scope of impacts from timber harvesting plans (THPs) approved by CAL FIRE and other CEQA compliant timber harvesting activities so that discharges of waste will be minimized. Further, subsequent CEQA review ensures site-specific mitigation and appropriate project planning to protect water quality. As such, Projects that meet the eligibility criteria for Category F are not expected to pose a significant threat to water quality, and therefore, it is appropriate to conditionally waive waste discharge requirements.

21. Non-industrial Timber Management Plans (NTMPs), as defined in the Forest Practice Rules, are long term management plans, in which tree removal is limited to unevenaged management for small non-commercial timberland owners (2,500 acres or less). As a result, only partial harvesting of these types of timberlands occurs at any one time. With the addition of general and specific conditions required for coverage under this Categorical Waiver, NTMPs are not expected to pose a significant threat to water quality and therefore it is appropriate to conditionally waive waste discharge requirements.

22. Owners and operators of (THPs) in watersheds with approved Total Maximum Daily Load (TMDL) action plans must comply with the requirements of those plans. TMDL action plans are designed to restore the impaired beneficial uses of a polluted body of water. The TMDL process provides a quantitative assessment of water quality problems, contributing sources of pollution, and the pollutant load reductions or control actions needed to restore and protect the beneficial uses of an individual waterbody impaired from loading of a particular pollutant. THPs for which the Executive Officer of the Regional Board has determined to be in compliance with a TMDL Action Plan are not expected to pose a significant threat to water quality. The Garcia watershed is the only TMDL Action Plan that fits this category. Therefore, it is appropriate to waive waste discharge requirements for THPs in the Garcia watershed that meet any of the Categorical Waiver conditions.

23. Modified THPs, as defined by the Forest Practice Rules, are limited to timberland ownerships of 100 acres or less. The Forest Practice Rules for modified THPs includes restrictions on intensive silvicultural prescriptions, heavy equipment on steep slopes, construction of roads and skid trails, timber operations on unstable areas and riparian areas, and winter period operations. These restrictions are roughly equivalent to the eligibility criteria for THPs as set forth in this Categorical Waiver, and are expected to reduce the likelihood that such plans will pose a significant threat to water quality. Therefore, it is appropriate to waive waste discharge requirements for modified THPs meeting Categorical Waiver conditions.

24. California Code of Regulations, title 14, section 1052 allows timberland owners to submit a Notice of Emergency Timber Operations for a Fuel Hazard Reduction emergency when specified conditions are substantiated by the consulting forester. Operations conducted pursuant to an emergency must comply with all applicable Forest Practice Rules. In-lieu practices in riparian zones, exceptions to rules, and alternative practices are not allowed unless necessary to protect public health and safety. Due to the potential harm to public and private resources that could occur if fuel hazard reduction projects are not implemented in a timely manner when necessary, it is in the public interest to waive waste discharge requirements for Emergency Timber Operations.

25. California Code of Regulations, title 14, section 1038 exempts the following timber operations from the plan preparation and submission requirements:
    - Harvesting Christmas trees
    - Harvesting dead, dying or diseased trees in amounts less than 10 percent (%) of the average volume per acre
    - Cutting and removal of trees within 150 feet from an improved or legally permitted structure for the purposes of reducing flammable materials and maintaining a fuel break
    - Harvesting dead trees which are unmerchantable from substantially damaged timberlands.

    Such exemptions include restrictions on use of heavy equipment on steep slopes, construction of roads and skid trails, timber operations on unstable areas and riparian areas, and winter period operations. These restrictions are roughly

equivalent to the eligibility criteria for THPs as set forth in this Categorical Waiver, and are expected to reduce the likelihood that such plans will pose a significant threat to water quality. Therefore, it is appropriate to waive waste discharge requirements for these exemptions.

26. California Code of Regulations, title 14, section 1104.1 exempts three categories of timberland conversion from THPs requirements, that when in compliance with all other permitting requirements of the Regional Board and other permitting agencies, are not likely to pose a significant threat to water quality. It is appropriate to waive waste discharge requirements for the following conversion exemptions:
    - Conversion of less than three acres in size in one contiguous ownership,
    - Construction or maintenance of right-of-way by a public agency on its own or other public property,
    - The clearing of trees from timberland by a private or public utility for construction of gas, water, sewer, oil, electric, and communications rights-of-way, and for maintenance and repair of the utility and right-of-way.

    However, higher potential impacts to water quality can result from conversion for vineyards, construction, and development projects that typically require waste discharge requirements and/or federal dredge and fill permits. These types of conversions are not covered by this Categorical Waiver.

27. Effective January 1, 2004, Water Code section 13269 requires that waivers include the performance of individual, group, or watershed-based monitoring. This monitoring requirement may be waived for discharges that the Regional Board determines do not pose a significant threat to water quality. The categorical waivers set out herein are only for Projects that do not pose a significant threat to water quality. Discharges that pose a significant threat to water quality are not permitted by this Order. Any project covered hereby that warrants it and meets the criteria of Water Code section 13267(b), however, will be subject to a monitoring program as directed by the Executive Officer.

<u>Regional Board Waiver Fees</u>

28. Pursuant to Water Code Section 13269, the Regional Board may include as a condition of a waiver the payment of an annual fee established in accordance with subdivision (f) of section 13260. Based on consideration of factors established in section 13269 (4)(C), it is appropriate to impose the following fees for the Categories established by this Categorical Waiver:

    Categorical Waiver B: Emergency, Exemptions, and 3-acre conversions.
    Fees are not appropriate for this category of waiver because enrollment in this category does not require submittal of ROWD or enrollment application.

    Categorical Waiver C: Projects in the Garcia Watershed.
    Fees are not appropriate because applicants enrolling in this Category participate in a watershed management program through a TMDL approved by the applicable Regional Board.

Categorical Waiver E: Nonindustrial Timber Management Plan (NTMP). A one time application fee, in the amount of $250, is appropriate. This category requires review of enrollment applications and review of significant amounts of technical information.

Categorical Waiver F: Other Projects (Timber Harvest Plans (THPs) and Other Timber Harvesting Projects). A one time application fee, in the amount of $250, is appropriate. This category requires review of enrollment applications and review of significant amounts of technical information.

