

California Regional Water Quality Control Board  
North Coast Region

ORDER NO. R1-2006-0043

WATERSHED-WIDE WASTE DISCHARGE REQUIREMENTS

FOR TIMBER HARVESTING PLAN ACTIVITIES  
CONDUCTED BY, OR ON LAND OWNED BY

THE GREEN DIAMOND RESOURCE COMPANY

IN THE SOUTH FORK ELK RIVER WATERSHED

Based on the findings set out in Resolution No. R1-2006-0042, which adopts these watershed-wide waste discharge requirements (hereinafter “these WDRs” or “this Order”), the California Regional Water Quality Control Board, North Coast Region, (hereinafter “Regional Water Board”) orders that the Green Diamond Resource Company (hereinafter “the Discharger”) shall comply with the following:

SECTION I: OVERVIEW AND ORDER STRUCTURE

These WDRs apply to Timber Harvest Activities conducted on lands operated on and/or owned by the Discharger in the South Fork Elk River watershed. For purposes of this Order, the term “South Fork Elk River watershed” refers to the area comprised of the Lower South Fork Elk River (1110.000302) and Upper South Fork Elk River (1110.000301) planning watersheds (CalWater V2.2). A map delineating the planning watershed boundaries and the location of the greater Elk River watershed in the Humboldt Bay area is attached to this Order as Attachment A-1. A map delineating the Discharger’s ownership within the Elk River watershed is attached as Attachment A-2. Their ownership is comprised of approximately 1,900 acres (15%) of the 12,442-acre South Fork Elk River watershed, specifically in McCloud Creek and Tom and Railroad Gulches, tributaries to the South Fork Elk River.

As stated in the findings of Resolution No. R1-2006-0042, which adopts and supports these WDRs, Elk River and its tributaries have been cumulatively impacted by discharges of sediment and nuisance flooding related primarily to the intensity of Timber Harvest Activities. This Order, when coupled with other current, applicable orders in the Elk River watershed, addresses past, present and future impacts associated with discharges of Waste from Timber Harvest Activities on the Discharger’s lands in the South Fork Elk River watershed.

The Discharger must apply for coverage of timber harvesting plans (THPs) under this Order by submitting an application and appropriate filing fee for each THP, as detailed under Application Procedures (Section VII) below. Coverage does not take effect until the Discharger has received written notification from the Regional Water Board Executive Officer stating that coverage is approved. Under this Order, any initiation of a discharge (i.e., Timber Harvest Activities) performed without Executive Officer approval (i.e., enrollment for coverage under these WDRs) is a violation of these WDRs and is

subject to enforcement authorities provided to the Regional Water Board under the Porter-Cologne Water Quality Control Act<sup>1</sup> and the federal Clean Water Act.

This Order contains waste discharge prohibitions (Section II), discharge specifications (Section III) receiving water limitations (Section IV), specific provisions (Section V), general provisions (Section VI), application procedures (Section VII), procedures for termination of coverage (Section VIII), and grounds for rescission and denial of coverage (Section IX). All of these sections together are referred to as "Terms and Provisions." Definitions for key (capitalized) terms used in this Order are provided in Section X.

## SECTION II: WASTE DISCHARGE PROHIBITIONS

- A. Discharges of Waste, which are not otherwise authorized by waste discharge requirements issued by the Regional Water Board or the State Water Resources Control Board, to waters of the State are prohibited.
- B. Discharges shall not cause or threaten to cause pollution, contamination, or nuisance.
- C. Discharges shall not adversely impact human health or the environment or the beneficial uses of water defined in the *Water Quality Control Plan for the North Coast Region* (Basin Plan).
- D. Discharges of Waste shall not violate or exceed any applicable Water Quality Requirements as contained in, and as they may be modified from time to time pursuant to amendments to, water quality control plans adopted by the Regional Water Board and approved by the State Water Resources Control Board (Basin Plans), and all other applicable plans and policies adopted by the Regional Water Board or the State Water Resources Control Board.
- E. The discharge of soil, silt, bark, slash, sawdust, or other earthen or organic material other than large woody debris from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the South Fork Elk River watershed in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited. (Based on the "Action Plan for Logging, Construction, and Associated Activities," Basin Plan, page 4-32.00.)
- F. The discharge of soil, silt, bark, slash, sawdust, or other earthen or organic material other than large woody debris from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the South Fork Elk River watershed in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited. (Based on the "Action Plan for Logging, Construction, and Associated Activities," Basin Plan, page 4-32.00.)

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<sup>1</sup> California Water Code (Water Code) § 13000 et seq.

- G. The controllable discharge or deposition of soil, silt, bark, slash, sawdust, or other earthen or organic material other than large woody debris from any logging, construction or associated activity into the South Fork Elk River or its tributaries or to a location where such material could pass into the South Fork Elk River is prohibited. Controllable discharges or depositions are those actions, conditions, or circumstances that may be reasonably controlled. (Based on "Water Quality Objectives," Basin Plan, page 3-1.00.)

### SECTION III: DISCHARGE SPECIFICATIONS

- A. Discharges shall not cause coloration that causes nuisance or adversely affects beneficial uses.
- B. Discharges shall not cause the turbidity of South Fork Elk River or its tributaries to be increased more than 20 percent above naturally occurring background levels.
- C. Discharges shall not cause waters to contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin or that cause nuisance or adversely affect beneficial uses.
- D. Discharges shall not cause waters to contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.
- E. Discharges shall not cause the suspended sediment load to be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
- F. Waters shall not contain settleable materials in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.
- G. Discharges shall not cause receiving waters in the South Fork Elk River watershed or its tributaries to contain any toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life.
- H. Discharges shall not cause waters to contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.

