

EXECUTIVE OFFICER'S SUMMARY REPORT
8:30 A.M., Thursday, June 10, 2010
Regional Water Board
David C. Joseph Hearing Room
5550 Skylane Blvd., Ste A
Santa Rosa, CA

ITEM: 7

SUBJECT: Public Hearing on the proposed Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on U.S. Forest Service Lands in the North Coast Region

The North Coast Regional Water Quality Control Board (Regional Water Board) adopted a waiver of Waste Discharge Requirements on June 3, 2004 for discharges associated with timber harvesting activities on federal lands in the Region. That waiver (Order No. R1-2004-0016) was reviewed and a new waiver is being proposed to take its place. The proposed waiver goes beyond timber harvest activities to all nonpoint source activities on USFS lands.

The proposed waiver (Order No. R1-2010-0029, "Waiver") was posted for public review on the Regional Water Board web site and mailed to the USFS and a number of interested parties on March 4, 2010. A notice also went to a large email list. Staff presented the Waiver to the Regional Water Board at a public workshop in Eureka, California on March 25, 2010. Comment on the Waiver was received at the workshop from Regional Water Board members, the US Forest Service, and Mr. Felice Pace, representing the Environmental Protection Information Center and Klamath Forest Alliance. Some modifications were made to the waiver in response to those comments.

The revised Waiver was posted on our web site on April 13, 2010 for a 30-day public review period with a Notice of Public Hearing, an Initial Study, and a Mitigated Negative Declaration. The state Clearinghouse also released copies of those materials to interested state agencies, and posted it on their web site on April 12, 2010 (SCH # 2010042031). We also emailed the package to an extensive interested parties list.

The public comment period ended at 5:00 pm on May 17, 2010. We received six (6) comment letters from the following:

- US Forest Service, Region 5
- Klamath Forest Alliance and Environmental Protection Information Center
- Karuk Tribe
- Quartz Valley Indian Reservation
- Forest Issues Group
- California Cattlemen's Association, California Farm Bureau Federation, California Forestry Association (this letter was received the following morning after the close of the public comment period, however we recommend that the Board accept the comments)

The Waiver was revised in response to those comments and is attached in two forms: 1)a copy with changes indicated by underline/strikeout (additions/deletions), and 2)a clean copy with all the changes incorporated into the Waiver. A Response to Comments document was prepared as well, and is attached. The following items are attached to this report:

1. Proposed Waiver, Order No. R1-2010-0029, clean copy
2. Proposed Waiver, Order No. R1-2010-0029, underline/strikeout version
3. Comments Received
4. Response to Comments
5. Initial Study and Mitigated Negative Declaration
6. Public Hearing Notice

The proposed Waiver is based largely on the United States Forest Service (USFS) planning framework, which includes overarching policies and guidance as well as standards and specific guidelines. The planning framework sets a process for determining and implementing measures not only to mitigate potential water quality impacts, but also to enhance and protect water quality.

The USFS manages public lands encompassing approximately 55% of the North Coast Region for multiple uses including grazing, forestry, recreation, fire suppression, vegetation manipulation, and restoration. Activities associated with these uses may generate sediment, affect shade canopy, or influence other water quality parameters of waters of the state.

Elements of that planning framework range from the watershed protection goals of the Northwest Forest Plan, to very specific best management practices for USFS activities, including nonpoint source activities, to prevent, minimize, and mitigate waste discharges.

The USFS developed a Water Quality Management Plan (Plan) under Clean Water Act section 208 and entered into a Management Agency Agreement with the State Water Resources Control Board in 1981. The Plan contains a framework for water quality protection and a manual of Best Management Practices (BMPs). Individual projects and activities on USFS land undergo analysis to determine appropriate site-specific management practices necessary to avoid water quality impacts. Actual on-the-ground prescriptions to implement the BMPs are included in project contracts, agreements, and plans.

In addition to requiring the USFS to implement its planning framework and policies, and the Water Quality Management Plan, the Waiver contains:

1. Conditions that improve the documentation of environmental assessment and the selection and implementation of on-the-ground prescriptions to protect and restore water quality,
2. Conditions to place those specific on-the-ground prescriptions into project contracts, agreements, and plans and notify individual contractors of their responsibility to comply with the Waiver conditions,
3. Conditions requiring the USFS to use a checklist approach to ensure and document that all on-the-ground prescriptions for water quality protection are implemented,
4. Incentive-based restoration that requires that projects in watersheds without a watershed restoration plan must address legacy sediment delivery sites within the project area,

5. Improved monitoring of BMP implementation on a project basis,
6. Retrospective BMP monitoring of selected BMPs five years after implementation to ensure that they are still functional, and if not, to modify the BMPs as appropriate,
7. In-channel beneficial use monitoring at selected sites on national forest lands,
8. Incentive-based monitoring requiring beneficial use monitoring for projects conducted in a watershed without existing beneficial use monitoring, and
9. Conditions for TMDL implementation and compliance for both sediment and temperature TMDLs, including riparian shade conditions.

The implementation of the USFS planning framework and specific measures to protect and enhance water quality, meets the water quality protection needs of the Regional Water Board and provides a unique opportunity for comprehensive coverage that provides better and more efficient protection of the beneficial uses of water by addressing temperature and sediment sources systematically across the landscape.

**PRELIMINARY STAFF
RECOMMENDATION:**

Consider agency and public comments and adopt the Waiver (Order No. R1-2010-0029) as proposed or with appropriate changes.