

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WQO 2002 - 0019

In the Matter of the Petition of

**HUMBOLDT WATERSHED COUNCIL,
JESSE NOEL AND KEN MILLER**

To Require Reports of Waste Discharge
and to Issue Waste Discharge Requirements

For All Logging Conducted by Pacific Lumber Company in the
Freshwater Creek, Elk River, Stitz Creek, Bear Creek, and Jordan Creek Drainages
or to Direct the North Coast Regional Water Quality Control Board to
Render a Decision on Issues Raised by Petitioner

SWRCB/OCC FILE A-1479

BY THE BOARD:

I. INTRODUCTION

On May 8, 2002, the State Water Resources Control Board (State Board or SWRCB) received a petition dated May 3, 2002, filed by the Humboldt Watershed Council, Jesse Noel, and Ken Miller (collectively referred to in this order as Petitioners or the Humboldt Watershed Council). The petition asks the State Board to direct the North Coast Regional Water Quality Control Board (Regional Board) to: (1) require Pacific Lumber Company (PALCO) to submit reports of waste discharge for all logging operations in the Freshwater Creek, Elk River, Stitz Creek, Bear Creek and Jordan Creek drainages; and (2) to issue waste discharge requirements corresponding to each of those waste discharge reports. In the alternative, the petition requests the State Board to order the Regional Board to issue a decision on the Humboldt Watershed Council's previous petition filed with the Regional Board dated April 17, 2000, that requested action against PALCO for alleged improper logging practices in the Freshwater Creek and Elk River drainages.

This is the second order entered by the State Board regarding issues raised by the Petitioners. In response to a previous petition from the Humboldt Watershed Council concerning

water quality effects of PALCO's timber operations, the State Board issued Order WQO-2002-0004, on January 23, 2002. Order WQO-2002-0004 remanded the issues raised by the Petitioners to the Regional Board for consideration and action in accordance with applicable law. As discussed below, the Regional Board has since taken several actions to improve water quality protection and to address the issues raised by Petitioners.¹ Those actions include expediting the schedule for establishing total maximum daily loads (TMDLs) in the five impaired watersheds identified in the petition,² sponsoring mediation of water quality issues related to timber harvesting, promoting increased water quality monitoring of timber operations, issuance of a cleanup and abatement order requiring PALCO to take specified actions in the Elk River watershed, and requiring PALCO to submit reports of waste discharge for operations proposed to be conducted in the Elk River watershed between October 15 of each year and May 1 of the following year.

For the reasons discussed below, this order concludes that the actions taken by the Regional Board constitute a reasonable effort to address the issues raised by Petitioners in a manner consistent with the remand in SWRCB Order WQO-2002-0004, but that further actions are needed. The Water Quality Control Plan for the North Coast Region (Basin Plan) requires submission of reports of waste discharge for activities related to timber harvesting where investigations indicate that beneficial uses of water may be adversely affected by waste discharges, but it does not require reports of waste discharge for all timber harvest operations. The initial determination of whether a particular timber operation may adversely affect beneficial uses of water can best be made by the Regional Board following investigation and review of available information. Therefore, this order denies Petitioners' request for the State Board to require reports of waste discharge and issuance of waste discharge requirements for all timber harvesting in the five watersheds specified in the petition and it directs the

¹ References to past or future Regional Board actions throughout this order include actions of Regional Board staff acting on behalf of the Regional Board.

² Section 303(d) of the federal Clean Water Act requires the states to identify waters that are not meeting established water quality standards after technology-based discharge limits on point sources of pollution have been implemented. States are then required to identify the TMDL of specified pollutants that will allow for meeting applicable water quality standards and to develop a plan for meeting those standards. California's list of impaired waters classifies Freshwater Creek, Elk River, and the Eel River (of which Bear Creek, Stitz Creek, and Jordan Creek are tributaries) as being impaired for sediment and siltation. Silviculture (i.e., timber harvesting and related activities) is listed as a source of excess sediment and siltation for all three watersheds.

