

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

STAFF REPORT FOR REGULAR MEETING OF SEPTEMBER 10, 2004

Prepared on August 18, 2004

ITEM: 23

SUBJECT: WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR THE CASTRO VALLEY RANCH TIMBER HARVEST PLAN, THP NO. 1-04-127 SCL, SANTA CLARA COUNTY, BOARD RESOLUTION NO. R3-2004-0078

SUMMARY: Harvest Type – Industrial Timber Harvest Plan (THP)
Size – 251 Acres
Watercourse – 8500 feet of Class II Stream and 23,500 feet of Class III Stream
Watershed – Pescadero and Blackhawk Canyon (Bodfish Creek)
Forester – Joe McGuire
Landowner – Don Long

DISCUSSION

On March 10, 2004, Regional Board staff received a request from Joe McGuire, Registered Professional Forester (RPF), for Water Quality regulation of the Castro Valley Ranch Timber Harvest (THP). The proposed THP involves selective harvesting of 251 acres of land utilizing ground based and cable yarding techniques. The harvest intensity is estimated at up to 60 percent of conifers greater than 18 inches in diameter and up to 50 percent of the conifers between 12 and 18 inches in diameter. The proposed THP area encompasses about 2.8 percent of the Pescadero Creek Watershed and about 0.9 percent of the Blackhawk Canyon watershed. Other sources of sediment in these watersheds include farming, ranching, road construction, land development, recreation, and residential storm water runoff.

On June 29, 2004, Regional Board staff and other Review Team members inspected the THP. Concerns noted during the inspection included:

1. Lack of riparian vegetation in some areas presumably due to cattle grazing,
2. Soil disturbances by cattle in or near water ways at several location on the THP,
3. Failed culverts that presumably washed out about ten years ago but were not discovered until recently,

4. Certain road segments appeared to be poorly drained such that they would be slow to dry out following wet weather.

This THP contains approximately 8,500 feet of Class II watercourses and 23,500 feet of Class III watercourses. There is a total of 30 watercourse crossings on this THP, including:

- Existing Culverts or Fords: Twenty three. Minor improvements will be installed as needed.
- Upgraded Culverts: Four culverts will be substantially improved and/or replaced. Crossings C3-4 and C4-2 will be reconstructed. Culverts at crossings C5-4 and C6-1 will be remove after completion of timber harvesting and replaced with rocked fords.
- Flatcar Bridge: one flatcar bridge will be installed as crossing C11-9. This crossing is along the access road and crosses a class I stream.
- Temporary Crossings: Two temporary crossings will be installed if the creek is dry at C3-7 and C6-2.

The forester proposes in lieu practices for roads and landing in the WLPZ. These in lieu practice sites are proposed because greater environmental risk would result if these landings and roads were re-located.

Conditions

In addition to the timber harvest plan, staff proposes to include 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 the approved Timber Harvest Plan and 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, and 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. R3-2004-0078.

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.

The proposed project, if conducted in accordance with the Timber Harvest Plan and the conditions above will be in the public interest. The proposed waiver is conditional and can be terminated at any time. This proposed waiver will expire on September 1, 2009.

Risk to Water Quality

The risk to water quality posed by this THP was assessed during the June 29, 2004 preharvest inspection, the timber harvest plan and the THP Information Package. Risk factors and mitigation factors include the following:

Risk Factors

1. **Infrastructure:** Most of the roads, skid trails and landings are in place. There will be about 300 feet of new temporary road, nine new landings and about 3400 feet of new skid trails. There are 15.9 miles of existing roads, 14 existing landings and four miles of existing skid trails.
2. **Crossings:** Regional Board staff has inspected all the watercourse crossings. All crossings appeared to be designed properly.
3. **THP Size:** The proposed THP area is 251 acres in size. This is about 10% of the Castro Valley Ranch area.
4. **Length of Harvest:** This THP will be executed over a two-year period. Limited winter operations are proposed.
5. **Unstable Areas:** according to the site plan, there are about 30 unstable areas in the THP. These unstable areas were reviewed during the preharvest inspection. The proposed THP will have little or no effect on these unstable areas.

Mitigating Factors

6. **No-Cut-Zones:** No-cut-zones include Lower Hatfield Canyon (38 acres), Pescadero & Redwood Creeks (26 Acres), an Unnamed tributary along Whitehurst Rd. (10 Acres) and Bodfish Creek (near Crossing 6-1, 2 acres). These no-cut areas were excluded by the landowner to achieve long-term land management objectives and to limit potential impacts to stream and habitat resources.
7. **Land Stewardship:** The site caretaker has attended a ranch water quality course and is developing a voluntary ranch water quality plan for the Castro Valley Ranch. This Plan addresses grazing and road improvements planned for the Ranch.
8. **Monitoring:** Monitoring will be implemented in a manner such that erosion problems that might occur will be addressed as soon as practical.

