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18 May 2005

Mr. Roger Briggs, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, Ca. 93401

RE: General Conditional Waiver Of Waste Discharge Requirements - Timber Harvest Activities
In The Central Coast Region, Resolution R3-2005-0066.

Dear Mr. Briggs,

I would like to provide the following comments and suggestions to the proposed Conditional Waiver for Harvest Activities.

GENERAL WAIVER ELIGIBILITY CRITERIA:

The Eligibility Criteria provides an excellent, transparent tool for staff to prioritize work load and assist in focusing available resources on projects that present an elevated risk to water quality. Even if the Criteria and associated values can be tuned to incorporate more relevant studies and empirical data, it should not supplant the site-specific analysis provided during the review process.

The THP process is designed to identify, assess and mitigate impacts to insignificance. An approved THP where Regional Board Staff participated in the process should be complete with mitigations and recommendations to protect water quality. The continued participation of Regional Board staff at this level should be the tool in which the Board relies on to provide this protection.

There are a number of shortcomings in the Criteria that should be examined even if it is retained as a tool for staff. Addressing these items should provide a more accurate guide to staff on how to assign resources.

In the calculation of the CER, the reliance on a single study such as the "Klein Report" for the determination of a watershed harvest intensity ranking is not appropriate. First and foremost, the author states that the "results should be considered preliminary and not be used alone for policy decisions or regulatory standards". Other research indicates that intensities of 30-50% watershed harvest rates did not produce significant watershed changes, even in shorter culmination intervals than ten-year threshold utilized in the CER. These watersheds included areas of even aged management (clear cut) in frequently high percentages. Equivalent triggering percentages in local single-tree selection harvested watersheds should be proportional to the comparable vegetation and soil disturbance, therefore, substantially more than double the harvest percent of those studied watersheds.

When examining the DDI, no acknowledgement is apparent to account for the high level of protection afforded watercourses. This DDI equates length of watercourse with accessibility to proposed activity with an assumption of access to the entire watercourse. This is not the case in practical application. For example, a class one watercourse, because of its watercourse and lake protection zone (WLPZ) width and canopy retention standards, has the least amount of potential impact from timber operations, but is weighted the heaviest, presumably due to importance as a fisheries or domestic water source. In all likelihood, very little if any activity will occur adjacent to this watercourse. The threat is actually very low.

The SDF appears to assume that 100% of the noted infrastructure features are left bare. There is no allowance in the calculation for the post harvest application of seed, straw, slash, rock or other erosion control measures to these features. The application of such materials greatly reduces the potential for sediment impacts and should have weight in the calculation. For example, a haul road within a WLPZ would need to be rocked, or mulched for its length to meet forest practice standards. An in-lieu practice of having a skid trail enter the WLPZ, that trail would need to have its entire length mulched to 90% coverage virtually eliminating potential for sediment delivery.

Recommendation:

I recommend that the Eligibility Criteria be retained as an internal tool for staff. With changes to the CER, DDI and the SDF as described above, it will continue to be a useful guide for staff. Utilization of the Criteria for the sole determination of project risk, and therefore monitoring requirements, greatly oversimplifies the wide range of site conditions, potential mitigations and the expertise and experience of resource professionals. Accurate resource decisions cannot be made by flowchart.

The General Conditional Waiver should include coverage for all approved harvest plans with a foundation of reasonable yet effective monitoring that will provide the documentation needed for verification that local practices protect water quality. Much of this is already included and the proposed Monitoring and Reporting Program would simply need to be reorganized to enable this change. Mandated visual monitoring, road inventory programs, and forensic monitoring can be applied as uniform requirements for all approved harvest plans. This provides certainty for the Board, transparency for the public and the regulated community as to what will be required and how it will be implemented, inspected, documented and monitored over time. Staff should continue to participate in the review process and to make specific recommendations.

In the event it is warranted, the Board always retains the authority to refuse coverage under the waiver, and require different methods of coverage. This mechanism would allow for elevated requirements by the Board as they deemed appropriate on a particular project.

PHOTO-POINT MONITORING:

Photo-point Monitoring should be applied very sparingly to agreed upon sites that will have significant potential to impact water quality. These sites will be best located on the Pre-Harvest Inspection where mitigations and potential impacts can be discussed on site.

Photo points have limited utility for post harvest evaluation of impacts and will not, in of themselves, provide any more protection for water quality or precipitate any more timely remediation of

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any observed problems. The time and expense involved in the collection, processing and submittal of a minimum of five photo sets per site is a significant expense. No mention is made regarding the analysis of these photos and what information they will be providing to verify the adequacy of the waiver. This is a redundant and expensive exercise with little functional value beyond that of visual monitoring alone. Photos can be taken at Pre or Post Harvest inspections by Board staff or other agency personnel to document problems or special sites. Follow up inspections could cover those same locations, where photos can be taken by agency personnel. This would provide maximum assurance to the Board that mitigations were properly implemented, and functioning over time. By utilizing staff or agency personnel the public trust is being upheld and confidence in the process is increased over time.

Recommendation:

I would recommend that photo documentation be limited to only the highest priority sites, and included in the Forensic Monitoring section as a condition of the waiver. This will limit the collection, storage and processing of photos to problem sites, or those sites that need additional monitoring.

FORENSIC MONITORING:

Forensic Monitoring as proposed by staff should be adequate to detect, isolate and repair any failed management measures or other problems associated with harvest operations. Some clarification would be helpful to establish when a failed measure needs to be reported to the board. For example, a single water bar that may not be functioning properly could trigger a forensic MRP, though no damage or impact occurred as a result.

