

**STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**STAFF REPORT FOR REGULAR MEETING OF MAY 14, 2004**

Prepared on April 7, 2004

**ITEM: 3**

**SUBJECT: WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR THE MEYLEY UNIT TIMBER HARVEST, THP NO. 1-03-042 SCR, SANTA CRUZ COUNTY RESOLUTION NO. R3-2004-0035**

**SUMMARY: Harvest Type – Industrial Timber Harvest Plan  
Area – 278 Acres  
Watercourses – Adjacent to a Class I Stream  
Watershed - San Vicente Creek  
Forester – Matt Bissel  
Land Owner – Redtree Properties**

**DISCUSSION**

On December 10, 2003, Regional Board staff received a request from Matt Bissel, Registered Professional Forester (RPF), for Water Quality regulation of the Meyley Unit Timber Harvest (THP). The THP involves selective harvesting of 278 acres of land utilizing ground based and cable yarding techniques. This THP involves about 2.7% of the San Vicente Creek Watershed area. In the last 10 years about 17% of the watershed area has been selectively harvested. This THP will be harvested concurrently with a portion of the "RMC Pacific Materials 2004-2006 THP".

During the May 8, 2003 preharvest inspection, Regional Board staff found the THP to pose moderate risk to water quality and appropriate to receive a waiver of waste discharge requirements if all of the conditions of the THP and the proposed waiver are implemented. Because the THP is adjacent to a Class I stream (San Vicente Creek), new roads are proposed and a problematic Class I crossing installed by PG&E exists, in-stream temperature and turbidity monitoring, photo point monitoring, and visual observations are proposed. The proposed Monitoring & Reporting Program is based in part on a monitoring proposal included in the Timber Harvest Information Package (Attached). Further

discussion regarding the MRP is included in the Comments section of this Staff Report.

**Conditions**

The proposed project will be conducted as prescribed in Timber Harvest Plan 1-03-042 SCR with the following additional conditions.

1. The discharger must comply with all requirements of applicable water quality control plans adopted by the Central Coast Regional Water Quality Control Board and approved by the State Water Resources Control Board, and water quality control plans and policies adopted by the State Water Resources Control Board.
2. The discharger shall conduct timber harvest activities in accordance with all applicable sections for the Forest Practice Rules.
3. The discharger shall not create a pollution, contamination, or nuisance, as defined by CWC Section 13050.
4. The discharger shall not discharge any waste not specifically regulated by the waiver described herein and shall not cause alteration in stream temperature which exceeds Basin Plan requirements. Waste specifically

regulated under this waiver includes: earthen materials (including soil, silt, sand, clay, and rock), and organic materials (including slash, sawdust, and bark). Examples of waste not specifically regulated by this waiver include petroleum products, hazardous materials, or human wastes.

5. The discharger shall allow Regional Board staff reasonable access, pursuant to Public Resources Code 4604 (b), onto the affected property for the purpose of performing inspections to determine compliance with waiver conditions.
6. The discharger shall implement Monitoring & Reporting Program No. R3-2004-0035.
7. This Waiver does not regulate point-source discharges that require an NPDES permit under the Clean Water Act including silvicultural point-source discharges as defined in 40CFR Chapter 1 Part 122.27.

The proposed project, if conducted in accordance with Timber Harvest Plan 1-03-042 SCR and the conditions above will be in the public interest. The proposed waiver is conditional, can be terminated at any time and expires on May 1, 2009.

### **Risk to Water Quality**

This THP is considered a “moderate risk” to water quality, but this risk level can be lowered to “low” if the PG&E crossing and easement road are properly addressed. Factors considered in Regional Board staff’s risk evaluation include the following:

1. **PG&E Crossing:** This failed crossing has caused an estimated 10 cubic yards of sediment to be released to San Vicente Creek. Continued sediment release is likely unless this crossing is removed. RMC Pacific Materials, a neighbor to the proposed THP, has offered to remove the crossing as part of timber harvest plan 1-03-042 SCR. PG&E’s utility right-of-way crosses both the Red Tree and RMC properties. Redtree Properties has agreed to install water bars along the PG&E easement road to control erosion and sediment delivery to San Vicente Creek. Strict controls on recreational use of the PG&E easement road are also necessary to control erosion. The PG&E easement is used by off road

vehicles, mountain bikes and horses. Correction of the PG&E road will significantly lower the potential for water quality impacts. Red Tree Properties, as the landowner, is ultimately responsible for the easement road and crossing.

