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May 11, 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. 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 some important input to the Board on this matter. CLFA is opposed to ORDER R1-2004-0016 as proposed. Our comments are as follows:

Premise

The current Order is based on the premise that current Forest Practices do not protect water quality. CLFA is not aware of any peer reviewed scientific research that has concluded that current practices have significant adverse effects on water quality.

Eligibility

The proposed eligibility criterion for the waiver is constrained so that numerous projects would not qualify for the General Waiver. This would include many harvests with silvicultural prescriptions not conforming to the constraints, pre-commercial operations, and fuel reduction projects that would have little or no threat to water quality. There is no incorporated provision for risk to water quality, or proximity to water that could be used to qualify additional projects. This would force financially marginal projects into the General WDR category, which could remove any financial benefit to the landowner. These projects can be the process in which small landowners upgrade infrastructure. In addition to the implementation of updated rules and practices, these projects can have mitigations incorporated into the THP, which would directly benefit water quality.

Timelines

The current waiver process utilizes the existing THP/NTMP timelines and does not result in additional delays. The 14 days mandated for the application review process could cause significant delays to operations, given the significant existing constraints on winter operations and seasonal operating restrictions to protect wildlife. Additionally, it is in conflict with 14 CCR 1090.6 which allows for Non-Industrial Timber Management Plans to begin operations three days after the Notice of Intent has been mailed. This process needs to correspond to the timelines in the CEQA equivalent THP review process.

Excessive Financial Burden

The proposed order will cause an excessive financial burden to landowners without adequate justification of need. Current Forest Practices determine how harvest activities may impact water quality by assessing unstable areas, road construction and re-construction and maintenance, yarding and harvesting practices as well as numerous other site specific issues that are addressed in the THP document or in the review process.

The level of analysis and mitigation required in the proposed order would cause significant financial burden to landowners, making many smaller projects infeasible. The consequence of this could be the shift away from forestland toward more profitable and detrimental land uses. CLFA is also concerned about the potential for the occurrence, this summer, of a situation in which landowners will have no coverage for projects which do not qualify for a waiver and need a Report of Waste Discharge. Such an occurrence could prevent projects such as fire hazard fuel treatments from occurring exactly when they should, possibly putting property at risk.

Public Interest

The public interest as it applies to this Board, is the protection of water quality and beneficial uses. We do not see the public interest necessarily being served by the proposed Order, which essentially doubles paperwork for review by Water Quality staff. This paperwork is costly for landowners to generate, and will reduce staff time for field reviews and inspections. Public resources should be allocated and prioritized to address those issues that pose genuine significant risks to water quality.

Duplication of Regulation

This proposed action will create a great deal of duplication of regulatory effort. Under the current process, Regional Board staff have full access to the THP/NTMP review process. This provides for the incorporation of site-specific mitigations and oversight by Regional Board staff. The current waiver can be withdrawn for harvest plans that pose a significant threat to water quality, and Waste Discharge Requirements imposed. Water Quality staff can also call upon their authority to compel CDF to not approve a THP with significant unresolved issues. The significant increase in cost to the public and the landowner do not appear necessary to achieve the goals of the proposed Order.

Summary

The proposed Order would have a profound and detrimental impact on a large number of forest landowners. Timelines for operations would be increased, as would costs. There would also be a reduction in net revenues, which could reduce available funds for mitigations and infrastructure improvements.

The overall impact of the proposed Order could prove sufficient to remove viability of small projects that produce only marginal financial returns but have other long-term benefits, or force timberland into alternative uses.

The current process allows for Water Quality input and oversight without undue increases in costs or timelines.

CLFA supports the continuation of a Categorical Waiver that provides broad coverage for landowners while providing a relatively efficient and effective mechanism to address and protect water quality and which better recognizes the contribution of the Forest Practice Rules to the protection of water quality.

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.