### SECTION IV: RECEIVING WATER LIMITATIONS

- A. As set out in Resolution No. R1-2006-0042, which adopts and supports these WDRs, the receiving water limitation outlined below is a numeric interpretation of applicable narrative objectives and prohibitions. Coupled with the other Terms and Provisions of this Order, the receiving water limitation is designed to address cumulative impacts from discharges related to Timber Harvest Activities. Specifically, the limitation below is keyed to harvest related landslide sediment

delivery, and is a function of the rate (area per time) of cutting or felling of trees.

- B. The receiving water limitation for sediment discharges from harvest-related landsliding is 25% above background.<sup>2</sup> Sediment discharges from harvest-related landsliding that would result from the discharger's activities were predicted in consultation with the Empirical Harvest-Related Landslide Sediment Delivery Reduction Model (Landslide Reduction Model,) that is described in Order No. R1-2006-0042, Item 20(c), and other information provided by the discharger. The Regional Board has concluded that the model is a scientifically sound method for describing the relationship between timber harvesting, harvest-related landsliding, and the conditions in the South Fork Elk River watershed. Background is defined as predicted discharges from landslides on un-harvested areas.
1. Staff evaluated the harvest projection data and other information submitted by the Discharger in their Report of Waste Discharge. Staff consulted the best available science and information which underlies the Landslide Reduction Model for these specific waters. Based on this evaluation, the Discharger's proposal to enroll for harvest a maximum of 750 acres over a 15-year period (ending in 2015) is consistent with the receiving water limitation for timber harvest activities. The conclusion arising from this evaluation is that the acres proposed to be harvested – approximately 750 acres over the fifteen-year period beginning in 2001– will produce sediment discharges from harvest-related landsliding in volumes that would not likely cause or contribute to violations of the applicable Basin Plan requirements. Therefore no limitation of coverage expressed in terms of harvest acreage is necessary under this Order. The Discharger's activities will be presumed to be compliant with this receiving water limitation so long as harvest activities remain within the parameters set out in the Discharger's report of waste discharge. Compliance will be evaluated based on a three-year rolling average of acres harvested.
  2. If the Regional Water Board staff or the Discharger identifies and demonstrates a significant change in landslide patterns and sediment delivery rates in the South Fork Elk River watershed such that the receiving water limitation is exceeded, either the Discharger or the Executive Officer can request that this receiving water limitation be adjusted and these WDRs modified. Monitoring required in the Monitoring and Reporting Program associated with this Order (MRP No. R1-2006-0043) will inform the Discharger and Regional Water Board staff of changes in landslide patterns and sediment delivery rates. Any revision to this receiving water limitation shall not occur more frequently than on an annual basis and must be approved by the Regional Water Board and be subject to public review.

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<sup>2</sup> This receiving water limitation is based on sediment TMDLs completed to date for North Coast streams. Because of the stochastic nature of landslide triggering events, this limitation necessarily must be described as a relationship between anthropogenic and background inputs, rather than a fixed rate (volume per time) or sediment delivery per year.

## SECTION V: SPECIFIC PROVISIONS

### A. South Fork Elk River Sediment Reduction Plan

In summary, the primary components of this Plan are the required submittal of:

- a road sediment source inventory and roads sediment reduction plan;
- a sediment source inventory (Erosion Control Plan, or ECP) each THP;
- an inventory of erosion sites not associated with roads or ECP points, by March 1, 2007;
- a master treatment schedule for road-related sediment sites and the inventory strategy for non-road related sites by March 1, 2007;
- a proposed 2006 Work Plan for sediment abatement activities in this watershed, within 10 working days of WWDR permit approval.

The Discharger shall implement the required plans, including annual workplans, treatment status reports, and an annual summary of work accomplished. More specifically, the Discharger shall:

1. **Prepare and Submit Sediment Source Inventories and Sediment Reduction Plan & Master Treatment Schedule** –The Discharger shall provide, the following information:
  - A road-related sediment source inventory and sediment reduction plan for the watershed
  - An ECP related sediment source inventory associated with THPs
  - An inventory of erosion sites not associated with roads or ECP points
  - A master treatment schedule for the correction of all sediment source sites within The Discharger's ownership in the South Fork Elk River watershed.
- a. **Road-Related Sediment Source Inventory and Sediment Reduction Plan:** The Discharger has provided the Regional Water Board a sediment inventory of all sediment discharge sites present within their holdings in the South Fork Elk River watershed. The inventory and associated report contains the following information:
  - i. A detailed summary of all road-related sediment source sites. All road-related sediment sites were inventoried, cataloged, and evaluated for treatment feasibility. Sites that were determined to be infeasible to treat were clearly identified along with a detailed reason for that determination.
  - ii. Each sediment source site includes the following information: a treatment site identification number and location shown on a scaled map; the volume of sediment to be treated; treatment immediacy; and the proposed treatment.
- b) **ECP- related sediment source inventory associated with THPs** - The Discharger shall prepare and submit an Erosion Control Plan for each

identified sediment source associated with individual THPs upon submittal (see section VII.c.2.) Erosion Control Plans will be developed for each THP, similar to the format under General WDRs. During THP preparation foresters will traverse harvest units and identify controllable sediment sources. ECP points within THPs will consist of both road related and non-road related sites. If such sources are identified, a treatment will be proposed to correct them as part of the THP.