2. **Threatened & Impaired Watershed:** San Vicente Creek is not listed on the CWA 303(d) list of impaired streams, but is considered “Threatened & Impaired” due to the presence of endangered Steelhead Trout and Coho Salmon in its lower reaches. In the vicinity of the timber harvest plan, “land locked” trout are present. This timber harvest plan must comply with the Threatened and Impaired Rules contained in the Forest Practice Rules.
3. **Roads:** All existing roads appeared to be properly designed and maintained. The proposed 5,000 feet of new roads is designed appropriately. Visual and photo point monitoring will be emphasized along all new roads to ensure they perform as expected.
4. **Land Stewardship:** Red Tree Properties has an established history of good land management within the Central Coast Region.
5. **Landslides:** Two large dormant landslides are present in the THP. Both landslides will be photo documented. Neither slide is expected to be adversely affected by the proposed timber harvesting.
6. **Erosion Hazard Rating:** The erosion hazard rating is moderate for this timber harvest plan.
7. **Erosion Best Management Practices:** Monitoring will be implemented in a manner such that erosion problems that might occur will be addressed as soon as practical. Erosion control practices proposed for this timber harvest plan are all appropriate and protective of water quality.

### **Monitoring & Reporting**

Redtree Properties will be required to implement water column, photo-point, and visual monitoring pursuant to Monitoring & Reporting Program No. R3-2004-0035. Reporting is required on an annual basis with additional reporting when significant erosion events are observed. If a water quality impact or a violation of the THP that could lead to

a water quality impact is observed, the RPF is required to report this event to the Regional Board within forty-eight (48) hours. Log books of field inspections will be maintained by Matt Bissel.

Water column monitoring points include up and downstream of the Plan along the East Branch of San Vicente Creek and up and down stream of selected crossings. Monitoring of crossings does not include all nine Class II crossings. Four class II crossings were chosen because of their proximity to the Class I stream and to prioritize post storm event use of time by the forester.

Matt Bissel has proposed to monitor turbidity for one wet season prior to timber harvesting at Point 2 in lieu of the up-stream monitoring point (Point 1) at the property line. The up-stream point is expected to be difficult to access during the wet season. Point 2 turbidity data will be compared to both preharvest data and data from Point 3. Point 3 is up-stream of the PG&E crossing and up-stream of most of the timber harvest plan. Regional Board has removed the up and downstream turbidity monitoring requirement from the Monitoring & Reporting Program. The proposed monitoring strategy may produce useful turbidity information, however, this monitoring strategy is not cost effective due to the high potential for error and spatial differences between monitoring points. Turbidity monitoring has been limited to up and downstream of particular road crossings.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The above-referenced Timber Harvest Plan (Plan) was submitted by James Greig, a Registered Professional Forester, and was granted discretionary approval by the California Department of Forestry and Fire Protection (CDF). The Secretary of the Resources Agency has certified that CDF's timber harvest plan regulatory program can function as a substitute for an Environmental Impact Report or a negative declaration. (CEQA Guidelines § 15251.) CDF considered all the potential significant environmental effects of the Plan and made a finding that the timber operations will not have a significant effect on the environment. Therefore the above-referenced Timber Harvest Plan serves as a substitute negative declaration for the proposed timber harvest. CDF consulted with Regional Board staff when it developed the Plan. The Regional Board has considered the Plan and

has required the Plan proponent or their authorized representative (Discharger), as a condition of this waiver, to comply with all requirements of the Plan.

### **COMMENTS**

The proposed Board Resolution and Monitoring & Reporting Program was mailed to interested parties on February 19, 2004. Comments were due on March 29, 2004.

James Greig, RPF, submitted comments dated February 23, 2004. His comments are paraphrased as follows:

1. Monitoring & Reporting Requirements: "I am disappointed that you and the W.Q.C.B. have adopted a prescriptive approach to your water monitoring and reporting program. As I see it you are applying the same requirements to all forest tracts.

**STAFF RESPONSE:** All monitoring and reporting programs are designed based on site-specific conditions. Because many timber harvest plans have similar features, the monitoring is also similar for these timber harvest plans. However, the Regional Board has been approving monitoring programs that vary with the water quality threat posed by the particular timber harvest plan.

2. General Comment: "I have been managing Redtree Properties, L.P for more than 30 years. Their forestlands, watersheds, streams and roads are in excellent condition. Redtree Properties has expended, during this period, hundreds of thousands of dollars in relocating, bridging, and culverting on roads constructed in the 1930s, correcting problems of poor location and deterioration. Your only concession to these efforts was a statement that Redtree has a 'good, but limited record' in good forest management. I do not call 30 years a limited record."

