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7 For Petitioner BATTLE CREEK ALLIANCE

8 BEFORE THE STATE WATER RESOURCES CONTROL BOARD

9 IN RE: PETITION OF BATTLE CREEK) PETITION TO REVIEW CALIFORNIA
10 ALLIANCE FOR REVIEW OF ACTION BY) REGIONAL WATER QUALITY
11 CALIFORNIA REGIONAL WATER QUALITY) CONTROL BOARD, CENTRAL
12 CONTROL BOARD, CENTRAL VALLEY) VALLEY REGION'S ORDER R5-2017-
13 REGION ADOPTING ORDER R5-2017-0061 -) 0061 AND ACCOMPANYING CEQA
14 WASTE DISCHARGE REQUIREMENTS) DETERMINATION.
15 GENERAL ORDER FOR DISCHARGES)
16 RELATED TO TIMBERLAND MANAGEMENT)
17 ACTIVITIES FOR NON-FEDERAL AND)
18 FEDERAL LANDS)

19 Pursuant to Water Code § 13320, Battle Creek Alliance (“Alliance”) hereby petitions the
20 State Water Resources Control Board (“State Board”) to review the California Regional Water
21 Quality Control Board, Central Valley Region’s (“Regional Board”) June 9, 2017 approval of
22 Order R5-2017-0061 adopting “Waste Discharge Requirements General Order For Discharges
23 Related To Timberland Management Activities For Non-Federal And Federal Lands”
24 (“Timberland WDRs”), including the Regional Board’s determination that it could rely upon a
25 negative declaration adopted in 2003 for a prior waiver of waste discharge requirements
26 (“WDRs”) in order to comply with the California Environmental Quality Act (“CEQA”), Pub.
27 Res. Code § 21000 *et seq.*, for the new WDRs.

28 As pointed out in the Alliance’s and others comments to the Regional Board regarding
the Timberland WDRs, the best management practices (BMPs) relied upon by the WDRs fail to
address cumulative impacts and water quality degradation that will result from authorizing

1 discharges from overly concentrated logging projects, including salvage cuts and clearcuts, in
2 specific watersheds, such as the Battle Creek watershed. Relevant data and expert analyses
3 establish that, for example, in watersheds where a higher percentage of the land has been logged,
4 sediment and turbidity discharges will increase to level far beyond the applicable Basin Plan
5 standards even with implementation of available best management practices. In order to comply
6 with the Water Code and the Basin Plan’s standards, the Timberland WDRs must include
7 watershed level restrictions that limit the total percentage of timber harvesting that can occur in a
8 specified watershed. Instead, the Timberland WDRs assume in advance that discharge from any
9 percentage of cutting in a given watershed is allowable as long as available BMPs are applied.
10 Expert comments and data submitted to the Regional Board demonstrate that this assumption is
11 incorrect. As a result, the Regional Board has no evidence to support its conclusion that
12 “[c]ompliance with the conditions of this Order will ensure enrolled Projects are protective of
13 water quality. (Timberland WDRs, p. 8, ¶ 27(f).)Nor can the Regional Board sustain its
14 conclusion that the WDRs’ approval of unlimited new discharges subject only to the application
15 of BMPs will comply with the State of California’s antidegradation policy or “Statement of
16 Policy With Respect to Maintaining High Quality of Waters in California,” Resolution 68-16
17 (Oct. 28, 1968) (“Antidegradation Policy”). The Regional Board arbitrarily assumes that the
18 possibility of after-the-fact enforcement would somehow restore timber stands and reduce
19 sediment loads to sustainable levels within a watershed despite clearcuts and salvage logging
20 already having cut large percentages of a watershed exceeding 20 percent or more. There is no
21 evidence that retroactive enforcement efforts targeting logged areas that already have applied all
22 available BMPs could prevent sediment discharges into rivers and creeks at levels that will not
23 exceed standards and/or degrade such waters.

24 Additionally, the Regional Board has failed to comply with CEQA. The Timberland
25 WDRs are an entirely different project than the waiver addressed by the 2003 mitigated negative
26 declaration. Not only are the terms different and the on-the-ground conditions dramatically
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28

1 altered by fires and ongoing clearcutting, the waiver considered in 2003 was limited to a five-
2 year duration while the Timberland WDRs are now open-ended with no termination date at all.

3 The Alliance requests that the State Board issue an order (1) vacating Order R5-2017-
4 0061; (2) mandate that, on remand, the Regional Board address an alternative considering an
5 overall limit on approving new discharges in any watershed already subject to an excessive
6 percentage of timber harvesting that is threatening or causing any violations of applicable water
7 quality standards or the Antidegradation Policy; and (3) mandating the Regional Board to
8 prepare an initial study and an appropriate environmental impact analysis pursuant to CEQA
9 prior to issuing any WDRs.

10 **I. NAME AND CONTACT INFORMATION OF PETITIONERS.**

11 Battle Creek Alliance
12 32065 Rock Creek Road
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14 Tel: (530) 474-5803
15 Attention: Marily Woodhouse, Director
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17 **II. REGIONAL BOARD ACTION BEING PETITIONED.**

18 This petition seeks review of the Regional Board Order R5-2017-0061, including the
19 Regional Board's determination not to prepare an environmental analysis under CEQA but
20 instead to rely upon a prior MND issued in 2003 for an earlier waiver of WDRs for logging
21 discharges. A true and correct copy of Order R5-2017-0061 is attached hereto as Exhibit 1.

22 **III. THE DATE THE REGIONAL BOARD ACTED.**

23 The Regional Board adopted the Timberland WDRs on June 9, 2017.

24 **IV. STATEMENT OF REASONS THE REGIONAL BOARD'S ACTION WAS
25 INAPPROPRIATE OR IMPROPER.**

26 **A. The Timberland WDRs Do Not Ensure Compliance with the Central Valley
27 Basin Plan or the Antidegradation Policy.**

28 The Regional Board must establish waste discharge requirements that implement the
relevant water quality objectives. Water Code § 13263(a) ("[t]he requirements shall implement

1 any relevant water quality control plans that have been adopted, and shall take into consideration
2 the beneficial uses to be protected, the water quality objectives reasonably required for that
3 purpose, other waste discharges....”). Implementing the Basin Plan’s turbidity limit in
4 watersheds affected by logging is not achieved by generically requiring any discharger to comply
5 with all standards. Nor does treating each logging discharge proposal as a separate event - as the
6 Timberland WDRs would allow each proposed logging project to do - take into account “other
7 waste discharges” in the watershed. The Regional Board is obligated to establish conditions that,
8 if complied with, would in fact take into consideration all of the other disturbed areas that are
9 discharging sediment in a watershed and actually achieve standards. Rather than get out in front
10 of the pollution and establish conditions that would prevent degradation and standard violations,
11 the Timberland WDRs resort entirely to an after-the-fact approach – allow as many logging
12 projects and accompanying discharges to proceed as other agencies see fit and then, if the
13 Regional Board can demonstrate that any given project is violating standards, rely on
14 enforcement to somehow retroactively achieve compliance. However, the damage will already
15 have been done. Whatever percentage and rate of harvest represents the upper limit a watershed
16 can bear will already have been surpassed and no number of BMPs or monitoring will curtail
17 those exceedances. Only a very long time will cure them, assuming no additional logging occurs.

18 The Alliance has provided a large amount of expert-reviewed data establishing that
19 BMPs by themselves will not ensure compliance with applicable water quality standards for
20 sediment and turbidity in watersheds where timber harvesting is concentrated over too short a
21 period of time. A copy of the Alliance’s comments are attached as Exhibit 2 and hereby
22 incorporated by reference. Rather than acknowledge the physical limit of disturbed lands and
23 road density that any watershed can bear and still comply with the Basin Plan’s turbidity and
24 sediment-related standards, the Regional Board’s Timberland WDRs assume that, no matter
25 what percentage of land has been cut or roads built even in the recent past, even more cutting and
26 roads will not discharge more sediment or turbidity with cumulative effects if BMPs are
27 implemented. However, as expert hydrologist Jack Lewis explains, “it is well-documented that

1 BMPs do not completely eliminate logging impacts on accelerated sediment delivery.” Klein,
2 R.D., et al., Logging and turbidity in the coastal watersheds of northern California,
3 *Geomorphology* (2011), doi:10.1016/j.geomorph.2011.10.011. A committee of hydrology
4 experts for the University of California Committee on Cumulative Watershed Effects wrote:

5 A strong influence in denying the potential for CWEs [Cumulative Watershed
6 Effects] in individual harvest plans seems to be that an applicant is allowed to
7 state, usually without any burden of quantitative proof, that a deleterious effect of
8 a proposed operation can be “mitigated” (and thus defined not to have an off-site,
9 cumulative effect) if some Best Management Practice (BMP) is prescribed. Apart
10 from the fact that the execution of the BMP is almost never checked in California
11 forestlands, it is the collective judgment of this committee that BMPs do NOT
12 remove off-site impacts. They may reduce them, when the BMPs function well,
13 but they do not remove them, especially when they are tested by severe storms. It
14 is the collective failure of BMPs to mitigate off-site impacts that results in
15 residual, significant cumulative effects.

16 Dunne et al., *A Scientific Basis for the Prediction of Cumulative Watershed Effects*, (2001).

17 Since late 2009, the Alliance has taken almost 2,000 turbidity samples from 13 locations
18 in the Battle Creek watershed. Lewis’ statistical analysis of that data shows that “these
19 measurements demonstrate strong associations of turbidity with the proportion of area harvested
20 in watersheds draining to the measurement sites.” Lewis 2014, p. 27. “The average change in
21 turbidity for a watershed that has been 30% cut is +200% and, for a watershed that has been 90%
22 cut it is 3000%.” Lewis 2014, p. 27. In an earlier draft of the Timberland WDRs, Regional Board
23 staff acknowledged the link between the rate and area of disturbance in a logged watershed and
24 sediment pollution in the relevant waterway: “Class I CalWater Planning Watersheds that have
25 been subject to land disturbance activities of 20% or greater over the past 10 years may trigger
26 additional monitoring requirements that will be developed and issued by the Executive Officer
27 on a site-specific basis.” However, even that vague reference to the connection between rates of
28 harvest and the percentage of disturbed areas in a watershed and sediment and turbidity levels in
the affected creek was removed from the final version of the WDRs. Nevertheless, the linkage
between disturbance and rates of harvest and water quality remains an unavoidable fact.

1 Despite this clear connection between rate of harvest on a watershed scale and water
2 quality, the Timberland WDRs authorize discharges from new timber harvests without regards to
3 the existing percentage of disturbed lands and rate of harvest. The WDRs instead authorize
4 discharges conditioned on the application of BMPs to the areas to be cut and some after the fact
5 monitoring. The evidence provided to the Regional Board indicates that, despite implementation
6 of WDRs and monitoring to harvested areas, as the percentage of disturbed lands increases so do
7 cumulative effects. No number of BMPs nor amount of monitoring will prevent exceedances of
8 turbidity and other sediment pollution standards.

9 The State Board’s “Statement of Policy With Respect to Maintaining High Quality of
10 Waters in California” provides, in relevant part, that:

11 Any activity which produces or may produce a waste or increased volume or
12 concentration of waste and which discharges or proposes to discharge to existing high
13 quality waters will be required to meet waste discharge requirements which will result in
14 the best practicable treatment or control [“BPTC”] of the discharge necessary to assure
15 that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent
16 with maximum benefit to the people of the State will be maintained.

17 Resolution No. 68-16 (Oct. 28, 1968). High quality waters are determined as of the date of
18 adoption of the policy in October 1968. In California, BPTC for addressing logging discharges
19 includes the establishment of watershed-based logging limits that restrict the rate and intensity of
20 logging in a watershed in order to ensure compliance with turbidity and other sediment-related
21 water quality standards. This measure has been utilized in the North Coast Region. (*See*
22 California Regional Water Quality Control Board, North Coast Region Order No. R1-2014-0036,
23 Waste Discharge Requirements For Discharges Related to Timber Harvesting and Related Land
24 Management Activities Conducted by Humboldt Redwood Company, LLC In the Jordan Creek
25 Watershed Humboldt County, p. 18 (Aug. 14, 2014) (“North Coast order: Harvesting of HRC
26 timberland in the Jordan Creek watershed using Selection and Group Selection silvicultural
27 methods shall not exceed 25% (750 acres) of the total acres owned within the watershed over any
28 ten-year period”); California Regional Water Quality Control Board North Coast Region Order
No. R1-2016-0004, Waste Discharge Requirements For Nonpoint Source Discharges and Other

1 Controllable Water Quality Factors Related to Timber Harvesting and Associated Activities
2 Conducted by Humboldt Redwood Company, LLC In the Upper Elk River Watershed Humboldt
3 Count, pp. 30-31 (Nov. 30, 2016). These BPTC’s were neither evaluated nor adopted by the
4 Central Valley, despite evidence establishing, for example, that more than 30 percent of the
5 Battle Creek watershed has been harvested in the recent past and is not complying with the Basin
6 Plan’s turbidity objectives.

7 **B. The Timberland WDRs is a New Project and the Regional Board Failed to**
8 **Comply With CEQA by Relying Upon a Mitigated Negative Declaration**
9 **Prepared in 2003 for a Different Project – a 5-Year Waiver.**

10 Because the Timberland WDRs is a new project under CEQA, the Regional Board cannot
11 rely upon the prior 2003 MND prepared for the separate 2003 waiver project. The term “project”
12 is broadly defined and includes any activities which have a potential for resulting in a physical
13 change in the environment, directly or ultimately. (*Sierra Club v. County of Sonoma* (1992) 6
14 Cal.App.4th 1307, 1315 § 21065. “The definition encompasses a wide spectrum, ranging from
15 the adoption of a general plan, which is by its nature tentative and subject to change, to activities
16 with a more immediate impact, such as the issuance of a conditional use permit for a site-specific
17 development proposal.” (*Id.*”) In this instance, the project approved by the Regional Board does
18 not only encompass the piece of paper and conditions – the Timberland WDRs – but also all of
19 the discharges from future logging projects that the Regional Board is authorizing via the WDRs.

20 The Timberland WDRs is a new project, separate and distinct from the 2003 logging
21 waiver. First, it includes waste discharge requirements rather than a waiver of WDRs. On its
22 face, that is a new project. Second, presumably all of the future discharges addressed by the
23 Timberland WDRs are new discharges. Presumably, few if any of those authorized discharges
24 were subject to the previously issued waivers or otherwise part of those prior projects. Lastly,
25 unlike the previous five year waivers, the Timberland WDRs have no termination date. That fact
26 alone renders the WDRs and the discharges they will authorize in perpetuity a new project. “The
27 very fact one [project] was temporary and the other is permanent is enough to distinguish them
28 because the environmental impact of a short-term program may be much less significant than a

1 program of indefinite duration. (*See Apt. Ass'n of Greater L.A. v. City of L.A.* (2001) 90
2 Cal.App.4th 1162, 1169.)

3 In addition, the Timberland WDRs and the last minute addendum put together by the
4 Regional Board fail to describe the full scope of the project at issue. CEQA mandates that the
5 project description not be confusing, shifting, or open-ended. This is to ensure that project
6 impacts are analyzed properly and accurately. “An accurate, stable and finite project description
7 is the sine qua non of an informative and legally sufficient [CEQA document].” (*County of Inyo*
8 *v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) Although there is an overall geographic
9 scope defined for the operation of the WDRs, there is no effort to describe where staff expects
10 logging projects will occur, how many logging projects and their discharges will be subject to the
11 WDRs on a yearly basis or for the long term, and whether the projects would be concentrated in
12 certain watersheds. The 2003 MND does not describe the WDRs. Nor does it indicate the extent
13 and location of logging projects expected to be addressed under the WDRs. By definition,
14 whatever logging projects and their discharges were addressed by the 2003 waiver have long
15 since occurred and are not being addressed again by the new Timberland WDRs.

16 **C. Authorizing an Undisclosed Number of New Pollution Discharges From**
17 **Timberlands for an Unlimited Period of Time Into the Future May Have**
18 **Significant Environmental Impacts on Water Quality.**

19 The Alliance has submitted substantial evidence of a fair argument that the discharges
20 authorized by the Timberland WDRs may have significant cumulative impacts on water quality
21 in Battle Creek and other watersheds. (*See Exhibit 2 and linked references.*) As noted above,
22 there is substantial evidence that, even where a specific logging project implements all available
23 BMPs perfectly, if the project occurs in a watershed where there already is an excessive
24 concentration of logging activities over the last decade, cumulative water quality impacts likely
25 will result. This is clearly the case for the Battle Creek watershed. Over 30 percent of the
26 watershed is already disturbed by logging activities. Substantial evidence establishes that the
27 creek is already in violation of the Basin Plan turbidity standards. Any additional timber harvest
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1 discharges authorized pursuant to the Timberland WDRs may have significant cumulative
2 impacts on Battle Creek’s water quality.

3 **D. Assuming the Timberland WDRs are the Same Project as the 2003 Waiver,**
4 **Significant New Information Requiring Substantial Changes to the 2003**
5 **MND Exist Requiring the Preparation of a Supplemental MND or EIR**
6 **Under CEQA.**

6 Section 21166 provides:

7 When an environmental impact report has been prepared for a project pursuant to
8 this division, no subsequent or supplemental environmental impact report shall be
9 required by the lead agency or by any responsible agency, unless one or more of the
10 following events occurs:

10 (a) Substantial changes are proposed in the project which will require major
11 revisions of the environmental impact report.

11 (b) Substantial changes occur with respect to the circumstances under which the
12 project is being undertaken which will require major revisions in the environmental
13 impact report.

12 (c) New information, which was not known and could not have been known at the
13 time the environmental impact report was certified as complete, becomes available.

14 (PRC § 21166.)

15 The Supreme Court identifies two steps to the courts’ review of an agency’s reliance on
16 PRC § 21166. First, the agency must make an initial determination to proceed pursuant to PRC §
17 21166 by identifying substantial evidence that the “initial environmental document retains some
18 relevance to the decisionmaking process.” (*Friends of the College of San Mateo Gardens v. San*
19 *Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 953 (“*Friends of College*”).)

20 If the prior EIR is relevant to analyzing the current project’s potential impacts, the second
21 step is for the agency to identify substantial evidence that no major revisions to the prior EIR
22 will be required by any modifications proposed by the new proposal. “Once a court determines
23 that substantial evidence supports an agency’s decision to proceed under CEQA’s subsequent
24 review provisions (see § 21166; CEQA Guidelines, § 15162), the next—and critical—step is to
25 determine whether the agency has properly determined how to comply with its obligations under
26 those provisions.” (*Friends of College*, 1 Cal.5th at 953.) “[T]he inquiry prescribed by the
27 Guidelines is not whether the environmental impacts of the modification are significant, but
28

1 whether the modification requires major revisions to the negative declaration because of the
2 involvement of new, potentially significant environmental effects that had not previously been
3 considered in connection with the earlier environmental study.” (*Id.* at 958 n. 6.)

4 Making the previous logging waivers permanent WDRs without a five-year termination
5 mandate involves new potentially significant environmental impacts that could not have been
6 considered in 2003, including several massive forest fires and accompanying salvage logging
7 that have occurred since that date as well as the current intensity of clear-cutting and logging in
8 watersheds throughout the project area. Nor did the 2003 MND have access to the plethora of
9 turbidity data gathered by the Alliance in the Battle Creek watershed since 2009 as well as the
10 periodic expert review and synthesis of that data prepared by the group. All of this information is
11 evidence of new, potentially significant cumulative water quality impacts that were not
12 previously considered and may result from the WDRs’ authorization of additional logging
13 discharges within the Battle Creek watershed, as well as other similar watersheds. Accordingly, a
14 supplemental negative declaration or EIR must be prepared for the Timberland WDRs.

15 **V. PETITIONERS ARE AGGRIEVED.**

16 Petitioner Battle Creek Alliance is a non-profit, environmental organization that has a
17 direct interest in reducing pollution to the waters of the Central Valley and in particular to Battle
18 Creek. The Alliance’s members benefit directly from the waters in the form of recreational
19 hiking, photography, fishing, swimming, hunting, bird watching, boating, consumption of
20 drinking water and scientific investigation. Additionally, these waters are an important resource
21 for recreational and commercial fisheries. Central Valley waterways also provide significant
22 wildlife values important to the mission and purpose of the Petitioner. This wildlife value
23 includes critical nesting and feeding grounds for resident water birds, essential habitat for
24 endangered species and other plants and animals, nursery areas for fish and shellfish and their
25 aquatic food organisms, and numerous city and county parks and open space areas. The
26 Alliance’s members reside in communities whose economic prosperity depends, in part, upon the
27 quality of water. The Alliance’s member’s health, interests and economic well-being are directly

1 harmed by the failure of the Regional Board to develop an effective and legally defensible
2 program addressing discharges of logging-related pollution within the Central Valley.

3 **VI. REQUESTED STATE BOARD ACTION.**

4 The Alliance requests that the State Board issue an order (1) vacating Order R5-2017-
5 0061; (2) mandate that, on remand, the Regional Board address an alternative considering an
6 overall limit on approving new discharges in any watershed already subject to an excessive
7 percentage of timber harvesting that is threatening or causing any violations of applicable water
8 quality standards or the Antidegradation Policy; (3) mandating the Regional Board to prepare an
9 initial study and appropriate environmental impact analysis pursuant to CEQA prior to issuing
10 any WDRs.