- c) **An inventory of erosion sites not associated with roads or ECP points** – By March 1, 2007, The Discharger shall prepare and submit an inventory strategy to identify erosion sources not associated with roads or ECP points. The inventory process will likely consist of the following elements: partition The Discharger's property into logical sub-basins; utilize remote sensing techniques (e.g., LIDAR data and aerial photographs); and develop a field verification sampling procedure to test the accuracy of the remote sensing techniques. The purpose of the inventory is to identify and treat sediment sites that are discharging or have the potential to discharge into watercourses.
  - d) **Master Treatment Schedule** – By March 1, 2007, the Discharger shall prepare a master treatment schedule, for concurrence by the Regional Water Board Executive Officer, for all sediment discharge sites deemed feasible to treat as part of the road-related sediment inventory. A master treatment schedule shall contain a detailed, 10-year time schedule for treatment activities to be completed at all treatment sites listed in the road inventory, whichever is sooner. Additionally the master schedule shall contain a schedule for the treatment of non-road related sites to be inventoried within 10 years and treated within 15 years. The master treatment schedule shall be based primarily on an efficient and expeditious recovery of the beneficial uses in the South Fork Elk River Watershed. The methods and criteria used for determining site prioritization shall be explicitly described within the sediment reduction plan.
2. **Submit Proposed 2006 Sediment Treatment Work Plan** - Within 10 working days after approval of the WWDR permit, the Discharger shall submit, for concurrence by the Regional Water Board Executive Officer, a work plan of all sediment-reducing (treatment) work proposed to be conducted in the South Fork Elk River watershed in the 2006 work year. The 2006 work plan shall include, at a minimum, the following information:
- a. A written summary describing the types of activities conducted, including the total number of road miles, stream crossings, and any other sediment-producing sites to be treated.
  - b. A treatment site identification number and location shown on the LiDAR DEM. All site identification numbers or numbering systems shall be the same as or correlated to road work plan numbers in the Discharger's THPs, where applicable.

- c. A summary table compiling all sites, to include the following information: unique site identifier; site type (e.g. Humboldt crossing, culvert replacement, cut bank failure, etc.) the volume of sediment to be treated; treatment immediacy or priority; the proposed treatment.
3. **Monitoring and Reporting Plan:** The Discharger shall follow the Monitoring and Reporting Plan (Order No. R1-2006-0043) for monitoring a representative sample of treated road sites.
  4. **Ongoing (Annual) Cleanup Activities** –Implementation of the Sediment Source Reduction Plan and Master Treatment Schedule described in Item 1 above shall begin on the date specified in the plans. Implementation shall continue on an annual basis until all sites have been treated, according to the following provisions:
    - a) **Submit Annual Work Plans and Treatment Schedules** – By March 1 of each year, the Discharger shall submit, for review by the Regional Water Board Executive Officer, an annual workplan and treatment schedule to remedy sediment sources identified in the road-related sediment source inventory and sediment reduction plan described in Item 1 above. The workplan shall contain, at a minimum, a detailed list of known, priority sediment source sites that are feasible to treat prior to November 1 of the following winter period. In addition, all sites discovered during individual THP layout and proposed for treatment during a particular year and not included in the Item 1 Master Treatment Schedule shall also be described within the annual work plan, given a treatment prioritization and schedule. In addition, for each sediment source site, the workplan shall include:
      1. A treatment site identification number and location shown on the LiDAR DEM.
      2. All site identification numbers or numbering systems shall be the same as or correlated to road work plan numbers in THPs either in development, approved, or pending approval.
      3. The volume of sediment to be treated,
      4. Treatment immediacy,
      5. The proposed treatment,
      6. A detailed time schedule for treatment activities to be completed prior to November 1 of the work year.

Each annual workplan must be consistent with the Master Treatment Schedule constructed as per Item 1 of this Plan. Any deviation from the Master Treatment Schedule must be first submitted within the March 1 workplan and is subject to the concurrence of the Regional Water Board Executive Officer. Justification for deviations must be provided in detail.

- b) **Implement Annual Work Plans and Treatment Schedules** – No earlier than May 1 of each year, the Discharger shall commence implementation of the annual workplan and treatment schedule described in Item 4(a)

above, or within 14 days of concurrence of the plan by the Executive Officer, whichever is sooner. During treatment, the Discharger shall allow Regional Water Board staff reasonable access for routine inspection purposes to areas where treatment activities pursuant to this Sediment Reduction Plan are occurring.