Monitoring & Reporting Program (MRP)

The proposed MRP requires to photo-point and visual monitoring of watercourses, unstable areas, roads, landings, and/or skid trails. Reporting is required on an annual basis with additional reporting when significant erosion events are observed. If a water quality impact or a violation of the conditions of the THP leads to a water quality impact, the RPF is required to report the event to the Regional Board within forty-eight (48) hours. Log books of field inspections will be maintained by the RPF.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The draft THP was filed with CDF on June 3, 2004. At the time of this draft, CDF had not approved the proposed THP. The plan is expected to be approved by August 30, 2004. Any significant changes will require re-notification of the plan and will result in a delay in the Regional Board's consideration of the plan.

COMMENTS

The following comments may be paraphrased.

Jodi Frediani, Director of CRFM, submitted comments dated May 12, 2004.

1. **Public Review Process:** 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 harvest fact sheet would be pointless.

STAFF RESPONSE: The THP was accepted for filing by CDF and made available to the public on June 12, 2004. Staff does not consider an application complete until the timber harvest plan that has been accepted for filing by CDF. Furthermore, the final THP must be approved by CDF and submitted to Board staff prior to the Board consideration. Requiring a THP that has been accepted for filing, as a component of the THP Information Package, will resolve the concern raised in this comment.

2. **THP Information Package:** 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.

STAFF RESPONSE: Staff does review the forms and fact sheets for accuracy and completeness. Information necessary to complete the review and draft the proposed waiver conditions is obtained from the forester/project proponent. We agree that listing the THP number on the first page of the Form and Fact Sheets is a good idea.

3. **Stream Classification:** 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.

STAFF RESPONSE: Staff agrees. This information is included in the staff report as recommended for this and other waivers proposed for the September Board meeting.

4. CEQA: California Code of Regulations 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.¹ 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.

STAFF RESPONSE: The conditions of CCR 15253 will be met before the Regional Board considers approval of the waiver.

5. Public Review Period: 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.

STAFF RESPONSE: Requiring this THP document to be in final approved form 45 days prior to the Board Meeting is not justified or legally required. The Regional Board must have the final THP document prior to taking discretionary action as a responsible agency. The Board does not need to impose an additional 45-day public review period following finalization of the THP and prior to waiver approval.

6. Turbidity Monitoring: 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.

STAFF RESPONSE: Regional Board staff will continue to consider turbidity monitoring of timber harvest plans on a case-by-case basis. No changes are proposed as a result of this comment.

7. Photo Point Monitoring: 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.

STAFF RESPONSE: Photo point monitoring is intended to document slow change over long periods of time. Rapid changes, such as significant erosion and landslides, can be adequately addressed by visual monitoring. Slow changes such as a slowly moving landslide or a slowly changing stream geomorphology may require photo documentation to detect these changes over time. For any "slowly changing" condition there will not be a significant difference between taking the photos before or after the first storm event. Also, the foresters are already in the field inspecting the site after the first significant storm event, so post storm event monitoring is more cost effective. No changes are proposed as a result of this comment.

8. WDRs: As stated in earlier letters, we believe the Board should be issuing waste discharge requirements (WDRs), not waivers for most timber harvest activities in the Central Coast Region. We recommend, once more, that your Board discontinue the process of issuing individual timber waivers and replace them with Watershed Wide WDRs.

STAFF RESPONSE: The Regional Board cannot efficiently issue watershed-wide WDRs, but could issue a General WDR Order in which individual THP operators could enroll. The concern with watershed wide WDRs is that each watershed would require its own general order and environmental document. This would require a substantial amount of resources. In other regions of California, we understand that watershed wide WDRs are utilized because a single landowner

¹ 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."

owns most of the watershed. We also reiterate that conditions of the General WDRs would not be any different than the waiver conditions. We encourage the commenters to provide comments on specific condition of the Waivers.

RECOMMENDATION

Regional Board staff recommends adoption of Board Resolution No. R3-2004-0078.

ATTACHMENTS

1. Proposed Board Resolution No. R3-2004-0078
2. Proposed Monitoring & Reporting Program R3-2004-0078
3. Timber Harvest Information Package
4. Big Creek's Road Inventory Program
5. Location map
6. Site Plan

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