

Excerpt from: *Memorandum of Understanding between the State Water Resources Control Board, Designated Regional Water Quality Control Boards, and the California Department of Forestry and Fire Protection*

V. Coordination and Conflict Resolution Process (Relevant Parts only)

1. If, following the second review team meeting, there is substantial disagreement among the interagency review team about the conclusions or recommendations of the Regional Board regarding measures needed to assure compliance with any applicable water quality control plan or policy, the Regional Board will provide the Department with a written explanation of its conclusions and recommendations, together with appropriate citations to supporting evidence, and the Department will provide the Regional Board with a written explanation of why it disagrees with the Regional Board recommendations together with appropriate citations to supporting evidence.
2. The parties to this agreement desire for all conflicts to be disclosed and resolved at the lowest staff level possible. In the event the Department's regional representative, after reviewing pertinent review team documents, including non-concurrences and the responses to the review team recommendation by the RPF, and after working to resolve any conflicts, decides to modify or reject the conclusions or recommendations of the Regional Board regarding mitigation, monitoring or other water quality protection measures necessary for approval of a particular THP, the regional representative will, as soon as possible, but no later than three working days after the close of public comment period, notify the Regional Board manager designated by the Executive Officer in writing of the reasons that the regional representative believes the recommendations of the Regional Board should not be adopted. The designated Regional Board manager and the Department's regional representative will confer to resolve the conflict within the five working day period following the notification.
3. If the designated Regional Board manager and the Department's regional representative do not resolve the conflict within the five-working-day period following notification to the Regional Board, the designated manager will notify the Regional Board Executive Officer or Assistant Executive Officer, and the regional representative will notify the Deputy Director or Assistant Deputy Director of the Department, as soon as possible, but no later than eight working days following the close of the public comment period. The Regional Board Executive Officer, the Regional Board Assistant Executive Officer, the Deputy Director of the Department, or the Assistant Deputy Director of the Department may request that the parties confer to present relevant evidence and attempt to resolve the conflict. The Department will provide a written statement of its resolution of the conflict, the reasons for the Department's determinations, and citations to relevant supporting information. The Deputy Director or Assistant Deputy Director of the Department will not reject

recommendations of the Regional Board, the Regional Board Executive Officer, or the Regional Board Assistant Executive Officer based on evidence that the Regional Board has not had an opportunity to review.

4. In the event the Deputy Director or the Assistant Deputy Director of the Department advises the Executive Officer or the Assistant Executive Officer of a Regional Board that any of the Regional Board recommendations will not be followed, the Department's decision on a proposed timber operation is subject to review in accordance with the Head of Agency Appeal process in the Forest Practice Rules. (Cal. Code Regs., tit. 14, § 1056 et seq.) The Regional Board may also choose to terminate any applicable waiver from filing a report of waste discharge for the proposed timber operation.
5. Although the intent of this agreement is to increase cooperation among the Department, the SWRCB, and the Regional Boards, the parties to the agreement recognize that there may be instances in which the Department decides not to follow the recommendations of the relevant Regional Board or the SWRCB. In those instances, the Regional Boards and the SWRCB may proceed to take whatever action they believe is appropriate under their independent statutory authority. This agreement does not limit the authority of the Regional Boards or the SWRCB to take appropriate action (including requiring reports of waste discharge and issuance of waste discharge requirements) to ensure that timber harvests and related activities are conducted in a manner that is consistent with protection of water quality and to ensure that the requirements of all applicable water quality control plans and policies are met.