



# SIERRA PACIFIC INDUSTRIES

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April 17, 2017

Clint E. Snyder, P.G.  
Assistant Executive Officer  
364 Knollcrest Drive, Suite 205  
Redding, CA 96002

Dear Mr. Snyder,

The following letter is a summary of requested changes to the tentative Waste Discharge Requirements General Order for Discharges Related to Timberland Management Activities for Non-Federal and Federal Lands, Order R5-2017-0XXXX. The format for these comments is to list a specific SPI item, the location where the language resides in the draft order, the excerpt from the tentative order containing the issue, discussion of the issue/comment Sierra Pacific Industries (SPI) has with that item, and then a modification to that standard that will resolve that issue for SPI, if appropriate. Excerpts from the Draft Waste Discharge Requirements General Order are in italics. Edits to the language in the order include ~~strikeouts~~ and underlined revisions.

**SPI item 1**  
**WDR General Order, p. 10, II. Provisions**

*4. The Discharger shall incorporate management practices and/or water quality protective measures resulting from Central Valley Water Board staff review and arising from changed conditions/new information into the Project document(s) and/or NOI addendum. The Discharger may propose alternative management practices if it can demonstrate to the satisfaction of the Executive Officer that the proposed alternatives are at least as effective as those recommended by Central Valley Water Board staff. Alternative management practices proposed by a Discharger must comply with the Prohibitions in this Order. Until such alternative management practices receive written approval from the Executive Officer, the Discharger shall adhere to those management practices provided by Regional Water Board staff.*

The issuance of the Waste Discharge Requirement (WDR) Permit for Categories 2A and 2B is exempted from a CEQA review because that requirement is waived for conditions that constitute an emergency pursuant to PRC 4592, 14 CCR 1052.1, and 14 CCR 895.1. The issuance of the Waste Discharge Permit for Categories 3A, and 3B relies on the CEQA review provided during CAL FIRE's review team process. The issuance of the Waste Discharge Permit for Category 4 relies on the CEQA review provided during the CDFW-executed MATO or LSAA.

In previous drafts of the General Order this Provision included clarifying language that specified the CEQA context under which the WDR Permits are analyzed. The following was the language used in the first three drafts of the General Order that were circulated informally in June 2016, September 2016, and the November 2016 in order to solicit feedback from the regulated public.

*“The Discharger shall conduct timberland management activities in accordance with the CAL FIRE-approved Plan, CAL FIRE-accepted Exemption (EX) or Emergency (EM) Notice, or CDFW-executed MATO or LSAA for non-federal timberlands; or in accordance with the final environmental document/decision document prepared pursuant to the National Environmental Policy Act (NEPA) and third party contracts for timberland management activities on federal lands managed by the U.S. Forest Service.”*

Sierra Pacific Industries believes it is important for the General Order to clarify which of the CEQA processes supports the various WDR permit categories. Sierra Pacific Industries request the following edits to Provision 4 of the tentative General Order.

*4. The Discharger shall incorporate management practices and/or water quality protective measures resulting from Central Valley Water Board staff participation in CAL FIRE’s Review Team process, the Federal review process, the CDFW review process, and/or during project enrollment that arising from changed conditions/new information into the Project document(s) and/or NOI addendum. The Discharger may propose alternative management practices if it can demonstrate to the satisfaction of the Executive Officer that the proposed alternatives are at least as effective as those recommended by Central Valley Water Board staff. Alternative management practices proposed by a Discharger must comply with the Prohibitions in this Order. Until such alternative management practices receive written approval from the Executive Officer, the Discharger shall adhere to those management practices provided by Regional Water Board staff.*

The suggested changes reinforce the concurrent processing of Waste Discharge Requirements (WDR) permits with other mandated environmental review processes. Concurrent review of WDRs helps streamline the regulatory process and should lead to the most efficient approval of water quality permits. Including this additional information is also consistent with the language found in the tentative General Order R5-2017-0XXXX, Eligibility Criteria, for Categories 2A, 2B, 3A, 3B, 4, 5A, and 5B.

