



April 17, 2017

Clint E. Snyder, P.G.
Assistant Executive Officer [Electronic Transmission]
Central Valley Regional Water Quality Control Board
Timber Harvest Unit
364 Knollcrest Drive Suite 205
Redding, CA 96002

RE: Public Comment - *Proposed General Order of Waste Discharge Requirements for Discharges Related to Timberland Management Activities (General Order)*

Dear Mr. Snyder:

Roseburg Forest Products owns and manages over 172,000 acres of FSC Certified timberland primarily within the Central Valley Region. We appreciate this opportunity to provide input and advice on this sweeping and weakly justified regulatory proposal.

BACKGROUND: Prior to 2005, California's Forest Practice Regulations operated under a General Waiver, by virtue of the interdisciplinary review process and the CEQA EIR-equivalency of the Timber Harvest Plan (THP). In 2005 all WQ waivers were terminated and regional boards were forced into a re-do by statute.

BASIS: The California Water Code (aka Porter-Cologne) regulates water uses in California. Other Statutes regulate drinking water, pesticides, transportation, wildlife and forestry. These tentative General Orders are also regulations¹, as defined by the State's Administrative Procedures Act (APA) (Gov. Code, §§ 11340 et seq., 11370.) They consequently need to affirmatively demonstrate Clarity, Consistency, Necessity and Nonduplication, as well requiring appropriate Noticing and Review by the Office of Administrative Law (OAL). Consequently the General Orders are subject to the APA².

¹ Calif. Gov. Code (GC) §11342.600

² GC §11346

With the forgoing in mind, we review these proposed regulations.

REASONS FOR ISSUING GENERAL ORDER: Sections 6-10 suggest reasons, or as the APA states, the Necessity for this regulation.

Reason #7 laments the inability to assign individual WDRs for every document, but completely fails to explain why the existing Waiver program is inadequate to protect water quality. Not a single instance was cited indicating any adverse incident occurred under the existing Waiver program.

Reason #8 is speculative insofar as the *Working Forest Management Plan* is not an implemented regulation, but something staff thinks might occur in the future.

Item #9 suggests “*the need to revise and clarify the monitoring and reporting program; and the overall need to improve and streamline the existing waiver*” yet fails to cite even a single failure that justifies the need. Since the 2005 Resolution R5-2005-0052, a Monitoring and Reporting Program was implemented which necessitates three separate survey visits (forensic, implementation and effectiveness) to each point of interest, during each year of the THP operation, until such time the Board grants termination. Each plan has an average of 25 mitigation points, usually road features. A single visit under the Monitoring Program will generally take at least a half-day. For a company such as Roseburg, who has 10-15 THP’s active at any given time, resulting in 30-45 thick reports full of photos and narrative which are filed with board staff each year. With the current maximum term of a THP being 7 years, requires us to produce 210-315 inspections over the typical term, thereby necessitating an additional half-FTE position simply to cover the current program. Where does board staff even keep this much paperwork, much less read and respond to it? We have received no responses from staff resulting from these monitoring reports. Staff fails to note even a single discharge that was detected and mitigated from that Monitoring Program. Staff can’t respond to the piles of reports that now come in each year. What will they do with a larger regulatory program? As a result, this fails the Necessity test.

Reason #10 creates 7 new categories where there were once only 4. We are left only able to guess what actual incidents necessitated this enormous expansion. So again, this fails to demonstrate Necessity.

The Regulatory Considerations section completely fails to note the existing approval process for a THP, which requires an interdisciplinary review and forbids the approval of any plan that “...*would cause a violation of any requirement of an applicable water quality control plan...*” (14-CCR-898.2(h)). Thus compliance with the basin plan and any other WQ requirement is already mandated. As a result, the proposed general orders fail the Non-Duplication test.

Nothing in this order creates a new requirement that affirmative remedates or prevents any demonstrable pollution. All the current requirements of the Water Code, Public Resources Code, Fish and Game Code and Forest Practice Rules already provide for every requirement that the proposed General Order purports to address. All the Prohibitions listed in the General Order are already legal requirements.

California Environmental Quality Act, noted in items #24 & #25 fails to make any analysis of potential alternatives to the General Order. For example, most other s

States recognize forestry regulations as BMP's, thus that is one alternative that should be discussed. In addition, the proposed General Order Notice fails to acknowledge what provisions specifically have failed water quality standards under the existing Waiver program.

One additional major provision: this General Order also imposes an entirely new and redundant layer of regulation over the use of pesticides, which are already regulated by another State agency charged with safe application and use. Not one single incident is noted by staff in the General Order. Again, this provision too, fails the Necessity and Non-Duplication test.

In closing, I urge the board to reject this General Order as an expanded regulatory program, and consider the renewal of the current Waiver program with some reduction in redundant monitoring. The proposed General Order fails to follow existing California law, because it is unclear, duplicative and ignores lesser alternatives. California needs smarter regulators not more regulations. The forest products industry has an exemplary record as shown by the excellent water quality seen in the rivers this spring after 5-years of drought. The state's water quality (and air quality) would be better served by addressing the plague of wildfire, instead of a new layer of regulatory burden.

Yours truly,



Arne Hultgren
California Resource Manager