



California Regional Water Quality Control Board

Central Coast Region



Terry Tamminen
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>
895 Aerovista Place, San Luis Obispo, California 93401-7906
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

October 21, 2004

David Van Lennep, RPF # 2591
Redwood Empire
1395 41st Avenue, Suite D
Capitola, CA 95010

Dear Mr. David Van Lennep:

SUBJECT – CLARIFICATION FOR PROCESSING OF TIMBER HARVEST WAIVERS

Regional Board staff received your letter dated September 17, 2004 requesting clarification of the process for obtaining a waiver for timber harvest operations.

It is the intent of Regional Board staff to clearly document the timber harvest regulatory process by December 3, 2004. This will include a summary of the existing timber harvest regulatory process (process) and proposed revisions to the process for presentation to the Regional Board for review and direction. On December 3, 2004, Regional Board staff intends to propose, as part of the revisions to the process, that staff be directed to develop a general waiver for timber harvest activities.

Subsequent to the December Regional Board meeting, a timber harvest regulatory process specific to the Central Coast Region will be available for public review and comment with the intention of presenting the process to the Regional Board for review and action in February 2005. If the February action results in the adoption of the proposed timber harvest regulatory process (waiver), then all timber harvest activities will be able to apply for coverage under this general waiver immediately. If the February action does not result in the adoption of the proposed timber harvest regulatory process (waiver) then all timber harvest activities will require individual waivers or WDRs until an alternative process is adopted by the Regional Board.

With respect to the processing of waivers related to timber harvest activities, particularly tree falling, the Regional Board regulates discharge of waste that could affect water quality. 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 the discharge (report of waste discharge) or other report containing such information and data as may be required by the Regional Board. The Regional Board prescribes waste discharge requirements except where the Regional Board finds that a waiver of waste discharge requirements for a specific type of discharge is consistent with applicable water quality control plans and is in the public interest pursuant to California Water Code Section 13269. If you propose to engage in a timber activity that does not discharge or threaten to discharge waste into waters of the state, then the Regional Board does not need a report of waste discharge, nor will the Regional Board issue waste discharge requirements or a waiver of waste discharge requirements.

Proposed activities in any areas that have potential to discharge or threaten to discharge waste into waters of the state, or that are within the Water and Lake Protection Zone (WLPZ), are likely to require waste discharge requirements or a waiver. The falling of large trees, their canopies, and the deterioration of root structure on this landscape may affect soil stability, or cause landslide or debris to be discharged into

California Environmental Protection Agency



Recycled Paper

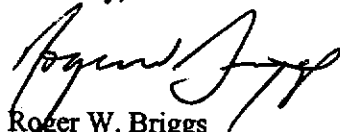
waters of the state. Increased use of vehicles (light trucks, ATVs and other machines) due to extra trips on dirt logging roads and trails could produce sediment discharge. Fallen trees can slide down slope and hit the stream channel, driving soil with them. Fallen trees that end up in the watercourses may have to be moved with heavy equipment. Reduction of canopy may cause increased erosion due to over-saturation of soils. However, felling trees outside the WLPZ, by using hand crews (hand operated chain saws) without heavy equipment and without soil disturbance activities may cause insignificant increased erosion (considering usual factors of slope, soil type, and existing access roads, etc.). We understand any proposed winter operations would be done in this manner (low impact) and would cause an insignificant increase in erosion.

As you know, we are interested in short and long term monitoring of timber harvest impacts, so we would appreciate your use of photo point monitoring consistent with recent monitoring programs we have issued with conditioned waivers.

Consistent with Porter-Cologne Section 13263(g), discharges of waste into waters of the state are privileges, not rights. This letter is not to be construed as approval for any activity that has potential to discharge waste into waters of the state and/or impact water quality and associated beneficial uses. This letter is not a waiver of the requirement to obtain WDRs or a waiver for such discharges, or of the Regional Board's ability to take enforcement action for tree falling if we receive information that the activities are causing or threatening to cause discharges of waste. Similarly, when the Board does take up your individual waiver, or when your THP is considered for coverage under a yet to be adopted general waiver, the fact that you may have fallen trees will have no bearing on the merits of coverage. That is, if you decide to fell trees this winter, you will be assuming risk that you will not be covered by a waiver. You could be subject to (later) waste discharge requirements, or you may be subject to conditions that preclude removal of some (or even all) trees.

Comments or questions regarding this matter should be directed to Howard Kolb at 805-549-3332 or hkolb@rb3.swrcb.ca.gov.

Sincerely,



Roger W. Briggs
Executive Officer

cc. Interested parties

Kent Aue
CA Dept. of Fish & Game
P.O. Box 980
Novato, CA 94949-0980

Donna Bradford
Santa Cruz County Planning Department
701 Ocean Street
Santa Cruz, CA 95060

Kevin Collins
Board President
Lompico Watershed Conservancy
P.O. Box 99
Felton, CA 95018

Jodi Frediani
Executive Director
Citizens for Responsible Forest Management
1015 Smith Grade,
Santa Cruz, CA 95018

Dennis O. Hall
Department of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

Sarah Newkirk
Pacific Ecosystem Program Manager
The Ocean Conservancy
Pacific Regional Office
116 New Montgomery Street, Suite 810
San Francisco, CA 94105

Angela Peterson
Department of Forestry and Fire Protection
6059 Highway 9
P.O. Drawer F-2
Felton, CA 95018



California Regional Water Quality Control Board

Central Coast Region



Terry Tamminen
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>
895 Aerovista Place, San Luis Obispo, California 93401-7906
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

October 28, 2004

Janet McCrary Webb
Chief Forester, Big Creek Lumber
3564 Highway 1
Davenport, CA 95017

Dear Ms. Webb:

SUBJECT – CLARIFICATION FOR PROCESSING OF TIMBER HARVEST WAIVERS

Regional Board staff received your letter dated September 29, 2004 requesting clarification of the process for obtaining a waiver for timber harvest operations.

