

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

STATUS REPORT FOR REGULAR MEETING OF JULY 7, 2006

Prepared on May 26, 2006

ITEM NUMBER: 11

**SUBJECT: REGULATION OF TIMBER HARVEST ACTIVITIES IN THE
CENTRAL COAST REGION; FIRST ANNUAL UPDATE**

SUMMARY

On July 8, 2005 the Central Coast Regional Water Quality Control Board (Water Board) adopted Order Number R3-2005-0066, General Conditional Waiver of Waste Discharge Requirements – Timber Harvest Activities in the Central Coast Region (General Waiver) (Attachment 1), and its associated Monitoring and Reporting Program (MRP) (Attachment 2), MRP No. R3-2005-0066.

On August 10, 2005 Water Board staff received a petition of the General Waiver (Attachment 3).

Since that time, Water Board staff has:

- Provided a petition response to the State Water Resources Control Board (State Board) for the August 10, 2005 petition of the General Waiver,
- Enrolled nine Timber Harvest Plans (THPs) or Nonindustrial Timber Management Plans (NTMPs) under the General Waiver,

- Conducted 33 site inspections for timber plans covering 5,603 acres of timberland,
- Strengthened the annual reporting requirements (Attachment 4),
- Developed Standard Operation Procedures for continuous temperature monitoring,
- Monitored all amendments or deviations filed with the California Department Forestry and Fire Protection (CDF) for THPs or NTMPs,
- Established a timeline for General Waiver enrollment,
- Issued five notices of violation,
- Organized the electronic and hard copy filing system, and
- Improved our Timber website (under "Programs" on our home page).

This status report will bring the Water Board members up to date on the progress of Timber Harvest regulation in the Region.

DISCUSSION

A) PETITION OF ORDER NO. R3-2005-0066

On August 10, 2005 Water Board staff received a petition of the General Waiver from Citizens for Responsible Forest Management, Lompico Watershed Conservancy, and Sierra Club.

Water Board staff provided a response to the State Board on October 19, 2005 (Attachment 5). On May 15, 2006 the State Board dismissed the petition (Attachment 6) because "the petition . . . fails to raise substantial issues that are appropriate for review by the State Water Resources Control Board."

However, the petitioners brought up several topics and key issues regarding Water Board regulation of timber harvest operations. Water Board staff recognized several of these key issues as critical points that must be addressed to further improve the regulation of timber harvest activities in the Central Coast Region. The five key issues staff took from the petition are:

- Limited Staff Resources
- File Organization / Access
- Total Maximum Daily Loads
- Monitoring and Reporting
- Sedimentation

The following discussion outlines these issues and describes the actions staff is taking to address these key issues of concern.

Under the General Waiver, a Registered Professional Forester

(Forester) or landowner submits a Notice of Intent (NOI) to enroll in the General Waiver using the Timber Harvest Information Form and Fact Sheet (Form and Fact Sheet). The Form and Fact Sheet request information that Water Board staff uses to make regulatory decisions regarding timber harvest operations. The Water Board responds to the Form and Fact Sheet with a letter approving the NOI, individual waiver, or waste discharge requirements.

Limited Staff Resources

Issue

The petitioners requested that the Water Board assess staff resources available to implement the General Waiver.

Response

Staff does not expect an increase in resources for this program. Currently, there are 0.6 PY allocated for the regulation of timber harvest activities. Staff priorities include processing requests for enrollment under the General Waiver, enforcement, monitoring, and inspections. To make the most of available resources, staff has defined expectations and established timelines for the stakeholders. Clarifying expectations and requirements will help stakeholders as they move through the regulatory process.

File Organization / Access

Issue

The petitioners stated that during a file review they were unable to locate

pre- or post-harvest inspection reports prepared by Water Board staff.

Response

Staff agrees that a more organized filing system is beneficial to all who utilize it.

All active files now have six tabs to divide documents into the following categories:

- Timber Harvest Plan (THP) with waiver or other regulatory documentation,
- Water Board inspection reports,
- Monitoring and reporting data,
- Correspondence and enforcement actions,
- Photo documentation, and
- Notes

This revised filing system allows the reviewer to verify which documents do or do not exist in connection with each regulated timber harvest plan.

Additionally, staff is continually updating the Timber Harvest section of the Water Board's website¹ to provide enrollment forms, monitoring procedures, etc. for the stakeholders.

Total Maximum Daily Loads (TMDLs)

Issue

The petitioners stated that the 303(d) list for impaired waters contains

¹<http://www.waterboards.ca.gov/centralcoast/Facilities/TimberHarvest/index.htm>

several water bodies listed as impaired for sediment in the Santa Cruz Mountains. Of these listings, many identify silviculture as a potential source of sedimentation.