Miscellaneous

29. Pursuant to Water Code section 13269, the waivers of waste discharge requirements for the categories of waste specified herein shall not exceed five years in duration; that this action waiving the issuance of waste discharge requirements for certain specific types of discharges (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Board from administering enforcement remedies (including civil penalties) pursuant to the Water Code and other applicable law.

30. This Order establishing a group of categorical waivers shall not create a vested right, and all discharges covered by it shall be considered a privilege, not a right, as provided under Water Code section 13263.

31. This Categorical Waiver is consistent with the provisions of State Water Resources Control Board (State Water Board) Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California." Both the state and federal antidegradation policies apply to surface waters in the North Coast Region. The antidegradation policies acknowledge that an activity that results in a minor water quality lowering, even if incrementally small, can result in a violation of antidegradation policies through cumulative effects, especially, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant.

32. On March 7, 2009, the Regional Board provided notice of intent to adopt a mitigated negative declaration (SCH No.2009042053) for the project. (Cal. Code Regs., title. 14, § 15072.) The mitigated negative declaration reflects the Regional Board's independent judgment and analysis. The documents or other material, which constitute the record, are located at 5550 Skylane Blvd, Suite A, Santa Rosa, CA 95403. The Regional Board will file a Notice of Determination within five days from the issuance of this Order.

33. The Regional Board conducted a public hearing on June 4, 2009 in Santa Rosa, California, and considered all evidence concerning this matter and adopted the Negative Declaration, a copy of which is attached hereto, and this Order,

Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region.

34. Based on the Initial Study and Negative Declaration, the adoption of the waivers of waste discharge requirements for timber harvest activities in accordance with Order No. R1-2009-0038 will be consistent with the Basin Plan, and will be in the public interest.

THEREFORE, after considering the document and comments received during the public review process, the Regional Board hereby determines that the proposed project, with mitigation measures, will not have a significant effect on the environment. The Regional Board hereby approves and adopts the Negative Declaration and Initial Study prepared on this Order, and directs the Executive Officer to file all appropriate notices; and

Order No. R1-2004-0016 is hereby superseded except for application to Projects that have been accepted for filing but not yet approved by the California Department of Forestry and Fire Protection as of the adoption date of Order No. R1-2009-0038. Such Projects are eligible for coverage under Order No. R1-2004-0016 until October 15, 2009, should they qualify under the terms and conditions of that Order. All dischargers subject to categorical waiver of Waste Discharger Requirements (WDRs) under this Order shall comply with the following:

SECTION I: Waiver of Submittal of Reports of Waste Discharge and Waiver of Waste Discharge Requirements for Timber Harvest Projects on Private (Non-Federal) Lands.

This Order sets outs general and specific conditions for dischargers to obtain categorical waivers of WDRs for certain timber harvest activities conducted on non-federal lands in the North Coast Region. The Order includes: application procedures, eligibility and submission requirements (Section II), waiver for Projects previously enrolled for a waiver of WDR under Order No. R1-2004-0016 (Section III), and for termination of coverage (Section IV), and Prohibitions (Section V). Definitions used in this Order are detailed in attachment A.

There are five (5) separate categorical waivers for new Projects (i.e. Projects not previously permitted or waived by the Regional Board). Each waiver category has a set of eligibility criteria, general conditions, and specific conditions when appropriate. The first step in seeking coverage under this Order is to determine if a given Project meets the eligibility criteria for one of five categories. For Projects that meet the eligibility criteria for a given categorical waiver, the Discharger must comply with all the specific conditions detailed in that category, as well as the general conditions necessary to obtain and maintain coverage under all waiver categories, starting with submittal of application documents described in Section II.

General Conditions that apply to all applications for Waiver:

The Discharger shall comply with each of the following conditions for all Categorical Waivers established by this Order:

1. An owner/operator (hereinafter referred to as Discharger) shall file the documents set out in Section I, as appropriate.

2. The Discharger shall comply with all applicable requirements and prohibitions specified in the Basin Plan as modified, and policies adopted by the State Water Board.

3. The Discharger shall allow Regional Board staff entry onto the affected property 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. If entry is unreasonably withheld, the Executive Officer may terminate the applicability of the Order pursuant to section IV.

4. The Discharger shall comply with a monitoring program, unless waived by the Category of Waiver or in writing by the Executive Officer.

5. The Discharger shall conduct timber harvest activities in compliance with the Forest Practice Rules and a THP or NTMP that has been approved by CAL FIRE. In addition, Forest Practice Rules and THP conditions (including mitigation measures identified and required pursuant to CAL FIRE CEQA process) that are intended to protect water quality shall constitute enforceable conditions under this Order.

6. The Discharger shall comply with all mitigation measures identified in any accompanying CEQA document. CEQA mitigation measures that are intended to protect water quality shall constitute enforceable conditions under this Order.

7. The Discharger shall notify the Regional Board in writing at least 45 days prior to any proposed aerial application of pesticides and 30 days for any proposed ground-based application of pesticides. The notification shall include the type of pesticide(s), method and area of application, projected date of application, and measures that will be employed to assure compliance with applicable water quality requirements.

8. Recommendations and mitigation measures proposed by Regional Board staff during the Project review and approval process are incorporated into the approved Project.

9. The Discharger must resolve any Non-Concurrence that has been filed with CAL FIRE by Regional Board staff to the satisfaction of the Executive Officer of the Regional Board prior to enrollment in the Categorical Waiver.

10. All new watercourse crossing construction or reconstruction shall occur under authority of local, state, or federal law, and a Streambed Alteration Agreement (Permit) when required by California Department of Fish and Game.

11. All amendments of THPs and NTMPs approved by CAL FIRE shall conform to the Eligibility Criteria and Conditions set forth for the originally waived Project. Failure to do so is a violation of the Categorical Waiver and subjects Discharger to enforcement action and/or termination of waiver coverage for the Project.

Categorical Waiver B: Emergency, Exemptions, and 3-acre conversions
The following are waived from submittal of ROWD, THPs, or enrollment application. The threat to water quality by this category of waiver is de minimis. Notification provided by CAL FIRE during its review process is sufficient notification. No additional application or reporting requirements beyond those already established by other regulations is required.

a. Timber Operations Pursuant to an Emergency Notice

Eligibility Criteria:

1. Projects that conform to the rules for Emergency Notice pursuant to Forest Practice Rules (Cal. Code Regs., tit. 14, §1052) administered by CAL FIRE.

