



## Central Sierra Environmental Resource Center

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April 12, 2017

Central Valley Regional Water Quality Control Board  
364 Knollcrest Dr. Suite 205  
Redding, CA 96002

This letter is submitted in response to the Central Valley Regional Water Quality Control Board (RWB) staff's proposed Draft Waste Discharge Requirements General Order (Order No. R5-2017-XXX) for dischargers conducting timberland management activities (TMAs) on non-federal and federal lands.

Our Center, the Central Sierra Environmental Resource Center (CSERC) is a non-profit environmental organization that has worked to protect water, wildlife, and wild places in the Northern Yosemite region of the Sierra Nevada for the last 26 years. CSERC has not only been a strong advocate for forest and watershed protection in regards to TMAs within the region, but CSERC staff also has participated since their inception in two major forest collaborative groups - the Yosemite Stanislaus Solutions (YSS) and the Amador Calaveras Consensus Group (ACCG). Both work to find compromise solutions between TMAs and the protection of ecosystems. CSERC strongly encourages RWB staff to use the establishment of the General Order (No. R5-2017-XXX) as a check on both federal and non-federal TMAs in order to better achieve the protection of water quality and protection of aquatic life beneficial uses.

CSERC understands that the RWB has determined that individual Timber Waivers (No. R5-2014-0144) are not feasible for regulating both federal and non-federal TMA dischargers due to the large number of TMAs occurring the RWB's region. Our Center also understands that a General Order would potentially make regulation and oversight more streamlined for RWB. However, our staff stresses that the RWB should require dischargers, through the general order, to submit data and information before the start of any TMA-related project (such as is required with an individual discharge waiver).

Additionally, our Center emphasizes that it is critical that the RWB require dischargers at a minimum to comply with the following: 1) authorized approval for RWB access to TMA areas to perform pre-TMA inspections and post-TMA monitoring by RWB staff for any new project; 2) compliance with all provisions of the RWB Basin Plan; 3) establishment of equipment limitation zones within TMAs in proximity to certain watercourses; 4) mandatory retention of residual shade-retention trees, 5) adequate notice given to TWB prior to any pesticide application; 6) collection of data pertaining to volume, duration, frequency and constituents of the discharge

(e.g., pesticides); 7) accurate description of the extent and type of existing discharge-related monitoring activities to take place; 8) accurate description to RWB concerning the estimated size of the project area; 9) annual reporting; and 10) assurance that discharge and water quality monitoring reports concerning the TMA-related project are made publicly available in a timely manner.

Our Center also supports the proposed requirements in the draft General Order (No. R5-2017-XXX) that are new or updated from the waivers, specifically pertaining to regulations for post-fire TMAs, including Categories 2A and 5A, and also regulations pertaining to effective ground cover, minimum watercourse pesticide buffers, and declaration of significant existing or potential erosion sites (SEPES) and new watercourse crossings.

Below are brief comments and concerns related to the new/updated draft requirements related to salvage TMAs on both federal and non-federal lands, and also suggestions for improving the general order to best protect streams and aquatic beneficial uses from post-fire TMAs specifically.

### **Ground Cover**

CSERC agrees with requiring post-fire TMAs on both non-federal and federal lands to provide effective ground cover prior to the start of other discharges (i.e. pesticide application). Since post-fire soils are hydrophobic and have poor infiltration rates, maintaining ground cover on these soils minimizes erosion, hillslope failures, and debris flows, and also minimizes impacts to stream water quality and aquatic life beneficial uses from pesticide runoff and subsequent pollution. However, our Center has two specific concerns with the current wording in the draft General Order within the Category 2A and 5A sections pertaining to ground cover.

First, our staff is opposed to only requiring ground cover (50% or otherwise) prior to pesticide application on hillslopes greater than 30%. Because burned soils can have diminished infiltration rates, pesticide application to soils on hillslopes less than 30% (that have no ground cover requirements from the RWB) that receive subsequent precipitation may result in substantial soil and pesticide residue runoff. To minimize this potential influx of pesticides into streams, CSERC recommends the RWB consider requiring a minimum of 50% average effective ground cover where TMAs are planned in burned areas with slopes greater than 10% and that this be required for both Category 2A and 5A.