- c) **Submit Annual Summary Reports and Monitoring Plans** - By March 1 of the each year, the Discharger shall submit, for concurrence by the Regional Water Board Executive Officer, a summary report and associated documentation for all treatment work conducted under this Plan from the prior year. The summary report submittal shall include, at a minimum, a hard copy summary report describing all corrective actions completed, electronic versions of databases, and access to hard copies of all associated databases. In addition, the report shall correspond to and be fully compatible with the approved annual workplan and treatment schedule described in Item 4(a) above, and shall discuss, in detail, the reasons for any departures from the workplan and treatment schedule, and how such departures will be resolved in future years.
  - d) **Monitoring and Reporting Plan** - Monitoring of treatment sites shall commence as detailed within the Monitoring and Reporting Plan (R1-2006-0043).
5. **Executive Officer Approval** - Wherever an approval by the Executive Officer is required, if an approval or disapproval is not received by the Discharger within 14 (fourteen) calendar days, the Discharger shall proceed to implement the work specified in the proposal as submitted.
  6. **Request for Extensions** - Requests for extensions to required time lines specified within this Plan shall be submitted, in writing, at least 10 working days prior to the due date. Requests for extension must provide a reason or reasons for the request. Approval of any request for an extension of time to comply with required deadlines is subject to the approval of the Regional Water Board's Executive Officer. If the Discharger does not receive written approval of any requested extensions, it should not be assumed that the due dates are extended indefinitely or have been approved. The Discharger shall be accountable for all due dates set out in this Plan in the absence of written approval from the Executive Officer.

## B. South Fork Elk River Management Plan

All THPs to be covered under this Order shall be designed and implemented according to the special prescriptions contained in the Discharger's South Fork Elk River Management Plan, dated May 11, 2006, which appears as Attachment B to this Order.

1. Required Technical Reports
  - a) Annual Harvest Reports  
To demonstrate compliance with the receiving water limitations set out



in Section IV above, the Discharger shall provide to the Regional Water Board Executive Officer by January 31<sup>st</sup> of each year an Annual Harvest Report. The report shall contain the following information in tabular form, and shall be accompanied by a corresponding scaled map, for: 1) the Discharger's planned timber harvesting in the South Fork Elk River watershed for the upcoming calendar year, and 2) for completed harvesting from the previous calendar year:

1. Acres felled/ to be felled, by silvicultural prescription
2. Acres yarded/ to be yarded, by yarding technique
3. Acres subject to/ to be subject to mechanical site preparation

All acres shall be reported to the nearest acre, and shall be accompanied by the THP number, harvest unit number, and hazard class. A brief description of the methods and/or data sources used to calculate the number of acres shall be provided with the report.

#### C. Required Corrective Actions

If, in the course of implementing the Terms and Provisions of these WDRs, the Discharger discovers a discharge that is causing or contributing to a violation or an exceedence of an applicable Water Quality Requirement on its lands in the SF Elk River watershed, the Discharger shall:

1. Implement corrective measures immediately upon discovering the discharge, and notify the Regional Water Board by telephone as soon as possible, but no later than 48 hours after the discovery. The Discharger shall follow the notification with a written report within 14 days to the Regional Water Board, unless otherwise directed by the Executive Officer, that includes:
  - a) The date the discharge was discovered;
  - b) The name and title of the person(s) discovering the discharge;
  - c) A map showing the location of the discharge site;
  - d) An estimate of the volume and a description of the type of material discharged;
  - e) A description of the nature and cause of the discharge, including a description of any failed management measure(s) that appear(s) to have contributed;
  - f) A description of recent weather conditions prior to discovering the discharge;
  - g) Photos of the discharge site and affected downstream areas;
  - h) A description of corrective measures already implemented;
  - i) An implementation schedule and accompanying description of further corrective measures that will be implemented in the future; and
  - j) The signature and title of the person preparing the report.
2. Revise, as necessary, technical reports required under this Order to account for the additional management measures that have been and will be implemented. The Discharger shall submit the revised reports to the

Regional Water Board within 14 days following the submission of the written notification described in Section V(D)(1) above, or as otherwise required under Section V(B)(4)(a) above.

D. THP Amendments

The Discharger shall certify in writing that all amendments to THPs covered under these WDRs comply with the Terms and Provisions of this Order. The certification shall be submitted to the Regional Water Board upon CDF approval of the amendment, and before Timber Harvest Activities under the amendment commence. The Discharger shall also update the required technical reports as necessary to ensure that amended THPs remain consistent with these WDRs, and shall submit the updated reports to the Regional Water Board Executive Officer before Timber Harvest Activities under the amendment commence. If the Discharger does not provide the required certification and updated technical reports prior to commencing the amended Timber Harvesting Activities, the Executive Officer may terminate coverage for the THP under these WDRs pursuant to Section IX(A) of this Order.

SECTION VI: GENERAL PROVISIONS

The following general provisions apply to all THPs covered under these WDRs.

A. CEQA Compliance

All THPs covered under these WDRs shall be in compliance with CEQA prior to the Executive Officer issuing, authorizing, or otherwise approving coverage.

B. Inspection and Entry

Subject to the requirements of Water Code § 13267(c), the Discharger shall allow the Regional Water Board staff entry onto the affected property, with reasonable notice, for the purposes of observing, inspecting, photographing, video taping, measuring, and/or collecting samples or other Monitoring information to document compliance or non-compliance with this Order.

C. Proposed Pesticide Applications

1. For those THPs where application of pesticides is proposed or being considered, the Discharger shall notify the Regional Water Board in writing at least 45 days prior to any proposed aerial application of pesticides and 30 days prior to any proposed ground-based application of pesticides.
2. For aerial application of pesticides, the Discharger shall submit a Report of Waste Discharge containing, at a minimum, Items (a)-(e) under the "Action Plan for Control of Discharges of Herbicide Wastes From Silvicultural Applications" as specified in the Basin plan, page 4-37.00. Waste discharge requirements will be prepared for the operation in conformance with the Basin Plan prohibitions and presented to the Regional Water Board for consideration.
3. The notification for ground-based application of pesticides shall include the type of pesticide(s), volume to be applied, method and area location of

application (including THP number, if associated with a THP), projected date of application, and measures that will be employed to ensure compliance with applicable Water Quality Requirements. Subsequent changes to the proposed application must be submitted in writing forthwith, and in no event less than 14 days prior to the pesticide application, unless Regional Water Board staff agrees in writing to a lesser notice. This Order does not authorize the application or the discharge of pesticides.

