

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF MAY 14, 2004

Prepared on April 14, 2004

ITEM: 4

**SUBJECT: WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR THE PRYCE FORK
TIMBER HARVEST PLAN, THP NO. 1-03-173 SCR, SANTA CRUZ COUNTY
ORDER NO. R3-2004-0036**

**SUMMARY: Harvest Type – Industrial Timber Harvest Plan
Acres – 46
Water Courses - One Class I and Seven Class III Streams
Watershed – Browns Creek
Forester - Peter Twight
Land Owner - Roger & Michele Burch**

DISCUSSION

On November 7, 2003, Regional Board staff received a request from Peter Twight, RPF, for Water Quality regulation of the Pryce Fork Timber Harvest Plan (THP). The THP involves selective harvesting of 46 acres of land utilizing ground based and cable yarding techniques. This THP is located in the Ramsey Gulch area of the Brown's Creek Watershed. The THP is about one percent of the Brown's Creek Watershed area. Other major land uses in the watershed include rural residential, and agriculture.

During the October 15, 2003, October 28, 2003, and March 11, 2004 preharvest inspections, Regional Board staff found the THP to pose moderate risk to water quality. Factors influencing Regional Board staff's risk assessment include the marking of trees considered by Regional Board staff to be within the channel zone and the cutting of trees on very steep slopes. The THP is appropriate to receive a waiver of waste discharge requirements provided trees within the channel zone are not harvested and provided thorough erosion control best management practices are implemented, especially on steep slopes.

Conditions

The proposed project will be conducted as prescribed in Timber Harvest Plan 1-03-173 SCR with the following additional conditions:

1. The discharger must comply with all requirements of applicable water quality control plans adopted by the Central Coast Regional Water Quality Control Board and approved by the State Water Resources Control Board, and water quality control plans and policies adopted by the State Water Resources Control Board.
2. The discharger shall conduct timber harvest activities in accordance with all applicable sections for the Forest Practice Rules.
3. The discharger shall not create a pollution, contamination, or nuisance, as defined by CWC Section 13050.

4. The discharger shall not discharge any waste not specifically regulated by the waivers described herein and shall not cause alteration in stream temperature which exceeds Basin Plan requirements. Waste specifically regulated under this waiver includes: earthen materials (including soil, silt, sand, clay, and rock), and organic materials (including slash, sawdust, or bark). Examples of waste not specifically regulated by this waiver include petroleum products, hazardous materials, or human wastes.
5. The discharger shall allow Regional Board staff reasonable access, pursuant to Public Resources Code 4604 (b), onto the affected property for the purpose of performing inspections to determine compliance with waiver conditions.
6. The discharger shall implement Monitoring & Reporting Program No. R3-2004-0036.
7. This Waiver does not regulate point-source discharges that require an NPDES permit under the Clean Water Act including silvicultural point-source discharges as defined in 40CFR Chapter 1 Part 122.27.
8. The Forest Practice Act states that no trees shall be taken from the channel zone of a Threatened & Impaired stream. Regional Board staff and the RPF disagrees on the extent of the channel zone on Pryce Fork of Ramsey Creek therefore staff recommends a 25-foot no cut zone be established.

This project, if conducted in accordance with Timber Harvest Plan 1-03-173 SCR and the conditions above will be in the public interest. This waiver is conditional and can be terminated at any time. This waiver expires on May 1, 2009.

Risk to Water Quality

This THP is considered a moderate risk to water quality for the following reasons:

1. Pryce Fork Creek is not listed on the 303d list of Impaired Water Bodies, but it is considered a “threatened and impaired watershed” as defined by the Forest Practice Rules because the Class I portions of the Creek (lower in the watershed) are habitat for steelhead, an endangered species.
2. All existing and proposed roads and landing are designed to minimize potential water quality problems.
3. The THP is small in size (i.e., 46 acres), and involves about one percent of the Browns Creek Watershed area.
4. The terrain of this THP ranges from moderately to steeply sloped with several landslides located within the THP boundaries.
5. Trees are proposed for harvesting immediately adjacent to Pryce Fork creek. There s a disagreement amongst the review team members regarding the extent of the “Channel Zone”. Cutting trees immediately adjacent to a creek is consider a significant risk to water quality due to potential ground disturbances, decrease in stream canopy and elimination of potential future large woody debris. Regional Board staff is recommending a 25-foot no cut zone along Pryce Fork Creek to lower the risk to water quality from this timber harvest plan.
6. Monitoring will be implemented in a manner such that erosion problems that might occur will be addressed as soon as practical.

Monitoring & Reporting

The THP proponent will be required to implement standard photo-point and visual monitoring of watercourses, unstable areas, roads, landings, and skid trails. Water column turbidity samples (grab samples) shall be collected up and down stream of the THP as conditioned in the THP.