2. CAL FIRE has accepted the Discharger's Emergency Notice for the Project and either: a) the Regional Board has received a copy of the notice of acceptance from CAL FIRE, or b) 5 working days, or 15 days for a fuel hazard emergency, have passed since submission of the Emergency Notice to CAL FIRE and the Emergency Notice was not returned to the submitter.

Specific Conditions: None

Application and/or annual fee for this waiver category: None

b. Exemptions as defined in Forest Practice Rules

Eligibility Criteria:

1. Projects that conform to the rules for Exemptions pursuant to Forest Practice Rules (Cal. Code Regs., tit. 14, §1038) administered by CAL FIRE.

2. CAL FIRE has accepted the Notice of Exemption for the Project.

Specific Conditions: None

Application and/or annual fee for this waiver category: None

c. Conversion Exemptions (also known as 3-acre conversions)

Eligibility Criteria:

1. Projects that conform to the rules for Conversion exemptions pursuant to Forest Practice Rules (Cal. Code Regs., tit. 14, §1104.1) administered by CAL FIRE.

2. The Discharger has submitted a Notice of Conversion Exemption for the Project to CAL FIRE that has been accepted, and the Regional Board has received a copy of the notice of acceptance from CAL FIRE.

Specific Conditions:

1. Enrollment under this waiver does not cover discharges to waters of the United States that may require additional permits from federal and state agencies. If road construction includes new or upgraded watercourse crossings for a development following conversion that impacts waters of the United States, the Discharger must apply for and receive a federal Clean Water Act section 404 dredge and fill permit from the US Army Corps of Engineers and accompanying the Section 401 water quality certification from the Regional Board.

2. If the less than 3-acre conversion is or will be for the purpose of construction development (for residence or commercial purpose of any type), the Discharger must have submitted a Notice of Intent to comply with the Statewide construction stormwater permit and has received enrollment notice prior to commencement of construction activities. This includes grading and land clearing for any type of construction of 1-acre or greater.

Application and/or annual fee for this waiver category: None

Categorical Waiver C: Projects in the Garcia Watershed

In the case of Total Maximum Daily Load Projects, the following eligibility criteria and condition apply:

Eligibility Criteria:

1. The Executive Officer has determined that the Project is in compliance with the Garcia River sediment TMDL Action Plan.

Specific Conditions: None

Application fee for this waiver category: A one time application fee of $250

Categorical Waiver D: Modified Timber Harvest Plan Projects

Eligibility Criteria:

1. The project meets the definition as a Modified Timber Harvest Plan pursuant to Forest Practice Rules (Cal. Code Regs., tit. 14, §1051) and has been approved by CAL FIRE.

Specific Conditions:

1. If road construction includes new or upgrading of watercourse crossings, the Discharger has submitted a Notice of Intent for the statewide dredge and fill permit and has received a Notice of Exemption for the statewide permit for the project.

Application fee for this waiver category: None

Categorical Waiver E: Nonindustrial Timber Management Plan (NTMP)

Eligibility Criteria:

1. The Project meets the definition as a Nonindustrial Timber Management Plan (NTMP) pursuant to Forest Practice Rules (Cal. Code Regs., title 14, §1090) and CAL FIRE has approved the NTMP.

Application fee for this waiver category: A one time application fee of $250

Specific Conditions:

2. The Discharger submits a Project specific Erosion Control Plan (ECP) developed by a qualified professional as specified in Attachment B for the entire logging area of the NTMP. The logging area includes the area to be harvested, the roads used to access the harvest area (appurtenant roads), and the area within 100 feet of these appurtenant access roads. Typically, the ECP is incorporated into the approved NTMP. The ECP shall be updated for each submittal of the Notice of Timber Operations (NTO).

3. The Discharger shall propose a schedule to mitigate all controllable sediment discharge sources (CSDS), and shall implement according to that schedule until directed otherwise by the Executive Officer. Generally, CSDS sites shall be mitigated within the NTMP area identified in the NTO during the life cycle of the NTO.

4. The Discharger shall submit written notice to the Regional Board no less than least five (5) days prior to commencement of timber harvest activities under a notice of timber operations (NTO). The notice must include an updated ECP

for the entire area contained in the NTO. The notice may consist of a copy of the NTO submitted to CAL FIRE.

5. Timber harvesting activities within Watercourse and Lake Protection Zones[1] must be designed to protect and restore riparian functions and associated beneficial uses and comply with all applicable water quality regulations. Specific conditions 5.a. and 5.b. are intended to meet the Basin Plan temperature objective by preserving natural shade where present and restoring it where it is not present. Alternatives to these specific requirements will be considered for equal or better protection:

    a. Alternative canopy retention levels received in writing may be approved by the Executive Officer, if the discharger demonstrates that such an alternative provides equal or better protection. In the absence of an approved alternative, overstory canopy must not be reduced below 85 percent within the first 75 feet of the Class I Watercourse and Lake Protection Zone[1] (WLPZ) or streamside buffer zone, or within the first 50 feet for Class II WLPZs or streamside buffer zone; and not be reduced below 65 percent for the remainder of the WLPZ or streamside buffer zone.

    b. All trees that are providing shade to Class I and Class II streams during critical summer months (i.e. June, July, August, and September), whether the trees are inside or outside the WLPZ or streamside buffer zone, shall be retained, when the overstory canopy within the first 75 feet of a Class I WLPZ or streamside buffer zone (50 feet for Class II WLPZs or streamside buffer zones) is less than 85 percent (%), or when the overstory canopy beyond the first 75 feet of a Class I WLPZ or streamside buffer zone (50 feet for Class II WLPZs or streamside buffer zones) is less than 65 percent (%). Any shade tree which must be retained shall be marked as a “leave tree.” Alternative percent shade retention received in writing may be approved by the Executive Officer, if the discharger demonstrates that such an alternative provides equal or better protection.

6. Road Plan
   The Discharger shall submit a long-term management plan for the road system (Road Plan), developed by a qualified professional and designed with the goal of preventing and minimizing sediment discharge from roads in the NTMP area. Roads refer to logging roads as defined in the Forest Practice Rules; a road other than a public road used by trucks going to and from landings to transport logs and other forest products. The Discharger shall submit the Road Plan within five years of enrollment in the Categorical Waiver. The road system described in the Road Plan shall be constructed,

[1] WLPZ is defined in the Forest Practice Rules. (Cal. Code Regs., tit. 14, § 916.)

reconstructed, and maintained to prevent or minimize sediment discharge to streams. This shall be accomplished by dispersing road surface drainage, preventing surface erosion from entering streams, protecting stream crossings from failure or diversion, and preventing failure of unstable fills, which would otherwise deliver sediment to streams.