11 **VII. STATEMENT OF POINTS AND AUTHORITIES.**

12 The Alliance's arguments and points of authority are adequately detailed in the above
13 comments and the comment letter attached hereto as Exhibit 2. Should the State Board have
14 additional questions regarding the issues raised in this Petition, the Alliance will provide
15 additional briefing on any such questions. Petitioner requests an evidentiary hearing before the
16 State Board to resolve the issues raised in this Petition. The Alliance welcomes the opportunity
17 to present evidence and oral argument and respond to any questions the State Board may have
18 regarding this Petition.

19 **VIII. STATEMENT OF COPIES SENT TO THE REGIONAL BOARD AND
20 DISCHARGERS.**

21 Copies of this petition and the accompanying attachments are being sent to the Regional
22 Board at the following e-mail address. Petitioners are unaware of the existence of any list of the
23 current contacts and e-mail addresses of actual dischargers who intend to seek coverage under
24 the Timberland WDRs. Nevertheless, in an effort to apprise dischargers who submitted
25 comments on the WDRs, we are also emailing or mailing the petition to four potential
26 dischargers who submitted comments.

27 Pamela Creedon, Executive Officer

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1 **IX. ISSUES RAISED BEFORE REGIONAL BOARD.**

2 The Alliance raised the issues addressed in this petition to the Regional Board in its April
3 6, 2017 comment.

4 Dated: July 10, 2017

5 Respectfully submitted,

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7
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EXHIBIT 1

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

ORDER R5-2017-0061

**WASTE DISCHARGE REQUIREMENTS GENERAL ORDER
FOR
DISCHARGES RELATED TO TIMBERLAND MANAGEMENT ACTIVITIES
FOR NON-FEDERAL AND FEDERAL LANDS**

The California Regional Water Quality Control Board, Central Valley Region (hereafter, Central Valley Water Board) finds that:

SCOPE OF COVERAGE OF THIS GENERAL ORDER

1. This Order serves as general waste discharge requirements (WDRs) for waste discharges related to timberland management activities on both non-federal and federal lands (managed by the U.S. Forest Service) that could affect waters of the state.
2. Under this Order, “timberland management activities” means commercial activities relating to forest management and timberland conversions, including, but not limited to: cutting or removal of timber and other solid wood forest products; construction, reconstruction and maintenance of roads, fuel breaks, firebreaks, watercourse crossings, landings, skid trails, or beds for the falling of trees; fire hazard abatement and fuel reduction activities; pesticide applications; site preparation that involves disturbance of soil or burning of vegetation following timberland management activities; but excluding preparatory treemarking, surveying or roadflagging.¹
3. Waste specifically regulated under this Order includes: earthen materials, including soil, silt, sand, clay, rock; organic materials, such as slash, sawdust, or bark; and pesticides that enter or threaten to enter into waters of the state from timberland management activities.
4. Under this Order, the term “Discharger” includes the timberland owner or timber owner, anyone working on behalf of the timberland/timber owner in the conduct of timberland management activities for non-federal lands, the U.S. Forest Service, private timber operators operating on federal lands, and anyone working on behalf of the U.S. Forest Service or a timber operator in the conduct of timberland management activities on federal lands. Although all of the aforementioned persons or entities legally are “Dischargers” for the purposes of this Order, only one Notice of Intent (NOI) shall be submitted for each Project enrollment.
5. Attachment A (Definitions), Attachment B (Monitoring and Reporting Program), Attachment C (Post-Fire Management and Reforestation Plan), and Attachment D (Information Sheet) are hereby incorporated into and made a part of this Order by this reference.

REASONS FOR ISSUING GENERAL ORDER

6. There are approximately 16 million acres of federal and non-federal forested lands located within the Central Valley Region. The water quality impacts from timberland management activities on these forested lands falls within the jurisdiction of the Central Valley Water Board.
7. The adoption of individual WDRs for all timberland management activities in the Central Valley

¹Definitions for “Pesticide”, “Plan”, and “Project”, as well as other definitions, can be found in Attachment A.

Region is not feasible due to the large number of timber harvesting documents received annually for review, the short mandated timeline for the approval of non-federal timberland management activities, and the time needed to adopt individual WDRs. General WDRs on a watershed-by-watershed basis would also take a significant amount of time given the large number of watersheds and sub-watersheds in the Region, and therefore is not feasible. The Central Valley Water Board currently regulates timberland management activities under the Conditional Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvesting Activities (Waiver), Order No. R5-2014-0144, which expires on March 31, 2018. Without the current Waiver or the adoption of this Order, many timberland management activities would not be subject to any regulation under the California Water Code (Water Code) as required by the Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (Nonpoint Source Policy) (see Finding 12 below).

8. On October 8, 2013, amendments to Public Resources Code Article 7.7 (commencing with Section 4597) went into effect and established a new type of timber harvesting permit: the Working Forest Management Plan (WFMP). This new permit will allow non-federal, non-industrial landowners of 15,000 acres or less to harvest timber via a non-expiring permit. The amendments also required the California Board of Forestry (BOF) to develop and implement the process for the WFMP by January 2016; process concerns raised by stakeholders have delayed the implementation of the WFMP, which is now anticipated to occur by January 2018.
9. This Order addresses the anticipated implementation of the WFMP by the BOF; the upcoming Waiver expiration; the need for additional information related to post-fire salvage operations; the creation of a low threat category for Plans; the creation of a new category for non-federal watercourse crossing work outside of a Project; the need to revise and clarify the monitoring and reporting program; and the overall need to improve and streamline the existing Waiver. Individual WDRs would not provide identifiable benefits over this Order because this Order contains essentially the same conditions that would be included in individual WDRs, such as the requirements that implement water quality control plans, and this Order is enforceable to the same extent as individual WDRs.
10. As of the effective date of this Order, the Central Valley Water Board will no longer accept new enrollments under the Timber Waiver (Order No. R5-2014-0114). Projects with existing enrollments under the Timber Waiver may continue to operate under the Timber Waiver until its expiration date, March 31, 2018. Projects that will operate past March 31, 2018, must obtain coverage under this Order prior to that date.

REGULATORY CONSIDERATIONS

11. Pursuant to the Porter-Cologne Water Quality Control Act (Division 7 of the Water Code), the Central Valley Water Board has legal authority to regulate waste discharges that could affect the quality of waters of the state.
12. Federal law requires the states to develop and implement plans to address nonpoint source pollution. (33 U.S.C. §1329.) Pursuant to this federal mandate, the State Water Resources Control Board (State Water Board) adopted its Nonpoint Source Policy in 2004. The Nonpoint Source Policy requires the State Water Board and Regional Water Quality Control Boards (Regional Water Boards) to regulate nonpoint source pollution by using either (1) Waste Discharge

Requirements (Water Code section 13260); (2) a Waiver of Waste Discharge Requirements (Water Code section 13269); or (3) a Basin Plan Prohibition (Water Code section 13243).

13. Water Code section 13260, subdivision (a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of waters of the state, other than into a community sewer system, shall file with the appropriate Regional Water Board a Report of Waste Discharge (ROWD) containing such information and data as the Regional Water Board may require.
14. Water Code section 13263 requires the Central Valley Water Board to prescribe WDRs, or waive WDRs, for proposed, existing, or material changes in discharges of waste that could affect water quality. The board may prescribe WDRs even if no ROWD under Water Code section 13260 has been filed. The WDRs must implement applicable water quality control plans and the Water Code. The Central Valley Water Board may prescribe general WDRs for a category of discharges if all the following criteria apply to the discharges in that category:
 - a. The discharges are produced by the same or similar operations.
 - b. The discharges involve the same or similar types of waste.
 - c. The discharges require the same or similar treatment standards.
 - d. The discharges are more appropriately regulated under general requirements than individual requirements.

The rationales for developing general waste discharge requirements for timberland management activities in the Central Valley Region include: (a) discharges are produced by similar operations (timberland management activities); (b) waste discharges under this Order involve similar types of wastes (typically earthen materials such as soil and rock, organic materials such as slash and bark, and pesticides); (c) water quality management practices are similar for timberland management activities; and (d) due to the large number of timberland management activities that take place in the Central Valley region, timberland management activities are more appropriately regulated under general rather than individual WDRs.

15. The Central Valley Water Board's *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin, Fourth Edition, revised April 2016* and the *Water Quality Control Plan for the Tulare Lake Basin, Second Edition, revised January 2015* (hereinafter Basin Plans) designate beneficial uses, establish water quality objectives, contain programs of implementation needed to achieve water quality objectives, and reference plans and policies adopted by the State Water Board.
16. Whether an individual discharge of waste from timberland management activities may affect the quality of the waters of the state depends on a variety of site-specific factors, including, but not limited to:
 - a) Distribution and Sensitivity of the Beneficial Uses of Water
 - Presence of domestic water supplies
 - Presence of aquatic species (including listed species)
 - Close proximity of operations to other critical beneficial uses or sensitive receptors
 - b) Current Water Quality Conditions
 - Existing Total Maximum Daily Loads or 303(d) listings
 - Documented non-compliance with Basin Plan standards
 - Known or suspected watershed impacts
 - c) Physical Setting

- Unstable geologic setting / steep slopes
 - Erodible soils
 - Existing landslides or active erosion sites
 - Roads or watercourse crossings in poor condition
 - Harsh climates and/or intense precipitation regimes
 - Post-fire landscape
- d) Type and Scope of Proposed Activities
- Intensity of silvicultural prescriptions and/or yarding methods
 - Intensity of site preparation and/or road construction/reconstruction
 - Winter operations and/or “non-standard” or “in-lieu” practices

17. This Order implements the Basin Plans by requiring the implementation of management practices to prevent exceedances of applicable water quality objectives (both numeric and narrative) and requiring the prevention of nuisance. The Order requires implementation of a monitoring and reporting program to determine effects of waste discharges on water quality and the effectiveness of management practices designed to comply with applicable water quality objectives as defined in the Basin Plans.
18. Water Code section 13242 mandates that Regional Water Boards include in their Basin Plans a plan of implementation describing how the board will regulate discharges of waste to waters of the state in a manner that will achieve water quality objectives. Water Code section 13243 provides further that “[a] regional board, in a water quality control plan or in waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted.” Water Code section 13263 also requires a Regional Water Board to prescribe requirements in WDRs that will implement the Basin Plan, including achievement of applicable water quality objectives. The conditions of this Order, including but not limited to Eligibility Criteria, Prohibitions, and requirements pertaining to Significant Existing or Potential Erosion Sites (SEPEs), implement these and other applicable statutory mandates.

REGULATORY HISTORY AND COORDINATION WITH OTHER AGENCIES

19. Non-Federal Lands

The California Department of Forestry and Fire Protection (CAL FIRE) and the Board of Forestry (BOF)

Timberland management activities on non-federal lands in California are regulated in accordance with the Z'berg-Nejedly Forest Practice Act (FPA) (Public Resources Code § 4511 et seq.) and the California Forest Practice Rules (FPR) (California Code of Regulations, title 14, § 895 et seq.). The BOF is responsible for promulgation of the FPR in accordance with the FPA while CAL FIRE is the state agency responsible for overseeing implementation and enforcement of the FPR for timber harvest activities on non-federal lands. Non-federal landowners proposing to harvest timber for commercial purposes are required to have an approved Plan, prepared by a Registered Professional Forester (RPF), prior to starting timberland management activities. Pursuant to the FPR, the applicable Regional Water Board, California Department of Fish and Wildlife, California Geological Survey, and other responsible and local agencies participate in the review of Plans and provide recommendations to the CAL FIRE Director as part of an interdisciplinary “Review Team.” As a member of the Review Team, Regional Water Board staff review proposed Plans and is provided the opportunity to participate in pre-harvest inspections (inspections conducted prior to Plan approval). CAL FIRE’s Plan approval process is the functional equivalent to the California

Environmental Quality Act Environmental Impact Report process (Public Resources Code § 21080.5; see also California Code of Regulations, title 14, § 896).

Section 208 of the federal Clean Water Act (33 U.S.C. § 1288) requires states to identify areas with “substantial water quality problems” and to designate a Water Quality Management Agency (WQMA) to develop an area-wide plan for addressing water pollution. In 1988, the State Water Board (a) conditionally certified the “Water Quality Management Plan for Timber Operations on Nonfederal Lands” which included those FPR selected as best management practices and the process by which those rules are administered; (b) designated CAL FIRE and the BOF as joint Water Quality Management Agencies; and (c) executed a Management Agency Agreement (MAA) with CAL FIRE and BOF for the purpose of implementing the certified plan and WQMA designations.

The MAA required U.S. Environmental Protection Agency (U.S. EPA) approval of the State Water Board’s certification of the FPR and administering processes for regulation of timberland management activities on non-federal lands in California. That approval had not occurred by the time State Board adopted the 2004 Nonpoint Source Policy. Thus, U.S. EPA approval of the State Board’s certification of the FPR would not negate the legal requirement for Regional Boards to address nonpoint source pollution using one or more of the three regulatory options provided under the Nonpoint Source Policy (see Finding 12).

AB 1492

Assembly Bill 1492 was enacted in 2012 with the intent to promote and encourage sustainable forest practices; ensure continued sustainable funding for the state’s forest practice program to protect the state’s forest resources; and replace the piecemeal funding structure with a single funding source. To that end, AB 1492 established the Timber Regulation and Forest Restoration Fund for the purposes of achieving those goals as well as supporting forest, fisheries and wildlife habitat and water quality restoration. Further, the bill extended the potential life span of timber harvest plans filed through the CAL FIRE Review Team process on state or private lands (after 2012) from a maximum of 5 years to a maximum of 7.

The bill language also requires increases in inspections from the Review Team agencies; promotes transparency via creation of performance measures; requires identification and implementation of efficiencies in the regulation of timber harvesting between state agencies; and identifies an intent to modify the current regulatory programs to incorporate and provide incentives for best practices, and develop standards or strategies, where appropriate, to protect natural resources, including the development of plans that address road management and riparian function on an ownershipwide, watershedwide, or districtwide scale.

Finally, the bill requires an annual report to the legislature, prepared by the Secretary of the Natural Resources Agency in conjunction with the Secretary for Natural Resource Protection.

Lead responsibility for implementing the bill has been assigned to the Natural Resource Agency. Members of the Review Team agencies, including Central Valley Water Board staff, participate in AB 1492 Leadership Team meetings as well as the multiple sub-groups developed to implement the legislature’s vision. Further information can be found on the Natural Resources Agency website: <http://resources.ca.gov/forestry>

The California Department of Fish and Wildlife (CDFW)

Pursuant to Fish and Game Code sections 1600-1616, CDFW regulates any activity on non-federal lands that does one or more of the following: 1) substantially diverts or obstructs the natural flow of any river, stream or lake; 2) substantially changes or uses any material from the bed, channel, or bank of, any river, stream, or lake; or 3) deposits or disposes of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. CDFW may issue a Master Agreement for Timber Operations (MATO) or individual Lake or Streambed Alteration Agreements (LSAAs) to Dischargers that propose watercourse crossing work that meet one or more of these three criteria.

Watercourse crossing work conducted outside of a CAL FIRE-approved Plan or accepted Emergency (EM) Notice, but under the purview of CDFW, was not provided coverage under the Waiver; preventing Dischargers from proactively reconstructing or upgrading existing crossings on their timberlands that were not actively under a Plan. This Order creates a new enrollment category for work on existing watercourse crossings on timber production zoned land outside of a Plan or EM Notice by tiering off CDFW-executed MATOs and LSAAs.

20. Federal Lands – U.S. Forest Service

In 1981, pursuant to section 208 of the federal Clean Water Act, the State Water Board (a) certified a plan entitled “Water Quality Management for National Forest System Lands in California” that was developed and submitted by the U.S. Department of Agriculture, U.S. Forest Service; (b) designated the U.S. Forest Service as the WQMA for specified activities on National Forest System lands in California that may result in nonpoint source discharges, including timber management, vegetative manipulation, fuels management, road construction and watershed management; and (c) executed a MAA with the U.S. Forest Service for the purpose of implementing the certified plan and WQMA designation.

The U.S. EPA approved the State Water Board’s certification of the U.S. Forest Service water quality management plan, and the management practices therein as “best management practices” (BMPs).

The 1981 MAA between the State Water Board and the U.S. Forest Service contemplates that the Water Boards will waive issuance of waste discharge requirements for U.S. Forest Service timber harvest activities that may result in nonpoint source discharges, provided that the U.S. Forest Service designs and implements its projects to fully comply with state water quality standards. However, the Central Valley Water Board’s experience and monitoring have demonstrated that relying solely on the MAA framework to regulate nonpoint source activities on lands managed by the U.S. Forest Service does not result in compliance with water quality standards, and thus does not comport with the State Water Board’s Nonpoint Source Policy (see Finding 12).

21. Chronology of Timber Waiver of Waste Discharge Requirements

On 30 January 2003, in response to legislative amendments to Water Code section 13269, the Central Valley Water Board adopted Resolution No. R5-2003-0005, which included a conditional “Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities” (Waiver) as Attachment A.

On 28 April 2005, the Central Valley Water Board adopted Resolution No. R5-2005-0052, which (1) renewed the Waiver for a term of 5 years; (2) revised Attachment A; and (3) added Attachment B, “Monitoring and Reporting Conditions” and Attachment C, “Implementation, Forensic and Effectiveness Monitoring and Reporting Program”.

On 18 March 2010, the Central Valley Water Board adopted Order R5-2010-0022, which renewed the Waiver and Attachments A, B, and C for 5 years.

On 4 December 2014, the Central Valley Water Board adopted Order No. R5-2014-0144, which renewed the Waiver and Attachments A, B, and C for an additional 3 years; the Waiver expires on March 31, 2018.

MONITORING AND REPORTING PROGRAM

22. Water Code section 13267(b)(1) provides:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports. (2) When requested by the person furnishing a report, the portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report.

23. Technical reports are necessary to evaluate Discharger compliance with the terms and conditions of this Order and to ensure that applicable water quality objectives are in fact being met. Consistent with Water Code section 13267, this Order requires the implementation of a monitoring and reporting program (MRP) that is designed to determine the effects of a Discharger's nonpoint source activity on water quality, to verify the effectiveness of management practices designed to comply with applicable water quality objectives, to verify the adequacy and effectiveness of the Order's conditions, and to evaluate Discharger compliance with the terms and conditions of the Order. Additional information regarding the justification for monitoring and technical reports under this Order is included in the Information Sheet.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

24. The Central Valley Water Board, acting as the lead agency for this project under the California Environmental Quality Act (CEQA)(Public Resources Code, section 21000 et seq.), conducted an Initial Study in 2002 in accordance with California Code of Regulations, title 14, section 15063. The Central Valley water Board adopted a negative declaration pursuant to CEQA on 30 January 2003 when it issued a Waiver of Waste Discharge Requirements Order No. R5-2003-0005.

25. This action to create a General Order does not require preparation of a subsequent or supplemental environmental document pursuant to the California Code of Regulations, title 14, 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 with respect to the project, as described in section 15162, subdivision (a). Therefore, the environmental impacts from issuance of this Order have already been adequately assessed in accordance with CEQA (title 14, section 15061(b)(3)).

ANTIDegradation

26. State Water Board Resolution 68-16 ("Statement of Policy with Respect to Maintenance of High Quality Waters in California") requires the Central Valley Water Board to regulate discharges of waste to waters of the state to achieve the highest water quality consistent with maximum benefit to the people of the state. It further requires that the Discharger meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state will be maintained. This Order is consistent with Resolution 68-16 because it requires compliance with applicable water quality control plans, prohibits the creation of pollution or nuisance, and sets forth conditions that require Dischargers to implement additional management practices (beyond those required in the FPR and U.S. Forest Service BMP guidance manuals) to assure protection of beneficial uses of waters of the state and maintain the highest water quality consistent with maximum benefit to the people of the state.
27. This Order is in the public interest and is protective of water quality as described below:
- a) Timberland management activities in California are primarily regulated by other agencies, including CAL FIRE and the U.S. Forest Service. The Central Valley Water Board does not approve timberland management activities, but it does have authority to require compliance with the Water Code.
 - b) Without this Order, timberland management activities would continue under authority of those other agencies, but such activities may not be subject to appropriate conditions protective of water quality.
 - c) Without this Order, the Central Valley Water Board could regulate a smaller percentage of timberland management activities in the Region individually, but once enrolled in this Order, timberland management activities are subject to enforceable conditions.
 - d) This Order contains conditions that require compliance with the Basin Plans, including applicable water quality objectives and prohibitions.
 - e) This Order contains conditions requiring compliance with a MRP that will assist in the protection of water quality through assessment and verification of the adequacy and effectiveness of Order conditions and management practices.
 - f) Compliance with the conditions of this Order will ensure enrolled Projects are protective of water quality.
 - g) This Order does not approve of or authorize a condition of pollution or nuisance.
 - h) This Order's conditions are subject to enforcement pursuant to Water Code section 13350.
 - i) Given available Central Valley Water Board staff resources, this Order is an effective mechanism to regulate a large number of potential discharges and allows staff to maximize field presence.
 - j) This Order allows staff to continue to participate in the review of proposed timberland management Projects, providing staff the opportunity to require implementation of

protective measures beyond those required by CAL FIRE and the U.S. Forest Service for the most critical timber operations.

- k) This Order allows for inclusion of staff recommendations developed during review of Projects.
- l) This Order allows for watercourse crossing reconstruction on existing crossings on timber production zoned land outside of a Plan or EM Notice that might otherwise go uncorrected for years.
- m) The inclusion of a MRP allows for timely application of management practices to protect waters of the state once failures resulting in discharges or potential failures that may result in discharges have been identified.

