

EXECUTIVE OFFICER'S SUMMARY REPORT  
9:00 a.m., March 24, 2011  
Trinity PUD Community Room,  
26 Ponderosa Lane, Weaverville, CA

ITEM: 3

SUBJECT: **PUBLIC HEARING** to Consider Adoption of a Limited Term Amendment to NTMP Provisions of Order No. R1-2009-0038, Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region

On June 4, 2009, the Regional Water Board adopted Order No. R1-2009-0038, *Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region (Timber Waiver)*. The Timber Waiver includes conditions for controlling sediment discharges and temperature increases that also implement Total Maximum Daily Loads (TMDL) in impaired waterbodies throughout the North Coast region. It includes updated and additional conditions for Non-industrial Timber Management Plans (NTMPs), including those that were previously enrolled under the Categorical Waiver, Order No. R1-2004-0016 (2004 Waiver).

Three petitions for reconsideration were filed with the State Water Resources Control Board by a landowner group, several non-governmental organizations, and the California Department of Forestry and Fire Protection (CAL FIRE). Petitioners' concerns included, among other things, the specific NTMP conditions in the Timber Waiver because such conditions allegedly impose unnecessary additional burdens on CAL FIRE and on NTMP landowners.

Staff did not intend to create unnecessary regulatory burdens on CAL FIRE or NTMP landowners, or to create conditions that are duplicative of adequately-protective Forest Practice Rules (FPRs); in fact, the Waiver was drafted to include NTMP conditions to accommodate site-specific circumstances and to provide regulatory consistency in areas where the FPRs provide adequate water quality protection. In addition, during the June 4, 2009 public hearing, the Regional Water Board added a provision to allow additional flexibility for submittals of erosion control plans and/or road plans. Nevertheless, Petitioners and Regional Water Board staff agree that there may be opportunities to provide even more consistency and less overlap.

The Timber Waiver was adopted prior to the California Board of Forestry and Fire Protection adoption of revisions to the FPRs referred to as the new Anadromous Salmonid Protection (ASP) rules, which went in effect January 2010. At this time, it is uncertain as to how ASP rules are applied to existing NTMPs. To more fully understand the application of new ASP rules, as well as other FPRs, to NTMPs, Regional Water Board staff are in the process of investigating ASP protection levels as applied to all NTMPs in the North Coast to better inform the Regional Water Board for its regulatory actions in the future.

It is reasonable to temporarily suspend the (2009) NTMP Timber Waiver provisions to allow an inquiry into water quality protections provided for NTMPs by the FPRs, including the new ASP rules. Regional Water Board staff will work with NTMP landowners, CAL FIRE and other interested parties to evaluate the adequacy of the existing FPRs and their effectiveness and implementation to achieve compliance for protecting water quality, particularly in areas designated as sediment and temperature impaired.

In the meantime, NTMP provisions from the 2004 Waiver to apply until February 1, 2012, after which time the 2009 NTMP Timber Waiver conditions will automatically become effective again, unless the Regional Water Board takes action to modify the conditions in the Waiver prior to that date.

**PRELIMINARY**

**STAFF RECOMMENDATION:** Adoption of Order No. R1-2011-0038.