The Road Plan shall include, at a minimum:

- The location of all roads and watercourse crossings within the logging area;
- The current status of each road, including road surface material, road and watercourse design, and use restrictions;
- The future plan and implementation schedule for each road; and
- A long term inspection and maintenance schedule designed to ensure that prevention and minimization measures functioning as intended and to identify and correct any problems that could cause sediment discharge in a timely manner. All roads must either be:
  - inspected and maintained annually, or
  - hydrologically maintenance free, i.e., do not alter natural hydrology of the hillslope, or
  - decommissioned

Roads (including road prism and watercourse crossing drainage structures) that are constructed or reconstructed after enrollment in Categorical Waiver E, shall at a minimum, comply with the standards listed below.

Existing usable roads will be upgraded to the standards below according to a schedule developed by the Discharger and approved by the Executive Officer of the Regional Board. It is expected that significant portions of the road system will be upgraded concurrently with timber harvest activities or through compliance with other regulatory programs. Roads that are not needed as part of the long-term road system and that discharge or threaten to discharge earthen material to waters of the state shall be scheduled as necessary for abandonment or obliteration as Controllable Sediment Discharge Sources under the Erosion Control Plan. The implementation schedule may be revised as warranted by changed conditions if agreed to in writing by the Executive Officer.

Stream Crossings:

- All stream crossings must have a drainage structure designed for the 100 year return interval discharge and pass any reasonable amount of debris;
- Stream crossings must be designed so that in the event of plugging, the stream is not diverted out of its channel;
- Stream crossing inlets and outlets must be protected from erosion;
- Stream crossing outlets must not discharge onto road fill;

- Stream crossing inlets must have low potential for plugging;
- Culvert inlet, outlet, and bottom must be open and in sound condition;
- Fills must be stable, and unstable fills are removed or stabilized;
- Road surfaces and ditches must be disconnected from streams;
- Decommissioned roads must have all stream crossings completely excavated; to original grade; and
- Fish bearing streams must have no barriers to fish passage

Road and Landing Fills

- Unstable and potentially unstable road and landing fills are removed; and
- Excavated spoil is placed in locations where earthen material will not discharge to a stream

Road Surface Drainage

- Road surface runoff must be dispersed by outsloping where feasible;
- Road surfaces and ditches are disconnected from streams to the extent feasible. Road segments that cannot be disconnected from streams shall be stabilized to prevent surface erosion;
- Ditches are drained frequently by functional rolling dips or ditch relief culverts;
- Outflow from ditch relief culverts does not discharge to streams, onto erodible fill, or onto active or potential landslides; and
- Gullies are dewatered to the extent feasible

Categorical Waiver F: Other Projects (Timber Harvest Plans (THPs) and Other Timber Harvesting Projects)

Other Projects include standard THPs, or other timber harvesting activities in compliance with CEQA, the following eligibility criteria and conditions apply:

Eligibility Criteria:

1. Any other Project, such as a Timber Harvest Plan (THP) under the FPRs approved by CAL FIRE, or other timber projects in compliance with CEQA.

Application fee for this waiver category: A one time application fee of $250

Specific Conditions:
The following specific conditions shall apply to THPs and other timber projects. The Discharger shall prepare a brief summary describing how the project meets each of the eligibility criteria listed below. The summary may be incorporated into the plan or project, or may be submitted along with the application seeking coverage under this Waiver Category:

2. Dischargers shall submit a site specific Erosion Control Plan developed by a qualified professional for the entire logging area and include that in the approved

THP or timber project as specified in Attachment B, which shall be fully implemented prior to the final project completion.

3. Timber harvest activities on all landslides and geomorphic features related to landsliding shall be designed to prevent and minimize sediment discharge related to landsliding. Prior to timber harvest activities on landslides or geomorphic features related to landsliding,[2] the discharger shall prepare and submit a geologic report. The report, to be prepared by a licensed California Professional Geologist, shall, at a minimum, be prepared in conformance with California Geologic Survey (formerly the California Department of Conservation Division of Mines and Geology) Note 45. The geologic report shall address the degree to which proposed Project activities on landslides or geomorphic features related to landsliding increases the risk of sediment delivery to watercourses, identifies current condition of down slope waters, estimates the amount of sediment that could be delivered from the slides or unstable areas from Project activities, and identifies and incorporates into the Project recommendations for preventing and minimizing the discharge of sediment from these sites.

4. No timber harvest activities shall occur within the channel zone of a Class III watercourse, except for use and maintenance of roads, construction and reconstruction of approved watercourse crossings, and to allow for full suspension cable yarding when necessary to transport logs through the channel zone .

   Projects that meet specific conditions 5 and 6 are not required to meet specific condition 7. Projects that meet specific condition 7 are not required to meet specific conditions 5 and 6.

5. Post harvest stocking within the Project area shall comply with the unevenaged stocking requirements of the FPR or in the case of evenaged harvesting methods shall maintain a canopy closure of at least 65 percent (%) comprised of commercial species at least 30 feet in height.

6. Timber harvesting activities with Watercourse and Lake Protection Zones[1] must be designed to protect and restore riparian functions and associated beneficial uses and comply with all applicable water quality regulations. Specific condition 6.a. and 6.b. are intended to meet the Basin Plan temperature objective by preserving natural shade where present and restoring it where it is not present. Alternatives to these specific requirements will be considered for equal or better protection:

   a. Alternative canopy retention levels received in writing may be approved by the Executive Officer, if the discharger demonstrates that such an alternative provides equal or better protection. In the absence of an approved alternative, overstory canopy shall not be reduced below 85 percent within the first 75 feet of the Class I Watercourse and Lake

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[2] Landslides and geomorphic features related to landsliding are defined by California Geologic Survey formerly (California Department of Conservation Division of Mines and Geology Note 50.