GENERAL FINDINGS

- 28. Any person seeking coverage under this Order shall file the applicable eligibility document(s) with the Central Valley Water Board as described herein. Where this Order requires the submittal of a NOI, the Discharger shall complete and submit the NOI form available at: http://www.waterboards.ca.gov/centralvalley/water_issues/forest_activities/index.shtml Dischargers shall file any additional eligibility documents required by the Executive Officer.
- 29. An annual fee for enrollment under this Order is not required pursuant to Assembly Bill 1492, codified as Public Resources Code section 4629.6(c), which states that no currently authorized or required fees shall be charged by the Regional Water Boards for activities or costs associated with the review of Projects or permits necessary to conduct timberland management activities.
- 30. This Order does not apply to discharges requiring a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act, including silvicultural point sources as defined in 40 CFR 122.27.
- 31. This Order does not authorize any act that results in the taking of threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code §§ 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. §§ 1531 to 1544). If a “take” will result from any action authorized under this Order, the Discharger shall obtain appropriate take authorization prior to construction or operation of the Project. The Discharger shall be responsible for meeting all requirements of the applicable Endangered Species Acts.
- 32. Section 106.3 of the Water Code establishes the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring Dischargers to implement best management practices designed to achieve applicable water quality objectives developed to protect municipal and domestic water supplies.

PUBLIC NOTICE & BOARD MEETING

- 33. The Central Valley Water Board has notified interested agencies and persons of its intent to issue this Order for discharges of waste from timberland management activities on non-federal and federal lands, and has provided them an opportunity to participate in public workshops and to submit written comments.
- 34. The Central Valley Water Board conducted a public hearing on 9 June 2017, and all comments,

testimony, and evidence pertaining to this Order were heard and considered.

35. This Order is effective upon adoption by the Central Valley Water Board on 9 June 2017 and remains in effect unless rescinded or revised by the Central Valley Water Board.

IT IS HEREBY ORDERED that all Dischargers meeting the criteria and conditions for coverage under this Order shall comply with the following:

I. Prohibitions

1. The Discharger shall not create a condition of pollution, contamination, or nuisance, as defined by Water Code section 13050.
2. The Discharger shall not contribute to an exceedance of any applicable water quality objectives (whether numeric or narrative) or of any applicable state or federal water quality criteria.
3. The discharge of any waste not specifically regulated by this Order is prohibited unless (a) the Discharger complies with Water Code section 13260(a) and the Central Valley Water Board either issues WDRs pursuant to Water Code section 13263 or an individual waiver pursuant to Water Code section 13269; or (b) the discharge does not create or threaten a condition of pollution or nuisance and the timeframes in Water Code section 13264(a) have lapsed.
4. The Discharger shall not cause any point source discharge of waste to a water of the United States unless such discharge is in compliance with a duly-approved NDPES permit.

II. Provisions

1. Dischargers covered under this Order shall comply with the terms and conditions contained in this Order.
2. The Discharger shall conduct timberland management activities in accordance with (a) the CAL FIRE-approved Plan, CAL FIRE-accepted Exemption (EX) or EM Notice, or CDFW-executed MATO or LSAA, in the case of timberland management activities on non-federal timberlands; or (b) in accordance with the final environmental document/decision document prepared pursuant to the National Environmental Policy Act (NEPA) and valid third party contracts, in the case of timberland management activities on federal lands managed by the U.S. Forest Service.
3. The Discharger shall allow Central Valley Water Board staff reasonable access onto property where activities covered by this Order occur whenever requested by Central Valley Water Board staff for the purpose of performing inspections and conducting monitoring, including; sample collection, measuring, and photographing/taping to determine compliance with Order conditions. Such inspections and monitoring shall be conducted consistent with Water Code section 13267(c), Public Resources Code section 4604(b)(1), and other applicable law.
4. The Discharger shall incorporate management practices and/or water quality protective measures resulting from Central Valley Water Board staff participation in CAL FIRE's Review Team process, the Federal review process, the CDFW review process, and/or

during Project enrollment that arise from changed conditions/new information into the Project document(s) and/or NOI addendum. The Discharger may propose alternative management practices if it can demonstrate to the satisfaction of the Executive Officer that the proposed alternatives will meet water quality requirements. Alternative management practices proposed by a Discharger must comply with the Prohibitions in this Order. Until such alternative management practices receive written approval from the Executive Officer, the Discharger shall adhere to those management practices provided by Regional Water Board staff.

5. The Discharger shall maintain a copy of this Order at its primary place of business. The Discharger's designee/agents shall be provided a copy and be familiar with the contents and requirements of this Order.
6. Dischargers shall comply with the attached Monitoring and Reporting Program, Order No. R5-2017-0061, and future revisions thereto or with an individual monitoring and reporting program as specified by the Central Valley Water Board or the Executive Officer.
7. The Discharger shall comply with all applicable requirements and prohibitions of the applicable Basin Plan, including any amendments adopted by the Central Valley Water Board and approved by the State Water Board, and with all applicable policies adopted by the State Water Board.
8. The Executive Officer may require the Discharger to submit additional technical reports pursuant to Water Code section 13267.
9. Pursuant to Water Code section 13263, this Order shall not create a vested right to discharge waste to waters of the state, and all such discharges of waste shall be considered a privilege. Accordingly, the regulatory coverage provided by this Order: (a) may be modified or terminated at any time, either in its entirety or as to any individual Dischargers; (b) does not permit an illegal activity; (c) does not preclude the need for permits which may be required by federal, local, or other governmental agencies; and (d) does not preclude the Central Valley Water Board from administering enforcement remedies (including civil liability) pursuant to the Water Code.

III. Criteria and Condition Specifications by Category

Table 1 summarizes the enrollment categories and corresponding requirements under this Order. The Central Valley Water Board may determine that a Discharger's otherwise eligible Project does not qualify for enrollment under the requested category, requires enrollment in a different category, or that the Project does not qualify for enrollment under the Order at all. If the Central Valley Water Board makes such a determination, it will provide prompt notice to the Discharger that enrollment in a different category is required or that enrollment under the Order is denied.

Eligibility under Category 1, 2A, or 2B assumes Discharger compliance with applicable criteria/conditions under California Code of Regulations, title 14, section 1038 (for Notices of Exemption) or title 14, section 1052 et seq. (for Emergency Notices). During a declared State of Emergency, an Executive Order may authorize CAL FIRE to suspend some or all of these criteria. In the event of such a suspension, the Central Valley Water Board hereby retains for itself the discretion to require the Discharger to meet otherwise applicable criteria under title 14, section

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1038 and/or section 1052 et seq. – whether suspended by CAL FIRE or not – for eligibility under Category 1, 2A, or 2B. The Central Valley Water Board will provide prompt notice to affected Dischargers that it intends to exercise this discretion, if applicable.

Table 1. Summary of Timberland Management Activity Categories and Requirements¹

	Cat.	Plans/Projects Covered	NOI, operation notification, and monitoring requirements	Pages	
Lead Agency	CAL FIRE (non-federal)	1	<ul style="list-style-type: none"> • 1038 EX Notices^{2,3} • 1052.1-1052.5 EM Notices² (<i>except fire salvage</i>) • 1104.1 Conversion Exemptions² 	<ul style="list-style-type: none"> • Automatically enrolled • Agency Monitoring 	15-16
		2A	<ul style="list-style-type: none"> • 1052.1 EM Notice² for fire salvage on: <ul style="list-style-type: none"> ○ Industrial timberlands; or ○ Non-industrial timberlands when no residence is within EM 	<ul style="list-style-type: none"> • Automatically enrolled contingent on submittal of <i>NOI</i> and <i>Erosion Site Table</i> within 30 days of EM Notice acceptance by CAL FIRE • <i>Post-Fire Management and Reforestation Plan</i> (if applicable) • Annual Agency, Implementation, Forensic, and Effectiveness Monitoring and Summary of Operations • Updates to <i>Erosion Site Table</i> and if applicable, <i>Post-Fire Management and Reforestation Plan</i> 	16-18
		2B	<ul style="list-style-type: none"> • 1052.1 EM Notice² for fire salvage when a non-industrial timberland owner's residence is within EM 	<ul style="list-style-type: none"> • <i>NOI</i> prior to operations • Agency and Effectiveness Monitoring 	19-20
		3A	<ul style="list-style-type: none"> • THPs, PTHPs, WFMPs, NTMPs, and other Plans⁴ 	<ul style="list-style-type: none"> • <i>NOI</i> prior to operations • Annual Agency, Implementation, Forensic, and Effectiveness Monitoring and Summary of Operations 	21-23
		3B	<ul style="list-style-type: none"> • 1051-1051.7 modified THPs²; or • THPs, PTHPs, WFMPs, NTMPs, and other Plans that meet all the low threat criteria in Part III.D.2.a.ii. 	<ul style="list-style-type: none"> • <i>NOI</i> prior to operations • Agency and Effectiveness Monitoring 	21-23
	CDFW	4	<ul style="list-style-type: none"> • Watercourse crossing work conducted under CDFW MATO or LSAA on timber production zoned land for replacement/reconstruction of <i>existing</i> watercourse crossings outside of a Plan or EM Notice 	<ul style="list-style-type: none"> • Submit copy of CDFW notification 30 days prior to work commencing • <i>NOI</i> 30 days prior to operations • Implementation, Forensic, and Effectiveness Monitoring 	24

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		Cat.	Plans/Projects Covered	NOI, operation notification, and monitoring requirements	Pages
U.S. Forest Service		5A	<ul style="list-style-type: none"> Post-fire timberland management activities (fire salvage and hazard tree removal) 	<ul style="list-style-type: none"> Automatically enrolled contingent on submittal of <i>NOI</i> and <i>Erosion Site Table</i> within 30 days of startup of operations <i>Post-Fire Management and Reforestation Plan</i> (if applicable) Annual Implementation, Forensic, and Effectiveness Monitoring and Summary of Operations Updates to <i>Erosion Site Table</i> and if applicable, <i>Post-Fire Management and Reforestation Plan</i> 	25-27
		5B	<ul style="list-style-type: none"> Timber harvesting sales, vegetation management and fuels reduction, forest stand improvement and hazard tree removal, and pesticide applications associated with the aforementioned. 	<ul style="list-style-type: none"> <i>NOI</i> 15 days prior to operations Annual Notice of Operations 15 days prior to startup Annual National Core BMP monitoring protocols OR Implementation, Forensic, and Effectiveness Monitoring and Summary of Operations 	28-29

¹This table only provides an abbreviated summary of the criteria, conditions, and monitoring for categories; refer to category specific criteria/conditions and Attachments B and C for complete information.

²California Code of Regulations, title 14, section (as cited in table)

³Excludes the cutting and removal of timber and other solids wood forest products for: Christmas trees, structure protection (150 and 300 feet), and woody debris and slash removal (see Attachment A definition of “timber land management activities”).

⁴THP – timber harvesting plan, PTHP – program timber harvesting plan, NTMP – non-industrial timber management plan

A. Certification of Notice of Non-Applicability on Federal and Non-Federal Lands

Enrolment under this Order is not required for Projects that (1) do not contain watercourses or wet meadows and other wet areas within or directly adjacent to the Project area AND (2) do not pose a threat to water quality or the beneficial uses of waters of the state (appurtenant roads to be considered in evaluation). **No later than ten days prior** to the startup of operations, Project proponents must submit a *Certification of Notice of Non-Applicability* signed by a duly authorized agent to the Central Valley Water Board certifying that the Project meets the criteria above.

B. Category 1: Low Threat Exemption and Emergency Notices on Non-Federal Lands

1. Eligibility Criteria: Activities that may proceed under Category 1 are those:

- a) Conducted under a CAL FIRE-accepted Exemption pursuant to California Code of Regulations, title 14, section 1038 (excludes the cutting and removal of timber and other solid wood forest products for Christmas trees, structure protection (150 and 300 feet), and woody debris and slash removal), including but not limited to:
 - i. Harvesting dead, dying or diseased trees;
 - ii. Substantially damaged timberland unmerchantable as sawlog;
 - iii. Forest fire prevention;
 - iv. Drought mortality.

-OR-

- b) Conducted under a CAL FIRE accepted Emergency Notice pursuant to the conditions listed in California Code of Regulations, title 14, sections 1052-1052.5 (**substantially damaged timberlands from fire (fire salvage) excluded – see Categories 2A and 2B**), including, but not limited to:
 - i. Harvesting dead or dying (fire salvage excluded);
 - ii. Fuel hazard reduction;
 - iii. Sudden Oak Death disease.

-OR-

- c) Conducted under a CAL FIRE-accepted Conversion Exemption pursuant to California Code of Regulations, title 14, section 1104.1, including but not limited to:
 - i. Less than 3 acres for the purpose of fuels reduction and/or construction activities;
 - ii. Public agency, public and private utility right-of-way.

2. Enrollment: Projects meeting the eligibility criteria listed above for Category 1 are *automatically* enrolled under the Order and must comply with the conditions listed below.

3. Conditions:

- a) The Discharger shall submit a copy of the CAL FIRE-accepted Exemption or Emergency Notice if requested by the Central Valley Water Board.
- b) For Conversion Exemptions that will be for the purpose of residential or commercial development, the Discharger must obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit), State Water Board Order No. 2009-0009-DWQ prior to construction activities that disturb one or

more acres or activities that disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.

- c) For Exemption Notices (typically less than 3 acre conversions), for cannabis cultivation, the Discharger may need to obtain coverage under the General Permit for Discharges of Waste Associated with Medicinal Cannabis Cultivation Activities, Order No. R5-2015-0113 or any applicable Order that the State Water Board may adopt in the future to regulate cannabis cultivation.
- d) The Discharger shall comply with all conditions specified in Attachment B, Monitoring and Reporting Program, Order No. R5-2017-0061, including notifying the Central Valley Water Board whenever: (1) Agency Monitoring detects a violation of the California Forest Practice Rules that relate to water quality protection measures; or (2) management measures fail and result in a discharge, or the potential to discharge, waste to waters of the state.

C. Categories 2A and 2B: Emergency Notices Related to Fire Salvage on Non-Federal Lands

Category 2A (Industrial Fire Salvage and Non-Industrial Fire Salvage With No Residence)

1. Eligibility Criteria: Activities that may proceed under Category 2A are those conducted under a CAL FIRE-accepted Emergency Notice pursuant to the conditions listed in California Code of Regulations, title 14, section 1052.1 for:
 - a) Fire Salvage, for **industrial** timberlands.

-OR-

 - b) Fire salvage, for **non-industrial** timberlands when a **residence is not within the Emergency area**.
2. Enrollment: Projects meeting the eligibility criteria listed above for Category 2A are *automatically* enrolled under the Order when the Discharger submits a copy of the Emergency Notice accepted by CAL FIRE to the Central Valley Water Board.
3. Conditions: Dischargers conducting timberland management activities that meet the eligibility criteria for Category 2A listed above must comply with all of the following conditions, as applicable:
 - a) The Central Valley Water Board must receive a **complete NOI for Category 2A and Erosion Site Table** (see Table 1 in Category 2A NOI) **within 30 days of Emergency Notice acceptance by CAL FIRE**, signed by the timberland/timber owner, certifying that the activities meet the criteria and conditions for enrollment in Order Category 2A. The Discharger shall provide timely amendments of the *Erosion Site Table* throughout Emergency Notice enrollment to the Central Valley Water Board when conditions or management objectives have changed.
 - b) **IF pesticides will be applied following the fire**, THEN the Discharger shall **EITHER**:
 - i. **Submit a Post-Fire Management and Reforestation Plan** (PFP; see Attachment C) **to the Central Valley Water Board for approval prior to application of pesticides** within the post-fire management and reforestation plan area. The PFP shall include measures that will provide equal to or better protection than the conditions under Part III.C.3.b.ii below. **The Executive Officer's written approval of the PFP is required**

before implementation of the PFP can satisfy the requirements of this Part III.C.3.b.; approval or denial of the PFP shall be provided within 30 days of PFP submittal.

-OR-

- ii. Meet **ALL** of the following conditions:
1. The Discharger shall **comply with the following pesticide no-spray buffers** (unless more stringent buffers are dictated by application labels/guidance, statute, or regulation):
 - a. For Class I and II watercourses, the applicable WLPZ widths specified in the California Code of Regulations, title 14, section 936.5;
 - b. For Class III and IV watercourses, a minimum of 25 feet where sideslope steepness is less than 30%, and a minimum of 50 feet where sideslope steepness is 30% or greater.
 2. Where management activities are planned on a burned area with **slopes greater than 30%, a minimum of 50% average effective groundcover** (see Attachment C for guidance) **is required to be documented prior to pesticide application**. Documentation shall be provided to the Central Valley Water Board in the pesticide notification **30 days prior to application**.
 3. The Discharger shall **notify** the Central Valley Water Board **in writing at least 30 days prior to any proposed application of pesticides**. The notification does *not* need to include information on hack and squirt or individual stump applications. The written notification shall include the pesticide product(s) to be applied, the proposed date(s) of application, the method(s) of application, the area(s) of application (CAL FIRE Notice number and Township/Range/Section), a description of measures that will be employed to assure compliance with the applicable Basin Plan, and documentation of 50% or greater effective groundcover (as applicable). Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- c) The Discharger shall meet the following conditions unless Central Valley Water Board staff has been consulted and agrees to alternative protection measures as warranted by site-specific conditions (see Part II.4.) and/or as requested by the Discharger when such protection is inconsistent with land management objectives:
- i. A minimum Equipment Limitation Zone for any and all Class III and Class IV watercourses of at minimum 25 feet where sideslope steepness is less than 30%, and at a minimum 50 feet where sideslope steepness is 30% or greater.
 - ii. Culverts or other permanent in-stream structures at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures (i.e. armoring, wing walls, diversion prevention measures) concurrently with fill placement. Additionally, installation shall utilize methods to temporarily isolate or divert stream flows from the installation area while maintaining bypass flows or as specified in an executed MATO or LSAA from CDFW.

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- iii. Any and all riparian vegetation, other than commercial species, that is found along watercourses and lakes or that is found within or bordering wet meadows and other wet areas shall be retained and protected to the extent feasible during timberland management activities.
- d) *IF*:
 - i. Activities are undertaken pursuant to a CAL FIRE Notice on which Central Valley Water Board staff has not consulted; *AND*
 - ii. In the CAL FIRE Notice or *NOI* the Discharger proposes *EITHER*
 - 1. Timberland management activities on soils with extreme erosion hazard rating (post-fire), known landslides, and/or unstable areas *that have the potential to impact water quality, OR*
 - 2. Any watercourse crossing that involves the placement of more than 500 cubic yards or 25 vertical feet of fill material,

THEN additional field review must be conducted or directed by a licensed civil engineer or licensed geologist prior to the startup of operations to determine if activities conducted under the CAL FIRE Notice could cause or exacerbate the potential for soil erosion or mass soil movement. The CAL FIRE Notice or NOI addendum must incorporate all recommendations made by said licensed engineer or geologist for the specific site conditions listed above.
- e) The Discharger shall submit copies of any CDFW **notification(s)** for watercourse crossing work within the burn area associated with a MATO or LSAA **within 30 days of filing the notification with CDFW.**
- f) For a CAL FIRE Notice where aquatic or wetland habitat for rare, threatened or endangered species is identified and where timberland management activities may impact such habitat, additional field review shall be conducted prior to the startup of operations by a scientist, with a bachelor's or advanced degree in biological sciences and experience in aquatic systems, and/or a qualified professional trained in biological assessments to determine if the Notice could adversely affect such species or their habitat. The CAL FIRE Notice or NOI addendum must incorporate all project modifications and mitigation measures recommended by the scientist/professional to avoid impacts to rare, threatened, or endangered species.
- g) If mine tailings and/or associated waste rock will be disturbed or used as construction materials as part of timberland management activities, the Discharger shall contact Central Valley Water Board staff to discuss proper characterization of the materials to ensure prior to such disturbance or use there will be no adverse impacts to water quality and beneficial uses.
- h) The Discharger shall comply with all the conditions specified in Attachment B, Monitoring and Reporting Program, Order No. R5-2017-0061. Category 2A will be subject to agency, implementation, forensic, and effectiveness monitoring; an annual operations summary; and updates to the *Erosion Site Table* and PFP (as applicable).
- i) The Discharger shall seek termination of coverage under the Order in accordance with Part V.A., Termination of Coverage.