## **SPI item 2**

### **WDR General Order, p. 10, Part II. Provisions**

*4. The Discharger shall incorporate management practices and/or water quality protective measures resulting from Central Valley Water Board staff review and arising from changed conditions/new information into the Project document(s) and/or NOI addendum. The Discharger may propose alternative management practices if it can demonstrate to the satisfaction of the Executive Officer that the proposed alternatives are at least as effective as those recommended by Central Valley Water Board staff. Alternative management practices proposed by a Discharger must comply with the Prohibitions in this Order. Until such alternative management practices receive written approval from the Executive Officer, the Discharger shall adhere to those management practices provided by Regional Water Board staff.*

The second sentence in the tentative Provision 4 (above paragraph) seems to suggest that the Executive Officer's decision must comport narrowly with the staff's recommendations. SPI suggests that the standard for demonstrating (to the Executive Officer) the effectiveness of the "alternative management practices" should be whether they meet the water quality objective (narrative or numeric), prohibition, Total Maximum Daily Load implementation plan, policy, or other requirement contained in a water quality control plan adopted by the Regional Board and approved by the State Water Boards. By using a standard that points back to an approved Regional Board policy and/or water quality plan, it allows an applicant some flexibility in the methods for meeting such standards, which may be different than those promulgated by staff.

In addition to the requested changes from SPI Item #1, SPI request the following edits to Provision 4 of the tentative General Order.

*4. The Discharger shall incorporate management practices and/or water quality protective measures resulting from Central Valley Water Board staff participation in CAL FIRE's Review Team process, the Federal review process, the CDFW review process, and/or during project enrollment that arising from changed conditions/new information into the Project document(s) and/or NOI addendum. The Discharger may propose alternative management practices if it can demonstrate to the satisfaction of the Executive Officer that the proposed alternatives ~~are at least as effective as those recommended by Central Valley Water Board staff.~~ meet the water quality objective (narrative or numeric), prohibition, Total Maximum Daily Load implementation plan, policy, or other requirement contained in a water quality control plan adopted by the Regional Board and approved by the State Water Boards. Alternative management practices proposed by a Discharger must comply with the Prohibitions in this Order. Until such alternative management practices receive written approval from the Executive Officer, the Discharger shall adhere to those management practices provided by Regional Water Board staff.*

### **SPI item 3**

#### **WDR General Order, p 21, Part III, 3. Enrollment: Category 3A and 3B.**

*3. Enrollment: Dischargers conducting activities that meet the criteria of Category 3A or 3B shall enroll under this Order as follows:*

*b) The Discharger shall submit a single completed NOI for Categories 2B, 3A, and 3B **at least 15 days prior to operations commencing**, signed by the timberland/timber owner, certifying that the activities meet the criteria and conditions contained in either Order Category 3A or 3B. Activities may commence once the Central Valley Water Board has issued a NOA to the Discharger indicating that their NOI is complete.*

The enrollment requirement 3b) leaves the timing for the issuance of an NOA open-ended. SPI requests that this item be modified to provide additional certainty to the applicant that either an NOA will be issued in a timely fashion or the applicant is notified that the NOI is incomplete. SPI requests the following changes to Enrollment 3b).

*b) The Discharger shall submit a single completed NOI for Categories 2B, 3A, and 3B **at least 15 days prior to operations commencing**, signed by the timberland/timber owner, certifying that the activities meet the criteria and conditions contained in either Order Category 3A or 3B. Activities may commence once the Central Valley Water Board has issued a NOA to the Discharger indicating that their NOI is complete. WQ staff will either issue a NOA or a notice to*

the applicant that the NOI is incomplete within 15 Days of receiving a NOI, or the NOI will be automatically accepted and operations may commence.

