

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2005-0004

MODIFICATION OF CONDITIONAL WAIVER OF WASTE DISCHARGE
REQUIREMENTS
FOR DISCHARGES RELATED TO TIMBER HARVEST ACTIVITIES

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region, (hereinafter Regional Board) finds that:

1. California Water Code (CWC) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate regional board a report of waste discharge containing such information and data as may be required by the Regional Board;

2. The Regional Board has a statutory obligation to prescribe waste discharge requirements except where the Regional Board finds that a waiver of waste discharge requirements for a specific type of discharge is in the public interest pursuant to CWC Section 13269;

3. CWC Section 13269 provides that any such waiver of waste discharge requirements shall be for a period not to exceed 5 years, is conditional and may be terminated at any time by the Regional Board;

4. The Regional Board, on 30 January 2003 and in accordance with CWC Section 13269, adopted Resolution No. R5-2003-0005 which provided a conditional waiver of waste discharge requirements for discharges related to timber harvest activities in the Central Valley Region as set forth in Attachment A (Waiver) of the resolution;

5. Regional Board Resolution No. R5-2003-0005 provided that the Waiver shall expire on 30 January 2005 with the provision that the "Regional Board may review the Waiver at any time and may modify or terminate the Waiver in its entirety or for individuals, as is appropriate";

6. The Regional Board, finds it appropriate to modify the Waiver by extending its termination date until 30 June 2005 based upon the following:

- The State Water Resources Control Board, on 22 January 2004 and in Order No. WQO 2004-0002, affirmed the Regional Board Waiver and stated, "The Waiver includes specific criteria to ensure compliance with requirements of the Basin Plan and to prevent discharges that may substantially impact water quality. Further, the Regional Board's actions were consistent with State Board policies and procedures and the terms of the Waiver do not exceed the Regional Board's statutory authority."
- The Waiver has been in effect for less than two years and there is evidence that timber harvest activities are employing additional measures that may reduce impacts to water quality.

- The Waiver, given limited Regional Board staff resources, provides a framework that most effectively utilizes resources to regulate discharges of wastes.
- There is a pending civil lawsuit against the Regional and State Boards to set aside the Waiver and accompanying negative declaration.
- The modification in the term of the Waiver will assure that conditions to protect water quality apply to timber harvest activities approved by other agencies after 30 January pending renewal of the Waiver and will prevent confusion about application of water quality conditions pending renewal of the Waiver.

7. The Regional Board intends to review the Waiver consistent with Water Code section 13269 and consider renewal of a Waiver that would include conditions with respect to monitoring and reporting. This Resolution directs staff to develop general timber harvest activity monitoring and reporting conditions that complies with CWC section 13269(a) and to schedule for consideration renewal of the Waiver at a public hearing beginning no later than the Regional Board's April 2005 regularly scheduled meeting. The general monitoring and reporting conditions shall be consistent with Water Code section 13267 and 13269;

8. The Regional Board adopted a negative declaration pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code 21000 et seq.) on 30 January 2003. This action to extend the waiver does not require preparation of a subsequent or supplemental environmental document pursuant to Title 14 California Code of Regulations (CCR) Sections 15162 or 15163. There is no evidence to indicate that substantial changes are proposed for the project, that substantial changes have occurred with respect to the circumstances of the project, or that there is new information of substantial importance, as described in Title 14 CCR Section 15162(a);

9. The Regional Board conducted a public hearing on 28 January 2005 in Sacramento, California, and considered all comments, testimony, and evidence concerning this matter;

THEREFORE BE IT RESOLVED:

1. In accordance with CWC Section 13269, the waste discharges related to timber harvest activities in the Central Valley Region shall continue to be regulated by the Waiver, or individual or general waste discharge requirements;

2. The Regional Board, based on the comments, testimony, and evidence received at the aforementioned hearing, and the above-noted facts and findings, extends the termination date specified in Regional Board Resolution No. R5-2003-0005 to 30 June 2005;

3. The Regional Board directs staff to schedule a public hearing for the April 2005 Regional Board meeting to consider renewing the Waiver to comply with CWC section 13269, as currently written;

4. The Regional Board, based on the comments, testimony, and evidence received at the aforementioned hearing, the above-noted facts and findings, and the record for this matter, finds that extension of the Waiver to 30 June 2005 for certain specific types of timber harvest activities is in the public interest because:

- (a) Timber harvest activities are primarily regulated by other agencies, including the California Department of Forestry and Fire Protection and the United States Forest Service;
- (b) Without the Waiver, timber harvest activities would continue under authority of those other agencies, but such activities may not be subject to appropriate water quality protective conditions;
- (c) The Waiver contains conditions that require compliance with the applicable Regional Board Water Quality Control Plan, including applicable water quality objectives;
- (d) Compliance with the conditions of the Waiver will result in protection of water quality;
- (e) The Waiver conditions are subject to enforcement pursuant to CWC section 13350 in the same way as enforcement of waste discharge requirements;
- (f) Without the Waiver, the Regional Board would regulate only a small percentage of timber harvest activities in the Region due to limited staff resources, but with the Waiver, all timber harvest activities are subject to enforceable conditions;
- (g) The Waiver is an effective mechanism given staff resources to regulate a large number of potential discharges; and
- (h) The Waiver allows staff to continue to participate in the pre-harvest review of proposed timber activities which provides staff the ability to require implementation of protective measures beyond those required CDF and the USFS for the most critical timber operations.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 28 January 2005.

THOMAS R. PINKOS, Executive Officer