Category 2B (Non-Industrial Fire Salvage with Residence)

4. Eligibility Criteria: To be eligible for enrollment under Category 2B, activities must be:
 - a) Conducted under a CAL FIRE-accepted Emergency Notice pursuant to the conditions listed in California Code of Regulations, title 14, section 1052.1 for **fire salvage**, when a **non-industrial** timberland owner's **residence is within the Emergency area**.
5. Enrollment: Projects that meet the Category 2B eligibility criteria shall enroll under this Order by submitting the following **prior to operations commencing**: (1) a copy of the CAL FIRE-accepted Notice, and (2) a single *NOI for Categories 2B, 3A, and 3B*, signed by the timberland/timber owner, certifying that the activities meet the criteria and conditions for enrollment in Order Category 2B. **Central Valley Water Board staff will review and respond to the NOI within 15 days of receipt; activities may commence in compliance with this Order once the Central Valley Water Board has issued a Notice of Applicability (NOA) to the Discharger indicating that the NOI is complete.**
6. Conditions: Dischargers conducting timberland management activities under Category 2B must comply with the following conditions, as applicable:
 - a) The Discharger must meet the following conditions unless Central Valley Water Board staff has been consulted and agrees to alternative protection measures as warranted by site-specific conditions (see Part II.4.) and/or as requested by the Discharger when such protection is inconsistent with land management objectives:
 - i. A minimum Equipment Limitation Zone for any and all Class III and Class IV watercourses of at minimum 25 feet where sideslope steepness is less than 30%, and at a minimum 50 feet where sideslope steepness is 30% or greater.
 - ii. Culverts or other permanent in-stream structures at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures (i.e. armoring, wing walls, diversion prevention measures) concurrently with fill placement. Additionally, installation shall utilize methods to temporarily isolate or divert stream flows from the installation area while maintaining bypass flows or as specified in an executed MATO or LSAA from CDFW.
 - iii. Any and all riparian vegetation, other than commercial species, that is found along watercourses and lakes or that is found within or bordering wet meadows and other wet areas shall be retained and protected to the extent feasible during timberland management activities.
 - b) *IF*:
 - i. Activities are undertaken pursuant to a CAL FIRE Notice on which Central Valley Water Board staff has not consulted; *AND*
 - ii. The CAL FIRE Notice proposes *EITHER*
 1. Timberland management activities on soils with extreme erosion hazard rating (post-fire), known landslides, and/or unstable areas *that have the potential to impact water quality*, *OR*
 2. Any watercourse crossing that involves the placement of more than 500 cubic yards or 25 vertical feet of fill material,

THEN additional field review must be conducted or directed by a licensed civil engineer or registered geologist prior to the startup of operations to determine if the CAL FIRE Notice could cause or exacerbate the potential for soil erosion or mass soil movement. The CAL FIRE Notice or NOI addendum must incorporate all recommendations made by said licensed engineer or geologist for the specific site conditions listed above.

- c) The Discharger shall submit copies of any CDFW **notification(s)** for watercourse crossing work within the burn area associated with a MATO or LSAA **within 30 days of filing the notification with CDFW.**
- d) For a CAL FIRE Notice where aquatic or wetland habitat for rare, threatened or endangered species is identified and where timberland management activities may impact such habitat, additional field review shall be conducted prior to the startup of operations by a scientist, with a bachelor's or advanced degree in biological sciences and experience in aquatic systems, and/or a qualified professional trained in biological assessments to determine if the Notice could adversely affect such species or their habitat. The CAL FIRE Notice or NOI addendum must incorporate all project modifications and mitigation measures recommended by the scientist/professional to avoid impacts to rare, threatened, or endangered species.
- e) The Discharger shall **notify** the Central Valley Water Board in writing at least **15 days prior to any proposed application of pesticides**; the notification does *not* need to include information on hack and squirt or individual stump applications. The written notification shall include the pesticide product(s) to be applied, the proposed date(s) of application, the method(s) of application, the area(s) of application (Notice number and Township/Range/Section), and a description of measures that will be employed to assure compliance with the applicable Basin Plan. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- f) If mine tailings and/or associated waste rock will be disturbed or used as construction materials as part of timberland management activities, the Discharger shall contact Central Valley Water Board staff to discuss proper characterization of the materials to ensure prior to such disturbance or use there will be no adverse impacts to water quality and beneficial uses.
- g) The Discharger shall comply with all the conditions specified in Attachment B, Monitoring and Reporting Program, Order No. R5-2017-0061. Category 2B will be subject to agency and effectiveness monitoring.
- h) The Discharger shall seek termination of coverage under the Order in accordance with Part V.A., Termination of Coverage.

D. Categories 3A and 3B: Plans that Receive Discretionary Approval from CAL FIRE on Non-Federal Lands

Category 3A (Plans With a Higher Threat to Water Quality)

1. Eligibility Criteria: To be enrolled under Category 3A, activities must meet the following criteria:

- a) The covered activities are timberland management activities on non-federal lands that receive discretionary approval from CAL FIRE, including but not limited to:
 - i. Timber harvesting plans;
 - ii. Program timber harvesting plans;
 - iii. Working forest management plans;
 - iv. Non-industrial timber management plans;
 - v. Other Plans.
- b) The approved Plan documents or *NOI* addendum include additional management practices and/or water quality protective measures (beyond the requirements of the current Forest Practice Rules) identified during the CAL FIRE Review Team process and/or during Project enrollment (i.e. changed conditions/new information)(see Part II.4.).

Category 3B (Plans With a Lower Threat to Water Quality)

2. Eligibility Criteria: To be enrolled under Category 3B, activities must meet the following criteria:

- a) The covered activities are timberland management activities on non-federal lands that receive discretionary approval from CAL FIRE, including but not limited to:
 - i. Modified timber harvesting plans pursuant to California Code of Regulations, title 14, sections 1051-1051.7;

-OR-

 - ii. Timber harvesting plans, program timber harvesting plans, working forest management plans, non-industrial timber management plans, and other Plans that comply with all of the following criteria:
 - 1) No timberland management activities (i.e. watercourse crossing, road, and/or landing reconstruction/construction/abandonment) within the standard width of a WLPZ or ELZ (as defined in CCR, title 14, section 936.5), wet meadows and other wet areas, *except for*: 1) the use and maintenance (not reconstruction) of *existing* stable roads and associated watercourse crossings in good working condition that *will not result in a significant sediment discharge*, and 2) the installation and use of *dry* Class III watercourse tractor crossings;
 - 2) No significant existing or potential erosion sites;
 - 3) No ground-based equipment on high or extreme Erosion Hazard Rating (EHR) that may result in a significant sediment discharge;
 - 4) No timberland management activities conducted in-lieu of the standard WLPZ practices contained in the Forest Practice Rules.
- b) The approved Plan documents or *NOI* addendum include additional management practices and/or water quality protective measures (beyond the requirements of the current Forest

Practice Rules) identified during the CAL FIRE Review Team process and/or during Project enrollment (i.e. as a result of changed conditions/new information) (see Part II.4.).

3. **Enrollment:** Dischargers conducting activities that meet the criteria of Category 3A or 3B shall enroll under this Order as follows:
 - a) The Discharger shall submit a copy of the CAL FIRE approved Plan if requested by Central Valley Water Board staff. The Plan must incorporate additional or modified management practices and/or water quality protective measures resulting from the CAL FIRE Review Team process.
 - b) The Discharger shall submit a single completed *NOI for Categories 2B, 3A, and 3B* **prior to operations commencing**, signed by the timberland/timber owner, certifying that the activities meet the criteria and conditions contained in either Order Category 3A or 3B. **Central Valley Water Board staff will review and respond to the NOI within 15 days of receipt; activities may commence once the Central Valley Water Board has issued a NOA to the Discharger indicating that their NOI is complete.**
4. **Conditions:** Dischargers conducting timberland management activities under Category 3A or 3B must comply with the following conditions, as applicable:
 - a) For CAL FIRE-approved **NTMPs** that do not incorporate the FPR “Road Rules” (Cal. Code Regs., tit. 14, art. 12) which became effective January 2015, the Discharger must submit an inventory of significant existing or potential erosion sites, as detailed in California Code of Regulations, Title 14, section 923.1(e), to the Central Valley Water Board **at least 15 days prior to commencement of timberland management activities**. The erosion inventory shall: (1) be prepared by a RPF; (2) encompass the NTO area and appurtenant roads at a minimum; and (3) include an implementation schedule for treatment of erosion sites.
 - b) *IF:*
 - i. Activities are undertaken pursuant to a Plan on which Central Valley Water Board staff has not consulted; *AND*
 - ii. In the Plan the Discharger proposes *EITHER*
 1. Timberland management activities on soils with extreme erosion hazard rating, known landslides, and/or unstable areas *that have the potential to impact water quality, OR*
 2. Any watercourse crossing that involves the placement of more than 500 cubic yards or 25 vertical feet of fill material,

THEN additional field review must be conducted or directed by a licensed civil engineer or registered geologist prior to the startup of operations to determine if activities conducted under the Plan could cause or exacerbate the potential for soil erosion or mass soil movement. The Plan or NOI addendum must incorporate all recommendations made by said licensed engineer or geologist for the specific site conditions listed above.
 - c) Culverts or other permanent in-stream structures at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures (e.g. armoring, wing walls, diversion prevention measures) concurrently with fill placement. Additionally, installation shall utilize methods to temporarily isolate or divert stream flows

from the installation area while maintaining bypass flows or as specified in an executed MATO or LSAA from CDFW.

- d) For Plans that will be for the purpose of cannabis cultivation, the Discharger may need to obtain coverage under the General Permit for Discharges of Waste Associated with Medicinal Cannabis Cultivation Activities, Order No. R5-2015-0113 or any applicable Order that the State Water Board may adopt in the future to regulate cannabis cultivation.
- e) If mine tailings and/or associated waste rock will be disturbed or used as construction materials as part of timberland management activities, the Discharger shall contact Central Valley Water Board staff to discuss proper characterization of the materials to ensure prior to such disturbance or use there will be no adverse impacts to water quality and beneficial uses.
- f) The Discharger shall comply with all the conditions specified in Attachment B, Monitoring and Reporting Program, Order No. R5-2017-0061.
- g) The Discharger shall **notify** the Central Valley Water Board in writing at least **15 days prior to any proposed application of pesticides**; the notification does *not* need to include information on hack and squirt or individual stump applications. The written notification shall include the pesticide product(s) to be applied, the proposed date(s) of application, the method(s) of application, the area(s) of application (Plan number and Township/Range/Section), and a description of measures that will be employed to assure compliance with the applicable Basin Plan. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- h) The Discharger shall seek termination of coverage under the Order in accordance with Part V.A., Termination of Coverage.

For **non-expiring Plans** (such as NTMPs and WFMPs), the Discharger has the following enrollment/termination options: (1) enroll and terminate with each entry (NTO/Notice), or (2) remain continuously enrolled for the duration of the Plan with an additional requirement to certify in the annual report when discharges associated with timberland management activities for each NTO/Notice area have ceased prior to cessation of monitoring for that entry (see Attachment B, Part V.B.).

E. Category 4: Watercourse Crossing Work Conducted under a MATO or LSAA Outside of a Plan / Emergency Notice on Non-Federal Lands

1. Eligibility Criteria: To be enrolled under Category 4, activities must meet the following criteria:
 - a) The activities are conducted under a CDFW-executed MATO or LSAA on timber production zoned land pursuant to the conditions listed in Fish and Game Code sections 1600-1616 for replacement/reconstruction of *existing* watercourse crossings outside of a CAL FIRE accepted EM Notice or approved Plan.
 - b) A *NOI* is submitted on a project-by-project basis (i.e. no long-term enrollment of a MATO).
 - c) The CDFW notification/sub-notification or *NOI* incorporates any water quality protective measures identified during review of the project (see Part II.4.).
2. Enrollment: Dischargers conducting timberland management activities under Category 4 shall enroll under this Order by complying with the following:
 - a) Submit a copy of the CDFW notification to Central Valley Water Board staff concurrent with submittal to CDFW; at a minimum, **the notification must be submitted at least 30 days prior to work commencing**. The scope of the notification shall encompass all information required by the applicable MATO or CDFW Form FG2023 for an individual LSAA. The Discharger shall notify the Central Valley Water Board if CDFW declares the notification incomplete or requests additional information.
 - b) Submit a *NOI for Category 4 at least 30 days prior to operations commencing* signed by the timberland/timber owner certifying that the activities meet the criteria and conditions required in Category 4. Activities may commence once the Central Valley Water Board has issued a NOA to the Discharger indicating that their *NOI* is complete
3. Conditions: Dischargers conducting timberland management activities enrolled under Category 4 shall comply with the following conditions:
 - a) Comply with all water quality management practices identified in the CDFW-executed MATO or LSAA and shall provide any amendments/project changes to the Central Valley Water Board for review in a timely manner. The Discharger shall submit a copy of the LSAA and appropriate CEQA documentation to the Central Valley Water Board. A MATO shall only be submitted when requested.
 - b) Notify Central Valley Water Board staff of any scheduled site visit with CDFW staff; Central Valley Water Board staff retains the discretion to require a site visit in accordance with Part II.3.
 - c) The Discharger shall comply with all the requirements specified in Attachment B, Monitoring and Reporting Program, Order No. R5-2017-0061. Category 4 will be subject to Implementation, Forensic, and Effectiveness Monitoring.
 - d) The Discharger shall seek termination of coverage under the Order in accordance with Part V.A., Termination of Coverage.

F. Categories 5A and 5B: Timberland Management Activities on Federal Lands Managed by the U.S. Forest Service

Category 5A (Post-Fire Activities)

1. Eligibility Criteria: To be enrolled under Category 5A, activities must meet the following criteria:
 - a) Post-fire timberland management activities (e.g. fire salvage and post-fire hazard tree removal for commercial purposes) that have the potential to impact water quality, excluding emergency work conducted during or immediately (within 60 days) after the fire, on federal lands where the U.S. Forest Service has conducted the required or appropriate level of multi-disciplinary review of the timber harvesting proposal and has specified best management practices and additional control measures as needed, in order to assure compliance with the applicable Basin Plan.
 - b) The U.S. Forest Service has provided Project description documents to the Central Valley Water Board and allowed time for adequate review and comment. These documents include: 1) the NEPA scoping document; and 2) the NEPA draft environmental analysis, which will include site specific information that identifies Significant Existing or Potential Erosion Sites (SEPES) and priority road improvement locations, as well as, proposed treatments and schedule for those sites to improve or protect water quality. Supplemental project documents may also be provided that contain design specifications, management practices, and/or water quality protection measures. Any additional management practices and/or water quality protective measures identified by Central Valley Water Board staff during the scoping period and/or enrollment under this Order will have been discussed with U.S. Forest Service personnel and incorporated into an addendum to the *NOI* (see Part II.4.), including a timeline and checklist for completion. The project will remain enrolled until all identified management practices and/or water quality protective measures have been completed.
 - c) The U.S. Forest Service has conducted a cumulative watershed effects (CWEs) analysis, where required or appropriate, and included specific measures needed to reduce the potential for CWEs in order to assure compliance with the applicable Basin Plan.
2. Enrollment: Projects meeting the Category 5A eligibility criteria are *automatically* enrolled under this Order when the U.S. Forest Service submits copies of final project specific decision/NEPA documents that contain information documenting compliance with the eligibility criteria in Part III.F.1.

The U.S. Forest Service shall include all specific on-the-ground prescriptions designed to adhere to the BMPs described in *National Best Management Practices for Water Quality Management on National Forest System Lands, Volume 1: National Core BMP Technical Guide*, and all additional management practices and/or water quality protective measures identified by Central Valley Water Board staff (See Part II.4.) within contracts, permits, agreements, and other instruments used to direct the activities of contractors, permittees, U.S. Forest Service personnel, volunteers, and any other third party.

3. Conditions: Dischargers conducting timberland management activities enrolled under Category 5A must comply with the following conditions, as applicable:
 - a) The U.S. Forest Service shall submit **a complete *NOI for Category 5A and Erosion Site Table*** (see Table 1 in Category 5A *NOI*) **within 30 days of startup of operations**, signed by

a duly authorized representative, certifying that the activities meet the criteria and conditions for enrollment in Order Category 5A. The U.S. Forest Service shall provide timely amendments of the *Erosion Site Table* to the Central Valley Water Board throughout Project enrollment when conditions or management objectives have changed.

- b) For Projects that were included in a Burned Area Emergency Response (BAER) evaluation, the U.S. Forest Service may submit the BAER report in-lieu of the *Erosion Site Table*, if the report includes all the required information (including implementation schedule) and the Discharger intends to implement the BAER recommendations that have a nexus with water quality protection. If the BAER report is incomplete, and does not contain all of the information required in the *Erosion Site Table*, the U.S. Forest Service may submit an addendum to the BAER report with missing or incomplete information.
- c) **IF pesticides will be applied following the fire, THEN the Discharger shall EITHER:**
 - i. **Submit a Post-Fire Management and Reforestation Plan (PFP; see Attachment C) to the Central Valley Water Board for approval prior to application of pesticides** within the post-fire management and reforestation plan area. The PFP shall include measures that will provide equal to or better protection than the conditions under Part III.F.3.c.ii below. The Executive Officer's written approval of the PFP is required before implementation of the PFP can satisfy the requirements of this Part III.F.3.c.; **approval or denial of the PFP shall be provided within 30 days of PFP submittal.**

-OR-

- ii. Meet **ALL** the following conditions:
 - 1. The Discharger must **comply with the following pesticide no-spray buffers** (unless more stringent buffers are dictated by application labels/guidance, statute, or regulation):
 - a. Perennial or intermittent watercourses which have: (1) surface domestic water use from and/or within 100 feet downstream of operations area and/or (2) fish always or seasonally present onsite, includes habitat to sustain fish migration and spawning, shall utilize the appropriate **Class I WLPZ width(s)** specified in the California Code of Regulations, title 14, section 936.5.
 - b. Perennial or intermittent watercourses which have: (1) fish always or seasonally present off-site within 1000 feet downstream (excludes intermittent or ephemeral watercourses with no aquatic life that are tributary to watercourses described under (a) above) and/or (2) aquatic habitat for nonfish aquatic species (aquatic insects and/or other physical habitat indicators such as riparian and aquatic vegetation, watercourse debris, and potential for small pool formation), shall utilize the appropriate **Class II WLPZ width(s)** specified in the California Code of Regulations, title 14, section 936.5.
 - c. Ephemeral or intermittent watercourses with no aquatic life present, watercourse shows evidence of being capable of sediment transport to watercourses described under (a) and (b) above, shall utilize a minimum of **25 feet** where sideslope steepness is **less than 30%**, and a minimum of **50 feet** where sideslope steepness is **30% or greater**.

2. Where management activities are planned on a burned area with **slopes greater than 30%, a minimum of 50% average effective groundcover** (see Attachment C for guidance) **is required to be documented prior to pesticide application**. Documentation shall be provided to the Central Valley Water Board in the pesticide notification **30 days prior to application**.
 3. The Discharger shall adhere to the resource protection measures in the Chemical Use Management Activities as designated in the National Best Management Practices for Water Quality Management on National Forest System Lands (USDA April 2012).
 4. The Discharger shall **notify** the Central Valley Water Board **in writing at least 30 days prior to any proposed application of pesticides**; the notification does *not* need to include information on hack and squirt or individual stump applications. The written notification shall include the pesticide product(s) to be applied, the proposed date(s) of application, the method(s) of application, the area(s) of application (Township/Range/Section), a description of measures that will be employed to assure compliance with the applicable Basin Plan, and documentation of 50% or greater effective groundcover (as applicable). Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- d) For approved Projects that require enrollment under the Order, the Discharger shall **notify the Central Valley Water Board each year at least 15 days prior to start of operations**.
 - e) The U.S. Forest Service shall comply with all conditions specified in Attachment B, Monitoring and Reporting Program, Order No. R5-2017-0061. Category 5A will be subject to Implementation, Forensic, and Effectiveness Monitoring; an Annual Summary of Operations; and amendments/updates to the *Erosion Site Table* and PFP (as applicable).
 - f) The U.S. Forest Service shall seek termination of coverage under the Order in accordance with Part V.A., Termination of Coverage.

Category 5B (All timberland management activities except post-fire activities)

4. Eligibility Criteria: To be enrolled under Category 5B, activities must meet the following criteria:
- a) Timberland management activities (see definition of “timberland management activities” as it relates to activities that are commercial in nature) on federal lands where the U.S. Forest Service has conducted a multi-disciplinary review of the timber harvesting proposal and has specified best management practices and additional control measures as needed in order to assure compliance with the applicable Basin Plan. Timberland management activities may include, but are not limited to:
 - i. Timber harvesting sales;
 - ii. Vegetation management and fuels reduction projects;
 - iii. Forest stand improvement and hazard tree removal (excluding hazard tree removal projects that do not pose a threat to water quality (i.e. isolated tree removal in campgrounds, etc.));
 - iv. Pesticide applications associated with Part III.F.4.a.i.,ii.,iii. above.
 - b) The U.S. Forest Service has provided Project description documents to the Central Valley Water Board and allowed time for adequate review and comment. These documents include: 1) the NEPA scoping document; and 2) the NEPA draft environmental analysis, which will include site specific information that identifies SEPES and priority road improvement locations, as well as, proposed treatments and schedule for those sites to improve or protect water quality. Supplemental project documents may also be provided that contain design specifications, management practices, and/or water quality protection measures. Any additional management practices and/or water quality protective measures identified by Central Valley Water Board staff during the scoping period and/or enrollment under this Order will have been discussed with U.S. Forest Service personnel and incorporated into an addendum to the NOI (see Part II.4.), including a timeline and checklist for completion. The project will remain enrolled until all identified management practices and/or water quality protective measures have been completed.
 - c) The U.S. Forest Service has conducted a CWE analysis, where required or appropriate, and included specific measures needed to reduce the potential for CWEs in order to assure compliance with the applicable Basin Plan.
5. Enrollment: To enroll under Category 5B, the U.S. Forest Service shall comply with the following:
- a) Submit to the Central Valley Water Board copies of final decision documents that contain information documenting compliance with the eligibility criteria above. A copy of applicable final NEPA documents shall be submitted upon written request by Central Valley Water Board staff.
 - b) Submit a *NOI for Category 5B at least 15 days prior to operations commencing*, signed by a duly authorized representative, certifying that the activities meet the criteria and conditions for Order Category 5B. Activities may commence once the Central Valley Water Board has issued a NOA to the Discharger indicating that the NOI is complete.
 - c) Submit all specific on-the-ground prescriptions designed to adhere to the U.S. Forest Service BMPs as described in *National Best Management Practices for Water Quality Management on National Forest System Lands, Volume 1: National Core BMP Technical Guide*, and all additional management practices and/or water quality protective measures

identified by Central Valley Water Board staff (See Part II.4.) within contracts, permits, agreements, and other instruments used to direct the activities of contractors, permittees, U.S. Forest Service personnel, volunteers, and any other third party.

