

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
8:30 A.M., Thursday, May 17, 2018
Santa Rosa, CA

ITEM: 4

SUBJECT: Public hearing to consider adoption of Order No. R1-2018-0011, *Waiver of Waste Discharge Requirements and General Water Quality Certification for Road Management and Activities Conducted Under the Five Counties Salmonid Conservation Program in the North Coast Region* (Order or Waiver).

BOARD ACTION: At the public hearing, the North Coast Regional Water Quality Control Board (Regional Water Board) will be asked to consider whether to affirm, reject, or modify the proposed Order.

BACKGROUND: The Five Counties Salmonid Conservation Program (5C Program) provides an efficient and organized structure for preventing and mitigating water quality impacts from county and rural road maintenance activities, and also implements important fish passage and restoration projects in much of the North Coast Region, presently covering the counties of Humboldt, Del Norte, Trinity, and portions of Siskiyou and Mendocino; they are collectively referred to as the 5 Counties. The 5C Program is designed to protect salmonid species and water quality during county road maintenance and related project activities.

In 1997, Coho salmon were listed as “threatened” under the Endangered Species Act. As a result of this listing, supervisors from the 5 Counties initiated the Five Counties Salmonid Conservation Program in 1998. That same year, as part of the program initiation, the 5 Counties commissioned a U.C. Davis study to evaluate the effects of county land use regulations and management on anadromous salmonids, *Effects of County Land Use Regulations and Management on Anadromous Salmonids and their Habitats: Humboldt, Del Norte, Mendocino, Siskiyou and Trinity Counties, CA*. The study conclusions had three main recommendations:

- Improvements in on the-ground-maintenance activities;
- Standardization of road and bridge maintenance policies; and
- Continuing education and training of roads personnel.

The 5C Roads Manual was developed in 2002 in response to these findings. Presently, the 5 Counties implement the 5C Program wholly or in part.

There are more than 20 Total Maximum Daily Loads (TMDLs) in the North Coast Region addressing sediment impaired watersheds and impacts to cold water fisheries habitats. While it has been long recognized in the TMDLs and scientific literature that roads are a significant source of sediment, potential discharges from road maintenance activities have not been comprehensively addressed throughout the Region.

In 2008, as part of the nonpoint source planning effort, the Regional Water Board recognized the opportunity to use the already established 5C Program as a means by which counties could achieve both Nonpoint Source compliance and TMDL implementation for road maintenance activities. Under direction of the Executive Officer the Regional Water Board began development of a Waiver to cover road maintenance and project activities for counties who adopt and implement the 5C Program. The 5C Waiver (Order No. R1-2013-0004; 2013 Waiver) was adopted on May 2, 2013 and will expire on May 2, 2018. Proposed Order No. R1-2018-0011 will renew and update the 2013 Waiver.

DISCUSSION: There are three main components to the Order, all of which rely on implementation of procedures and Best Management Practices (BMPs) contained within the 5C Road Manual. These are the Waiver itself, a General 401 Water Quality Certification, and a Monitoring and Reporting Program (MRP).

The Order covers all 5C road maintenance and project activities addressed within the Manual, with the exception of Bridge Painting. The main categories of activities covered are road maintenance, culvert maintenance, soil disposal, maintenance yard management, bridge maintenance, emergency road maintenance, snow and ice removal, and inventorying and treatment of controllable sediment discharge sites. The proposed Order groups the covered road maintenance and project activities into either Category A or Category B, and contains both General and Specific conditions for each group. Activities in both categories must follow the proposed Order's General Conditions. Category A includes activities that have a low potential to impact water quality and a Specific Condition to maintain project records. Category B activities are those that have a moderate potential to impact water quality, require additional review for compliance with the Order, and includes a Specific Condition to apply for the General 401 Water Quality Certification (General WQ Certification) as necessary. The proposed Order removes a restriction in the 2013 Waiver and now allows for coverage of projects that take place in watercourses where fish are present. It also expands the geographic scope of the Order to include the entire North Coast Region and allows non-county entities such as rural road associations, those with ranch roads, private rural road owners, etc. to enroll under the Order. The construct of Category A and B activities, allowing projects within fish bearing streams, and expanding the geographic scope of the Order are modifications to the 2013 Waiver.

To address sediment discharges from roads and related failures, General Condition #4 of the Order has been revised to specify that Counties and other dischargers enrolled in the Order must prioritize controllable sediment discharge source associated with their roads. Prioritization of sites shall be based on the threat to water quality. Remediation of high priority sites must be scheduled for implementation within two years of identification

unless Regional Water Board staff agree to an alternative implementation schedule. There is an expectation that each county will make reasonable progress towards completing road inventories and remediating high priority controllable sediment discharge sites during the 5-year term of the Order.

