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28 May 2004

Mr. William R. Massey, Chairman
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, Ca. 95403

RE: ORDER NO. R1-2004-0016 (revised for May 11th) Categorical Waiver and Waste Discharge Requirements For Discharges Related To Timber Harvest Activities on Non-Federal Lands In The North Coast Region.

Dear Chairman Massey and Members of the Board:

The California Licensed Foresters Association (CLFA) appreciates this opportunity to provide additional input to the Board on the revisions provided at the May 11th Meeting. CLFA has reviewed the changes and continues to be opposed to ORDER R1-2004-0016 as revised. CLFA submitted comments, in a previous letter, on ORDER R1-2004-0016 prior to the latest revisions. These comments should also be referenced. Our comments on the current proposed Order are as follows:

Coverage

The revisions include language that allows for continuous coverage for previously waived projects, until the adoption of a new Order. We believe this is a necessary revision to avert a situation where coverage would have been absent for previously waived projects.

Eligibility

The revised eligibility criterion for the waiver continues to be so constrained that very few projects would qualify that are not already addressed in Section III A-D. Additionally, Erosion Control Plan language and requirements were added to eligibility coverage for Non-Industrial Timber Management Plans (NTMPs). This would further burden financially marginal projects, or force them into the General WDR category, which could remove any financial benefit to the landowner. Often these small projects can have mitigations incorporated that will benefit long-term basin plan goals. To maintain the unrealistic guidelines set for coverage will unnecessarily divert many projects into other forms of coverage. Finally, the categorical waivers, unjustifiably, make most even-aged management ineligible for the waiver.

Timelines

The current waiver process utilizes the existing Timber Harvest Plan (THP)/NTMP timelines and does not result in additional delays. The 14-day delay mandated in Section II is unwarranted given the participation of Water Quality in the NTMP review process. It continues to conflict with 14 CCR 1090.6 that allows for NTMPs to begin operations three days after the

Notice of Intent has been mailed. The waiver application process can and should correspond to the timelines in CEQA equivalent THP review processes.

Definitions

F. "Natural Sources of Sediment". Given that natural sediment discharge is not defined as waste, it is unclear how natural sediment will cause a violation of water quality requirements.

Erosion Control Plan

The revisions include language which requires NTMPs to incorporate an Erosion Control Plan (ECP) as a requirement for coverage under Section III. This ECP will require the generation of a document that, in some cases, would be comparable in size to the NTMP document itself. The ECP requires that a landowner address all existing and potential sediment threats or sources in the project area. This additional information will be generated at considerable cost with, potentially, little actual reduction in delivered sediment depending on the sources, and their controllability. It is foreseeable that a landowner practicing good forest management could have very little actual sediment potentially generated from the NTMP, but will need to produce this expensive document to describe how these non-sources will not threaten water quality standards. It seems unreasonable to require landowners to pay for this type of analysis.

This type of analysis is one of the many functions of the Review Team Process, and is done for each NTMP and THP. Trained professionals review site-specific conditions and mitigations to determine threats to water quality and beneficial uses. The Waiver process should better recognize the efforts and mitigations developed within the review process for NTMPs/THPs in order to avoid any potential unnecessary duplication of paperwork.

Section V-Termination of Coverage

Some of the items listed in A.5 have no logical connection to water quality standards, and therefore should not be conditions for allowing the Executive Officer to rescind the waiver. For example, the proximity of a project to Parks has no bearing on water quality, or adherence to water quality standards. As written, applicability for the categorical waiver could be rescinded for any item that presents a unique condition in any watershed.

Summary

The revised Order does not outline reasonable standards for projects to receive a categorical waiver. THP/NTMP preparation times and costs would significantly increase, to the point of negating any realistic usefulness of the Categorical Waiver. The overall impact of the proposed Order could eliminate the viability of many NTMP's, which by definition, practice lower intensity forestry.

CLFA supports the continuation of a Categorical Waiver that provides coverage for the majority of landowners while providing a relatively efficient and effective mechanism to address and protect water quality. We encourage the Board to continue to work with Staff to develop such a waiver.

Very truly yours,

Chris Quirnbach, RPF #2623
President, CLFA

The California Licensed Foresters Association, with approximately 800 members, represents the common interests of Registered Professional Foresters in the State of California. The Association provides opportunities for continuing education and public outreach to its membership, which includes diverse professionals affiliated with public agencies, private timber companies, consultants and the academic community. Governed by an elected Board of Directors, CLFA was established in 1980 after the passage of the landmark California Professional Foresters Law.