D. Civil Liability

As provided by Water Code Section 13350(a), any person may be subject to civil liability if that person in violation of waste discharge requirements, discharges waste, or causes waste to be deposited where it is discharged, into waters of the state.

E. Burden on Discharger

The burden is on the Discharger to demonstrate that Timber Harvest Activities proposed for enrollment under this Order will comply with the Terms and Provisions of these WDRs.

F. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the Terms and Provisions of these WDRs.

G. Proper Operation and Maintenance

The Discharger shall at all times properly operate and maintain all facilities and systems which are installed or used by the Discharger to achieve compliance with the Terms and Provisions of these WDRs and with the provisions of required technical reports. Proper operation and maintenance includes, but is not limited to, adequate laboratory controls and appropriate quality assurance procedures.

H. No Right to Discharge

As provided by Water Code § 13263(g), these WDRs do not create a vested right to continue discharge, nor do they convey any property rights of any sort or any exclusive privileges, nor do they authorize any injury to private property or any invasion of personal rights, nor do they authorize any infringement of Federal, State, or local laws or regulations.

I. Duty to Provide Information

Upon written request by the Executive Officer, the Discharger shall furnish the Regional Water Board, within a reasonable time, access to and copies of any requested information to determine compliance with these WDRs, including, but not limited to, records that must be kept under the Terms and Provisions of this Order.

J. Severability

The Terms and Provisions of this Order are severable; and, if any term or provision of these WDRs or the application of any term or provision of these WDRs to any

circumstance is held invalid, the application of such Terms and Provisions to other circumstances and the remainder of these WDRs shall not be affected thereby.

K. Reopener Clause

These WDRs may be modified, revoked and reissued, or terminated for cause. Should data become available suggesting that the receiving water limitations set out herein, or other Terms and Provisions, are either too restrictive or not sufficiently restrictive to protect water quality, the Discharger, the Executive Officer, or any other affected member of the public, may request that the Regional Water Board consider appropriate amendments to these WDRs.

L. Availability

The Discharger shall provide copies of these WDRs, required technical reports, and other applicable and associated documents to appropriate operating personnel, including, but not limited to, Registered Professional Foresters, Licensed Timber Operators and Monitoring staff. The Discharger shall maintain copies of these documents and reports and shall make them available for review by affected personnel at appropriate facilities.

M. Transfers

Coverage under these WDRs is not transferable. A new owner of an enrolled THP must submit an application package, including filing fee, in accordance with the requirements of these WDRs to be authorized to discharge. An owner who sells property covered by these WDRs shall inform the new owner of the duty to file an application and shall provide the new owner with a copy of these WDRs. Failure to inform the new owner shall not release the buyer or the seller from any potential liability for failure to comply for coverage under these WDRs, or other provisions of the California Water Code.

N. Work Conducted by Licensed Professionals

The practice of geology is identified and regulated under Chapter 12.5 (Geologists and Geophysicists Act) of the Business and Professions (B&P) Code, including Rules and Regulations (CCR Title 16, Division 29) and any related sections of the B&P Code, Government Code, Penal Code, and/or Evidence Code. The practice of engineering in California is identified and regulated under Chapter 7 (Professional Engineers Act) of the B&P Code, including rules and regulations (CCR Title 16, Division 5) and any related sections of the B&P Code, Government Code, Penal Code, and/or Evidence Code. The Discharger shall fully comply with all aspects of existing statutes and regulations regarding the practice of geology and/or engineering while satisfying the Terms and Provisions of this Order.

O. Signatory Requirements

1. All applications, Notices of Termination, required technical reports, inspection reports, certifications, and other reports prepared in accordance with the Terms and Provisions of this Order submitted to the Regional Water Board shall be signed by the Discharger or the Discharger's duly authorized representative(s). All persons signing a document under this provision shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete."

2. Duly authorized representatives include Registered Professional Foresters, Licensed Timber Operators, and other licensed professionals hired by the Discharger and responsible for some portion of the conduct of Timber Harvest Activities and/or Monitoring activities. Irrespective of who signs any required documents, the timberland owner is ultimately responsible for compliance with all requirements of these WDRs.

P. TMDL Implementation Plans

A Total Maximum Daily Load (TMDL) for sediment in the Elk River watershed is planned for adoption by the Regional Water Board in 2007. To the extent possible, the Terms and Provisions of this Order have been designed under the premise of early TMDL implementation. However, certain Terms and Provisions under this Order are subject to change, pending the final form of the adopted TMDL Implementation Plan.

Q. Requests for Extensions

Requests for extensions to due dates specified in this Order shall be submitted, in writing, at least 10 working days prior to the due date. Extension requests must provide sufficient detail explaining why the extension is necessary. Any request for extension is subject to the Executive Officer's written approval. If the Discharger does not receive written approval of an extension request, it shall not be assumed that the request has been approved. The Discharger is accountable for all due dates specified in this Order in the absence of written approval from the Executive Officer.

