



June 4, 2004

by electronic mail and fax

Jeffrey Young, Board Chair
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Subject: Waivers of Waste Discharge Requirements for timber harvest plans scheduled for consideration at the July 9th meeting

Gentlemen,

At least three and perhaps four of the plans on the CCRWQCB website for the July hearing have been returned to the plan submitters by CDF during first review. It is unknown whether they will be approved by CDF in time for consideration at the July hearings.

It is an odd procedure for Regional Board staff to prepare monitoring plans and waivers for THPs that have not even been accepted by CDF. Logging plans sometimes change substantially during review. I realize that the Regional Board does not want to unnecessarily delay a logging plan through its regulatory process. However the present situation of preparing waiver documents before THPs are reviewed, or even accepted for filing, appears to me to be unreasonable. It was the decision of the Board to proceed with individual consideration of each THP to avoid the need for an EIR in the first place. That places a higher standard on the procedures for processing these waivers than would be necessary under a watershed wide WDR or other form of waste discharge permit.

At this point I will provide comments on plans that are approved or have at least passed second review by CDF and the other "responsible agencies" including the Regional Board. I consider it to be impossible to evaluate THPs for water quality considerations (and thus monitoring plans) that are only in "outline" form as provided on your website. Without a complete THP document that has passed second review, and the PHI (Pre-harvest inspection) reports by the other responsible agencies, there is inadequate information available to make thorough comments to the Regional Board.

For the purposes of this letter I will comment on the Little Creek THP 1-04-053 SCR. This plan and 1-98NTMP-022 are the only plans that are at or near approval and are likely, to be considered by the Board in July.

The Little Creek THP is of particular interest because it is in the watershed of Scott Creek. This watershed is subject to a current string of logging plan filings. THP 1-02-101 SCR covered 405 acres of terrain. A violation was recorded for overcutting in the WLPZ on this plan. A large NTMP has been returned for correction by CDF but is likely to be filed in the future. It is my understanding that another THP is soon to be filed. This expanding rate of cut is a threat to wildlife and water quality in this watershed. This Creek supports the last semi-viable population of coho

salmon south of San Francisco Bay. To be specific, there is only one year class of salmon in this stream. The NOAA fisheries staff who are conducting an emergency Captive Broodstock Program for this population of endangered salmon were unable to capture even one viable pair of juvenile coho in the wild from this the creek, last season. That is certainly evidence of missing year classes. This indicates the extreme fragility of this fish population which was listed as endangered by the State in 1996. The federal listing is still ESA "threatened" which is a farce considering that many populations have already been extirpated (driven locally extinct in specific watersheds). The San Lorenzo population disappeared completely around 1986.

Much of the 91 acres of harvest area listed in the Little Creek THP falls within a mapped landslide from the Cooper Clark landslide maps. This is an obvious indication of slope instability. These maps, though of limited accuracy, are noted in every THP. The THP records substantial areas of inner gorge stream topography, which is a sign of rapid down cutting by stream power erosion. This increases up slope instability because the toes of landslide systems often terminate in the stream-beds where they are subject to the erosive power of the watercourse.

Two other named watercourses within the plan, Winters Creek and Archibald Creek show peculiar watercourse classifications. These streams are shown to change from Class 3 upstream to Class 2 in their center sections and then back to Class 3 or dry in the summer. This is important because Class 3 streams have no WLPZ (Watershed Lake Protection Zone) or cutting limitations to speak of and are referred to as ELZs or Equipment Exclusion Zones only. The lower stretches of these streams may be so aggraded (filled) with erosion material that the water flows below the surface. If this is the case, is a sign of high erosion rates which threaten the fishery and other beneficial uses. There is no explanation whatsoever in the THP to address these anomalies in stream classification.

Archibald Creek in particular has a relatively large watershed area and should be Class 2 down to its confluence with Scott Creek. This would provide dramatically more water course protection during the logging operation. Winters Creek shows a stock pond in the stream channel. This and aggradation may be the reason for the dry-up of the creek bed before its confluence with the main stem of Scott Creek.

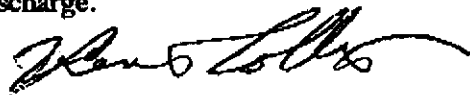
The THP document offers water temperature information about Little Creek. It is misleading because the maximum stream temperatures near the Scott Creek confluence are dangerously high in 2000 and show a 10 degree F increase in maximum temperature between 1997 to 2000. The narrative in the text does not reflect this temperature increase and relies on daily or weekly mean temperature readings which are less useful to assess hazard to coho. Generally, water temperatures in these small creeks follow air temperatures and fluctuate on a daily cycle. These water temperatures can rise quickly in response to loss of shade. Coho salmon are extremely vulnerable to death at high temperatures. Stream temperatures will rise after logging because of reduced canopy on the Class 1 and 2 streams.