Regional Board to continue its efforts to protect water quality in a manner consistent with applicable statutes, the Basin Plan, and the requirements of Order WQO-2002-004. This order also requires the Regional Board to report back to the State Board in January 2003 regarding actions it has taken and its schedule for further action with respect to requiring reports of waste discharge and issuing waste discharge requirements for timber harvesting in the five watersheds.

II. BACKGROUND

The Humboldt Watershed Council's petition filed on May 8, 2002, concerns the same issues raised in Petitioners' prior petitions to the State Board and Regional Board. Those petitions alleged that extensive logging by PALCO resulted in large quantities of sediment entering nearby streams causing severe flooding problems and injury to the coho salmon fishery. On January 22, 2002, the State Board adopted Order WQO-2002-004 to address the issues raised by the original Humboldt Watershed Council petition filed with the Regional Board on April 17, 2000, and the subsequent petition filed with the State Board on March 2, 2001. The March 2, 2001, petition asked the State Board to take jurisdiction over the issues raised by the original petition filed with the Regional Board and the alternatives addressed in a Regional Board staff report dated September 9, 2000.³

State Board Order WQO-2002-0004 reviews background information concerning the dispute and discusses the authority of the State Board and Regional Board to issue waste discharge requirements for timber operations. The order also discusses regulation of timber operations under the 1988 Management Agency Agreement with the California Department of Forestry and Fire Protection (CDF) and the Board of Forestry, and the fact that the U.S. Environmental Protection Agency (U.S. EPA) has not certified California's program for regulation of non-point source pollution. Order WQO-2002-0004 reiterates the State Board's previous conclusion that the State and Regional Boards have

³ The September 9, 2000, Regional Board staff report evaluates several adverse impacts to beneficial uses of water caused by discharge of sediment from lands owned by PALCO (and Scotia Pacific Company) within five Humboldt County watersheds. The alternatives addressed in the Regional Board staff report include adoption of individual waste discharge requirements for timber harvest activities and expediting the time schedule for development of TMDLs for Freshwater Creek, Elk River, and the Middle Fork of the Eel River to which Stitz Creek, Bear Creek, and Jordan Creek are tributary. The March 2, 2001, petition asked that the State Board direct the Regional Board to require reports of waste discharge for PALCO's logging operations in the Elk River, Stitz Creek, Bear Creek, Jordan Creek, and Freshwater Creek watersheds.

authority to issue waste discharge requirements for logging. (Order WQO-2002-0004, pp. 5 and 6; see also Order WQ 2001-14, p. 13.) Based on the State Board's review of the record then before it, the order states that the evidence of significant water quality problems "caused or aggravated by logging practices in the five watersheds . . . is sufficient to warrant further review and consideration of the alternative actions identified in the [Regional Board] staff report."

Order WQO-2002-0004 also discusses the status of the five watersheds under section 303(d) of the Clean Water Act. Freshwater Creek, Elk River, and the Middle Fork Eel River (of which Bear Creek, Stitz Creek, and Jordan Creek are tributaries) are classified as being impaired for sediment and siltation. Silviculture is listed as a source of excess sediment and silt in each of the watersheds. The order concludes that it is desirable to expedite establishment of TMDLs for all five streams and to take appropriate action to ensure that the TMDLs are not exceeded.

Citing the greater familiarity of the Regional Board and its staff with the conditions in the five watersheds, Order WQO-2002-0004 remanded the issues raised by Petitioners to the Regional Board "for consideration and action in accordance with applicable law." (Order WQO-2002-0004, pp. 6-9.) The order requires periodic progress reports to the State Board regarding revisions to the schedule for establishing TMDLs and the status of any other Regional Board actions or proceedings with respect to issues raised in the Humboldt Watershed Council's petitions. In the event insufficient progress is made to establish and implement TMDLs on the five streams within 18 months, the order states that the State Board will consider establishing waste discharge requirements for timber harvests in the affected watersheds. (Order WQO-2002-0004, pp. 2 and 8.)