Reporting is required on annual basis with additional reporting when violations occur or significant erosion events are observed. If a water quality impact or a violation of the THP that could lead to a water quality impact is observed, the RPF

is required to report this event to the Regional Board within forty-eight (48) hours. Log books of field inspections will be maintained by Peter Twight.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The above-referenced Timber Harvest Plan (Plan) was submitted by Peter Twight, a Registered Professional Forester, and was granted discretionary approval by the California Department of Forestry and Fire Protection (CDF). The Secretary of the Resources Agency has certified that CDF's timber harvest plan regulatory program can function as a substitute for an Environmental Impact Report or a negative declaration. (CEQA Guidelines § 15251.) CDF considered all the potential significant environmental effects of the Plan and made a finding that the timber operations will not have a significant effect on the environment. Therefore the above-referenced Timber Harvest Plan serves as a substitute negative declaration for the proposed timber harvest. CDF consulted with Regional Board staff when it developed the Plan. The Regional Board has considered the Plan and has required the Plan proponent or their authorized representative (Discharger), as a condition of this waiver, to comply with all requirements of the Plan.

COMMENTS

The proposed Board Resolution and Monitoring & Reporting Program was mailed to interested parties on February 18, 2004, 2004. Comments were due on March 22, 2004.

No comments were received regarding the proposed waiver. However, on March 11, 2004 a third pre-harvest inspection was held to evaluate whether certain trees are in the channel zone. The March 15, 2004 report from CDF (by Peter Cafferetta) is attached. Most of the trees in question were unmarked either because they are in fact, in the channel zone pursuant to the Forest Practice rules or because the forester agreed to retain the tree for recruitment of large woody debris. Only two trees were left marked following the preharvest inspection. Because Pryce Fork Creek is slowly down cutting, Regional Board staff's position is that the banks of the Creek should be protected. When a tree is harvested, about 40 percent of the tree's roots die (according to Fish and Game staff). These dead roots could

lead to destabilization of the stream bank. As a result, Regional Board staff has included a 25-foot-no-cut-zone in the proposed Waiver to ensure that this sort of bank destabilization does not occur.

No other Comments were received. Regional Board staff has incorporated changes made to waiver resolutions and monitoring & reporting programs approved by the Board at the March 2004, Board Meeting. Most of these changes are minor. Significant changes are as follows:

Resolution Findings

Finding No. 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 consistent with applicable water quality control plans and is in the public interest pursuant to California Water Code Section 13269.

Finding No. 4

California Water Code Section 13269 provides that effective January 1, 2003, all waivers of waste discharge requirements must be conditional, may not exceed five years in duration, and be renewed every five years and may be terminated at any time by the Regional Board.

Finding No. 6

~~The proposed timber harvest, if conducted in the manner prescribed in the Plan, including any additional conditions, will not be against the public interest.~~

Relevant factors in determining whether a waiver is in the public interest include the following:

- Whether the discharge is already regulated by another governmental entity;
- Whether the discharger will observe reasonable practices to minimize the deleterious effects of the discharge;
- Whether a feasible treatment method exists to control the pollutants in the discharge; and
- Whether conditionally waiving ROWDs and/or waste discharge requirements will adequately protect beneficial uses while allowing the Regional Board to utilize more of its scarce resources to conduct

field oversight, public outreach and, where necessary, enforcement.

The timber harvest plan is regulated by the California Department of Forestry, and requires the Discharger to implement practices to control water quality impacts, including erosion and sedimentation. The conditions of this Order protect beneficial uses by:

- (i) Prohibiting pollution, contamination or nuisance;
- (ii) Requiring monitoring and compliance with applicable water quality control plans; and
- (iii) Requiring the Discharger to grant access to Regional Board staff to perform inspections.

Management practices are the most feasible treatment method to control the discharges. If the proposed timber harvest is conducted in the manner prescribed in the Plan, and the conditions of this Order a waiver of the ROWD and waste discharge requirements is in the public interest and is consistent with applicable water quality control plans, including the Water Quality Control Plan, Central Coast Region.

Monitoring & Reporting Program

Section 2.b.

~~All photo point monitoring points shall be monitored following the first significant storm event of the wet season and following any significant storm event during the month of April. A significant storm event shall be any storm of two or more inches of rain in a 24 hour~~

~~period. Photo point monitoring shall occur within 7 days for each of these storm events. If no significant events occur during April, photo point monitoring shall be performed prior to June 15 of each year.~~

All photo-point monitoring points shall be monitored following:

- The first significant storm event (First Storm) during, and following completion of timber harvest activities, and
- Following any significant storm event during the month of April (April Storm).

Photo-point monitoring shall occur within seven days of the First Storm and April Storm events. If no significant storm event occurs in the month of April, photo-point monitoring shall be completed by April 30 of the same year. Starting in the second year following completion of timber harvest operations, the First Storm photo-point monitoring may be discontinued (i.e., only the April Storm photo-point monitoring is required). A significant storm event shall be any storm of two or more inches of rain in a 24-hour period.

ATTACHMENTS

1. Proposed Resolution No. R3-2004-0036
2. Proposed Monitoring & Reporting Program R3-2004-0036
3. Timber Harvest Information Package
4. November 14 and December 29, 2003 PHI letters
5. March 15, 2004 CDF Report
6. Location Map
7. Site Plan – Attachment A

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