Second, our staff asks that the RWB consider increasing the ground cover requirement (to 60-70% average effective cover) for those burned areas that are: 1) within high severity burn areas, 2) have extremely high erosion hazard rating, or 3) have relatively steep slopes.

### **Watercourse Pesticide Buffers**

Our Center agrees with requiring both non-federal and federal salvage TMAs to utilize pesticide riparian buffers to minimize pesticide discharges from TMAs into streams. However, our Center is opposed to the current language in the draft General Order pertaining to the buffer requirements, which would be the existing buffer widths for WLPZs for green tree TMAs (CA

Code title 14, section 936.5). Our Center recommends that RWB consider establishing pesticide buffer widths that are more applicable to burned soil characteristics and to not use pesticide buffer width requirements recommended with soils in green tree TMAs (which have higher infiltration capacity and lower erosion potential). CSERC asks that the RWB consider the potential difference in the rate of pesticide residue transported to streams due to soil erosion in burned areas compared to the potential rate of pesticide residue transported to streams due to soil erosion in non-burned (green tree) areas when finalizing the pesticide buffer width requirement for Category 2A and 5A.

### **Post-fire Management and Reforestation Plan (PFP)**

CSERC recommends that the RWB require dischargers in both Category 2A and 5A to apply ground cover and pesticide buffers prior to pesticide application, and not give dischargers the option of a PFP instead of applying the above measures. The current language in the draft General Order Attachment C section 3 indicates if dischargers opt to provide a PFP instead of creating pesticide buffers and ground cover, that the discharger is only required to **describe** the pesticide type, application method, application schedule, application location, hillslopes, burn severity, annual rainfall, SEPES, etc. But the discharger does not have to take any preventative actions to minimize pesticide infiltration or runoff.

Specifically, the statement in Attachment C says that “...a PFP will provide equal or greater protection than Conditions in Part III.C.3.b.ii of Order” (i.e. effective ground cover, pesticide buffers). Our Center does not understand how the PFP provides “equal or greater protection” than the general order conditions specified in Part III.C.3.b.ii. The conditions specified in Part III.C.3.b.ii would help to minimize pesticide transport thereby reducing the influx of pesticides into streams. We don’t see how describing the proposed pesticide application in a PFP will reduce pesticide infiltration and transport into streams. Therefore, CSERC opposes allowing dischargers the option of following the proposed requirements for pesticide buffers and effective ground cover measures **OR** submitting a PFP. Our Center instead believes that if the PFP included language requiring dischargers to minimize pesticide infiltration and/or runoff by taking certain actions, then our Center would be less opposed to the current language in the Draft General Order pertaining to PFP. But since the only requirements in the PFP are that the discharger describe the pesticide type, method, schedule, location, hillslopes, burn severity, annual rainfall, SEPES, etc., then this is not requiring dischargers to take steps to minimize in-stream pesticide pollution.

In conclusion, our Center understands that due to the large number of TMAs prepared for both federal and non-federal lands in the RWB’s region, the current regulation and oversight for TMAs through the timber waiver is not streamlined. However, the RWB is still required to ensure that individual dischargers are implementing TMAs and conducting TMA-related practices that prevent exceedances of applicable water quality objectives. Our staff emphasizes that the General Order, as stated in the scoping document, requires implementation of practices that prevent exceedances of applicable water quality objectives regardless of whether the RWB establishes a new general order; and that this new system still require dischargers to

be transparent and follow stricter guidelines for discharges (e.g., pesticide buffers, effective ground cover) especially in post-fire landscapes.

Thank you for consideration of our Center's comments.

Sincerely,



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Meg Layhee  
CSERC, Aquatic Biologist



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John Buckley  
CSERC, Executive Director