This THP includes "in-lieu" practices. That is, in lieu of the standard rules. These deviations include skid trails and landings within the WLPZ in several places.

The THP indicates migration barriers on Little Creek. These are given little explanation. Santa Cruz Mountain streams are very dynamic because of their highly erodible geology. Many assumed barriers are transitory and may not represent permanent barriers to anadromous fish. Steelhead in particular are surprisingly agile and able to surmount very difficult passage barriers during the right stream flow conditions. A stream segment which is impassible in one year may be accessible by these fish in later years.

The monitoring plan for this THP does not include any turbidity sampling despite the fact that Little Creek has installed, instream continuous turbidity and water flow measuring devices which are part

of the "Little Creek Study". This THP is on land owned by the State of California as part of the assets of Cal Poly. To my knowledge the study is publicly funded and in progress. Data from the monitoring sites up and down stream on Little Creek could be very informative and will exceed anything available to the Regional Board regarding turbidity measurement in forestland. Pre-THP (background) data is available. The release of data from these monitoring sites would be an entirely reasonable sign of cooperation between a State agency charged with protecting water quality and a State University. I fail to understand why the monitoring plan from the Regional Board does not include data from these measuring devices. If Cal Poly is reluctant to provide this information for reasons of their own, this is a problem for the people of this State. Cal Poly has demonstrated its support of the timber industry more than once and the school trains RPFs (foresters). What ever the reasons are that the monitoring information from their study is not included in the monitoring plan for their THP, they are unreasonable. Mere pie charts or graphs are not acceptable. The "raw" data is what counts. It is not subject to statistical manipulation. The Regional Board should expect cooperation on this very important matter. Releasing this data to the Regional Board does not compromise the study or its final analysis by the researchers involved. However, it could inform the difficult process the Board has before it of finding a way to legitimately monitor sediment discharge.



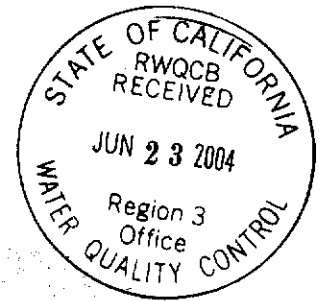
Kevin Collins
Board President, Lompico Watershed Conservancy
P.O. Box 99
Felton, CA 95018

Advocates for Wild, Healthy Oceans

Pacific Regional Office
116 New Montgomery St.
Suite 810
San Francisco, CA 94105

415.979.0900 Telephone
415.979.0901 Facsimile
www.oceanconservancy.org

Formerly the Center for
Marine Conservation



June 23, 2004

Mr. Jeffrey Young, Chairman
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

The Ocean
Conservancy

Re: Comments on the Proposed Waivers of Waste Discharge Requirements for the Estrada Non-Industrial Timber Management Plan (Order No. R3-2004-0076); the Big Basin Water Company Non-Industrial Timber Management Plan (Order No. R3-2004-0080); the Castro Valley Ranch Timber Harvest Plan (Order No. R3-2004-0078); the Cowell - South Unit Timber Harvest Plan (Resolution No. R3-2004-0079); the Jennings Timber Harvest Plan (Resolution No. R3-2004-0075); the Little Creek Timber Harvest Plan (Resolution No. R3-2004-0074); and the Viitanen Timber Harvest Plan (Resolution No. R3-2004-0077).

Dear Chairman Young and Members of the Board:

On behalf of our organizations, we submit the following comments on the proposed waivers of waste discharge requirements (proposed waivers) for the Timber Harvest Plans and Non-Industrial Timber Management Plans referenced above. Our comments are policy-based, and consequently bear equally on all six of the proposed waivers. In addition, our concerns regarding these waivers are substantively identical to the concerns we expressed in prior comments, dated January 30, 2004, and April 27, 2004, regarding waivers adopted by the Board at its March 19, 2004, and May 14, 2004 meetings, respectively. Consequently, we hereby incorporate our January 30 and April 27 comments by reference.

The Little Creek Timber Harvest Plan (Resolution No. R3-2004-0074), however, raises a unique issue. According to the Staff Report, and to public assertions made by staff at the May 14, 2004 Board Meeting, the landowner (Cal Poly) is conducting an extensive research study exploring the impact of logging on the watershed. This research is apparently being performed using up-to-the-minute technologies and techniques, making it possible for the landowner to perform much more comprehensive monitoring than the average landowner. Yet despite nagging questions about the impacts of timber harvest activities on watersheds in Region 3, and despite the ready availability of the resources to answer some of these questions, staff does not appear willing to propose more than a run-of-the-mill monitoring and reporting plan. In light of this, we must begin to question the sincerity of staff's interest in getting to the bottom of what the water quality impacts of logging in this Region actually are. We urge the Board to require more.