It is the intent of Regional Board staff to clearly document the timber harvest regulatory process by December 3, 2004. This will include a summary of the existing timber harvest regulatory process (process) and proposed revisions to the process for presentation to the Regional Board for review and direction. On December 3, 2004, Regional Board staff intends to propose, as part of the revisions to the process, that staff be directed to develop a general waiver for timber harvest activities.

Subsequent to the December Regional Board meeting, a timber harvest regulatory process specific to the Central Coast Region will be available for public review and comment with the intention of presenting the process to the Regional Board for review and action in February 2005. If the February action results in the adoption of the proposed timber harvest regulatory process (waiver), then all timber harvest activities will be able to apply for coverage under this general waiver immediately. If the February action does not result in the adoption of the proposed timber harvest regulatory process (waiver) then all timber harvest activities will require individual waivers or WDRs until an alternative process is adopted by the Regional Board.

With respect to the processing of waivers related to timber harvest activities, particularly tree falling, the Regional Board regulates discharge of waste that could affect water quality. 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 the discharge (report of waste discharge) or other report containing such information and data as may be required by the Regional Board. The Regional Board prescribes waste discharge requirements except where the Regional Board finds that a waiver of waste discharge requirements for a specific type of discharge is consistent with applicable water quality control plans and is in the public interest pursuant to California Water Code Section 13269. If you propose to engage in a timber activity that does not discharge or threaten to discharge waste into waters of the state, then the Regional Board does not need a report of waste discharge, nor will the Regional Board issue waste discharge requirements or a waiver of waste discharge requirements.

Proposed activities in any areas that have potential to discharge or threaten to discharge waste into waters of the state, or that are within the Water and Lake Protection Zone (WLPZ), are likely to require waste discharge requirements or a waiver. The falling of large trees, their canopies, and the deterioration of root structure on this landscape may affect soil stability, or cause landslide or debris to be discharged into

California Environmental Protection Agency



Recycled Paper

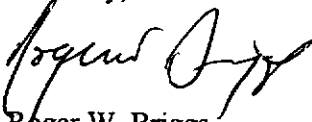
waters of the state. Increased use of vehicles (light trucks, ATVs and other machines) due to extra trips on dirt logging roads and trails could produce sediment discharge. Fallen trees can slide down slope and hit the stream channel, driving soil with them. Fallen trees that end up in the watercourses may have to be moved with heavy equipment. Reduction of canopy may cause increased erosion due to over-saturation of soils. However, felling trees outside the WLPZ, by using hand crews (hand operated chain saws) without heavy equipment and without soil disturbance activities may cause insignificant increased erosion (considering usual factors of slope, soil type, and existing access roads, etc.). We understand any proposed winter operations would be done in this manner (low impact) and would cause an insignificant increase in erosion.

As you know, we are interested in short and long term monitoring of timber harvest impacts, so we would appreciate your use of photo point monitoring consistent with recent monitoring programs we have issued with conditioned waivers.

Consistent with Porter-Cologne Section 13263(g), discharges of waste into waters of the state are privileges, not rights. This letter is not to be construed as approval for any activity that has potential to discharge waste into waters of the state and/or impact water quality and associated beneficial uses. This letter is not a waiver of the requirement to obtain WDRs or a waiver for such discharges, or of the Regional Board's ability to take enforcement action for tree falling if we receive information that the activities are causing or threatening to cause discharges of waste. Similarly, when the Board does take up your individual waiver, or when your THP is considered for coverage under a yet to be adopted general waiver, the fact that you may have fallen trees will have no bearing on the merits of coverage. That is, if you decide to fell trees this winter, you will be assuming risk that you will not be covered by a waiver. You could be subject to (later) waste discharge requirements, or you may be subject to conditions that preclude removal of some (or even all) trees.

Comments or questions regarding this matter should be directed to Howard Kolb at 805-549-3332 or hkolb@rb3.swrcb.ca.gov.

Sincerely,



Roger W. Briggs
Executive Officer

cc. Interested parties

Kent Aue
CA Dept. of Fish & Game
P.O. Box 980
Novato, CA 94949-0980

Donna Bradford
Santa Cruz County Planning Department
701 Ocean Street
Santa Cruz, CA 95060

Kevin Collins
Board President
Lompico Watershed Conservancy
P.O. Box 99
Felton, CA 95018

Jodi Frediani
Executive Director
Citizens for Responsible Forest Management
1015 Smith Grade,
Santa Cruz, CA 95018

Dennis O. Hall
Department of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

Sarah Newkirk
Pacific Ecosystem Program Manager
The Ocean Conservancy
Pacific Regional Office
116 New Montgomery Street, Suite 810
San Francisco, CA 94105

Angela Peterson
Department of Forestry and Fire Protection
6059 Highway 9
P.O. Drawer F-2
Felton, CA 95018