6. Conditions: Dischargers conducting timberland management activities enrolled under Category 5B shall comply with the following conditions, as applicable:
- a) For approved Projects that require enrollment under the Order, the Discharger shall **notify the Central Valley Water Board each year at least 15 days prior to start of operations.**
 - b) The Discharger shall **notify the Central Valley Water Board, in writing, at least 15 days prior to any proposed application of pesticides**; the notification does *not* need to include information on hack and squirt or individual stump applications. The written notification shall include the pesticide product(s) to be applied, the proposed date(s) of application, the method(s) of application, project name, area(s) of application (include map), and a description of measures that will be employed to assure compliance with the applicable Basin Plan. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
 - c) The U.S. Forest Service shall comply with all conditions specified in Attachment B, Monitoring and Reporting Program, Order No. R5-2017-0061.

Category 5B will be subject to one National Core BMP monitoring protocol as dictated by Project activities. In addition, one additional National Core BMP monitoring protocol will be required when the Discharger's cumulative watershed effects analysis indicates that the project, combined with other U.S. Forest Service projects conducted in the watershed over the past 10 years, may cause any watershed or sub-watershed to exceed a threshold of concern as determined by various models (i.e., Equivalent Roaded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.). Dischargers have the option to conduct the standard Implementation, Forensic, and Effectiveness monitoring at the Project level in lieu of the National Core BMP monitoring protocols.
 - d) The U.S. Forest Service shall seek termination of coverage under the Order in accordance with Part V.A., Termination of Coverage.

IV. Notice of Intent

To apply for coverage under this Order, the Discharger must submit a timely and complete category-specific Notice of Intent for approval by the Executive Officer as follows:

<i>Category</i>	<i>Non-federal</i>	<i>Federal</i>	<i>Required Forms</i>
No threat	X	X	<i>Notice of Non-Applicability (NONA)</i>
1	X		None ¹
2A	X		<i>NOI for Category 2A and Erosion Site Table²</i>
2B, 3A, or 3B	X		<i>NOI for Categories 2B, 3A, and 3B</i>
4	X		<i>NOI for Category 4</i>
5A		X	<i>NOI for Category 5A and Erosion Site Table³</i>
5B		X	<i>NOI for Category 5B</i>

¹Automatically enrolled; submission of a NOI is not required.

²Automatically enrolled contingent on submittal of a complete NOI and Erosion Site Table within 30 days of CALFIRE acceptance of EM Notice.

³Automatically enrolled contingent on submittal of a complete NOI and Erosion Site Table within 30 days of startup of operations.

Timberland management activities may commence for Categories 2B, 3A, 3B, 4, and 5B once Central Valley Water Board staff has reviewed the NOI for completeness/accuracy and has issued a Notice of Applicability (NOA). Categories 2A and 5A are automatically enrolled but require timely submittal of a complete *NOI* and *Erosion Site Table* as a condition of this Order.

V. Termination of Coverage

A. Initiated by Discharger

The following criteria must be satisfied before termination of Order coverage will be considered by the Executive Officer:

- Timberland management activities are completed;
- All Category specific eligibility criteria/conditions were met;
- All elements of required monitoring and reporting have been completed;
- Soil disturbed by timberland management activities has stabilized;
- Pesticide applications have ceased and are not proposed in the foreseeable future;
- All feasible management measures and mitigations identified in the required Erosion Site Table (Category 2A/5A) and/or Post-Fire Management Plan (as applicable) have been completed and discharges have ceased.

In signing the Notice of Termination (NOT), the Discharger or U.S. Forest Service representative shall certify that: (1) the enrolled Project was conducted in conformance with the approved Plan, accepted CAL FIRE Notice, approved MATO/LSAA, or U.S. Forest Service Project requirements, as well as all applicable eligibility criteria/conditions and other applicable Provisions of this Order; and (2) discharges resulting from timberland management activities (including those associated

with pesticide applications) were in compliance and will continue to comply with all requirements of the applicable Basin Plan.

The NOT shall be reviewed for compliance with the above criteria. A field inspection may be conducted to verify compliance with all applicable requirements under this Order. The Central Valley Water Board shall notify the Discharger **within 90 days** following receipt of a NOT of approval or denial.

Non-federal Projects - The Discharger may terminate coverage under this Order by submitting to the Central Valley Water Board a signed Notice of Termination (NOT) and a CAL FIRE-approved final completion RM-71 form (if available and applicable).

Federal Projects - The Discharger may terminate coverage under this Order by submitting to the Central Valley Water Board a NOT signed by the Forest Supervisor or District Ranger.

B. Initiated by Executive Officer

The Executive Officer may terminate the applicability of this Order for a Project if any of the following determinations are made:

1. The proposed timberland management activities do not comply with the eligibility criteria for this Order.
2. The timberland management activities are not in compliance with the applicable conditions of this Order.
3. The proposed timberland management activities are reasonably likely to cause or contribute to a violation of an applicable Basin Plan or policy. In making this determination, the Executive Officer will consider the recommendations of Central Valley Water Board staff that participated in the review of the proposed timberland management activities, if any.
4. A timberland management activity has varied in whole or in any part from the approved Project, unless these changes result in better protection of water quality.

Upon receipt of notice of termination of applicability of the Order initiated by the Executive Officer, the Discharger shall immediately cease all timberland management activities that may result in discharges to waters of the state, other than activities necessary to control erosion. Before a Discharger may recommence timberland management activities that may result in discharges of waste to waters of the state, the Discharger must follow the applicable procedure either for enrolling under this Order or for obtaining individual waste discharge requirements pursuant to Water Code section 13260. Pursuant to Water Code section 13264, such activities may not recommence unless and until the Discharger receives a NOA under this Order or individual waste discharge requirements are adopted by the Central Valley Water Board.

VI. Petitions

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or State holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 9 June 2017.

Original signed by

PAMELA C. CREEDON, Executive Officer

ATTACHMENT A
DEFINITIONS
FOR
ORDER NO. R5-2017-0061

1. "Timberland management activities" means commercial activities relating to forest management and timberland conversions, including, but not limited to: cutting or removal of timber and other solid wood forest products; construction, reconstruction and maintenance of roads, fuel breaks, firebreaks, watercourse crossings, landings, skid trails, or beds for the falling of trees; fire hazard abatement and fuel reduction activities; pesticide applications; site preparation that involves disturbance of soil or burning of vegetation following timberland management activities; but excluding preparatory treemarking, surveying or roadflagging. This definition excludes the cutting and removal of timber and other solid wood forest products for Christmas trees, structure protection (150 and 300 feet), and woody debris and slash removal associated with CCR, title 14, section 1038 exemptions.
2. "Discharger" means the timberland owner or timber owner and anyone working on behalf of the timberland/timber owner in the conduct of timberland management activities for non-federal lands, and the U.S. Forest Service, private timber operators operating on federal lands, and anyone working on behalf of the U.S. Forest Service or a timber operator in the conduct of timberland management activities on federal lands.
3. "Effective Groundcover" any combination of slash (lopped and in close contact with the ground), mulch (large wood chips, wood shreds, wood strand blends, straw, bark, or surface rock fragments larger than $\frac{3}{4}$ inch), plants, and plant litter. Large wood chips should be a minimum of 2 inches in length and at least four (4) times longer than they are wide.
4. "Monitoring" refers to all types of monitoring undertaken in connection with determining water quality conditions and factors that may affect water quality conditions, including but not limited to, implementation, effectiveness, forensic, and Order compliance monitoring undertaken in connection with timberland management activities.
5. "Plan" means any Timber Harvesting Plan (THP), Program Timber Harvesting Plan (PTHP), Nonindustrial Timber Management Plan (NTMP), Working Forest Management Plan (WFMP), Modified Timber Harvesting Plan, Notice of Timber Operations, Working Forest Harvest Notice, or other discretionary permit issued by CAL FIRE to harvest timber, including all substantial deviations thereto that propose a change in timberland management activities that may increase the discharge or otherwise pose the potential for increased impacts to water quality. (For example, substantial deviations that propose to add, expand, or extend winter operations shall be considered a "Plan" for purposes of this Order. Minor deviations that do not propose any material change in how or where timberland management activities will be conducted, such as a change in timber operator, a time extension from CAL FIRE, etc., shall not be considered a "Plan" for purposes of this Order.)
6. "Pesticide" means (1) any substance, or mixture of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, which may infest or be detrimental to vegetation, man, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever, or (2) any spray adjuvant, or (3) any breakdown products of these material that threaten beneficial uses. This definition excludes aquatic pesticide discharges covered under Order No. 2013-0002-DWQ.
7. "Project" means any CAL FIRE Plan (as defined in #5 above), CAL FIRE Emergency/Exemption Notice, or existing watercourse crossing reconstruction not covered under a Plan or Emergency Notice but conducted pursuant to a CDFW-executed MATO or LSAA on timber production zoned

non-federal lands, and any timberland management activities (i.e. timber sales, fire salvage, fuel hazard reduction, forest stand improvement and hazard tree removal) on federal lands.

8. “Significant Existing or Potential Erosion Site (SEPES)” means a location where soil erosion is currently, or there are visible physical conditions to indicate soil erosion may be in the future, discharged to watercourses or lakes in quantities that violate a water quality objective (narrative or numeric), prohibition, Total Maximum Daily Load implementation plan, policy, or other requirement contained in a water quality control plan adopted by the Regional Board and approved by the State Water Board, or a location where soil erosion may result in significant individual or cumulative adverse impacts to the beneficial uses of water.
9. “Watercourse protection zone” means any Watercourse and Lake Protection Zone, Equipment Limitation Zone, and Equipment Exclusion Zone for the protection of waters of the state as defined in California Code of Regulations, title 14, section 895.1 of the California Forest Practice Rules; it also means any Riparian Reserve or Riparian Conservation Area for federal Projects.
10. All other terms shall have the same definitions as defined in California Code of Regulations, title 14, section 895.1 of the California Forest Practice Rules and the Porter-Cologne Water Quality Control Act, unless specified otherwise. A few definitions from the 2017 FPR that are used throughout the Order are cited below for ease of reference:

“Equipment Exclusion Zone” (EEZ) means the area, as explained in the THP, where heavy equipment associated with timber operations is totally excluded for the protection of water quality, the beneficial uses of water, and/or other forest resources.

“Equipment Limitation Zone” (ELZ) means the area, as explained in the THP, where heavy equipment associated with timber operations is limited for the protection of water quality, the beneficial uses of water, and/or other forest resources.

“Erosion Hazard Rating” (EHR) means the rating derived from the procedure specified in 14 CCR § 912.5 [932.5, 952.5] designed to evaluate the susceptibility of the soil within a given location to erosion.

“Hydrologic Disconnection” means the removal of direct routes of drainage or overland flow of road runoff to a watercourse or lake.

“Saturated Soil Conditions” means that soil and/or surface material pore spaces are filled with water to such an extent that runoff is likely to occur. Indicators of saturated soil conditions may include, but are not limited to: (1) areas of ponded water, (2) pumping of fines from the soil or road surfacing material during timber operations, (3) loss of bearing strength resulting in the deflection of soil or road surfaces under a load, such as the creation of wheel ruts, (4) spinning or churning of wheels or tracks that produces a wet slurry, or (5) inadequate traction without blading wet soil or surfacing materials.

“Significant Sediment Discharge” means soil erosion that is currently, or, as determined based upon visible physical conditions, may be in the future, discharged to watercourses or lakes in quantities that violate Water Quality Requirements or result in significant individual or cumulative adverse impacts to the beneficial uses of water. One indicator of a Significant Sediment Discharge is a visible increase in turbidity to receiving Class I, II, III, or IV waters.

“Water Quality Requirements” means a water quality objective (narrative or numeric), prohibition, TMDL implementation plan, policy, or other requirement contained in a water quality control plan adopted by the Regional Board and approved by the State Water Board.

Attachment A – Definitions
Order No. R5-2017-0061
Waste Discharge Requirements General Order for
Discharges Related to Timberland Management Activities on Non-federal and Federal Lands

“Watercourse and Lake Protection Zone” (WLPZ) means a strip of land, along both sides of a watercourse or around the circumference of a lake or spring, where additional practices may be required for protection of the quality and beneficial uses of water, fish and riparian wildlife habitat, other forest resources and for controlling erosion.

**ATTACHMENT B
MONITORING AND REPORTING PROGRAM
FOR
ORDER NO. R5-2017-0061**

This Monitoring and Reporting Program (MRP) is issued pursuant to Water Code section 13267 and includes requirements for Projects enrolled under the Waste Discharge Requirements General Order for Discharges Related to Timberland Management Activities on Non-federal and Federal Lands, Order No. R5-2017-0061 (hereinafter referred to as the "Order"). The MRP is required to assure compliance with Order criteria and conditions, to verify the adequacy and effectiveness of the Order, to assist Dischargers with implementation and maintenance of water quality protection measures, and to identify and correct waste discharges that violate or threaten to violate water quality control plan (Basin Plan) requirements.

Dischargers with Projects enrolled under this Order are subject to monitoring requirements; however, the comprehensiveness of the monitoring required depends upon the scope of the timberland management activities and the category of enrollment. The inspection plan, monitoring requirements by category, monitoring types (agency, implementation, forensic, and effectiveness), incident reporting, reporting requirements, and potential additional monitoring requirements are described within this MRP.

I. INSPECTION PLAN

Dischargers shall prepare and implement an Inspection Plan for Projects that exceed 100 acres for all Categories (*except* Category 1 and Category 5B (unless the U.S. Forest Service conducts implementation, forensic, and effectiveness monitoring in the Project area in lieu of National Core BMP Protocol monitoring)). The Inspection Plan shall be designed to ensure that management measures are installed and functioning prior to a precipitation event that generates overland flow, that the measures were effective in controlling significant sediment discharges (see definition in Attachment A) throughout the winter period, and that no new significant sediment discharge sources developed. The Inspection Plan shall include a site map that includes monitoring points and inspection locations to be visited before, during, and after the winter period once operations have begun. Monitoring points are further described as follows:

- *Visual Monitoring Points* - Visual monitoring points shall be delineated on the monitoring points site map and shall address all bulleted inspection items applicable to the enrolled category detailed in the implementation, forensic, and effectiveness monitoring sections that follow (e.g. watercourse crossings, roads, landings, skid trails, water diversions, unstable areas, accessible watercourse confluences).
- *Photo-point Monitoring* – Photo-point monitoring locations shall be delineated on the site map and shall be identified (monumented) in the field by use of rebar, flagging or other method that will last throughout the period of enrollment for the Project. Photo-point locations shall be determined during Project inspections when Central Valley Water Board staff is present and/or as determined by the Discharger to illustrate compliance. If significant sediment discharges are detected during enrollment or monitoring, these locations shall be added to the Inspection Plan and be photo-point monitored for the remainder of the Project's enrollment.

Inspection Plans shall be maintained and updated as needed by the Discharger and/or agents thereof and shall be submitted to the Central Valley Water Board upon request.

II. MONITORING REQUIREMENTS BY CATEGORY

Projects enrolled under this Order are subject to monitoring requirements based on category of enrollment and threat to water quality. Monitoring requirements for each category are detailed below.

NON-FEDERAL PROJECTS (Categories 1 - 4)

Table 1. Monitoring and Reporting Requirements for Non-Federal Projects

Order Category	1	2B/3B	2A	3A	4
Inspection Plan		Prepare for Projects >100 acres - submit copy when requested			
Agency Monitoring	Yes, submit when a violation of the FPR is identified that relates to water quality protection measures				
Implementation Monitoring		Conduct by November 15 ¹			
Forensic Monitoring			Conduct <u>Twice</u> Between November 16 and April 1 ^{1,2}	Conduct <u>Once</u> Between November 16 and April 1 ¹	
Effectiveness Monitoring		Conduct Once Between April 2 and June 15 ¹			
Summary of Operations / Annual Report		Submit by July 15			
<i>Erosion Site Table</i> and PFP ³ Update(s)			As Needed ⁴		
<p>¹Photo-point monitoring required as determined by Central Valley Water Board staff on Project inspections and/or as self-determined by the Discharger to illustrate compliance AND for significant sediment discharges (Incident Report required, see Part IV.). Monitoring to be included in annual report due July 15 annually.</p> <p>²Once between Nov. 16 and Jan. 15 <u>AND</u> once between Jan. 16 and April 1 (see Part III.C.).</p> <p>³Post-Fire Management and Reforestation Plan (PFP), if applicable (see Attachment C).</p> <p>⁴Timely amendments to be made throughout Project enrollment when conditions or management objectives have changed.</p> <p>**The monitoring requirements above that are in addition to those required by the FPRs, do not supersede or nullify the monitoring requirements required by the FPR**</p>					

FEDERAL PROJECTS (Categories 5A and 5B)

Table 2. Monitoring and Reporting Requirements for Federal Projects

Order Category	5A (Post-Fire)	5B
Inspection Plan	Prepare for Projects >100 acres - submit copy when requested ¹	
Implementation Monitoring	Conduct by November 15 ²	Complete one of the following National Core BMP monitoring protocols in the Project area based on the highest threat to water quality from Project activities ^{2,4,5} <ul style="list-style-type: none"> • Road B. Completed Road or Waterbody Crossing Construction or Reconstruction; • Road C. Road Operation and Maintenance; • Veg. A. Ground-based Skidding and Harvesting; • Veg. B. Cable or Aerial Yarding; • Veg. C. Mechanical Site Treatments; or • WatUses C. Completed Reconstruction/Repair or Operation and Maintenance of Water Sources (Drafting)
Forensic Monitoring	Conduct <i>Twice</i> Between November 16 and April 1 ^{2,3}	
Effectiveness Monitoring	Conduct Once Between April 2 and June 15 ²	
Summary of Operations / Annual Report	Submit by August 15	
<i>Erosion Site Table</i> and PFP ⁶ Update(s)	As Needed ⁷	

¹For Category 5B, prepare only if electing to do traditional implementation, forensic, and effectiveness monitoring in the Project area in lieu of National Core BMP protocols (see footnote 5 below).
²Photo-point monitoring required as determined by Central Valley Water Board staff on Project inspections and/or as self-determined by the Discharger to illustrate compliance AND for significant sediment discharges (Incident Report required, see Part IV.). Monitoring to be included in Annual Report that is submitted August 15 annually.
³Once between Nov. 16 and Jan. 15 AND once between Jan. 16 and April 1 (see Part III.C.)
⁴One *additional* National Core BMP monitoring protocol is required when USFS cumulative watershed effects analysis indicates that the Project, combined with other USFS activities conducted in the watershed over the past 10 years, may cause any watershed or sub-watershed to exceed a threshold of concern as determined by various models (i.e. Equivalent Roaded Acres, Surface Erosion, Mass Wasting). The *National Best Management Practices for Water Quality Management on National Forest System Lands, Volume 1: National Core BMP Technical Guide* is located at: http://www.fs.fed.us/biology/resources/pubs/watershed/FS_National_Core_BMPs_April2012.pdf
⁵The Discharger may opt to conduct implementation, forensic, and effectiveness monitoring as detailed for Category 3A in lieu of conducting the National Core BMP monitoring protocols; the monitoring must occur in the Project area.
⁶Post-Fire Management and Reforestation Plan (PFP), if applicable (see Attachment C).
⁷Timely amendments to be made throughout Project enrollment when conditions or management objectives have changed.

III. MONITORING TYPES

A. AGENCY MONITORING

Non-federal Projects - Agency monitoring is monitoring (direct field observations) conducted by CAL FIRE to evaluate compliance with the Forest Practice Rules (FPR). The Discharger does not conduct agency monitoring, but should retain copies of all inspection reports from agency monitoring throughout the life of the Project as the reports may be requested by the Central Valley Water Board. The Discharger shall submit a copy of agency monitoring to the Central Valley Water Board when a violation of the FPR is identified that relates to water quality protection measures and the Discharger shall provide notification of such violation within 48 hours of discovery (see Part IV.).

B. IMPLEMENTATION MONITORING

Description	Implementation monitoring consists of detailed visual monitoring within the Project area of hillslope features (i.e. roads, landings, skid trails, watercourse crossings, watercourse protection zones, unstable areas) prior to a precipitation event that generates overland flow; with emphasis placed on determining if management measures (such as erosion control measures, drainage structures, watercourse protection zones) were implemented in accordance with the Project language, FPR, BMP guidance, Central Valley Water Board recommendations, and Order criteria and conditions. For Category 5B, selected National Core BMP monitoring protocols (see Part II, Table 2) will satisfy the Implementation, Forensic, and Effectiveness portions of the monitoring requirements of the Order if the monitoring was conducted <i>within</i> the Project area.		
Inspection Timeframe	Prior to a precipitation event that generates overland flow, but no later than November 15		
Inspection Schedule	Status of Timberland Management Activities		
	Not Active ¹	Active - No Winter Ops	Active - Winter Ops
Monitoring Required?	No	Yes	Yes
Monitoring Details	N/A	A pre-winter implementation inspection shall be completed prior to a storm that generates overland flow, but no later than November 15 of each year to assure that management measures are in place and secure prior to the winter period.	<i>1st Inspection</i> - A pre-winter implementation inspection shall be completed prior to a storm that generates overland flow, but no later than November 15 of each year to assure that management measures, for areas not subject to winter operations, are in place and secure prior to the winter period. <i>2nd Inspection</i> - An Implementation inspection shall be completed immediately following cessation of winter period operations , in areas where winter operations occurred, to assure management measures are in place and secure.