As discussed below, the Regional Board's response to the petition identifies numerous actions taken in response to Order WQO-2002-0004, and argues that the Regional Board is in compliance with that order. PALCO filed a response to the petition dated June 4, 2002, and a supplemental response dated July 16, 2002, in which the company argues that the Regional Board actions (as of the dates of PALCO's responses) were in compliance with Order WQO-2002-0004 and applicable law. Following the Regional Board's issuance of Cleanup and Abatement Order No. R1-2002-0085 on August 1, 2002, and the Regional Board's August 5, 2002, order to submit reports of waste discharge for winter operations in the Elk River watershed, however, PALCO filed petitions for review of those actions by the State Board arguing that the Regional Board actions should be

rescinded.⁴ In addition, on September 13, 2002, PALCO filed a petition for review of a Regional Board order requiring monitoring and technical information on water quality in the Elk River watershed.⁵

III. ANALYSIS OF PETITION

The issue presented to the State Board is whether the Regional Board's actions are consistent with the State Board's remand in Order WQO-2002-0004 which directed the Regional Board to consider and take appropriate action upon the issues raised by Petitioners. The Petitioners argue that reports of waste discharge and waste discharge requirements should be required for all timber harvesting by PALCO in the five watersheds. PALCO contends that the Regional Board and State Board have no authority to require reports of waste discharge or to issue waste discharge requirements for the timber operations in question. Although the Regional Board has ordered PALCO to submit reports of waste discharge for some of its operations, it has not required reports of waste discharge or issuance of waste discharge requirements for all timber operations conducted by PALCO within the five watersheds.

A. Regional Board Actions

The Regional Board's actions to comply with Order WQO-2002-0004 are described in the written progress reports filed with the State Board and documented by extensive materials in the record. On April 10, 2002, Regional Board Executive Officer Susan Warner appeared before the State Board and reported that the Regional Board was expediting establishment of TMDLs in the five watersheds, Regional Board staff had met with PALCO to improve water quality monitoring, and the Regional Board was encouraging mediation regarding water quality problems in the affected watersheds.⁶ On April 18 and 19, 2002, the Regional Board held a hearing to consider whether to

⁴ PALCO's petition for review of the cleanup and abatement order was received on August 30, 2002, and has been assigned file number SWRCB/OCC A-1501. PALCO's petition for review of the order to submit reports of waste discharge was received the same day and was assigned file number SWRCB/OCC A-1502.

⁵ PALCO's petition for review of Regional Board Order No. R1-2002-0088 was assigned file number SWRCB/OCC A-1507.

⁶ The Regional Board's written progress report dated April 10, 2002, states that the Regional Board has directed staff to expedite TMDL development in all five watersheds and that the Regional Board hopes to complete TMDL development on Elk River and Freshwater Creek by the end of 2003, more than five years earlier than previously planned.

require reports of waste discharge pursuant to applicable provisions of the Basin Plan and Water Code section 13260. At the close of the hearing, the Regional Board adopted a motion addressing monitoring, cleanup and abatement orders, and mediation, but did not take any action regarding reports of waste discharge or issuance of waste discharge requirements.

The Regional Board filed a written response to the Humboldt Watershed Council petition on July 24, 2002. The July 24 response states that Order WQO-2002-0004 did not require issuance of waste discharge requirements, but indicates that issuance of waste discharge requirements remained a “distinct possibility.” (Regional Board Response, p. 9.) The Regional Board response contends that the Regional Board has complied with Order WQO-2002-0004, but expresses willingness to act in accordance with further direction or clarification of Order WQO-2002-0004 by the State Board. (Regional Board Response, p. 9.)