Protection Zone [3](WLPZ) or streamside buffer zone, or within the first 50 feet for Class II WLPZs or streamside buffer zone; and not be reduced below 65 percent for the remainder of the WLPZ or streamside buffer zone.

b. All trees that are providing shade to Class I and Class II streams during critical summer months (i.e. June-September), whether the trees are inside or outside the WLPZ, shall be retained, when the overstory canopy within the first 75 feet of a Class I WLPZ (50 feet for Class II WLPZs) is less than 85 percent (%), or when the overstory canopy beyond the first 75 feet of a Class I WLPZ or streamside buffer zone (50 feet for Class II WLPZs) is less than 65 percent (%). Any shade tree which must be retained shall be marked as a "leave tree." Alternative percent shade retention received in writing may be approved by the Executive Officer, if the discharger demonstrates that such an alternative provides equal or better protection.

7. To employ clearcutting (evenaged harvesting method) on slopes of less than 65 percent (%) and with a canopy closure of less than 65 percent (%) comprised of commercial species at least 30 feet in height, a riparian management zone (RMZ) must be established on each side of the watercourse for a distance of 300 feet on a Class I watercourse, 200 feet on a Class II watercourse, and 100 feet on a Class III watercourse. Within the RMZ, no harvesting may occur within the first 30 feet of Class I and II watercourses and within 10 feet of Class III watercourses. It is the intent of this condition to allow clearcutting with the maintenance of a substantial functional riparian zone and buffer.

   If the following canopy conditions are not currently met, this specific condition will not be applied to the THP. Beyond the no harvest zone, overstory canopy must be maintained at a minimum of 85 percent for a distance of 150 feet from a Class I watercourse, 100 feet from a Class II watercourse, and 50 feet from a Class III watercourse. Overstory canopy must be maintained at a minimum of 65 percent in the remainder of the RMZ.

   If the Project includes evenaged harvesting (clearcutting) methods which maintain a canopy closure of less than 65 percent (%) comprised of commercial species at least 30 feet in height on slopes greater than 65 percent (%), the Discharger shall prepare and submit a geologic report according to the criteria specified above in Section I(F)(3).

8. Roads shall be hydrologically disconnected from watercourses to the extent feasible. Hydrologically disconnecting roads consists of minimizing alteration of natural drainage patterns and preventing concentrated storm runoff from discharging into watercourses. Road segments that cannot feasibly be hydrologically disconnected from watercourses shall be treated to prevent and minimize surface erosion. Treatment may include seeding and mulching, rocking, slash packing, or other effective methods proposed by the Discharger.

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[3] WLPZ is defined in the Forest Practice Rules 14CFR 916

9. No Timber harvest activities, including, log hauling, ground based yarding, road construction, road reconstruction, or road rocking shall occur during the winter period (November 15 to April 1). This does not include work necessary to apply or maintain erosion control management practices or and sediment control to reduce sediment discharge.

10. No timber harvest activities shall occur during measurable rain events (defined as greater than ¼" in a 24-hour period). This does not apply to maintenance of existing roads and watercourse crossings, use of non-mechanized timber falling, fuels treatment such as hand piling and burning, hand fire line construction, or other activities which do not involve the use of heavy equipment or timber hauling,

11. Sediment prevention plan
    The Discharger shall develop and submit a Sediment Prevention Plan when any of the following are contained in the approved THP, NTMP, or other timber project:

    a. Construction of new skid trails on slopes over 40 percent (%) within 200 feet of a watercourse,

    b. Construction of more than 1,000 feet of new roads,

    c. Heavy equipment will be used within a WLPZ, equipment limitation zone, or streamside buffer zone of a watercourse, except for the following situations:
       - use of existing permanent roads,
       - use of existing bridges and culverts as skid trail crossings and maintenance of associated drainage facilities or structures,
       - upgrading of roads to permanent standards by rocking, paving or other suitable surfacing materials to establish a stable operating surface prior to the start of hauling operations

    d. Ground based heavy equipment operations on slopes exceeding 50 percent (%),

A Sediment Prevention Plan must be designed and implemented to prevent and minimize the discharge of sediment to waters of the State and submitted as part of a Project seeking coverage under the Categorical Waiver. A Sediment Prevention Plan differs from an Erosion Control Plan in that it is intended to prevent and minimize creation of *new* sources of sediment discharge from operations conducted under the current Project, while an ECP is intended to prevent and minimize sediment discharge from *existing* sources.

The Sediment Prevention Plan (SPP) shall be developed by a qualified professional. The Sediment Prevention Plan (SPP) shall include site specific measures that can reasonably be expected to prevent and minimize creation of new sediment discharge sources from proposed timber harvest activities. The sediment prevention plan must include a map clearly showing the location(s) of the site(s) where prevention and minimization measures described in the plan will be implemented.

SECTION II: APPLICATION PROCEDURES AND SUBMISSION REQUIREMENTS FOR CATEGORICAL WAIVERS

The first step in seeking coverage is to determine if a given Project meets one of the five Waiver categories. If the Project meets the eligibility criteria for a given categorical waiver, the Discharger must comply with all the general and specific waiver conditions, starting with submittal of the application documents, as required.

If a Project does not meet the eligibility criteria for one of the categorical waivers, the Discharger must seek enrollment under an individual waiver, general WDRs, individual WDRs, or watershed wide WDRs.

Generally, the Regional Board receives approved or accepted Project documents from CAL FIRE or the lead agency. These documents are part of the record for each categorical waiver. However, the discharger is responsible to ensure the Regional Board receives the approved THP, NTMP, environmental document, ECP or other documents that may be part of an approved THP, NTMP, or other timber project.

A. To seek coverage for Projects under a categorical waiver set out in Section I, Categorical Waivers C - F, the Discharger must submit to the Regional Board a “Certification Notice” that:

    1. Is signed by the land owner or designee proposing the project,

    2. Identifies the type of categorical waiver requested (Categorical Waiver C: Total Maximum Daily Load Plan Projects; Categorical Waiver D: Modified Timber Harvest Plan Projects; Categorical Waiver E: Nonindustrial Timber Management Plan Projects, or Categorical Waiver F: Other Projects, THPs),

    3. Acknowledges, that the Discharger understands and intends to comply with all water quality requirements and the eligibility criteria and all general and specific conditions identified within the appropriate waiver category .