¹Timberland management activities have not commenced on any portion of the Project.

Implementation Inspection – The inspection(s) shall be conducted by the Discharger and is intended to assure that management measures are properly installed; at a minimum, the inspection(s) should focus on the following Project areas:

- Culverts are clear of debris;
- Critical dips are installed and/or diversion potential is addressed at watercourse crossings;
- Fill slopes are adequately armored/stabilized;
- Road runoff is disconnected from watercourse crossings;
- Sufficient drainage facilities installed on roads and skid trails;
- Appropriate watercourse protection zones implemented;
 - Disturbed areas in the watercourse protection zones stabilized;
- Significant existing or potential erosion sites (SEPES) identified in the Project and/or as indicated in an *Erosion Site Table* for Category 2A or 5A;
- Non-standard (in-lieu) practice areas;
 - Landings/skid trails/roads in watercourse protection zones drained/disconnected and/or stabilized;
- Road rocking near watercourses and crossings done to specifications in enrolled Project;
- Temporary and tractor watercourse crossings disconnected and fills excavated to natural grade and orientation;
- Drafting pads and approaches drained and stabilized;
 - Artificial impoundment barriers removed/diversions turned off (if no winter operations);
- Timberland management activities that have the potential to affect unstable areas upslope of watercourses;
- Photo-point monitoring locations (as determined by Central Valley Water Board staff during Project inspections and/or as self-determined by the Discharger to illustrate compliance).

Note: Additional implementation inspections do not need to be conducted for *completed* Project areas where a *full round* of monitoring inspections (implementation, forensic, and effectiveness) have been completed without the occurrence of reportable incidents OR the implementation of new management measures. Project areas that are *newly* active must have an implementation inspection conducted.

C. FORENSIC MONITORING

Description	<p>Forensic monitoring consists of visual field detection techniques during the winter period within the Project area to determine the condition of installed management measures and to identify threatened or actual significant sediment discharges caused by: failed management measures, failure to implement appropriate management measures, legacy timber activities, non-timber harvesting related land disturbances, and natural sediment sources. The goal of winter forensic monitoring is to locate potential or actual sources of sediment in a timely manner so that rapid corrective action may be taken where feasible and appropriate. If forensic monitoring detects a significant sediment discharge, the Discharger is required to submit photo-point monitoring and an Incident Report (see Part IV.) to the Central Valley Water Board.</p> <p>For Category 5B, selected National Core BMP monitoring protocols (see Part II, Table 2) will satisfy the Implementation, Forensic, and Effectiveness portion of the monitoring requirements of the Order when the monitoring was conducted <i>within</i> the Project area.</p>		
Inspection Timeframe	<p>Category 2A and 5A- Once between November 16 and January 15, <u>AND</u> Once between January 16 and April 1</p> <p>Category 3A and 4 - Once between November 16 and April 1</p>		
Inspection Schedule	Status of Timberland Management Activities		
Monitoring Required?	No	Yes	Yes
Inspection Details and Guidance	<p>The forensic monitoring inspection(s) shall occur after saturated soil conditions have been reached and within 48 hours* after a storm that produces overland flow.</p> <p>The following bulleted examples may be used as guidance to determine when appropriate conditions (saturated soils and overland flow) may exist for conducting forensic inspections, but are <i>not</i> a requirement for inspection(s) as climatic conditions vary widely over the Central Valley Region.</p> <ul style="list-style-type: none"> • Within 48 hours* following a 24-hour storm event of at least 2 inches (of rainfall) and after 5 inches (of total precipitation) has accumulated after November 15. • Within 48 hours* following a 24-hour storm event of at least 2 inches (of rainfall) and after 15 inches (of total precipitation) has accumulated after November 15. <p>*Inspections that cannot be conducted during or within 48 hours of such a storm event (due to worker safety, access issues or other uncontrollable factors) shall be conducted as soon as possible thereafter.</p>		
Photo-Point Monitoring	<p>Forensic photo-point monitoring is required as follows:</p> <ul style="list-style-type: none"> • As determined by Central Valley Water Board staff during Project inspections and/or as self-determined by the Discharger to illustrate compliance; and • When a significant sediment discharge (threatened or actual) is identified resulting from failed management measures, failure to implement management measures, legacy timber activities, non-timber harvesting related land disturbances, and natural sediment sources. 		

¹Timberland management activities have not commenced on any portion of the Project.

Forensic Inspections - Inspections shall be conducted by the Discharger to identify threatened or actual significant sediment discharges such as failed management measures or natural sources (e.g. landslide). The inspection should focus on identifying evidence of erosion (e.g. rilling or gullyng of road surfaces and road fills; watercourse crossings with evidence of downcutting, plugging, or overtopping; and increased levels of sediment/turbidity in watercourses). The inspections should focus on the following Project areas, including but not limited to:

- Constructed and reconstructed watercourse crossings;
- Existing undersized watercourse crossings;
- Watercourse protection zones where ground based equipment operations have occurred (e.g. tractor crossings, landing construction/reconstruction, watercourse crossing/road abandonment);
- Project areas of non-standard (in-lieu) practices that have the potential to impact water quality;
- Road segments that were unable to be hydrologically disconnected;
- SEPES identified in the Project and/or as indicated in an *Erosion Site Table* for Category 2A or 5A;
- Road construction or reconstruction within 500 feet of a watercourse;
- Areas rated as high or extreme erosion hazard that have the potential to impact water quality where ground-based equipment operated;
- Areas where ground-based equipment operated on slopes greater than 65% or slopes over 50% rated as high or extreme erosion hazard that have the potential to impact water quality;
- Timberland management activities that have the potential to affect unstable areas near watercourses;
- Photo-point monitoring locations.

D. EFFECTIVENESS MONITORING

Description	<p>Effectiveness monitoring is a visual evaluation following the winter period of management measures (e.g. erosion control structures) and infrastructure (e.g. roads and watercourse crossings) within the Project area. Effectiveness monitoring is intended to determine the effectiveness of implemented management measures in preventing significant sediment discharges to watercourses and in protecting water quality, and to identify any new sediment sources. If effectiveness monitoring detects a significant sediment discharge resulting from failed management measures or failure to implement management measures, the Discharger is required to submit photo-point monitoring and an Incident Report (see Part IV.) to the Central Valley Water Board.</p> <p>For Category 5B, selected National Core BMP monitoring protocols (see Part II., Table 2) will satisfy the Implementation, Forensic, and Effectiveness portions of the monitoring requirements of the Order when the monitoring was conducted <i>within</i> the Project area.</p>		
Inspection Timeframe	Between April 2 and June 15.		
Inspection Schedule	Status of Timberland Management Activities		
	Not Active ¹	Active – No Winter Ops	Active - Winter Ops
Monitoring Required?	No	Yes	Yes
Inspection/ Monitoring Details	<p>The inspection shall be conducted by the Discharger to identify threatened or actual significant sediment discharges from failed management measures and/or failure to implement appropriate management measures. <i>The inspection should evaluate the same Project areas bulleted under the Forensic Inspections Section on the previous page.</i></p>		
Photo-Point Monitoring	<p>Effectiveness photo-point monitoring is required as follows:</p> <ul style="list-style-type: none"> • As determined by Central Valley Water Board staff during Project inspections and/or as self-determined by the Discharger to illustrate compliance; and • When a significant sediment discharge (threatened or actual) is detected from failed management measures or failure to implement management measures. 		

¹Timberland management activities have not commenced on any portion of the Project.

Effectiveness Inspection – Evaluate the same Project areas bulleted under the *Forensic Inspections* Section on page 7 (see Part III.C.).

IV. INCIDENT REPORT

The Discharger shall notify Central Valley Water Board staff as soon as possible, but **no later than 48 hours after detection** of any of the following, including, but not limited to:

- Violation(s), threatened or actual, of any applicable water quality objective (i.e. for turbidity, sediment, temperature, dissolved oxygen, pesticides, etc.) caused by:
 - Failed management measures (e.g. watercourse crossing fill failure; watercourse diversion; major road, landing, or skid trail failure within or adjacent to a watercourse protection zone);
 - Failure to implement appropriate management measures;
 - Natural sediment sources (landslide/unstable areas);
 - Legacy timber activities (as assessed during Forensic Monitoring);
 - Non-timber harvesting related land disturbances (as assessed during Forensic Monitoring);
- Violation(s) of eligibility criteria or conditions specified in the Order.

Typically, Incident Reporting is a result of forensic or effectiveness monitoring, but can occur at any time during enrollment. After timely notification of an incident, the Discharger should discuss any implemented and planned corrective measures with Central Valley Water Board staff. Central Valley Water Board staff may require additional monitoring (inspections, photo-point, water column sampling, physical stream conditions, etc.) until corrective actions are completed and/or significant sediment discharges/threatened discharges have ceased.

Incident Report - A written report regarding aforementioned incidents(s) shall be submitted to the Central Valley Water Board by the Discharger **within 14 days** following detection and shall include all required information specified in this MRP, including the following:

- The date incident(s) was/were discovered;
- The name and title of person(s) discovering incident(s);
- The name and title of person(s) responsible for follow-up on the incident(s);
- A map indicating location of incident(s);
- Description of recent weather conditions prior to discovering the incident(s);
- Description of the nature and extent of incident(s) (including estimate(s) of sediment/fill volume discharged, if applicable);
- Color photos of site characterizing incident(s) (including impacted watercourse(s));
- Description of corrective management measures implemented to date;
- An implementation schedule for additional corrective actions;
- The signature and title of person preparing the report.

The Executive Officer may modify or rescind this MRP at any time or may issue site-specific and individually developed monitoring and reporting requirements to any Discharger for Projects that could affect the beneficial uses of waters of the state.

V. REPORTING REQUIREMENTS

A. Agency Reporting (Non-Federal Projects)

Dischargers are required to submit a copy of agency monitoring to the Central Valley Water Board when a violation of the FPR is identified that relates to water quality protection measures; the Discharger shall notify the Central Valley Water Board within 48 hours of discovery of such a violation.

B. Annual Reporting (Non-Federal and Federal Projects)

The Discharger shall submit an Annual Monitoring Report to the Executive Officer **by July 15** for Non-Federal Projects and **by August 15** for Federal Projects, for inspections conducted before, during, and after the previous winter period for every year a Project is enrolled in the Order after timberland management activities have commenced; activities that commence after the winter period (April 1) shall have monitoring inspections included in the next calendar year annual report.

The Annual Monitoring Report shall include the following (as applicable) as described under Table 1 and Table 2 of this MRP:

Summary of Operations

- The name/number of the Project;
- A table, map, narrative, or combination thereof that includes the following:
 - Watercourse crossings and road segments that have been constructed, reconstructed, and abandoned/deactivated during the past year;
 - SEPES that have been addressed during the past year as identified in the Project and/or *Erosion Site Table*;
 - Units/areas harvested during the past year.

Implementation, Forensic, and Effectiveness Monitoring Inspection Reporting

- Name/number of the Project;
- Name/title of person submitting the report;
- Date of inspection;
- Inspector's name/title;
- Storm event date, precipitation amount, and rainfall station used (forensic only);
- Rainfall accumulation since November 15 (forensic only);
- Color photographs from photo-point monitoring with date/time/location clearly delineated (if applicable);
- Incident Report(s) Update – Include any pertinent updates and/or additional monitoring required by the Central Valley Water Board (if applicable).

- U.S. Forest Service Category 5B (Federal) - Submittal of selected National Core BMP monitoring protocols (see Part II., Table 2) will satisfy the Implementation, Forensic, and Effectiveness portions of the monitoring requirements of the Order when the monitoring was conducted *within* the Project area.

Non-Expiring Plans (NTMPs and WFMPs) (Non-Federal Projects)

- Dischargers that elect to remain continuously enrolled (i.e. not terminate coverage after each entry) under the Order for the duration of the Plan must (1) complete at minimum one full round of monitoring (implementation, forensic, and effectiveness) for each NTO/Harvest Notice area, and (2) be able to certify in a statement (see Part V.C. below) in the annual report that discharges

associated with timberland management activities have ceased for each NTO/Notice area prior to cessation of monitoring for that area.

C. Submission of Reports/Data

The Central Valley Water Board is transitioning to a paperless office; therefore, reports should be submitted in searchable Portable Document Format (PDF), Word, and/or Excel when feasible. Documents that are less than 50 MB should be emailed to the appropriate office:

Rancho Cordova Office: centralvalleysacramento@waterboards.ca.gov;

Redding Office: centralvalleyredding@waterboards.ca.gov;

Fresno Office: centralvalleyfresno@waterboards.ca.gov;

In the subject line of the email, include the program (Forest Activities Program), subject (e.g. annual report, incident report), county, and the name of the staff person that will receive the document (if known). Documents that are 50 MB or larger should be transferred to a disc or flash drive and mailed to the appropriate office. Staff may request that some documents be submitted in hard copy, particularly drawings or maps that require a large size to be readable, or in other electronic formats where evaluation of the data is required.

Monitoring forms (cover letter with certification statement, implementation, forensic, and effectiveness) are provided on the Central Valley Water Board Forest Activities Program website (http://www.waterboards.ca.gov/centralvalley/water_issues/timber_harvest/index.shtml) for Discharger use. If the Discharger elects to create their own monitoring form, it must include all the applicable information detailed under Part V. B. and Tables 1 and 2 of this MRP and include the following certification statement and the signature of the Discharger:

I am aware that monitoring and technical reports submitted pursuant to Water Code section 13267 are submitted under penalty of perjury, and I certify that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete.

In addition, for *non-expiring* Plans that will remain *continuously* enrolled and for which the Discharger intends to cease monitoring in a NTO/Notice Area, the Discharger must include the following statement in the annual report:

I certify that all discharges associated with timberland management activities for this NTO/Notice area are and will continue to be in conformance with all applicable Basin Plan requirements and hereby notify the board that no further monitoring is planned for the subject NTO/Notice area.

The Discharger shall submit all required monitoring reports to the respective Central Valley Water Board office in accordance with the reporting requirements specified in this Order.

The Discharger shall also report monitoring data and results, in a timely manner, for all water quality related monitoring conducted independent of the requirements of this Order.

VI. POTENTIAL ADDITIONAL MONITORING REQUIREMENTS

Pursuant to California Water Code section 13267, the Executive Officer has the authority to issue site-specific and individually developed monitoring and reporting requirements to any Discharger whose activities could affect the beneficial uses of waters of the state.

Additional monitoring requirements may include, but are not limited to:

- Water column sampling (typically for sediment);
- Physical stream condition assessment for:
 - Gravel Embeddedness – Degree gravel is embedded with sand or finer sediments;
 - Pool Sedimentation – Degree of sediment depositions in pools;
 - Stream Channel Aggradation – Degree that stream channel has been raised by sedimentation;
 - Streambank Cutting, Mass Wasting and Stream Downcutting;
 - Stream-Side Vegetation;
- Streamflow data (current, historical, peak flows);
- Bioassessment.

ATTACHMENT C

POST-FIRE MANAGEMENT AND REFORESTATION PLAN
GUIDANCE AND TECHNICAL STANDARDS
FOR
CATEGORIES 2A AND 5A

ORDER NO. R5-2017-0061

Waste Discharge Requirements General Order R5-2017-0061 (hereinafter referred to as Order) requires Dischargers who intend to apply pesticides associated with timberland management and reforestation activities related to fire salvage to develop comply with management measures as described in Part III.C.3.b.ii (Category 2A) and Part III. F.3.c.ii (Category 5A) of the Order OR to prepare a Post-Fire Management and Reforestation Plan (PFP) to help mitigate erosion, sediment delivery, and discharges of waste that could affect waters of the state.

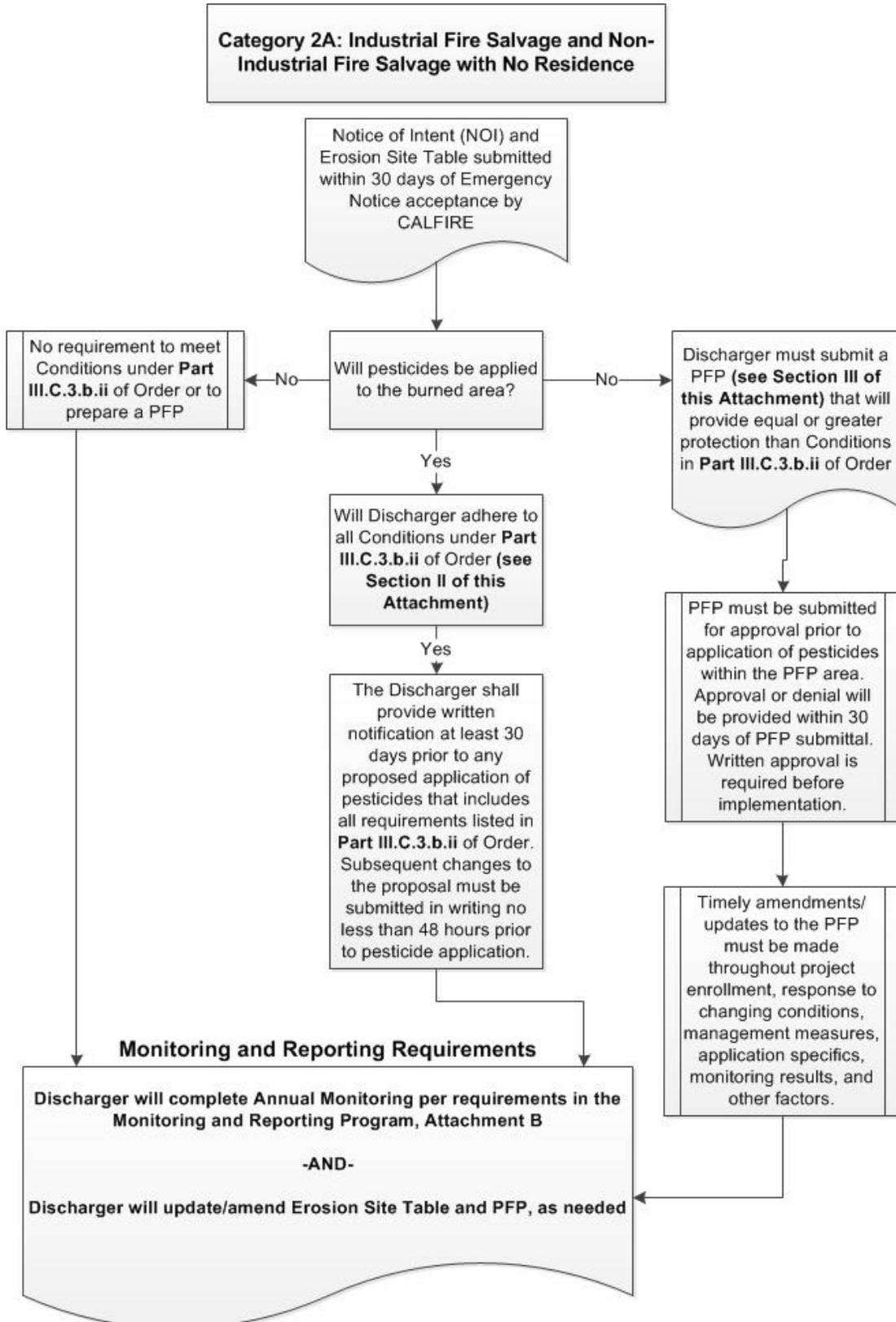
The purpose of Attachment C is to serve as a guidance document to help Dischargers understand the requirements of Categories 2A and 5A and to give a detailed explanation of the technical standard requirements. Attachment C is organized into three Sections as follows: 1) Flow Charts for Category 2A and 5A that guide the Discharger through a series of questions about pesticide application and the subsequent required steps for document submittal and reporting; 2) Pesticide Buffer and Effective Ground Cover Requirements, which provides detailed information on pesticide buffers and photographic examples of 50% ground cover; and 3) Contents of a PFP.

A PFP is required for all pesticide applications for: 1) for Emergency Notices enrolled in Category 2A where the Discharger elects to not meet the specific watercourse buffers or ground cover requirements as stated in Part III.C.3.b.ii of the Order; and 2) for Projects enrolled in Category 5A where the Discharger elects to not meet the specific watercourse buffers or ground cover requirements as stated in Part III.F.3.c.ii of the Order. The purpose of the PFP is to allow the Discharger flexibility in applying specific management practices across the fire salvage area that consider all aspects of the timing of the fire salvage, site-preparation, and other management objectives associated with reforestation; provide for site specificity in terms of topography, soils, climate, hydrology, and burn severity; and consider all sources of potential negative water quality impacts from those activities (i.e. sediment and pesticides).