Thank you for the opportunity to provide these comments. As always, please feel free to call us if you have any questions.

Sincerely,



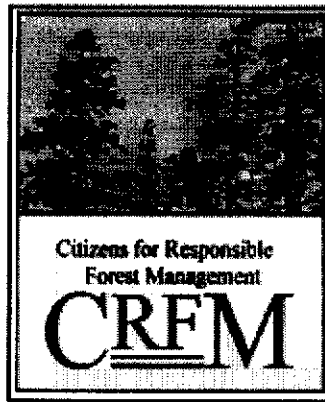
Sarah G. Newkirk
The Ocean Conservancy



Kevin Collins
Lompico Watershed Conservancy



Jodi Frediani
Citizens for Responsible Forest Management



PO Box 167, Boulder Creek, CA 95006 Ph/Fax (831)426-1697 JodiFred@aol.com

May 12, 2004

Jeffrey Young, Board Chair
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Dear Chairperson Young,

I am writing to you on behalf of Citizens for Responsible Forest Management (CRFM), the Lompico Watershed Conservancy (LWC), the Sierra Club-Santa Cruz Group, and The Ocean Conservancy (TOC) with comments regarding the waivers to be heard by your Board at the July 9, 2004 hearing.

We have received a series of notices from Regional Water Board staff (Staff) requesting comments be submitted by May 21 and May 26 for six of the seven proposed waivers on the July 9 agenda. We are uncertain what the comment deadline is for the seventh plan. Four of these notices are for timber harvest plans that *have not yet been submitted* to the California Department of Forestry and Fire Protection (CDF) for review. As such not only have these plans *not been approved* by CDF, they have not been reviewed during the required multi-disciplinary Review Team review process, nor have they been accepted for filing¹. The Regional Water Board staff has neither reviewed the THPs in the field or on paper.

As members of the public, we have not been granted the opportunity to review these waivers relative to the final CEQA document on which the waivers are, or *should be* based, as required by law. For that matter, there is no THP document in any form for us to review for five of the seven projects. To submit comments based on the limited timber

¹ Acceptance for filing signifies the plan meets minimum requirements for the review process to begin.

harvest fact sheet would be pointless. More on this below (see Incomplete Timber Harvest Fact Sheets).

The THP (Little Creek THP 1-04-053 SCR), for which we received no waiver notice, is still undergoing CDF review, therefore, this plan has not yet been approved by CDF, either.

Because there are currently no approved THPs for six of the seven proposed waivers, our comments will be limited to our concerns with the Regional Board process and general comments regarding the inadequacy of the waiver process and the need for WDRs.

Incomplete Timber Harvest Fact Sheets

In our cursory review of the Timber Harvest Information Form and Fact Sheets we have found a number of deficiencies. Many of the Forms do not include the required RPF signature. At least one does not have the RPF named under RPF Name/Signature, nor is there a signature. A number do not have the required timberland owner signature certifying accuracy of information.

The Redwood Empire Cowell-South Unit Fact Sheet actually contains conflicting information and no signatures. Under item e) Pg 2, "Percent Canopy Retained in the WLPZ", it states 50% (non-T&I) Class I. Yet, if one continues to m) Pg 4, "Cumulative Impact Analysis", the question "Threatened and Impaired (T&I) for Steelhead/Coho?" is answered YES. Additionally the question "303(d) listed Watershed?" is also answered YES for Sediment/Siltation. YES answers indicate that the stream qualifies as a Threatened and Impaired waterbody. T&I streams require greater canopy retention standards than proposed in item e) page 2.

At least one waiver package has no required Site Map. Even with the maps and information provided, we are unable to locate where exactly some of these harvests are proposed to occur. This information is required in the timber harvest plans, but not in the Fact Sheets. This problem is exacerbated because the timber harvest plans are not referred to by the designated plan number given by CDF. Of course, there is no number until the plan has been accepted for filing. If the applications were for approved THPs, some of these problems would not arise.

We recommend that all Forms and Fact Sheets be checked for completeness and accuracy prior to development of a proposed waiver. Any that are incomplete or contain incorrect, contradictory or misleading information should be returned for correction and re-submission. We also recommend that all Timber Harvest Information Form and Fact Sheets have the THP number listed on the front page.