R. Failure to Obtain Coverage

If the Discharger fails to obtain coverage for any Timber Harvest Activity under this Order or another applicable order, it will be subject to enforcement under Water Code § 13265 and other applicable laws.

S. Regional Water Board Authority Not Limited

Compliance with the Terms and Provisions of these WDRs shall not prevent the Regional Water Board or the Executive Officer from taking additional regulatory or enforcement action under its authority as appropriate for violations of applicable laws outside the scope of these WDRs.

T. Applicability to National Pollutant Discharge Elimination System Permits

This Order does not apply to discharges requiring a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act, including, but not limited to, silvicultural point sources as defined in 40 Code of Federal Register (CFR) 122.27.

## SECTION VII: APPLICATION PROCEDURES

- A. To seek coverage for a THP under these WDRs, the Discharger shall submit an application and filing fee to the Executive Officer. The application shall consist of:
1. A letter requesting coverage under these WDRs, using a Report of Waste Discharge Form 200 or equivalent document that meets the requirements of Section (VII)(C)(1) below;
  2. The approved THP document when directed by the Executive Officer<sup>3</sup>;
  3. Required technical reports, which, if included by the Discharger in the approved THP document, shall be presented in clearly delineated sections as detailed in Section (VII)(C) below;
  4. A statement certifying that, while the THP is covered under these WDRs, the Discharger is and will remain at all times in compliance with the Terms and Provisions of this Order, and;
  5. The appropriate filing fee.
  6. All elements of the application shall comply with the signatory requirements contained in Section VI(O), above.
- B. Coverage under these WDRs shall not take effect until: (1) the Discharger's application is determined to be complete; and (2) the Discharger has received written notification from the Executive Officer stating that coverage under these WDRs is appropriate. It is anticipated that THPs which have had thorough Regional Water Board staff involvement in the review and approval process, and which have no unresolved water quality or procedural issues, will receive written notification of coverage within twenty (20) working days of receipt of a complete application.
- C. The Discharger shall incorporate the following items into the THP document as clearly delineated sections or shall submit them with its application when seeking coverage under these WDRs:
1. WDRs Application Letter  
The application letter, in addition to asking for coverage under this Order, shall include the THP number, intended harvest acreages by silviculture, and by hazard designation.<sup>4</sup> The letter must be signed by the Discharger's representative.
  2. Erosion Control Plan
    - a) Overview

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<sup>3</sup> Generally, the Regional Water Board receives approved or accepted THP documents from the lead agency, CDF. These documents are part of the record for each THP covered by these WDRs. Provided the approved or accepted THP documents are received from the lead agency, the Discharger will not be required to submit a copy to the Regional Water Board when applying for coverage under these WDRs, unless directed by the Executive Officer.

<sup>4</sup> Hazard zones in the South Fork Elk River watershed are based on Hazard Map #3, as defined in "The Empirical Harvest-Related Landslide Delivery Reduction Model"

The Discharger shall develop and implement an Erosion Control Plan (ECP) for each THP covered under these WDRs. The ECP shall be developed for the entire THP area, including roads used for THP activities owned by or under the control of the Discharger. The ECP shall be designed to prevent and minimize the discharge or threatened discharge of sediment or other earthen material from Controllable Sediment Discharge Sources into waters of the State to the degree necessary to avoid a violation of applicable Water Quality Requirements or other Terms and Provisions of this Order.

The ECP shall be developed by a qualified professional, included in the approved THP or submitted with the application when seeking coverage under these WDRs, and shall incorporate Regional Water Board staff recommendations generated as part of the THP review and approval process that were designed to prevent and minimize discharge of sediment.

Controllable Sediment Discharge Sources may include, but are not limited to, failing or failed watercourse crossings, road failures, road surfaces, landslides, unstable features discharging to or near watercourses, unstable watercourse banks, soil stockpiles, instream and floodplain sediment deposits, vehicle and equipment storage and service areas, skid trails, landings, harvested areas, or any other location discharging sediment or earthen materials. The ECP shall be amended and revised, when necessary, to meet this standard.

b) Inventory of Controllable Sediment Discharge Sources

As part of the ECP, the Discharger shall prepare an inventory of Controllable Sediment Discharge Sources to identify all existing or threatened discharge sites within the THP area and develop a time schedule for implementation of prescribed management measures (i.e., cleanup efforts and corrective work). Any method or model used to develop the inventory shall be briefly described and shall be of demonstrated effectiveness and applicability for the inventoried area to attain compliance with applicable Water Quality Requirements. The Discharger shall conduct thorough site evaluations to fully assess on-the-ground conditions and to facilitate the detection of Controllable Sediment Discharge Sources during inventory preparation. Sites already satisfactorily covered by formal, existing agreements with the Regional Water Board designed to prevent and minimize discharges do not need to be addressed in the ECP, but should be briefly described in the inventory. The inventory shall include:

- i) A brief description of the inventory method(s) and/or model(s) used,
- ii) A topographic map, at a scale of 1:12,000 or higher (e.g. 1:6,000) with no more than 80-foot contours, showing the THP area and the location of all inventoried Controllable Sediment Discharge Sources, and

- iii) An estimate of the total sediment volume and an estimate of the relative potential for sediment delivery to a watercourse at each inventoried site.