    4. Submits the applicable application fee for Categorical Waiver E and F established by this Order.

B. The submission of a Certification Notice is not required for projects qualifying for coverage under the categorical waiver set out in Section I Categorical Waiver B: Emergency and Exemption Projects. Such Projects must, however, meet the eligibility criteria and conditions, both general and specific, to obtain and maintain coverage under Section I Categorical Waiver B.

C. For projects proponents applying for coverage under Categorical Waiver C-F, the Discharger may not commence timber harvesting activity until the

Discharger has received written notification from the Executive Officer stating that coverage under this Categorical Waiver is appropriate. The Executive Officer will notify the Discharger in writing if coverage under the categorical waiver is determined to be inappropriate. It is anticipated that projects which have had thorough Regional Board staff involvement in the review and approval process will receive written notification of coverage within ten (10) working days of receipt of a complete Certification Notice.

D. For an approved Program Timberland Environmental Impact Report (PTEIR), the proponent of each future Program Timber Harvesting Plan (PTHP) may seek coverage under this Order for each new PTHP. If the PTHP did not qualify for coverage under this Order, the Discharger may seek coverage under the Order No. R1-2004-0030, General Waste Discharge Requirements for Timber Harvest Activities on Non-Federal Land. Alternatively, Dischargers may seek coverage under an individual waiver or individual waste discharge requirements.

E. Dischargers who fail to obtain coverage under this Order or another applicable order will be subject to enforcement under Water Code sections 13350, 13264 and other applicable law if their Project results in an un-permitted discharge of waste.

SECTION III: WAIVER OF REPORTS OF WASTE DISCHARGE AND WASTE DISCHARGE REQUIREMENTS FOR PROJECTS PREVIOUSLY WAIVED UNDER ORDER NO. R1-2004-0016

Projects that were previously waived under Order No. R1-2004-0016 may be covered under this Order provided they qualify for one of the categorical waivers described in Sections I(B)-(F) and meet the General Conditions described in Section I(A) and the eligibility criteria for each Categorical Waiver. No application is required for Projects that meet the eligibility criteria for Categorical Waivers B, C, D, and F.

However, Non-Industrial Timber Management Plans that were waived under Order No. R1-2004-0016 must apply for coverage under Categorical Waiver F prior to the next notice of timber operations (NTO) submitted after June 4, 2010. Those NTMPs applying for coverage under this Order must meet the applicable eligibility criteria and conditions. Previously waived NTMPs must develop and submit an ECP as specified in Attachment B for each NTO submitted after June 4, 2010. Such previously waived plans must complete and submit, an ECP for the entire NTMP area to the Regional Board by the first NTO submitted after June 4, 2014.

SECTION IV: TERMINATION OF COVERAGE

A. To terminate coverage under a categorical waiver upon completion of the Project, a Discharger must submit a final certification to the Regional Board. The certification shall:
   1. Be signed by the landowner,

2. Document the Project was conducted in conformance with the approved or accepted Project and with all applicable provisions of this Order,
3. Document that discharges resulting from the Project were in compliance or are expected to comply with all requirements of applicable water quality requirements, and
4. Include submit a final annual inspection summary report to the Regional Board along with the final certification.

B. Not withstanding any other provision of this Order, the burden of proof is on the Discharger to demonstrate that each finding required for coverage under this Categorical Waiver can be made, and that each and every term, eligibility criterion, and condition has been met. Notwithstanding any other provision of this Order, no waiver coverage is valid unless each and every term, eligibility criterion, and condition is met.

C. The Executive Officer shall terminate the applicability of a categorical waiver to a specific project if the Executive Officer makes any of the following determinations:

1. The Project does not comply with the eligibility criteria for the waiver;
2. The Project is not in compliance with the applicable conditions of the waiver;
3. The Project is reasonably likely to result or has resulted in a violation or exceedence of any water quality requirements;
4. The Project has varied in whole or in any part from the approved Project in any way that could adversely affect water quality;
5. Where conditions unique to the watershed or watershed segment (including, but not limited to, cumulative impacts, special hydrographic characteristics, Total Maximum Daily Load standards, the extent of timber harvest activities, intensity of ground disturbing activities, large acreage ownership holdings or management plans, rainfall, slopes, soil, effected domestic water supplies, an increased risk of flooding, or proximity to local, State, or National Parks) warrant further regulation.
6. Where past land use activities unique to the watershed or watershed segment resulted in the discharge of human generated sediment in amounts which warrant further regulation.
7. When requested by another state agency, a subdivision of the state (county) or a federal agency, and with concurrence by the Executive Officer.

D. Upon receipt of a Notice of Termination of a categorical waiver, the Discharger shall immediately cease all timber harvest activities that may result in discharges of waste to waters of the state, other than activities necessary to control erosion. Upon notice of termination, the Discharger must apply for coverage under general WDRs or file a Report of Waste Discharge and applicable filing fee. Timber harvest activities that may result in discharges that could affect the quality of waters of the state may commence only upon enrollment by the Executive Officer under general or watershed wide WDRs, the adoption by the Regional Board of an individual waiver of WDRs or individual WDRs, or in accordance with Water Code section 13264(a).

E. The applicability of this Order to a specific project is immediately terminated upon the discharger’s receipt of a Notice of Termination of applicability or on the effective

date of a different or new categorical waiver of WDRs, an individual waiver of WDRs, individual WDRs, general or watershed WDRs or a NPDES permit that covers or permits the specific Project.

F. Where waste discharge requirements have been issued by the Regional or State Water Resources Control Board and have not expired, a waiver of that discharge shall not be obtained without a decision by the Regional Board following a public hearing. Thus the Categorical Waiver cannot be used to modify any existing order of the Regional Board during the life of the permit.

G. The provisions of this Order are severable; and, if any provision of this Order or the application of any provision of this Order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.

H. Order No. R1-2009-0038 shall expire five years from the adoption date.

I. Dischargers who fail to obtain coverage under this Order or another applicable order will be subject to enforcement under California Water Code sections 13350, 13264 and other applicable law if their Project results in an un-permitted discharge of waste.

J. As provided by Water Code section 13350(a), any person may be liable for civil penalties if that person is in violation of a waiver condition, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance.

SECTION V: PROHIBITIONS

1. The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.

2. The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.

3. The Discharger must not cause or threaten to cause pollution, contamination, or nuisance, as defined by Water Code section 13050.