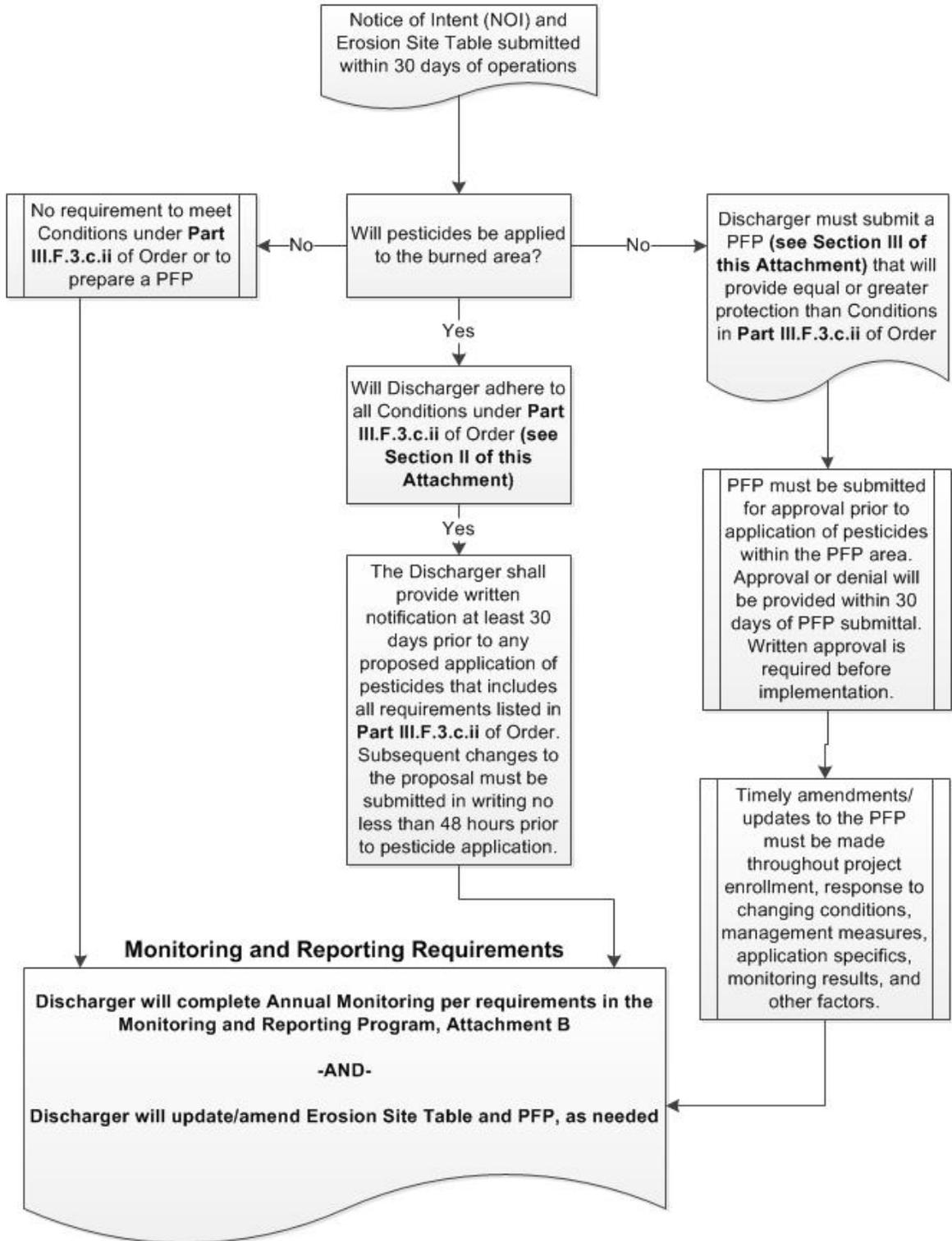
A PFP must contain, at a minimum, all of the elements listed under “Contents of a PFP” (Section III of this Attachment); the portions of the PFP that are related directly to pesticide applications must be prepared by, or under the reasonable charge of, a Registered Professional Forester, Pest Control Advisor, and/or other qualified professional. **The Discharger shall submit the PFP to the Central Valley Regional Water Quality Control Board for approval prior to application of pesticides within the post-fire management and reforestation plan area; approval or denial of the PFP shall be provided to the Discharger within 30 days of PFP submittal.** Additionally, **the PFP must be updated/amended** in response to changing conditions, management measures, and application specifics; addition of fire salvage areas (i.e. Emergency Notices or Projects) or application areas; monitoring results; and other factors throughout Project enrollment.

For Category 5A pesticide applications on fire salvaged federal lands, if a Project has been prepared under the National Environmental Policy Act (NEPA) for reforestation activities, the NEPA document(s) may be submitted in-lieu of the PFP if it includes all required information detailed under “Contents of a PFP. If the NEPA document(s) does not cover all elements of the “Contents of a PFP”, then the U.S. Forest Service may submit supplemental information along with the NEPA document(s).

I. Flow Charts for Category 2A and 5A



Category 5A: Post-Fire Timberland Management Activities on Federal Lands



II. Pesticide Buffer and Effective Ground Cover Requirements

For Category 2A Fire Salvage Projects, all industrial and non-industrial with no residence (see Part III.C.1. criteria in the Order), where pesticides will be applied, the Discharger shall submit a PFP or meet the conditions in Part III.C.3.b.ii of the Order, which are *abbreviated* below:

- The Discharger must **comply with the following pesticide no-spray buffers** (unless more stringent buffers are dictated by application labels/guidance, statute, or regulation):
 - For Class I and II watercourses, the applicable WLPZ widths specified in the California Code of Regulations, title 14, section 936.5;
http://calfire.ca.gov/resource_mgt/resource_mgt_forestpractice
 - For Class III and IV watercourses, a minimum of 25 feet where sideslope steepness is less than 30%, and a minimum of 50 feet where sideslope steepness is 30% or greater.
- Where management activities are planned on a burned area with **slopes greater than 30%, a minimum of 50% average effective groundcover is required to be documented prior to pesticide application.** Documentation shall be provided to the Central Valley Water Board in the pesticide notification **30 days prior to application.**
- The Discharger shall **notify** the Central Valley Water Board **in writing at least 30 days prior to any proposed application of pesticides.**

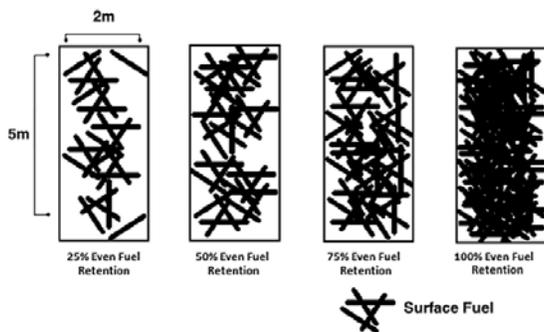
For Category 5A Post-Fire Projects (see Part III.F.1. criteria in the Order), where pesticides will be applied, the Discharger shall submit a PFP or meet the conditions in Part III.F.3.c.ii of the Order, which are *abbreviated* below:

- The Discharger must **comply with the following pesticide no-spray buffers** (unless more stringent buffers are dictated by application labels/guidance, statute, or regulation):
 - a) Perennial or intermittent watercourses which have: (1) surface domestic water use from and/or within 100 feet downstream of operations area and/or (2) fish always or seasonally present onsite, includes habitat to sustain fish migration and spawning, shall utilize the appropriate **Class I WLPZ width(s)** specified in the California Code of Regulations, title 14, section 936.5. http://calfire.ca.gov/resource_mgt/resource_mgt_forestpractice
 - b) Perennial or intermittent watercourses which have: (1) fish always or seasonally present off-site within 1000 feet downstream (excludes intermittent or ephemeral watercourses with no aquatic life that are tributary to watercourses described under (a) above) and/or (2) aquatic habitat for nonfish aquatic species (aquatic insects and/or other physical habitat indicators such as riparian and aquatic vegetation, watercourse debris, and potential for small pool formation), shall utilize the appropriate **Class II WLPZ width(s)** specified in the California Code of Regulations, title 14, section 936.5.
http://calfire.ca.gov/resource_mgt/resource_mgt_forestpractice
 - c) Ephemeral or intermittent watercourses with no aquatic life present, watercourse shows evidence of being capable of sediment transport to watercourses described under (a) and

(b) above, shall utilize a minimum of **25 feet** where sideslope steepness is **less than 30%**, and a minimum of **50 feet** where sideslope steepness is **30% or greater**.

- Where management activities are planned on a burned area with **slopes greater than 30%**, a **minimum of 50% average effective groundcover is required to be documented prior to pesticide application**. Documentation shall be provided to the Central Valley Water Board in the pesticide notification **30 days prior to application**.
- The Discharger shall **notify** the Central Valley Water Board **in writing at least 30 days prior to any proposed application of pesticides**.
- The Discharger shall adhere to the resource protection measures in the Chemical Use Management Activities as designated in the National Best Management Practices for Water Quality Management on National Forest System Lands (USDA April 2012).

“Effective Ground Cover”, as defined in Attachment A, means any combination of slash (lopped and in close contact with the ground), mulch (large wood chips, wood shreds, wood strand blends, straw, bark, surface rock fragments larger than ¾ inch), plants, and plant litter. Large wood chips are a minimum of 2 inches in length and at least four (4) times longer than they are wide.



Fifty-percent ground cover documentation shall use standard methods including aerial photography analysis, point intercept, plot, or transect methods, or any combination thereof.

The Discharger shall provide documentation of ground cover sampling methodology, locations of any ground-based sampling points, and any ground-based verification points or plots for aerial photo estimates. The figure to the left, borrowed from Harrison et. al 2016, is a schematic that illustrates even distribution of 25, 50, 75, and 100% ground cover. Additionally, the photo in the bottom left corner, borrowed from the Natural Resource Conservation Service at <https://www.nrcs.usda.gov/wps/portal/nrcs/detail/ny/technical/ecoscience/agronomy/>, provides a useful image of 50% ground cover.



For post-fire salvage activities, ground cover shall be estimated down to 20 acres if such a scale will change the estimated effective ground cover percentage of individual areas, and down to 10 acres for areas that either have been determined to have high or extreme EHR, or have experienced high to severe burn severity as a result of wildfire. Burn severity determination will be made based on available soil burn severity maps or through field determinations made by the RPF or qualified professional.

III. Contents of a Post-Fire Management and Reforestation Plan

The PFP shall include the following to demonstrate that the Discharger can mitigate, to the maximum extent feasible, any controllable and management related sources of sediment and pesticides that may impact waters of the state, and that proposed management measures and operations will provide equal to or better protection than the conditions under Part III.C.3.b.ii. or Part III.F.3.c.ii of the Order, Category 2A and Category 5A, respectively.

- A. A list of Emergency Notices/Projects enrolled under the Order that will adhere to the PFP.
- B. A list of any “other areas” in the burn area that will adhere to the PFP (if they are not included in an Emergency Notice or Project area), such as old plantations that burned over and will receive pesticide applications but did not have timber salvaged. For these “other areas”, include a map that shows the location(s) by Township, Section, Range and the associated acreage.
- C. Evaluation of Receiving Waters and Beneficial Uses
 - a. Within and downstream of the Emergency Notice/Project area(s) and “other areas”:
 - i. List the beneficial uses for surface water bodies and downstream receiving waters as identified in the appropriate Basin Plan;
 - ii. List any 303(d) listing(s);
 - iii. Identify and describe other critical habitat and aquatic resources (e.g. salmonids, domestic water supply intakes, aquatic species (including listed species));
 - b. Describe how the PFP will adequately protect/address the resources identified above.
- D. Pesticide Application
 - a. Describe the following:
 - i. Pesticide Product(s) to be applied;
 - ii. Application method(s);
 - iii. Schedule for application (dates);
 - iv. Location(s) of application (Emergency Notice number and/or Township/Section/Range);

**Changes to any of the above (D.a.i-iv.) must be submitted in writing no less than 48 hours prior to pesticide application.
 - b. An evaluation of how pesticide applications could impact: identified significant and existing potential erosion sites and/or unstable areas/swales/erosional features that could contribute sediment to downstream crossings and watercourses.
 - c. Explain why site conditions are favorable for the proposed land management activities (e.g. EHR, burn severity, slopes, annual rainfall).
 - d. Describe pesticide mitigation measures recommended by the PCA, RPF, or other qualified professional that will be employed.

E. Land Management Practices

- a. Describe any management practices/ mitigation measures that will be utilized to mitigate soil erosion (e.g. slash packing, mulching, contour ripping, waterbar spacing, percent groundcover, falling logs on contour, watercourse buffers, vegetative buffer strips, leave trees, etc.). The description/maps shall indicate the location(s) where specified management practices will be applied.

F. Monitoring

- a. If additional monitoring is proposed or required to evaluate management measures related to the PFP, include the following;
 - i. Type of monitoring proposed (i.e., visual, photo point, water column sampling, etc.);
 - ii. Location of monitoring;
 - iii. Frequency and schedule;
 - iv. Evaluation of monitoring results;
 - v. Report submittal.

**ATTACHMENT D
INFORMATION SHEET IN SUPPORT OF**

**GENERAL ORDER OF WASTE DISCHARGE REQUIREMENTS FOR TIMBERLAND
MANAGEMENT ACTIVITIES ON NON-FEDERAL AND FEDERAL LANDS
IN THE CENTRAL VALLEY REGION
FOR
ORDER NO. R5-2017-0061**

This Information Sheet sets forth the background, rationale and references used in the development of certain requirements for Waste Discharge Requirements related to Timberland Management Activities on Non-Federal and Federal Lands, Order No. R5-2017-0061 (hereinafter "Order") within the Central Valley Region. Specifically, the information included herein elaborates on findings in the General Order related to water quality impacts and timberland management activities in the post-fire environment, an evaluation of Significant Existing or Potential Erosion Sites (SEPES), and monitoring and reporting costs associated with Order compliance. The content of this Information Sheet includes: the best available scientific research and information in the area of fire ecology, erosion, forest hydrology and water quality impacts from pesticide¹ use in the post-fire environment; field observations by Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff; clarification on the evaluation of SEPES; and a summary of the existing rules and policies that are currently in place in California that regulate post-fire salvage logging and subsequent post-fire management activities.

WATER QUALITY IMPACTS AND TIMBER HARVEST OPERATIONS IN THE POST-FIRE ENVIRONMENT

In the western United States historic forest management and fire suppression, in conjunction with a changing climate, have led to uncharacteristically large, severe wildfires (Flannigan et al. 2000, Littell et al. 2009, Westerling et al. 2006, Westerling and Bryant 2008). As a result of this general decline in active fuels management on both federal and non-federal lands, exacerbated by nearly a century of intense fire suppression, increased frequency and intensity of stand-replacing fire is occurring throughout the western United States. The remaining forests of central and northern California that have not recently burned at high severity have high fuel loads and are experiencing extended periods of above average seasonal temperatures. These factors are leading to both extended fire seasons as a result of drier fuel conditions, and increased incident of extreme fire behavior with stand-replacing wildfires. Climatology models and information gathered by leading fire ecologists predict that the future wildfire regime in California will result in increased spatial size, distribution, and occurrence of severe wildfires (Fried et al. 2004, Miller et al. 2009, Westerling and Bryant 2008, Westerling et al. 2011).

Fire is a natural disturbance that directly influences California ecosystems and ecological processes, plant species, animals, and entire watershed ecosystems in California that have evolved to be both tolerant and dependent on fire as a landscape scale physical disturbance. However, as fire regimes in California shift, so has the intensity of the physical disturbance caused by wildfire. Increases in wildfire frequency, magnitude, and severity due to climate change within the western United States may lead to detrimental sediment-related water quality issues within

¹ For the purposes of this Information Sheet and Order (Attachment A) "pesticide" means (1) any substance, or mixture of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, which may infest or be detrimental to vegetation, man, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever, or (2) any spray adjuvant, or (3) any breakdown products of these material that threaten beneficial uses. This definition excludes aquatic pesticide discharges covered under Order No. 2013-0002-DWQ.

burned mountainous watersheds (Gould et al. 2016). There must be recognition that post-fire land use activities have the potential to exacerbate fire effects, and land owners, land managers, and resource agencies have a responsibility to understand what those potential impacts are and where there is opportunity to minimize those impacts through both adaptive management and strategic regulatory measures.

Water Quality Impacts Following Fire

Following severe wildfire in forested landscapes, increased soil water repellency and other changes to soil properties can reduce infiltration rates and increase the rate and frequency of runoff (Martin and Moody 2001, Robichaud 2000, Robichaud et al. 2016). Additionally, the loss of ground cover following severe wildfires is a dominant factor for increased soil erosion rates (Benavides-Solorio and MacDonald 2001, Delwiche 2009, Larsen et al. 2009, Robichaud et al. 2016). Increased soil erosion rates and sediment delivery to downstream channel networks can pose a significant threat to aquatic resources and beneficial uses, particularly after extensive high severity wildfires (Helvey 1980, Moody et al. 2013, Bladon et al. 2014, Chappel 2014).

Soil erosion at its most basic form involves the detachment, breakdown, transport, and deposition of sediment, which in the context of post-wildfire effects, is dependent on multiple factors, including: fire severity, watershed area, topography, geology, vegetation, and precipitation intensity. The greatest erosion events typically occur before vegetation regrowth and recovery and often coincide with episodic, short-duration, high intensity rain storms immediately after severe wildfire (Moody and Martin 2001). Accelerated erosion, potential hydrophobic soils, reduced water infiltration rates, overland runoff, and mass soil hillslope failures can also produce catastrophic debris flows in some environments (Doerr et al. 2009) which pose a direct threat to water quality, beneficial uses, and human health and safety (Cannon et al. 2010). Accelerated soil loss also affects site class and future tree growth.

On uncompacted, unburned hillslopes and areas with intact overstory canopy and ground cover, overland flow usually occurs only during very intense and short duration storm events. In high severity post-fire environments, where soil properties have been altered and effective ground cover is not present, significantly higher rates of runoff can be expected (e.g., Wagenbrenner et al. 2017). Compared to lower severity fires, high severity fires consume a higher proportion of the vegetation, forest litter, and other organic matter that provide effective ground cover. Reduced ground cover exposes more of the soil to precipitation and often increases erosion by several orders of magnitude. In studies conducted in the Sierra Nevada, rates of post-fire surface erosion have been reported to be 2-239 times greater than pre-burn rates (Ahlgren and Ahlgren 1960). The amount of erosion and sedimentation depends on severity of the fire and post fire storm events (number and intensity), especially the first two winters. The progressive decline in post-fire sediment yields over time is largely controlled by the regeneration of surface cover, primarily vegetation (MacDonald and Larsen 2009, Benavides-Solorio et al. 2001, Larsen et al. 2009). With the return of vegetative growth and stabilization of easily mobilized soil material, hillslope erosion rates generally attenuate with time after the wildfire and return to background rates within 2-3 years (Heede et al. 1988, Wohlgemuth et al. 1998) under natural conditions.

Only limited post-fire sediment monitoring has been undertaken in the Sierra Nevada and Cascade Ranges. Usually erosion and sediment data are not collected following a wildfire. Data collected to date show widely varying impacts, with very high hillslope erosion rates usually requiring one or more major hydrologic event the first two winters. In general, post-wildfire erosion is highly variable

and difficult to predict. The risk of elevated sediment yields generally is greatest the first few years after the fire until vegetation is reestablished (Wagenbrenner 2017).

As an extreme example of post fire erosion, the 2012 Bagley Fire (46,011 acres) in Shasta County produced an estimated total hillslope erosion of 5.23 million tons (114 tons per acre) during the first year post-fire. Two intense storms occurred a few months after the fire, with estimated return intervals of 25-50 years. Soil loss was estimated at 0.2 to 2.2 inches on virtually all hillslopes (USFS 2014). Measured sediment delivered to Squaw Creek during the first year post-fire resulted in sustained turbidity and significantly higher water temperatures, exceeding 70 degrees Fahrenheit; a temperature that can be lethal to cold water fish. Sediment produced during the first year post-fire and during subsequent years continue to be transported downstream to Lake Shasta, leading to reduced storage capacity and increased nutrient loads.

Other post-fire monitoring efforts in interior California have documented lower sediment yields at the plot or small catchment scales. These include the 2012 Ponderosa Fire - 15.5 t/ac (James 2014); 1999 Pendola Fire - 5 t/ac (MacDonald et al. 2004); 2007 Angora Fire - 0.01 t/ac (Wade and Kocker 2012), 1987 Stanislaus Complex - 20-50 t/ac (J. Frazier and A. Janicki, Stanislaus National Forest, pers. communication, cited in the California Fire Plan, BOF 1995); 1987 Hayfork District - Shasta Trinity National Forest Complex Fires - 10-40 cubic yds/ac (Miles et al. 1989); and the 2001 Star Fire - 1.2 t/ac, second winter (Chase 2004).

Following wildfire, sediment discharge can lead to changes in turbidity, temperature and stream chemistry. These changes may degrade water quality (i.e., taste, odor, color) and impair drinking-water treatment processes, along with negatively impacting aquatic life. Increases in sediment and turbidity can affect aquatic ecosystems by clogging streambed interstitial voids with fine sediments, reducing stream depth, increasing channel instability, altering stream temperatures, impairing fish feeding, and destabilizing stream channels (Goode et al. 2012). The growth and survival of aquatic plants, invertebrates, and fish are negatively affected by increases in sediment and turbidity (Wagner et al. 2014).