Response

The Eligibility Criteria used to determine the appropriate monitoring level for each operation includes the 303(d) listing as part of the criteria. Any timber harvest operation that drains to a water body listed for sediment or temperature will be assigned, at a minimum, Tier II monitoring status. Tier II is the second most stringent of three monitoring tiers within the General Waiver (see Attachment 2). In addition, staff will include specific conditions in General Waivers, individual waivers, and waste discharge requirements consistent with the goals of corresponding TMDL requirements.

Monitoring and Reporting

Issue

The petitioners pointed out that monitoring requirements are poorly defined and are lacking necessary quality assurance and quality control protocols (QA / QC).

Response

Water Board staff agrees that QA/QC protocols are a critical component of any monitoring program. Water Board staff has recently developed and issued standard operating procedures (SOP) for temperature monitoring (Attachment 7). On April 11, 2006 all

Foresters with active MRPs requiring continuous temperature monitoring received the SOP as a revision to their MRP. Staff is developing a SOP for turbidity monitoring which will be completed in September 2006. Both new SOPs and the SOP for photo-monitoring will be included as a condition of all current and future MRPs.

Issue

The petitioners stated that no analysis of data, submitted as a condition of previously approved conditional waivers, was presented to support the protection of water quality and its beneficial uses.

Response

Preliminary temperature and turbidity data were presented to the Water Board at the February and July 2005 Board Meetings. Staff will analyze the data collected over the first twenty-four months of the General Waiver and present the analysis to the Board in January 2008. Staff will also report to the Board in March of 2007 with an overview of the annual reports of the 2006 harvest season. Many of these reports will contain water quality monitoring data. In the meantime, staff is reviewing data from timber site monitoring reports on an ongoing basis. We will post interim results of data collection and analysis on the website.

Sedimentation

Issue

The petitioners noted that roads and watercourse crossings have been

identified as key sources of sediment discharges in Central Coast streams.

Response

Staff agrees that this is a key issue. Any party seeking to enroll under the General Waiver must address roads and watercourse crossings as a site-specific condition of their application. During inspections, Water Board staff focus their attention on the condition of roads and watercourse crossings (both existing and proposed). Staff discusses concerns with the Forester in the field and documents them in an inspection report. Additionally, the Forester must perform turbidity monitoring upstream and downstream of any new or reconstructed watercourse crossing.

Finally, staff has historically supported grant proposals that focus on improvement of the roads in Santa Cruz County. In 2004, the Santa Cruz County Resource Conservation District was awarded a \$474,889 grant through the 319(h) grant program. The grant provides funding to implement management practices on rural roads to address water quality impairments from sedimentation.

B) APPROVED GENERAL WAIVERS

Since July 8, 2005, the Executive Officer has issued General Waivers for nine THPs or NTMPs, representing 1,278 acres of harvestable timberland. Of these nine plans, eight received a MRP with Tier III status and one received

Tier I status. None were ranked Tier IV. As required by the Water Board, staff did not rank any plan in a lower tier ranking than determined by the Eligibility Criteria.

C) INSPECTIONS

Since July 8, 2005, Water Board staff has conducted 33 inspections of timber plan properties covering 5,603 acres of timberland. Of the 33 inspections, 18 were pre-harvest, eight were post-harvest, five were during active harvest, and two were conducted post-harvest in response to potential violations. In these 33 inspections, staff inspected all plan areas proposed for timber harvest activities. Staff participated as a part of the California Department of Forestry and Fire Protection (CDF) review team for all pre-harvest inspections. When staff was not able to attend a CDF scheduled pre-harvest inspection, staff always inspected the property with the Forester or landowner at a later date prior to any regulatory action.

D) ANNUAL REPORTS

In 2005, foresters in Santa Cruz County submitted a total of 31 annual reports. Water Board staff's initial review found that a majority of the reports were lacking the detail and critical information needed to fully evaluate if previous year's activities were protective of water quality. Staff has strengthened the language of the annual reporting requirements. The new language (Attachment 4) clearly details the information staff needs to make an appropriate evaluation of the previous year's activities. This new

language has been added to all new MRPs and will be sent out as a revision to all current MRPs by September 2006.

E) AMENDMENTS / DEVIATIONS

When the General Waiver was adopted, the Water Board expressed strong concern that the standard CDF THP amendment and deviation process could undermine General Waiver authority. The General Waiver process could be undermined when an approved THP is enrolled under the General Waiver, issued a Monitoring and Reporting Program, but then the THP is amended through the CDF process. An amendment or deviation after the THP or NTMP is enrolled under the General Waiver could contain modifications inconsistent with conditions in the General Waiver or Monitoring and Reporting Program.