4. This Categorical Waiver does not waive WDRs for other regulatory programs, such as grading and land clearing for any type of construction of 1-acre or more. Such construction requires that the discharger obtain a construction stormwater permit

and possibly a federal dredge and fill permit with accompanying 401 water quality certification if discharge occurs in waters of the United States.

5. The Discharger shall not adversely impact human health or the environment, or the beneficial uses of water set out in the Basin Plan.

6. The Discharger and Project shall comply with applicable local, state or federal laws and regulations.

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 June 4, 2009.

_____
Catherine Kuhlman
Executive Officer

Attachment A

DEFINITIONS

A. "Controllable sediment discharge source" means sites or locations within the Project area that meet all the following conditions:
   1. is discharging or has the potential to discharge sediment to waters of the state in violation of water quality requirements or other provisions of this Categorical Waiver,
   2. was caused or affected by human activity, and
   3. may feasibly and reasonably respond to prevention and minimization management measures.

B. “Discharger” means the timberland owner and anyone working on behalf of the timberland owner in the conduct of timber harvest activities on non-federal lands.

C. “Erosion Control Plan” (ECP) means a plan designed and implemented to prevent and minimize the discharge of sediment from existing sites to waters of the state in violation of water quality requirements or other conditions of this Order and submitted with the Project seeking coverage under the Categorical Waiver E: Nonindustrial Timber Management Plans (NTMPs) and Categorical Waiver F: Other Projects (THPs and Other Timber Harvesting Projects). The Erosion Control Plan (ECP) must be developed by a qualified professional. The ECP must include 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. Specific instructions to complete an ECP are included in Attachment B.

D. "Minimization" means the discharge or threatened discharge of sediment that cannot be prevented during design and implementation of the Project.

E. "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, Basin Plan compliance monitoring, forensic monitoring, hillslope and instream effectiveness monitoring, and implementation monitoring.

F. "Prevention" means the Project has been designed with the intent of preventing the discharge or threatened discharge of sediment waste through the use of all feasible and reasonable project design, timing and sediment control practices.

G. “Project” means any Timber Harvest Plan, Nonindustrial Timber Management Plan, other discretionary permits issued by the California Department of Forestry and Fire Protection (CAL FIRE) to harvest timber, including all amendments thereto that propose a change in timber harvest activities that in any way could adversely affect water quality, or any Notice of Exemption or Notice of Emergency Timber Operation accepted by CAL FIRE, or any other project, as defined by

CEQA, that involves timber harvest activities provided that the project has compliance with CEQA.

H. “Qualified professional” means a person with the appropriate training and/or licensing to prepare an Erosion Control Plan or other technical reports designed to prevent the discharge of waste into waters of the state and conduct site inspections, including but not limited to, Certified Erosion Control Specialists, Registered Professional Foresters, Registered Geologists, Certified Engineering Geologists, and Professional Civil Engineers.

I. "Sediment Prevention Plan" (SPP) means a plan designed and implemented to prevent and minimize the creation of new sites that discharge sediment to waters of the State. The Sediment plan is submitted by a discharger seeking coverage for a Project under Categorical Waiver F: Other Projects (THPs and Other Timber Harvesting Projects). . The SPP must be developed by a qualified professional. The Sediment Prevention Plan (SPP) must include, but not be limited to, a map clearly showing the location(s) of the site(s) that could discharge sediment, and site-specific designs and/or management measures to prevent and minimize the discharge of sediment.

J. “Timber Harvesting Activities” means commercial and non-commercial activities relating to forest management and timberland conversions. These activities include the cutting or removal or both of timber and other solid wood forest products, excluding Christmas trees, as well as, but not limited to, construction, reconstruction and maintenance of roads, fuel breaks, firebreaks, watercourse crossings, landings, skid trails, or beds for the falling of trees; fire hazard abatement and fuel reduction activities; burned area rehabilitation; site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities; but excluding preparatory treemarking, surveying or roadflagging.

K. “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 this waiver. Examples of wastes not specifically regulated or waived under this Order include: pesticides, hazardous materials, or human wastes.

L. “Water Quality Requirements” means a water quality objective (narrative or numeric), prohibition, TMDL implementation plan, policy, or other requirement contained in a Water Quality Control Plan (Basin Plan) adopted by the Regional Board and approved by the State Water Board, and all other applicable plans or policies adopted by the Regional Board or State Water Board, including, but not

limited to, State Water Board Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality Waters in California.

All other terms shall have the same definitions as prescribed by the California Forest Practice Act and Rules in effect as of June 4, 2009, and the Porter-Cologne Water Quality Control Act.

Attachment B

CONTENTS OF AN EROSION CONTROL PLAN (ECP)

An Erosion Control Plan, must be developed and implemented for a timber harvesting, including the logging area, roads and skid trails used to access or haul timber harvesting materials that are owned by or under the control of the Discharger. The ECP must be designed to prevent and minimize the discharge or threatened discharge of sediment from existing Controllable Sediment Discharge Sources into waters of the state in violation of water quality requirements or other provisions of this Order. The Discharger must develop and submit an ECP for coverage under the Categorical Waiver E: Nonindustrial Timber Management Plans (NTMPs) and Categorical Waiver F: Other Projects (THPs and Other Timber Harvesting Projects) as follows:

CSDS are defined as sites or locations, within the Project area that meet all the following conditions:

1. is discharging or has the potential to discharge sediment to waters of the state in violation of water quality requirements or other provisions of these General WDRs,
2. was caused or affected by human activity, and
3. to the maximum extent practicable may feasibly and reasonably, respond to prevention and minimization management measures.

Controllable sediment discharge sources 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, storage of waste, skid trails, landings, exposed harvest units, or any other location discharging or threatening to discharge waste or earthen materials. The ECP shall be amended and revised, when necessary, to meet this standard. No Project may conduct activities that can reasonably be expected to create new sediment discharge sources where none previously existed.

The ECP may be included with the initial submittal of a project, in which case it can be reviewed concurrently with the project, or separately as part of the application for a Categorical Waiver.