Following its written response to the petition, the Regional Board issued Cleanup and Abatement Order No. R1-2002-0085 on August 1, 2002. Among other things, that order requires PALCO to prepare and submit a workplan for taking corrective actions to reduce sediment discharge in the Elk River watershed from activities and conditions related to timber operations. In addition, on August 5, 2002, the Regional Board directed PALCO to submit reports of waste discharge for discharges and threatened discharges of earthen materials associated with operations proposed to be conducted in the Elk River watershed between October 15 of each year and May 1 of the following year.

On September 4, 2002, Regional Board Chairman William Massey appeared before the State Board to provide a periodic progress report on Regional Board actions as required by Order WQO-2002-0004. Mr. Massey reviewed previous Regional Board actions and reported on the current status of efforts to establish an expert scientific review panel to determine the effects of timber harvesting on rates of sedimentation.

B. Waiver of Reports of Waste Discharge Under Basin Plan and Regional Board Resolution No. 87-113

Most logging operations in the North Coast Region have been considered to qualify for a waiver from obtaining waste discharge requirements pursuant to provisions of the Basin Plan⁷ and North Coast Regional Water Quality Control Board Resolution No. 87-113 (Resolution No. 87-113).⁸ Resolution No. 87-113 waives the filing of reports of waste discharge and issuance of waste discharge requirements for 27 types of discharges, including timber harvesting. The waiver for timber harvesting on non-federal land is conditioned upon operating under a timber harvest plan approved by the CDF and upon compliance with the Basin Plan. Resolution No. 87-113 states that the waiver is conditional and may be terminated at any time.⁹

The Basin Plan contains an “Action Plan for Logging and Associated Activities” that establishes specific waste discharge prohibitions and enforcement guidelines for logging operations. These prohibitions forbid discharge of soil, silt, bark, sawdust, or other organic and earthen material from logging or associated activities into any stream in quantities deleterious to fish, wildlife, or other beneficial uses of water. They also prohibit placing or disposing of any materials at a location where they could pass into a stream in quantities that could be deleterious to fish, wildlife, or other beneficial uses. The Basin Plan also provides:

⁷ Basin Plan, p. 4-35.00.

⁸ If California’s forest practices regulatory program were certified as the best management practices for silviculture pursuant to section 208 of the Federal Water Pollution Control Act, then timber operations conducted pursuant to the Forest Practice Act would be exempt from obtaining waste discharge requirements pursuant to Public Resources Code section 4514.3. However, the U.S. EPA has expressly declined to certify that California’s current program constitutes best management practices. Therefore, timber operations are not exempt from applicable statutory requirement to obtain waste discharge requirements. (Water Code § 13260, et seq.) Even if the U.S. EPA were to certify California’s forest practices program as constituting best management practices, subdivision (b) of Public Resources Code section 4514.3 provides that the exemption from issuance of waste discharge requirements shall not apply if the State Board finds that the Board of Forestry has failed to maintain a water quality regulatory process consistent with the certification by the U.S. EPA. In the absence of a statutory exemption from California Water Code provisions governing waste discharge requirements, most timber operations in Region 1 have been considered to qualify for waivers pursuant to the applicable provisions of the Basin Plan and Regional Board Resolution No. 87-113.

⁹ Water Code § 13269 requires that all waivers must be conditional and may be terminated at any time by the Regional Board.

“The Regional Water Board considers that implementation of the discharge prohibitions relating to logging, construction, or associated activities can provide appropriate protection to waters of the region from these sources of waste and, in the great majority of their activities, will waive the need for reports of waste discharge and waste discharge requirements. However, where investigations indicate that the beneficial uses of water may be adversely affected by waste discharges, the staff shall require the submission of Reports of Waste Discharge.” (Basin Plan, p. 4-35.00.)

C. Compliance With Order WQO-2002-0004 and Applicable Law

Order WQO-2002-0004 remanded the issues raised in the Humboldt Watershed Council’s earlier petition to the Regional Board “for consideration and action in accordance with applicable law” and directed the Regional Board to report on any revisions to the schedule for establishing TMDLs for the five streams in question and “on the status of any other Regional Board actions or proceedings with respect to issues raised in the petitions filed with the State and Regional Boards by the Humboldt Watershed Council.” (Order WQO-2002-0004, pp. 8 and 9.)