The 2013 Waiver's General WQ Certification is for projects requiring Section 404 permits from the U.S. Army Corps of Engineers. In order to streamline permitting, the proposed Order includes a provision allowing for use of the California Department of Fish and Wildlife (CDFW) 1602 Agreement application to meet the requirements for application for General WQ Certification. The proposed Order retains the General WQ Certification with no changes.

The 2013 Waiver contains a MRP, which describes four types of monitoring as outlined in Chapter 10 of the 5C Manual. They are implementation, effectiveness, photopoint, and project monitoring. Implementation and effectiveness monitoring are required for all projects. Photopoint and project monitoring are reserved for more complex projects that require an evaluation of BMPs performance over an extended period of time, and are implemented at the discretion of the Executive Officer. The proposed Order retains the monitoring requirements with no substantive changes.

The MRP also requires submittal of annual reports for the previous year's road maintenance and project activities. The proposed Order has expanded the information requirements in the annual reports to include the following:

- a. List of all completed or in-progress county road projects from the previous year, including all non-waiver-enrolled projects (i.e. those with individual 401 General Water Quality Certifications)
- b. Results of BMP implementation and effectiveness monitoring for waiver-enrolled Projects
- c. Suggested changes to BMPs and to the 5C Manual for better water quality protection
- d. Progress on DIRT site inventories, site prioritization, and implementation
- e. Investigations of illicit discharges to County rights-of-way or drainages
- f. Trainings attended by staff
- g. Grant funding efforts
- h. Proposed list of projects and a schedule for addressing controllable sediment discharge source for the upcoming year

As the lead agency for the Order, Regional Water Board staff prepared an Initial Study and Mitigated Negative Declaration (MND) for the 2013 Waiver to comply with the California Environmental Quality Act (CEQA). The MND was designed to cover all projects conducted under the 5C Program, eliminating the need for individual CEQA analyses of each project and freeing up county resources for project implementation. Regional Water Board staff collaborated with CDFW staff to ensure that the MND would meet their needs as a project-reviewing agency. Regional Water Board staff prepared a new Initial Study and MND to reflect revisions incorporated in the proposed Order, expanding the geographic scope of

Order coverage to the entire North Coast Region, and allowing for projects on fish bearing streams. The new MND was submitted to the State Clearinghouse (SCH No. 2018012054) on February 1, 2018, for a 30-day CEQA review period that began on February 2, 2018, and ended at 5:00 p.m. on March 5, 2018. No comments were received during the 30-day comment period. A public notice was also placed in six newspapers throughout the Region.

In addition, on February 1, 2018, the Regional Water Board issued a Notice of Public Hearing to initiate a formal public comment period on the draft Order, which ended on March 19, 2018. During the comment period, the Regional Water Board received one comment. The commenter asked that channel maintenance (i.e. sediment removal from culvert inlets and outlets or replacement of rip-rap) be considered as Category A projects. As in-kind replacement of culverts on dry channels is already included in Category A, Regional Water Board staff agree with that suggestion, provided no permanent impacts results. Therefore, the proposed Order has been revised to include maintenance of dry channels that do not result in permanent impacts in Category A. A staff Response to Comments document is provided. Revisions made to the public review draft are identified in the underline/strikeout version of the proposed Order. Staff expect the proposed Order to be uncontested.

RECOMMENDATION: Adopt proposed Order R1-2018-0011, including the associated Monitoring and Reporting Program and Mitigated Negative Declaration.

SUPPORTING DOCUMENTS:

1. Proposed Order No. R1-2018-0011, *Waiver of Waste Discharge Requirements and General Water Quality Certification for Road Management and Activities Conducted Under the Five Counties Salmonid Conservation Program In the North Coast Region*, including:
 - Attachment A – Category A Project Activities
 - Attachment B – Category B Project Activities
 - Attachment C - Monitoring and Reporting Program for Order No. R1-2018-0011
 - Attachment D – Notice of Intent to Comply with Order No. R1-2018-0011
 - Attachment E – Application for 401 General Water Certification/Waiver of Waste Discharge Requirements for Category B Activities Conducted Under Order No. R1-2018-0011
 - Attachment F – Notice of Project Completion and Final Certification
2. Proposed Order No. R1-2018-0011, redline/strikeout version
3. Initial Study and Negative Declaration (SCH No. 2018012054)
4. Response to Comments
5. Notice of Public Hearing, Draft Order No. R1-2018-0011