Fact Sheet Deficiencies

We have noted previously, but would like to bring to your attention again, that the *number* of various category streams in a plan area is irrelevant information by itself.

More useful, is the *number of feet* of Class I, II and III streams to be found within the plan acreage.

We recommend that this additional information be required. Our original understanding was that these Fact Sheets were to help Board members in reviewing the proposed waivers before them. It now appears that these Forms and Fact Sheets are the sole documents being used by staff to draft the proposed waivers. We are concerned about the inadequacy of this process.

Necessity for Approved CEQA Document Prior to Public Review

CCR 15253 concerns the use of an EIR substitute by a responsible agency. It provides that a substitute document (authorized under CEQA equivalency certification, i.e. an approved THP) may be used by the responsible agency if certain conditions are met.² In this case the Regional Water Board is the responsible agency. If these conditions are not met, the substitute document may not be used by other agencies in the place of an EIR or Negative Declaration, and any other permitting agencies must comply with CEQA in the normal manner.

We contend that that substitute document (approved THP) must be made available to the public at least 45 days before the hearing and close of public comment.³

THPs invariably undergo significant change through the review process. The plan that is submitted is not necessarily the same as the document ultimately accepted for filing, and in our experience, always undergoes some revision, often major, prior to approval. It is this CDF approved document that we need to review in order to comment in an informed manner. Certainly, it is the document that staff should be basing their waivers on.

Monitoring Deficiencies

We continue to contend that scientifically-defensible, turbidity monitoring should be included for the majority of timber harvest plans and all NTMPs in Santa Cruz County. We refer you to the May 15, 2004 letter submitted on our behalf by Dennis Jackson for more details on how this may be accomplished.

In addition, we continue to assert that Photo Point documentation take place PRIOR to the first rains each winter season to establish a base-line record. Taking the first photos after the first significant storm event may miss some of the most significant changes and fail to identify sediment sources.

² CCR 15253 (b) "The certified agency exercised the powers of a Lead Agency by considering all the significant environmental effects of the project and making a finding under Section 15091 for each significant effect."

³ California Government Code 11346.4.

Need for WDRs

As stated in earlier letters, we believe the Board should be issuing WDRs, not waivers for most timber harvest activities in the Central Coast Region. We hereby incorporate by reference comments on proposed timber waivers submitted by the undersigned, dated January 30, 2004, and April 27, 2004.

We quote from several sources to emphasize our argument:

"Although the California Forest Practice Rules purport to mandate protection of sensitive resources such as anadromous salmonids, *the Rules, their implementation and enforcement do not accomplish this objective* (emphasis added)."

--Joe Blum, recently deceased NOAA Fisheries Coho Point Person in California, from a sworn statement dated 21 June 2000

"The Scientific Review Panel concluded that the Forest Practice Rules (FPRs), including their implementation (the "THP process") do not ensure protection of anadromous salmonid populations. The primary deficiency of the FPRs is the *lack of a watershed analysis approach capable of assessing cumulative effects attributable to timber harvesting and other non-forestry activities on a watershed scale*. . . . (emphasis added). Also, specific rules governing onsite operations and road maintenance need stronger enforcement and/or modification to further minimize sediment production, improve stream habitat, and guarantee unrestricted passage by migrating juvenile and adult salmonids."

-- portions of the Executive Summary of the Scientific Review Panel Report of June 1999

"The Governor and the Legislature should enact legislation to require the completion of master protection plans for watersheds containing productive forests."

-- Recommendation #4 of the Little Hoover Commission Report, "Timber Harvest Plans: A Flawed Effort to Balance Economic and Environmental Needs" -- June 1994, Report #126

Due to:

- the above noted deficiencies of the Forest Practice Rules and their implementation;
- the lack of cumulative impacts analysis and watershed wide review for timber harvest activities;
- the various staff, public and industry timing problems associated with the preparation, review and issuance of individual waivers; and
- the lack of fees currently associated with waivers

CRFM, LWC, Sierra Club, and TOC recommend, once more, that your Board discontinue the process of issuing individual timber waivers and replace them with Watershed Wide WDRs.

We thank you for this opportunity to comment.

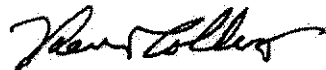
Sincerely,



Jodi Frediani
Executive Director
Citizens For Responsible Forest Management

and

Sierra Club Forestry Task Force Chair
Sierra Club-Santa Cruz Group, Ventana Chapter



Kevin Collins
Board President
Lompico Watershed Conservancy



Sarah Newkirk
Water Law and Policy Consultant
The Ocean Conservancy