A primary focus of Petitioners since filing their initial petition with the Regional Board in April 2000 has been their request that: (1) the Regional Board require PALCO to submit reports of waste discharge for its timber harvest operations; and (2) the Regional Board issue waste discharge requirements for PALCO’s timber operations. Order WQO-2002-0004 does not expressly require the Regional Board to take any specific action with respect to establishing waste discharge requirements. Rather, citing the greater familiarity of the Regional Board and its staff with the conditions in the affected watersheds, the State Board remanded the issues raised in the petition to the Regional Board for consideration and action in accordance with applicable law.

In carrying out activities that may affect water quality, all state agencies are required to comply with the applicable Basin Plan unless otherwise directed or authorized by statute. (Wat. Code § 13247.)¹⁰ As discussed above, the Basin Plan provides that reports of waste discharge and waste discharge requirements are to be waived for “the great majority” of timber harvest operations, but the

¹⁰ Although PALCO has argued that timber operations conducted pursuant to an approved Timber Harvest Plan are exempt from regulation by the State and Regional Boards, section 898.2(h) of the California Forest Practice Rules specifically prohibits approval of timber harvest plans that would cause “a violation of any requirements of an applicable water quality control plan adopted or approved by the State Water Resources Control Board.” (Cal. Code Regs., tit. 14, § 898.2(h).)

Basin Plan also provides that Regional Board staff shall require reports of waste discharge in those instances where investigations indicate that the beneficial uses of water may be adversely affected. The Regional Board held a hearing on April 18 and 19, 2002, to receive information to assist in determining whether to require PALCO to submit reports of waste discharge pursuant to provisions of the Basin Plan and Water Code section 13260. Although the Regional Board took no action to require reports of waste discharge at the time of the hearing, the Regional Board Executive Officer later directed PALCO to provide reports of waste discharge for winter operations in the Elk River watershed.

In addition to information presented at the Regional Board hearing on April 18 and 19, 2002, the requirement for PALCO to submit reports of waste discharge for specified timber operations is supported by detailed and well-documented information from the September 9, 2000, Regional Board staff report.¹¹ Various findings in the Regional Board's Cleanup and Abatement Order No. 98-100¹² and State Board Order No. WQO-2002-0004, also establish that beneficial uses of water in the

¹¹ The Regional Board prepared a detailed staff report dated September 9, 2000, titled "Proposed Regional Water Board Actions in the North Fork Elk River, Bear Creek, Freshwater Creek, Jordan Creek, and Stitz Creek Watersheds." The report states that:

"During the winters of 1995/1996 and 1996/1997, significant cumulative adverse impacts to beneficial uses of waters within Bear Creek, Stitz Creek, Jordan Creek, Freshwater Creek and the North Fork Elk River watersheds occurred from discharges of sediment from the lands owned by the Pacific Lumber Company, Scotia Pacific Company, LLC and the Salmon Creek Corporation (hereinafter referred to as the Discharger). Staff of the Regional Water Board, the California Department of Forestry and Fire Protection (CDF), the California Department of Fish and Game, the California Division of Mines and Geology, and members of the public observed and documented these impacts to beneficial uses. Agency representatives determined that the Discharger's harvest and related activities contributed significantly to the documented adverse impacts. . . . However, the Discharger is now proposing and conducting timber harvest practices at rates similar to or significantly higher than those employed prior to the 1995/1996 and 1996/1997 winters which led to the previous and continuing impairment. . . . In the Regional Water Board staff's judgment, the Discharger's timber harvest and related activities under the HCP and the Forest Practice Rules will not assure protection of water quality standards (water quality objectives and beneficial uses.)" (Regional Board staff report, pp. 1 and 2.)