#### **SPI item 4**

##### **WDR General Order, p 15, Part III, 3. C. Categories 2A and 2B: Conditions**

3. *Conditions: Dischargers conducting timberland management activities that meet the eligibility criteria for Category 2A listed above must comply with all of the following conditions, as applicable:*

a) *The Central Valley Water Board must receive a **complete NOI for Category 2A and Erosion Site Table** (see Table 1 in Category 2A NOI) **within 30 days of Emergency Notice acceptance by CAL FIRE**, signed by the timberland/timber owner, certifying that the activities meet the criteria and conditions for enrollment in Order Category 2A. The Discharger shall provide timely amendments of the Erosion Site Table throughout Emergency Notice enrollment to the Central Valley Water Board when conditions or management objectives have changed.*

SPI requests that the enrollment condition, requiring the NOI for Category 2A and Erosion Site Table be submitted within 30 days of the Emergency Notice acceptance by CAL FIRE, be extended to 45 days or the winter period (November 15<sup>th</sup>) whichever occurs first. This request for extending the time period is necessary to ensure that SPI personnel have adequate time to review the SEPES within the Emergency Notice area, including evaluating the upslope land forms and conditions so that mitigation design is optimized.

a) *The Central Valley Water Board must receive a **complete NOI for Category 2A and Erosion Site Table** (see Table 1 in Category 2A NOI) **within ~~30~~ 45 days or the winter period (November 15<sup>th</sup>), whichever occurs first, after the of Emergency Notice acceptance by CAL FIRE**, signed by the timberland/timber owner, certifying that the activities meet the criteria and conditions for enrollment in Order Category 2A. The Discharger shall provide timely amendments of the Erosion Site Table throughout Emergency Notice enrollment to the Central Valley Water Board when conditions or management objectives have changed.*

#### **SPI item 5**

##### **WDR General Order, p 16, Part III, 3. b ii 2). Category 2A: Conditions**

2. *Where management activities are planned on a burned area with **slopes greater than 30%, a minimum of 50% average effective groundcover** (see Attachment C for guidance) **is required to be documented prior to pesticide application**. Documentation shall be provided to the Central Valley Water Board in the pesticide notification **30 days prior to application**.*

The post fire research conducted by Dr. James on the Ponderosa fire showed a 300% and 200% reduction in sediment during the first and second winters following the fire where standard ground based salvage logging occurred as compared to the no harvest control. The Ponderosa fire study area had slopes <30%. Chou et al. (1994a, 1994b) studying the post fire conditions at the Stanislaus fire observed no difference in sediment production between salvage-logged and unlogged units on similar slopes, even though ground disturbance in the logged watersheds was high. Chou et al. (1994a, 1994b) noted that sediment production increased where slopes exceeded 35% whether or not salvage logging occurred.

Because of the significant reduction in sediment reported by James where salvage logging occurred and the increased sediment production reported by Chou on slopes exceeding 35%, SPI requests that condition Part III, 3 b ii 2 be modified from 30% to 35% as shown below.

**2. Where management activities are planned on a burned area with slopes greater than ~~30~~ 35%, a minimum of 50% average effective groundcover (see Attachment C for guidance) is required to be documented prior to pesticide application. Documentation shall be provided to the Central Valley Water Board in the pesticide notification 30 days prior to application.**

These are our ideas and concerns relating to the tentative General Order for Discharges Related to Timberland Management Activities for Non-Federal Lands R5-2017-0XXXX. Thank you for considering modifying the General Order to accommodate these changes.

Sincerely,



Cedric Twight  
Sierra Pacific Industries  
Manager of California Regulatory Affairs

References:

James, Cajun Ph.D., Research and Monitoring Manager Sierra Pacific Industries. 2014. Post-Wildfire Salvage Logging, Soil Erosion, and Sediment Delivery – Ponderosa Forest Fire, Battle Creek Watershed, Northern California – Preliminary Results.

Chou, Y.H., S.G. Conard, and P.M. Wohlgemuth. 1994a. Analysis of postfire salvage logging, watershed characteristics, and sedimentation in the Stanislaus National Forest. P. 492–499 in *Proc. of ESRI users conference*. Environmental Systems Research Institute, Redlands, CA.

Chou, Y.H., S.G. Conard, and P.M. Wohlgemuth, 1994b. Post-fire salvage logging variables and basin characteristics related to sedimentation, Stanislaus National Forest, California. P. 873–878 in *Proc. of GIS'94 symposium*. Reid, Collins, and Associates, Vancouver, B.C., Canada.