Contents of an ECP

a. An Inventory and Treatment of Controllable Sediment Sources within the logging area
The inventory must identify controllable sediment discharge sources and inform the development of a time schedule for implementation of prevention and minimization management measures. The inventory must include an on-the-ground survey and site evaluations, and may be augmented by additional information sources such as aerial photographs or previously prepared reports. Any method or model used to develop the inventory must be briefly described and must be reasonably expected to detect sediment discharge sources and to effectively prevent and minimize sediment discharge. The inventory must include:

i. A brief description of the method(s) used to conduct the inventory. This description provides the reviewer with an understanding of the thoroughness of the survey method and the likelihood that CSDSs have been identified. For example, the description identifies any aerial photographs used, and whether the Discharger inventoried all watercourses and skid trails,

ii. A description of each site, including sufficient information to provide the reviewer with an understanding of current conditions and why the site meets the definition of a CSDS,

iii. A topographic map, at a scale of 1:12000 or greater (e.g. 1:6000) with no greater than 80' contours, showing the logging area and the location of all controllable sediment discharge sources included in the inventory,

iv. An estimate of the potential deliverable sediment volume for each inventoried site. The potential deliverable sediment volume represents an estimate of the maximum volume of sediment that could discharge to waters of the state in the event of complete failure of a site,

v. A narrative description of the site-specific prevention and minimization management measure(s) prescribed for each controllable sediment discharge source identified in the inventory. Prevention and minimization management measures must be reasonably expected to effectively prevent and minimize specific sediment discharge sources in the logging area. The description must provide sufficient design and construction specifications, including but not limited to diagrams, minimum rock size, or performance standards as needed, to allow on site personnel to implement prevention and minimization measures as intended,

vi. Priority for implementation of prevention and minimization measures. The priority must be used to develop the time schedule for implementation and must be based on the potential impacts to the beneficial uses of water. The priority must consider at a minimum the estimate of the deliverable

volume of sediment, the imminence of failure, and the sensitivity of beneficial uses of water in receiving streams. In general, the highest priority is assigned to sites with large sediment discharge sources that show an imminent risk of failure and that will discharge to waters that support domestic water supplies or fish. Priority may be indicated as low, medium, or high.

vii. A time schedule for implementation of prevention and minimization management measures contained in the ECP that provides for timely implementation to prevent and minimize sediment discharge from sites in the order of priority. For THPs, implementation must be during the time an individual THP is active, or during the NTO covering the area in which a CSDS is located, unless an alternative time schedule is agreed to in writing by the Executive Officer. The schedule may specify a time range for implementation, for example the plan may state that a site shall be completed during the first two years of operations on the plan, as long as the schedule includes a final completion date. The time schedule for implementation may be revised as warranted by changed conditions if agreed to in writing by the Executive Officer.

b. Inspection Plan and Reporting Requirements

For each Project enrolled in Categorical Waivers E and F, Dischargers must follow the Inspection Plan detailed below for evaluating the implementation and effectiveness of the management measures in the Erosion Control Plan, to determine if any new controllable sediment discharge sources have developed within the Project area, and to ensure that all drainage facilities and erosion control structures are functioning properly in order to prevent sediment discharge to waters of the state.

The Inspection Plan must include a narrative discussion of the program to inspect and maintain all identified management measures designed to prevent and minimize sediment discharge throughout the duration of the Project. A site map that depicts the inspection locations to be visited before and after the winter period must be included in the Inspection Plan. Inspections must include, at a minimum, logging area roads that could discharge sediment, sites and locations addressed in the sediment prevention plan, and controllable sediment discharge sources contained in the ECP.

Each CSDS must be inspected during each required inspection. Additionally, inspectors should strive to inspect all accessible portions of the road system that have the potential to discharge sediment to watercourses to ensure roads are draining adequately and watercourse crossings are functioning properly and indentify any new CSDS sites that may have developed. Inspectors must note the conditions of CSDS sites and any failures or ineffectiveness of management measures.

Inspections conducted prior to the winter period must be designed to

assure that management measures are properly installed and maintained. Post-winter period inspections must be designed to assure that the management measures have functioned adequately and to determine whether any new controllable sediment discharge sources have developed. Management measures must be evaluated for adequacy and proper implementation and whether additional management measures are required in accordance with the terms of this Order.

Landowners and Qualified professionals must conduct all specified inspections of the Project site to identify areas causing or contributing to a violation of applicable water quality requirements or other provisions of the Categorical Waiver. The name(s) and contact number(s) of the assigned inspection personnel must be listed in the Inspection Plan.

The following inspection requirements begin once the startup of timber harvest activities begin within Project areas:

i. Inspections must be conducted as follows:
   - By November 15 to assure Project areas are secure for the winter; and
   - After April 1 and before June 15 to assess the effectiveness of management measures designed to address controllable sediment discharges and to determine if any new controllable sediment discharges sources have developed.
   - For THPs and other non-NTMP projects, inspections must be conducted each year according to the schedule specified above until the Project has been completed and the Discharger has submitted a Notice of Termination;
   - For NTMPs, inspections must be conducted each year according the schedule specified above until a final completion report for each NTO has been signed by CAL FIRE.

ii. Projects for which Timber Harvest Activities have not yet Commenced: No inspections are required.

iii. If any new controllable sediment discharge sources are identified during inspections, prevention and minimization measures must be implemented as soon as is feasible. New controllable sediment discharge sources shall be evaluated and addressed in accordance with the provisions described above, and included in a revised ECP. The revised ECP must be submitted to Regional Board staff with the annual summary inspection report.

iv. Equipment, materials, and workers must be available for rapid response to failures and emergencies, and implement, as feasible, emergency management measures depending upon field conditions and worker safety for access.

c. Reporting Requirements

Discharger must submit an inspection summary report to the Executive Officer by June 30th for each year of coverage under these Categorical Waivers and upon termination of coverage. The inspection summary report must include the following information, at a minimum:

- the date of each inspection,
- the inspector's name,
- the location of each inspection,
- the title and name of the person submitting the summary report,
- a brief narrative description of observed conditions,
- a description of any new controllable sediment discharge sources identified during inspections or throughout the course of routine timber harvest activities,
- a description of any corrective action taken to prevent and minimize sediment discharge as a result of observations made during the inspections, as well as the date the corrective action was taken,
- a description of prevention and minimization measures contained in the ECP implemented up to the date of submission of the report, the date those measures were implemented, and an evaluation of the effectiveness of those measures,
- a description of where management measures have been ineffective and when the Discharger will implement repairs or design changes to correct management measure failures.

A final inspection summary report shall be submitted with the final Certification Notice.