The staff report cites information provided by PALCO that indicates the rate of sediment delivery to each of the five streams has increased tremendously in response to the increased rate of logging. Despite the relationship between the rate of harvest and the large increase in sediment deposited to the stream, neither the Habitat Conservation Plan (HCP) that was required under the Headwaters Forest purchase agreements nor PALCO's Sustained Yield Plan (SYP) places a limit on the rate of harvests within each of the five watersheds discussed in the Regional Board staff report. (Staff Report, pp. 6-12.)

¹² Cleanup and Abatement Order No. 98-100 includes findings regarding damages to beneficial uses of water caused by PALCO's logging and discusses the fact that, from 1990 to 1997, CDF issued 51 citations to PALCO and Scotia Pacific Company for violations of the Forest Practices Rules within the North Fork Elk River watershed. The order
[footnote continued next page]

Elk River watershed have been and may continue to be adversely affected by waste discharges due to timber harvesting on PALCO land.¹³

The Basin Plan provides that the Regional Board shall require reports of waste discharge where investigations indicate that beneficial uses of water may be adversely affected by activities related to timber harvesting. The record of adverse impacts to beneficial uses of water from timber harvesting conducted by PALCO and past timber harvesting on PALCO property establishes that beneficial uses of water may be adversely affected by PALCO's future timber harvest activities. The Regional Board's recent requirement that PALCO submit reports of waste discharge for winter timber operations in the Elk River watershed establishes that the Regional Board recognizes this fact and is acting to enforce relevant Basin Plan provisions. The initial determination of the timber harvest activities for which reports of waste discharge must be submitted and for which waste discharge requirements may be required is best left to the Regional Board subject to review by the State Board if necessary. However, in view of evidence of the relationship between past timber harvesting and the impaired water quality conditions in the five watercourses identified in the petition, it is imperative for the Regional Board to act on a timely basis.

In addition to requiring reports of waste discharge, the progress reports provided by the Regional Board and other information in the record establish that the Regional Board has taken several other actions to address water quality problems previously identified by Petitioners. These actions include adoption of an expedited schedule for establishing TMDLs for the watersheds in question, issuance of a cleanup and abatement order to address water quality problems in the Elk River watershed, working to establish increased monitoring of water quality conditions, and working to establish an independent scientific review panel to address certain water quality issues associated with

also cites a very large increase in landslide debris coming from recently logged areas. The order requires PALCO to provide an alternative supply of drinking water to property owners who previously received their water from the North Fork Elk River.

¹³ In addition to findings regarding impacts of logging on beneficial uses of water in the North Fork Elk River, Order WQ 2001-14 contains four pages of findings regarding evidence of potential impacts of PALCO's timber operations on water quality and beneficial uses of water in the South Fork Elk River. (Order WQ 2001-14, pp. 21-25.) The State Board received extensive evidence regarding PALCO's adverse impacts on beneficial uses of water during its proceedings leading to issuance of Order WQ 2001-14 and Order WQO-2002-004. The 11-volume record compiled for the Regional Board hearing on April 18 and 19, 2002, contains additional evidence regarding impacts to beneficial uses of water caused by PALCO timber operations.

timber harvesting.¹⁴ Based on our review of the record and the actions of the Regional Board following issuance of Order WQO-2002-0004, the State Board concludes that the Regional Board has taken some reasonable steps to comply with that order and applicable law, but that further actions are needed.¹⁵