Recommendation:

I recommend that language be included to define what constitutes a failed management measure, triggering further monitoring and reporting. Requiring turbidity and temperature measurements where appropriate, through Forensic Monitoring will ensure that identified problems are fully assessed, and scarce resources will be allocated to where the need is documented. This will also limit the time required by staff to analyze incoming data sets.

This could be accomplished by removing Water Quality Compliance Monitoring language in Tier 3, and incorporating that language into Forensic Monitoring as a General Waiver Condition for all approved harvest plans.

WATER TEMPERATURE MONITORING:

Temperature monitoring is a costly undertaking and should apply only where temperature problems are noted in adjacent watercourses or where failed management measures could impact water quality, such as canopy reduction below mandated levels. The requested temperature data can only be collected through the purchase of multiple remote recording devices and accompanying computer software. The seasonal deployment and recovery of these devices is also costly. The technical expertise, time investment and hardware required to perform this will all but ensure that the landowner will need to retain a resource professional for the duration of the collection period. This cost is significant for a landowner who may only harvest every ten to fifteen years.

There have been a number of stream temperature data sets taken in conjunction with harvest activities locally, and none have shown any significant impact to water temperature. Staff has reviewed some of these reports and has not made findings to the contrary. Numerous class two watercourses go subsurface during the summer months or have

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insufficient surface flow to measure temperature. Class one watercourses have such a heavy canopy requirement that it essentially prohibits harvest in many situations. In the interest of brevity I refer to my March 22nd 2005 letter to the Board where the lack of necessity for stream temperature monitoring is more thoroughly detailed.

Temperature impairment has not been noted in upper watersheds where timber harvest activity is the highest. This, in conjunction with existing stream temperature data, does not support the necessity of a stream temperature monitoring component in the General Waiver.

Recommendation:

I would recommend that temperature monitoring be removed as a waiver requirement. It may be useful as a Forensic Monitoring tool if Forest Practice Canopy standards are not followed.

TURBIDITY MONITORING:

Regarding the collection of turbidity samples, staff has attempted to isolate those activities that could have the highest potential to impact to water quality. Staff has also stated that these measurements will be used to "ground truth" the visual and compliance monitoring portions of the MRP. Considerable amounts of local turbidity data exist, some of which provide significantly better comparative and analytical opportunities than the proposed sampling. This information should be analyzed in conjunction with current waiver turbidity data to determine if, in fact, significant turbidity issues exist in the heavily forested portions of local watersheds. This information will be important in the future analysis of any turbidity samples that will be required under this waiver or other future waivers.

As the Board may recall, a common theme of presentations at the Water Quality Workshop was that the collection of meaningful turbidity data is a very difficult and expensive task. It is important to demonstrate that the cost borne by landowners will produce results robust enough to base decisions upon. Based upon the high levels of watershed variability, project parameters, natural fluctuations and other watershed uses it does not seem that the data collected as proposed, will provide this decision making information any more effectively than visual monitoring.

Recommendation:

I recommend that turbidity be removed as a waiver requirement, except as it pertains to Forensic Monitoring

DATA LOGGING AND REPORTING:

Log Books: The requirement of maintaining a log book is redundant if all collected data will be sent to the Board in an annual report. If the annual report requirement is dropped, then the log book could be retained.

Road Inventory Program: This is a useful inclusion into the waiver as long as it remains flexible enough to be broadly applied to the varying conditions and landowners that it will encompass.

Violation Reporting: Violation reporting should be limited to those rules applicable to water quality. Numerous rule sections have no pertinence to water quality.

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Annual Report: Reports should be triggered by a violation or a failed management measures. The report is a redundant re-statement of the Waiver requirements, and requirements of other sections. Monitoring and photo data can be submitted without the redundancies. It also negates the need for a log book, if all monitoring data will be sent to the Regional Board annually. The necessity for the accumulation and storage of a considerable amount of reports and data over time should be re-examined.

GROUP AND WATERSHED WIDE MONITORING EFFORS:

Recent statewide efforts are being established to specifically monitor harvest activity and any related watershed effects. This effort is called the Interagency Mitigation Monitoring Project (IMMP) and will be a collaborative effort between Management Agencies to address monitoring. This program will be an additional effort to that already undertaken by CDF.

The Boards own Central Coast Ambient Monitoring Program is also an available tool for the region wide collection of data. Collection points can be strategically located to provide input from harvest areas that can than be compared and analyzed as part of a regional approach.

The TMDL process, as it develops, will likely have a monitoring component for the individual watersheds.

All of theses programs can be implemented to serve as a group or watershed wide monitoring effort to serve as additional verification of Waiver effectiveness. Timberland owners would likely be receptive to these kinds cooperative and collaborative efforts designed to examine all watershed uses in order to enact positive change, or to gain an understanding of watershed conditions.

Conclusion:

The General Conditional Waiver and Monitoring and Reporting Requirements as proposed do not adequately reflect the amount of fiscal and physical resources already devoted to protection of clean water and downstream beneficial uses in this region. Harvest activities are a heavily regulated land use with multiple agency oversight, public participation, transparency of process, and multiple requisite permits. The burden of this Conditional Waiver does not bear a reasonable relationship to the demonstrated need or the reported benefit.

Incorporation of the changes outlined in my letter would establish a functional and appropriate foundation to monitor harvest operations that are already held to the highest standards statewide, to document the long-term philosophy of land stewardship in the region, and to substantiate the commitment to protecting water quality that has been observed and documented by staff recently and in past years.

I appreciate this opportunity to interact with the Board and staff on this topic.

Sincerely,



David Van Lennep

RPF # 2591