**STAFF RESPONSE:** Mr. Greig has misinterpreted staff's quote of a "good, but limited record". The record is considered limited because Regional Board staff have only been on Red Tree owned lands on two occasions in the last five or six years. Regional Board staff does not have a complete record of all the Red Tree Properties. However, considering the information forwarded by the RPF in his comments, the words 'but

limited' have been removed from the referenced section.

3. Monitoring & Reporting Program: "... I think the Photo-Point monitoring requirement is excessive as are the minute details required in logbook and annual report. A conservative estimate of our cost to supply your data requirement is \$25, 000 per year, for an operation that duplicates the Department of Forestry inspection process."

**STAFF RESPONSE:** Comment noted. Mr. Greig's comment does not propose any changes to the Monitoring & Reporting Program (MRP). Based on a re-evaluation of the MRP in light of recent changes adopted at the March 2004, Regional Board meeting, turbidity monitoring up and downstream of the Plan has been removed from the MRP. Based on the size of this THP and the amount of watershed affecting the downstream sample, the benefit of up and downstream monitoring is not proportional to the cost of gathering the data. However, monitoring turbidity up and downstream of crossings is retained. Regional Board staff cannot perform any further evaluation of the cost of monitoring with the information submitted.

4. Resolution: Regional Board staff has incorporated changes to the proposed Resolution and Monitoring & Reporting Program made to waiver resolutions approved by the Board at the March 2004 Board Meeting. Significant changes are as follows:

### Resolution Findings

#### *Finding No. 2*

The Regional Board has a statutory obligation to prescribe 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.

#### *Finding No. 4*

California Water Code Section 13269 provides that effective January 1, 2003, all waivers of waste discharge requirements must be conditional, may not exceed five years in duration, and be renewed every five years and may be terminated at any time by the Regional Board.

#### *Finding No. 6*

~~The proposed timber harvest, if conducted in the manner prescribed in the Plan, including any additional conditions, will not be against the public interest.~~

Relevant factors in determining whether a waiver is in the public interest include the following:

- Whether the discharge is already regulated by another governmental entity;
- Whether the discharger will observe reasonable practices to minimize the deleterious effects of the discharge;
- Whether a feasible treatment method exists to control the pollutants in the discharge; and
- Whether conditionally waiving ROWDs and/or waste discharge requirements will adequately protect beneficial uses while allowing the Regional Board to utilize more of its resources to conduct field oversight, public outreach and, where necessary, enforcement.

The timber harvest plan is regulated by the California Department of Forestry, and requires the Discharger to implement practices to control water quality impacts, including erosion and sedimentation. The conditions of this Order protect beneficial uses by:

- (i) Prohibiting pollution, contamination or nuisance;
- (ii) Requiring monitoring and compliance with applicable water quality control plans; and
- (iii) Requiring the Discharger to grant access to Regional Board staff to perform inspections.

Management practices are the most feasible treatment method to control the discharges. If the proposed timber harvest is conducted in the manner prescribed in the Plan, and the conditions of this Order a waiver of the ROWD and waste discharge requirements is in the public interest and is consistent with applicable water quality control plans, including the Water Quality Control Plan, Central Coast Region.

### Monitoring & Reporting Program

#### *Section 2.b.*

~~All photo-point monitoring points shall be monitored following the first significant storm event of the wet season and following any significant storm event during the month of April. A significant storm event shall be any storm of two or more inches of rain in a 24-hour period. Photo-point monitoring shall occur within 7 days for each of these storm events. If no significant events occur during April, photo-point monitoring shall be performed prior to June 15 of each year.~~

All photo-point monitoring points shall be monitored following:

- The first significant storm event (First Storm) during, and following completion of timber harvest activities, and
- Following any significant storm event during the month of April (April Storm).

Photo-point monitoring shall occur within seven days of the First Storm and April Storm events.

If no significant storm event occurs in the month of April, photo-point monitoring shall be completed by April 30 of the same year. Starting in the second year following completion of timber harvest operations, the First Storm photo-point monitoring may be discontinued (i.e., only the April Storm photo-point monitoring is required). A significant storm event shall be any storm of two or more inches of rain in a 24-hour period.

## ATTACHMENTS

1. Proposed Resolution No. R3-2004-0035
2. Proposed Monitoring & Reporting Program R3-2004-0035
3. Timber Harvest Information Package
4. June 3, 2003 PHI letter
5. Site Plan A & B

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