IV. CONCLUSION

State Board Order WQO-2002-0004 remanded the issues raised by the Humboldt Watershed Council's previous petitions to the Regional Board for consideration and action in accordance with applicable law. The order also directs the Regional Board to make periodic progress reports to the State Board regarding revisions to the schedule for establishing TMDLs on five watercourses and the status of other Regional Board actions to address the water quality issues raised by Petitioners. In view of the impaired classification of the watersheds in question and the extent of past, present, and proposed timber harvesting in those watersheds, the State Board recognizes that the Regional Board's work to protect and restore beneficial uses of water will be an ongoing process. Over the past several months, the Regional Board has expedited the schedule for establishment of TMDLs and has taken a variety of actions to address water quality problems identified by Petitioners. The Basin Plan requires submission of reports of waste discharge where investigations indicate that beneficial uses of water may be adversely affected by waste discharges from logging and related activities. Based on evidence that timber harvest activities in the Elk River watershed may adversely affect beneficial uses of water, the Regional Board recently began to require reports of waste discharge for winter timber harvest activities in that watershed. In view of the impaired status of the five watersheds specified in the petition, evidence of past adverse effects of timber harvesting on water quality, and proposals for future timber harvesting in those watersheds, the State Board concludes it is

¹⁴ Although the State Board concludes that the Regional Board has undertaken a reasonable and continuing effort to comply with Order WQO-2002-0004 and applicable law, this order takes no action on the recent petitions that PALCO and Scotia Pacific Lumber Company have filed seeking review of recent Regional Board orders. Those petitions will be the subject of separate consideration and further action.

¹⁵ This order addresses the major issues raised by the petition. Other non-substantial issues raised in the petition or in other submittals of interested parties need not be discussed in this order. (See *People v. Barry* (1987) 194 Cal.App.3d 158 [239 Cal.Rptr. 349]; Cal. Code Regs., tit. 23, § 2052.)

imperative for the Regional Board to determine on a timely basis if reports of waste discharge and issuance of waste discharge requirements are needed for other timber harvests in each of the five watersheds.

V. ORDER

IT IS HEREBY ORDERED that:

1. The North Coast Regional Water Quality Control Board (Regional Board) shall continue to take action to address water quality problems related to timber harvesting in the watersheds of the Elk River, Freshwater Creek, Bear Creek, Stitz Creek, and Jordan Creek in accordance with the requirements of Order WQO-2002-0004, the California Water Code, and the Water Quality Control Plan for the North Coast Region (Basin Plan) as it may be amended from time to time.

2. The Regional Board's actions to protect water quality from potential adverse effects to beneficial uses of water shall include requiring reports of waste discharge and issuance of waste discharge requirements, as appropriate, pursuant to applicable provisions of the Basin Plan and California Water Code section 13260, et seq.

3. The Regional Board's periodic progress reports to the State Board required under Order WQO-2002-0004 shall include: (1) information on any proposed or ongoing timber harvest operations by any party in the watersheds of Elk River, Freshwater Creek, Bear Creek, Stitz Creek and Jordan Creek; (2) information regarding reports of waste discharge required by the Regional Board for ongoing or proposed timber harvest operations in those watersheds pursuant to applicable provisions of the Basin Plan; and (3) information on the status of any waste discharge requirements issued or proposed to be issued on ongoing or proposed timber harvest operations in the specified watersheds. The progress report due in January 2003 shall include the Regional Board's schedule for making any remaining determinations on the need for reports of waste discharge for timber harvesting in each of the five specified watersheds. In determining if reports of waste discharge are needed pursuant to applicable provisions of the Basin Plan, the information considered by the Regional Board shall include, but shall not be limited to, the September 9, 2000, Regional Board staff report titled "Proposed Regional Board Actions in the North Fork Elk River, Bear Creek, Freshwater Creek, Jordan Creek, and Stitz Creek Watersheds."

4. Petitioners' request for the State Board to require reports of waste discharge and issuance of waste discharge requirements for all timber harvesting by Pacific Lumber Company in the five specified watersheds is denied.

CERTIFICATION

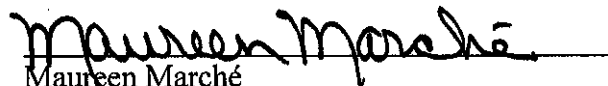
The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 17, 2002.

AYE: Arthur G. Baggett, Jr.
Peter S. Silva
Richard Katz
Gary M. Carlton

NO: None

ABSENT: None

ABSTAIN: None


Maureen Marché
Clerk to the Board