Water Board staff monitors the amendment and deviation process. Foresters have filed nine different amendments for the THPs covered under the General Waiver. None of the modifications requested in these nine THP or NTMP amendments or deviations resulted in the need to modify an MRP.

Staff will continue to monitor amendments and deviations. Should any amendment or deviation lead to additional threat to water quality or place the THP in a higher tier under the eligibility criteria, the Monitoring and Reporting Program will be revised accordingly or staff will recommend the Executive Officer revoke enrollment approval under

the General Waiver and will recommend Board adoption of an individual waiver or waste discharge requirements.

F) NOTICES OF VIOLATION

Since July 8, 2005, Water Board staff has issued five notices of violation (NOV). Staff issued three NOVs for conducting timber harvest operations without a waiver. A General Waiver now covers two of these operations; the third recently submitted the Form and Fact Sheet requesting coverage under the General Waiver. Staff has inspected all three plans. During the inspection, Water Board staff did not observe any adverse impacts to water quality as a result of these harvest activities

Staff issued two other NOVs for inadequate collection of monitoring data. Staff issued the first of these notices based on observations during a post-harvest inspection. Staff discovered a temperature logger that had been improperly secured and had migrated out of the watercourse. The NOV requires an additional year of monitoring for temperature at this location. Staff issued the second notice for the deploying of two temperature loggers that were not designed for in-stream temperature data collection. As a result, an entire season of data was lost for two monitoring sites. The NOV requires an additional year of monitoring for temperature at both locations.

G) OUTREACH

Timing

As mentioned above, defining expectations and establishing timelines are critical factors to protect water quality under the General Waiver. On November 18, 2005, Water Board staff sent a letter (Attachment 8) outlining the process for General Waiver coverage once a THP is approved by CDF. This timeline now serves as a guide to aid in advance planning for those in the regulated community who seek coverage under the General Waiver.

In 2005, six of the nine dischargers requesting coverage under the General Waiver submitted their Form and Fact Sheet between September 19 and October 4, 2005. The applicants expected to begin harvesting prior to October 15 of the same year. The November 18, 2005 letter states that, to ensure ample time for staff to process a request for a General Waiver, dischargers submitting a Form and Fact Sheet after August 31, should not expect to harvest during the same operating season.

The November 18, 2005 letter provides a typical timeline, forty working days, for Water Board staff to process a Form and Fact Sheet and respond with a General Waiver enrollment or notify the discharger they will need an individual waiver or waste discharge requirements. This timeframe could be longer or shorter depending upon several factors, including the completeness of the Form and Fact Sheet or if staff has conducted a site inspection at the proposed harvest area.

Round Table Discussion

On January 19, 2006, at the request of the regulated community, Water Board staff met with Santa Cruz County foresters to clarify and answer questions about the General Waiver process. The focus of the meeting was to discuss methods for streamlining the General Waiver process. The following is a summary of some of the key topics staff discussed at the round table.

Water Board staff reiterated the importance of:

- Providing a complete Form and Fact Sheet,
- Listing the same number of acres in the Form and Fact Sheet that is listed in the THP or NTMP, and
- Applying for General Waiver enrollment after the THP or NTMP is approved by CDF.

Water Board staff also explained that each General Waiver enrollment is active for a five year time span. (Note: the Water Board must review all waivers every five years.) However, the MRP remains active until revised or rescinded.

Finally, the foresters expressed some concern regarding the August 31 cutoff for submitting a Form and Fact Sheet, as outlined in the November 18, 2005 letter. Water Board staff clarified that Form and Fact Sheets are accepted every day of the year. But, for planning purposes, if a discharger would like to harvest in the same season in which they submit a Form and Fact

Sheet, staff recommends they provide the Form and Fact Sheet prior to August 31. The August 31 submittal date provides Water Board staff enough time to process the General Waiver NOI and allow ample time for harvest activities before the onset of the winter season (October 15).

RECOMMENDATION

This is an informational status report. Staff will periodically report to the Board on its timber harvest program and will provide a summary of the first two years of monitoring.

ATTACHMENTS:

1. Order No. R3-2005-0066
2. MRP No R3-2005-0066
3. Citizens for Responsible Forest Management, Lompico Watershed Conservancy, and Sierra Club's petition of Order No. R3-2005-0066
4. General Waiver Annual Reporting Requirements
5. Petition Response SWRCB / OCC File A-1714.
6. May 15, 2006, Petition dismissal SWRCB / OCC File A-1714.
7. Central Coast Regional Water Quality Control Board, Timber Harvest Program, Standard Operation Procedures, Continuous Temperature Monitoring.
8. November 18, 2006 – Timeline for Enrollment Under the General Conditional Waiver – Timber Harvest Activities.