In the event that the inventory prepared under these ECP requirements contains sites that appear in Treatment Plan inventories required under Sections V(B)(2)(a) and V(B)(3)(a) of this Order, the Discharger shall highlight such an occurrence by including the Treatment Plan site identification number(s) in the ECP inventory and all related plans and reports for tracking purposes.

c) Treatment and Implementation Schedule

As part of the ECP, the Discharger shall prescribe management measures and develop an implementation schedule for cleanup efforts and corrective work to be conducted on Controllable Sediment Discharge Sources listed in the inventory. Prescribed management measures shall be of demonstrated effectiveness and applicability for the inventoried sites to attain compliance with applicable Water Quality Requirements. The implementation schedule must provide for the completion of work on all inventoried sites prior to the termination of coverage for the THP under these WDRs. The implementation schedule must also provide for the timely application of prescribed measures on inventoried sites based on assigned priority. The treatment and implementation schedule shall include:

- i) A narrative description of the site-specific management measure(s) prescribed for each Controllable Sediment Discharge Source in the inventory, and
- ii) A time schedule for implementing the prescribed management measures for each Controllable Sediment Discharge Source in the inventory on a priority basis. The priority for treatment shall be based, in general, on the threat to water quality, and in particular, on the total sediment volume and the relative potential for sediment delivery at each inventoried site. The highest priorities will be assigned to sites that pose the largest threat to water quality.

d) ECP Inspection Plan

i) Overview

The Discharger shall develop and implement an ECP inspection plan to ensure that all prescribed management measures have been implemented and are functioning as designed at each Controllable Sediment Discharge Source site identified in the ECP and that no new Controllable Sediment Discharge Sources were created during the previous year. Inspections shall occur at least once before, once during, and once after each winter period during which the THP is covered under these WDRs. Inspections shall include an evaluation of the adequacy and proper implementation of the corrective action undertaken at the site. Inspections shall



also include a determination if additional management measures are required to comply with the Terms and Provisions of this Order.

ii) Required Inspections

For each Controllable Sediment Discharge Source corrected under the ECP, the ECP inspection plan shall require at least three inspections to occur annually:

- Prior to October 15th of each year, an inspection shall be conducted to assess and document the adequate implementation of the prescribed management measures at the site and state of readiness for the winter period. If additional management measures are required at the site to comply with the Terms and Provisions of this Order, the Discharger shall implement such measures prior to November 15th and make appropriate revisions to the ECP. Any revisions to the ECP shall be submitted to the Regional Water Board within 14 days following implementation of the additional measures.
- Once following ten (10) inches of cumulative rainfall commencing on November 15 and prior to March 1 of each year, as worker safety and access allows, an inspection shall be conducted to assure and assess management measure performance and determine if new Controllable Sediment Discharge Sources have developed. If a discharge is identified, corrective action according to Section V(D) of this Order shall be conducted.
- After April 1st, but before June 30, an inspection shall be conducted to assess and document the effectiveness of the prescribed management measures at the site. If additional management measures are required at the site to comply with the Terms and Provisions of this Order, the Discharger shall implement such measures prior to October 15th, and shall make appropriate revisions to the ECP. Any revisions to the ECP shall be submitted to the Regional Water Board within 14 days following implementation of the additional measures.

iii) Required Reports

The Discharger shall submit an annual summary report on ECP implementation to the Executive Officer by June 30<sup>th</sup> for each year the THP is covered under these WDRs, and upon termination of coverage. Each summary report shall include, at a minimum, the date of each inspection, the inspector's name, the location of each inspection, the effectiveness of management measures employed, whether and what additional management measures were required to comply with the Terms and Provisions of this Order, and the title and name of the person submitting the summary report.

Any additional Controllable Sediment Delivery Sources identified during any of the annual ECP inspections shall be documented in the required inspection report. The additional site(s) shall be amended into the ECP inventory prior to the next operating season.

3. Spill Prevention Control and Countermeasure Plan for Petroleum

a) Applicability

The requirement to submit a Spill Prevention Control and Countermeasure (SPCC) Plan applies only to THPs that make use of Petroleum stored in a single aboveground tank with a storage capacity of more than 660 gallons, or multiple tanks with a cumulative storage capacity more than 1,320 gallons. California Health and Safety Code, Section 25270.2 (k) of the Aboveground Petroleum Storage Act defines certain tank facilities not subject to this requirement. A copy of the SPCC Plan must be kept at the storage facility for which it was developed.

b) Contents

The SPCC Plan shall be designed to prevent and minimize the discharge of Petroleum to waters of the State, and to ensure that THP Activities comply with all State and Federal regulations pertaining to the handling and storage of fuel. These regulations include the "California Aboveground Petroleum Storage Act with 1991 Amendments" (Cal. Health & Safety Code, Section 25270 et seq.) and the "U.S. Environmental Protection Agency Regulations on Oil Pollution Prevention" (40 CFR 112). The SPCC Plan shall specify the construction and maintenance of impermeable secondary containment.

SECTION VIII: TERMINATION OF COVERAGE

A. The Discharger may terminate coverage for a THP under these WDRs by submitting to the Regional Water Board a Notice of Termination form (NOT). The NOT shall be signed in accordance with Section VI(O) of this Order. A THP is considered complete and eligible for termination when all of the following conditions have been met:

1. THP activities are completed;
2. The THP site is stabilized (i.e., there is no potential for discharges of Waste from the THP in violation of the Terms and Provisions of these WDRs);
3. All elements of required technical reports have been completed; and
4. All earthen materials and other Wastes have been disposed of properly.

B. The Executive Officer shall review the NOT and determine its appropriateness by assessing Items VIII(A)(1)-(4) above. The review may include a field inspection to verify NOT completeness. The Executive Officer shall notify the Discharger in writing regarding approval or disapproval of the NOT within six (6) months after receiving the NOT, or the NOT is deemed approved.

## SECTION IX: RESCISSION AND DENIAL OF COVERAGE

- A. The Executive Officer shall rescind or deny coverage for a THP under these WDRs if the Executive Officer makes any of the following determinations:
1. The THP does not comply with all Terms and Provisions of these WDRs, including, but not limited to, the receiving water limitations;
  2. The THP is reasonably likely to result in or has resulted in a violation or exceedence of any applicable Water Quality Requirement;
  3. The THP has varied in whole or in any part from the approved THP in any way that could adversely affect water quality;
  4. When requested by another State agency, a subdivision of the State (county) or a Federal agency, and with concurrence by the Executive Officer;
  5. The THP is the subject of an unresolved water quality or procedural issue including, but not limited to, a non-concurrence filed by the Regional Water Board staff with CDF;
  6. The THP meets the Terms and Provisions of these WDRs, but may still result in a discharge of Waste that could adversely affect water quality; or
  7. There are substantive errors or inaccuracies found in information submitted as part of the THP and enrollment application package that, if known at the time of application, would have resulted in a denial or limitation of coverage under these WDRs.
- B. Upon receipt of a written notice of rescission or denial of coverage for a THP under these WDRs, the applicability of this Order to the covered THP is immediately terminated. Upon termination, the Discharger shall immediately cease all THP activities that may result in un-permitted discharges of Waste to waters of the State, other than activities necessary to control further discharges.

## SECTION X: DEFINITIONS

Terms defined below are capitalized in this Order for ease of recognition. All other terms shall have the same definitions as prescribed by the California Forest Practice Rules as of January 1, 2006, and the Water Code, as the latter may be amended from time to time.

- A. "Erosion Control Plan" or "ECP" means a plan designed and implemented to prevent and minimize the discharge of sediment to waters of the State in violation of applicable Water Quality Requirements or other Terms and Provisions of these WDRs. The Erosion Control Plan is developed by a qualified professional, and includes but is not limited to, a map clearly showing the location(s) of the site(s) that could discharge sediment, site specific designs and/or management measures to prevent and minimize the discharge of sediment, and a time schedule for implementation of site specific designs and/or management measures.
- B. "Controllable Sediment Discharge Sources" refers to sites or locations that meet all the following conditions:

1. Is discharging or has the potential to discharge sediment to waters of the State in violation of applicable Water Quality Requirements or other Terms and Provisions of these WDRs;
  2. Was caused or may be affected by human activity; and
  3. May feasibly and reasonably respond to management measures (i.e., cleanup efforts and corrective work).
- C. "Monitoring" refers to all types of monitoring undertaken in connection with determining water quality conditions and factors that may affect water quality conditions. This includes, but is not limited to, assessment monitoring, trends monitoring, water quality compliance monitoring, forensic monitoring, hillslope and instream effectiveness monitoring, and implementation monitoring.
- D. "Petroleum" means crude oil or any fraction that is liquid at a temperature of 60 degrees Fahrenheit at normal atmospheric pressure. This includes petroleum based substances comprised of a complex blend of hydrocarbons, such as gasoline, diesel, jet fuels, residual fuel oils, lubricants, some petroleum solvents, and used oils.
- E. "Terms and Provisions" refers to waste discharge prohibitions, receiving water limitations, specific and general provisions, application and termination procedures, and grounds for rescission and denial of coverage, and all other conditions and requirements set out in this Order and the Monitoring and Reporting Program associated with this Order.
- F. "Timber Harvest Activities" means commercial and non-commercial activities relating to forest management and timberland conversions. These activities include the cutting or removal or both of timber and other solid wood forest products, including Christmas trees, as well as, but not limited to, construction, reconstruction and maintenance of roads, fuel breaks, firebreaks, watercourse crossings, landings, skid trails, or beds for the falling of trees; fire hazard abatement and fuel reduction activities; burned area rehabilitation; site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities; but excluding preparatory tree-marking, surveying or road-flagging.
- G. "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal. Wastes specifically regulated under this Order include: earthen materials including soil, silt, sand, clay, rock; organic materials such as slash, sawdust, or bark that enter or threaten to enter into waters of the State; heat; petroleum products; and nutrients. Not all wastes are covered by these WDRs. Examples of wastes not specifically regulated under these WDRs include: pesticides, hazardous materials, or human wastes.
- H. "Water Quality Requirements" means all applicable water quality objectives (narrative or numeric), prohibitions, TMDL implementation plans, policies, or other

requirements contained in water quality control plans adopted by the Regional Water Board and approved by the State Water Resources Control Board, and all other applicable plans and policies adopted by the Regional Water Board or the State Water Resources Control Board, including, but not limited to, the State Water Board Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality Waters in California.

- I. "THP," for purposes of these WDRs, means a Timber Harvesting Plan approved by CDF, and in compliance with CEQA.

#### **CERTIFICATION**

I, Catherine Kuhlman, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on August 9, 2006.



Catherine Kuhlman  
Executive Officer