Wildfires such as the 2012 Bagley Fire can liberate accumulated metals, such as arsenic, aluminum, cadmium, iron, lead, and mercury. These metals have a strong affinity for ash and fine sediment, which are subsequently discharged to stream systems via elevated runoff and erosion (Bladon et al. 2014). Mercury's potential to bioaccumulate and biomagnify can result in health problems for consumers of fish. There are several streams, lakes, and reservoirs—including Lake Shasta—in the Central Valley Water Board region that are currently listed as 303(d) impaired by various metals, including mercury. Many of these waterbodies are located in watersheds subject to increased risk of large, severe wildfires.

Nutrients such as nitrogen and phosphorous are often mobilized by fire, which results in increased loading to streams (Bixby et al. 2015). In addition, significant increases in specific conductance and turbidity, along with corresponding decreases in dissolved oxygen are documented (Sherson et al. 2015). Nutrients can contribute to and exacerbate Cyanobacteria (blue-green algae) blooms, such as those experienced during the summer of 2015 throughout much of the Central Valley Water Board region, including Lake Shasta.

Timber Harvesting Policies and Regulations in California

Non-Federal Lands

Timber harvesting on non-federal lands in California is regulated by the Board of Forestry and Fire Protection (BOF) in accordance with the Forest Practice Act (FPA) through implementation of the California Forest Practice Rules (FPRs); a set of regulations that lay out administrative procedures and prescriptive best management practices to protect natural resources. Pursuant to the FPA and through the FPRs, the California Department for Forestry and Fire Protection (CAL FIRE), acting as the lead agency, the applicable Regional Water Board, California Department of Fish and Wildlife (CDFW), and California Geological Survey are responsible agencies for the review of timber harvesting plans (THPs) (Cal. Code of Regs., tit. 14, § 896). As a member of this interdisciplinary Review Team for green tree THPs, the Central Valley Water Board staff reviews proposed THPs, and has the opportunity to participate in pre-harvest inspections, and may provide input and recommendations on water quality-specific components to ensure water quality protection prior to CAL FIRE approval.

This multi-disciplinary review process for green tree THPs is considered to be functionally equivalent to the Environmental Impact Report (EIR) process under California Environmental Quality Act (CEQA) (see Cal. Code of Regs., tit. 14, § 896). The average THP consists of more than 120 pages of information related to the site, current conditions, proposed operations, cumulative impacts assessment, operational considerations, and proposed mitigations to address potential impacts to a variety of natural resources supported by forestlands.

Following wildfire, many large industrial forest landowners engage in salvage logging, whereby burned, damaged, and commercially valuable timber is removed through conventional timber harvesting techniques. Generally, the value of the commercial timber burned in a fire degrades within 1-2 years post-fire, resulting in harvesting operations that focus on removing burned timber quickly to recover as much economic value as possible. The FPA and FPRs allow for the rapid removal of trees from areas damaged by fires where such removal meets the definition of an emergency:

...those conditions that will cause appreciable financial loss to the timber owner that may be minimized by immediate harvesting of timber” (Pub. Res. Code § 4592; see also Cal. Code of Regs., tit.14, § 895.1).

The Emergency Notice process requires minimal documentation (generally approximately 3 pages including a map) and does not provide opportunity for the interdisciplinary Review Team to address potential impacts to resources from post-fire salvage operations. As a non-discretionary action taken by CAL FIRE, timber operations associated with Emergency Notices can commence five working days after submittal without first preparing a THP, and are not subject to the interdisciplinary Review Team process or public review/comment. In fact, due to the accelerated timeline for Emergency Notices, it is generally only after a timber/timberland owner has submitted the Emergency Notice to CAL FIRE and then submitted an application for coverage under the Central Valley Water Board’s current Waiver of Waste Discharge Requirements (Order No. R5-2014-0144) that staff becomes aware post-fire salvage operations have commenced and receive limited information about the location and timing of those operations.

Non-federal timber/timberland owners are required to retain a Registered Professional Forester (RPF) to prepare and submit an Emergency Notice. Timber operations conducted pursuant to a CAL FIRE-accepted Emergency Notice must comply with the rules and regulations of the BOF and

specifically with all operational provisions of the FPRs applicable to plans. The timber/timberland owner has one year to complete timber harvesting under the Emergency Notice from the date of CAL FIRE receipt, unless a discretionary THP is subsequently approved allowing for continued operations in the area.

There are also other differences between an Emergency Notice for post-fire salvage and a typical “green tree” THP. While there are no upper (or lower) limits for the total acreage allowed under a THP, individual even aged harvest unit size in a “green tree” THP is limited to 20 acres for tractor logging and 30 acres for cable/aerial logging with additional controls on the filing of contiguous harvesting plans. Post-fire salvage operations have no upper or lower limits for the total acreage harvested, as long as all operations can be concluded within the one-year time period. Therefore, harvest units under an Emergency Notice can be as large as the timber/timberland owner can operationally accommodate, effectively resulting in the potential for clear-cutting of multiple contiguous square miles (thousands of acres). In burned landscapes, large salvage logged units that exceed hundreds of acres in size can exacerbate runoff and erosion rates through removal of standing dead timber and timber that is damaged by the fire. Increased erosion and runoff can occur due to road and skid trail construction and use, and possible reduction in overstory canopy and removal of biomass that if left unharvested would provide ground cover (i.e., needle cast, tree limbs, and eventually snags and whole trees) to dissipate rainfall energy and concentrated flow along the hillslopes. Often, however, salvage logging increases short-term ground cover due to the logging slash and tree tops left on site (Poff 1989).

Another fundamental difference between an Emergency Notice for post-fire salvage and a typical “green tree” THP applies to the Watercourse and Lake Protection Zone (WLPZ)—also known as riparian buffer zones. WLPZ requirements apply to both standard green tree THPs as well as Emergency Notice operations; however, trees within the WLPZ that have fallen, or are damaged, dead, or dying can be removed under an Emergency Notice, regardless of the standard tree retention or restocking requirements of the FPRs for green tree THPs. This can result in the complete removal of all large timber from within these streamside zones during salvage logging operations, unless the watershed requires additional protection measures for anadromous salmonids.

In 2009, after the 2008 June lightning fire siege that occurred across the state, a proposal to extend Emergency Notices from 120 to 365 days was proposed by the timber industry to the BOF. The proposal included modification of California Code of Regulations, title 14, section 1052(e) language that:

...intended to lengthen the effective period of an Emergency Notice such that preparation and approval of a succeeding THP may be assured prior to expiration of an Emergency Notice.

At the time, Central Valley Regional Water Board staff argued that if the BOF’s intent was to ensure harvesting operations in the post-fire environment would be started under an Emergency Notice and then analyzed with the THP Review Team process, then the rule language would need to clearly require a THP be submitted prior to the expiration of the applicable Emergency Notice.

In response to questions about possible significant adverse environmental effects, the BOF found that:

...[this] proposed regulation would not result in significant adverse environmental effects. The existing Forest Practice Rules for Emergency Notices and Timber Harvesting Plans already provide for comprehensive assessment and mitigation of potential adverse effects. This proposed regulation does not alter these existing provisions.

Additional response was provided by Central Valley Water Board staff:

While Regional Water Board staff agrees that the FPRs provide for assessment and mitigation of potential adverse effects through the THP process, the information required in a THP is significantly more complex than that required by the Emergency Notice. It is inaccurate to state that the FPRs provide for a comprehensive assessment and mitigation of potential adverse effects through the Emergency Notice process. While there is a list of operational limitations that must be complied with for Emergency Notices in the FPRs, there are numerous concerns that are not addressed. And in fact, an argument could be made that allowing operations on lands that have been burned (and thus been made more sensitive than those normally reviewed under the THP process) through a non-discretionary process is not an environmentally responsible or defensible position.

If a burned area has unmaintained legacy roads and [watercourse] crossings that are undersized, the Emergency Notice allows for those roads to be used and does not require assessment and mitigation of any erosion problems from those roads and crossings. [Central Valley] Water Board staff acknowledges that there may not be a simple answer for the problem this rule is trying to address, but a simple extension of the time limits is only addressing a small portion of the problem.

The FPRs provide minimum operational standards, and those requirements are frequently supplemented with additional mitigations to address potential impacts to the resources through the interdisciplinary review team process [for THPs]. Due to the nature of the Emergency Notice process those same minimum operational standards [additional mitigations] provided in the FPRs are not applied. If Emergency Notices are allowed to proceed for 365 days, the likelihood of a succeeding THP ever being submitted and those additional environmental mitigation measures being developed declines dramatically.

There must be acknowledgement that fire is a natural process by which waters of the state (as well as other resources) are impacted, but it is critical to accept that it is our responsibility to ensure that the impacts from the fire are not further aggravated by anthropogenic activities.

Since the lightning fire siege that occurred throughout the state in 2008, Central Valley Water Board Forest Activities Program staff has focused more effort on these post-fire salvage operations and have not observed THPs being prepared to continue salvage operations subsequent to the first year of harvesting conducted under Emergency Notices (on non-federal lands). Instead, staff has observed multiple Emergency Notices being submitted for 1-3 years after the fire.

Over the last several years CAL FIRE has processed, on average, approximately 175 Emergency Notices covering roughly 45,000 acres annually. This number is heavily dependent on annual fire season activity, but it provides a general idea of the recent scope of the issue.

During this time, Central Valley Water Board staff has observed extensive soil erosion and sediment discharge to receiving waters extending for several years following many large wildfire

events. These large fires include: the Bagley, Bully, Ponderosa, King, Chips, Moonlight, Valley, and Rim Fires. Post-fire salvage operations following these fires has resulted in direct impacts to water quality through accelerated erosion and sediment delivery from skid trails, roads, landings, and episodic events such as landslides and debris flows. Many of these sources of sediment discharge are largely attributed to and associated with post-fire salvage operations. Direct in-stream measurements of turbidity that exceeded Basin Plan objectives have been documented downstream of several fires (e.g., Ponderosa, Bagley, and Bully Fires). There are data to suggest that changes in turbidity in streams draining the 2012 Ponderosa Fire were caused by the fire, salvage harvesting, and associated road use (Lewis 2014). In addition, dozens of herbicide (pesticide) detections have been recorded in the post-fire environment that will be discussed in later sections of this document.

There is recognition among Central Valley Water Board staff that identifying cause and effect between post-fire salvage operations and water quality impacts is challenging. Non-point source water quality pollution can be complex and evaluating sediment discharge from post-fire salvage operations against natural or background delivery rates to watercourses is no different. However, the Central Valley Water Board has a responsibility and mandate under the Clean Water Act, California Water Code, Basin Plan, and Non-Point Source policy to identify potential non-point source discharges to waters of the state and address those discharges through prohibitions; or Waste Discharge Requirements (WDRs); conditional waivers of WDRs; or until a determination has been made that the threat of discharge and impact to water quality no longer exists.

Federal Lands

As the largest public land management agency in the Central Valley Region's forested zones, the U.S. Forest Service (USFS) experiences large catastrophic wildland fires, predominantly along the west slope of the Sierra Nevada and southern Cascade Ranges on National Forest System lands (NFS).

Immediately following a fire on federal lands, there is a rapid assessment by a Burned Area Emergency Resource (BAER) team staffed by specially trained professionals for fires greater than 300 acres, generally including hydrologists, soil scientists, engineers, biologists, vegetation specialists, archeologists, GIS specialists, and others, who rapidly evaluate the burned area and prescribe emergency stabilization treatments for Forest Service lands. The BAER program is designed to address these emergency situations through its key goals of protecting values at risk (VARs), including life, property, and critical natural and cultural resources. Water quality and aquatic habitat are not specifically included in the list of VARs evaluated through the BAER process. In most cases, only a small portion of the burned area is treated based on the outcome of the BAER process, due to the high cost of effective treatments (e.g., mulching; hydro-mulching). Some of the information that is gathered during these assessments, however, can be utilized for development of future project proposals and in support of environmental documents for those projects.

The percent of federal lands salvage logged is much lower than that which occurs on private industrial timberland in California. Post-fire salvage logging on federal lands seldom occurs in the first year of the fire due to the time involved in preparing environmental documents in conformance with the National Environmental Policy Act (NEPA). Depending on the scope of proposed actions and the level of impact on the environment, the USFS may choose to prepare a Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS). In general, the USFS will only utilize a CE for very small proposed post-fire salvage operations or roadside hazard tree removal through areas that have experienced wildfire. The preparation of this

document and final decision can be relatively fast and a final decision can be made within a few months. The scope of an EA is generally broader and incorporates multiple resource objectives (e.g., reduce public safety hazard along NFS roads, recover economic value of fire-killed trees, reduce fuel loading, implement reforestation, and manage road infrastructure). These documents take longer to develop utilizing a multi-disciplinary team of specialists, and there is a much more involved public scoping process which can often lead to delays and litigation. The most robust NEPA document is the EIS. These documents can be very broad in scope and include evaluation of a multitude of resource objectives and goals. Preparation of these documents can be lengthy and if post-fire salvage operations are a component of the proposed actions, it is often unlikely that the decision approving the NEPA document will be prepared before the fire-killed commercial species of trees have lost all economic value.

There is a growing trend within the federal agency to prepare larger environmental documents (i.e., EA and EIS) in an effort to conduct multi-phased and longer term watershed-scale projects with multiple resource goals and objectives. There are many reasons why the USFS pursues this type of approach to their land management; however, a consequence of this approach is that post-fire salvage projects can take much longer to receive approval, and as a result, the trees quickly lose economic value before they can be harvested. This can lead to the timber sale/salvage component of these projects being removed from the project or Timber Sales are not purchased by private contractors and the trees are left unharvested. Either way, standing dead and dying trees are often left behind on the landscape. Reforestation efforts are greatly compromised, leading to reduced long term carbon storage in California forestlands (CARB 2017). Despite broad agreement on reforesting lands burned, lack of funding and staff have made reforestation very difficult.

The Central Valley Water Board's review process for post-fire salvage projects on federal lands is significantly different compared to non-federal projects. Following a wildfire on NFS lands, Central Valley Water Board staff review the Schedule of Proposed Actions (SOPA) list for each National Forest to see what projects and associated environmental documents will be proposed. Staff review and respond to the proposed action during the regular public scoping period. Once a USFS decision has been made on the NEPA document, the USFS submits a NOI for the proposed project, and Central Valley Water Board staff review the submitted project documents, enrolling the project under the appropriate permit category. Staff often conducts inspections of the post-fire salvage operations and provides recommendations for additional erosion mitigations where necessary to protect water quality. However, unlike the THP process for non-federal lands, it is sometimes difficult to incorporate substantial recommendations (e.g., new or reconstructed watercourse crossings or significant modification to road shape and drainage) without modifying the original environmental documents (i.e., CE, EA, or EIS). These documents are often written in very general, non-prescriptive terms that make evaluations for potential water quality impacts prior to commencement of project activities challenging. The lack of site specificity in the project documents provided by the USFS has been an on-going issue for Central Valley Water Board staff, not only for post-fire salvage projects, but for all non-point source projects enrolled under Water Board permits.

Post-Fire Timber Harvest

Numerous studies have been conducted on post-fire erosion response to logging (Ice and Beschta 1999). Some studies indicate that there are potential benefits to logging after wildfire—increasing ground cover through logging slash, removing sources of high intensity water droplets from standing dead trees, reduction of fuel loading and risk of high intensity fires, and by breaking up

hydrophobic soil layers (Poff 1989, James 2014). The application of these ground-based treatments, however, are often limited to slopes that are less than 35 percent where erosion rates are generally lower due to lower erosive energy and runoff velocity. Conversely, there is documentation from other studies reporting that salvage logging increases the risk of sedimentation and that specific best management practices are needed to mitigate the hydrologic impacts of post-fire logging (Beschta et al. 1995, Peterson et al. 2009, Wagenbrenner et al. 2015, Wagenbrenner et al. 2016b, Lewis 2014).

At the small catchment scale, impacts of salvage logging on sediment yields are variable. One recent study has shown a net decrease in sediment yields after salvage logging and subsequent herbicide (pesticide) applications (James 2014), two studies have shown no detectable change in sediment yields because of salvage logging (Wagenbrenner et al. 2015)—Hayman and Kraft Springs Fires; Olsen, 2016), and one study has documented an increase in sediment yields because of salvage logging (Wagenbrenner et al. 2015—Red Eagle Fire) (Wagenbrenner 2017).

Non-Federal Lands

Large non-federal industrial landowners generally remove all the trees within an Emergency Notice harvest unit, including those only partially burned or scorched. This can result in post-fire harvest units which have no size limitations and are almost completely devoid of trees. Based on the fact that burned areas produce additional stormwater runoff and sediment, both the existing road network and any new logging road construction should be designed, utilized for heavy equipment and log hauling, and maintained to minimize delivery of sediment to streams. Post-fire logging generally requires the installation and use of numerous skid trails, used when heavy equipment transports the cut logs within the logging unit to a landing, where the tree is then processed and loaded onto log trucks for transport to the mill. As with new logging road construction, post-fire skid trails present a heightened potential for erosion and sediment transport. With the urgency to remove burned trees and maximize the economic value of the rapidly degrading wood product, there are usually compressed timelines within which to evaluate, design, and implement logging operations, including road construction, before the first winter period following the fire. Central Valley Water Board staff has observed that standard coefficients and input values (e.g., runoff coefficients, time of concentration calculations, headwater/depth ratios for culverts, etc.) used in technical guidance documents for design of stream crossing structures (as noted in Cafferata et al. 2004) may be inadequate in the post-fire environment.

Federal Lands

Unlike non-federal landowners, USFS salvage operations remove only a fraction of the burned trees and generally leave most partially burned and scorched trees for wildlife values and possible recovery. This limited and selective harvesting, by its very nature, may provide immediate ground cover in the form of needle cast, as well as dead trees, green trees (foliage), and some logging slash.

Riparian buffers mandated by various USFS BMPs, regulations and policies, are wider than those required of non-federal landowners in the FPRs, providing extra protection for aquatic resources and water quality.

Post-Fire Pesticide Use

Non-Federal Lands

While post-fire salvage operations conducted under an Emergency Notice are not required to restock (i.e., replant conifers), most non-federal industrial timberland owners in California choose to

reforest their lands. Replanting conifers is frequently accompanied by pesticide applications to ensure seedling survival and establish conifer plantations as quickly as possible (DiTornaso et al. 1997, Webster and Fredrickson 2005, Zhang et al. 2008). In some cases, pre-emergent pesticides are applied in the late fall or early spring immediately after the fire to prevent competing vegetation from germinating. In other cases, post-emergent pesticides are used to kill newly sprouting vegetation before and/or after planting new conifers. There are two common methods in which pesticides are applied within the forested landscape to facilitate regeneration of conifer seedlings: spot applications, where an applicator uses a hand-sprayer to apply pesticides in a small circle around an individual conifer seedling; and aerial applications, where pesticides are sprayed from an aircraft over larger areas. In many cases, especially with the size and extent of recent spatially extensive wildfires, applications of pesticides by non-federal landowners are accomplished via aerial spraying (e.g., helicopters).

Pre-emergents [pesticides] are very effective at preventing new ground cover establishment for several years in the post-fire landscape, which reduces competition for nutrients, light, and water, increasing the success rate of conifer seedling survival (Webster and Fredrickson 2005). From a reforestation perspective, the use of pre-emergents [pesticides] achieves the objective of reducing competition between recently established commercial tree species seedlings and non-desirable species such as hardwoods, brush, and grasses. This practice, however, can come at a cost by delaying natural recovery of the burned landscape and the establishment of effective ground cover to reduce surface erosion (DiTornaso et al. 1997).

Very little information is available regarding the impacts of post-fire management on runoff and erosion (Wagenbrenner 2017). Most post fire research has focused attention on the physical effects of ground-based salvage logging on runoff and erosion, while little attention has focused on post-logging vegetation management. It is currently unknown whether post-fire vegetation management using pesticide treatments has a larger effect on post-fire hydrogeomorphic processes than salvage logging due to alterations in post-fire recovery processes (i.e., revegetation and associated ground cover increases). Clearly there are trade-offs associated with limited pesticide application (e.g., poorer seedling survival, slower establishment of tree cover).

Numerous studies have shown that the percent of ground cover is the primary and dominant control of erosion and sediment yield in the post-fire environment (Benavides-Solorio and Macdonald 2001, Benavides-Solorio et al. 2005, Goldman et al. 1986, Larsen et al. 2009, Lavee et al. 1995, Robichaud et al. 2010, Wagenbrenner et al. 2015, Slesak et al. 2015, Delwiche 2009).

Federal Lands

The USFS typically utilizes pesticides on a very limited basis in post-fire environments. In most cases where pesticides are used on NFS lands, spot spraying is used to control invasive weeds and to help re-establish conifers. Unlike non-federal industrial landowners, these limited applications generally occur a year or more after the fire when vegetative recovery and ground cover has been significantly re-established, thereby, providing the cover necessary to reduce erosion and limit offsite movement of sediment.

For the pesticides commonly used by the USFS in its management activities, Human Health and Ecological Risk Assessments (HERAs) are prepared. In these documents, the process of risk assessment is used to quantitatively evaluate the probability that pesticide use might pose harm to humans or other species in the environment. When evaluating risks from the use of pesticides proposed in a NEPA planning document, the USFS has determined that reliance on the U.S. Environmental Protection Agency's (U.S. EPA) pesticide registration process as the sole

demonstration of safety is insufficient. The USFS and Bureau of Land Management (BLM) were involved in court cases in the early 1980's that specifically addressed this question (principally *Save Our Ecosystems v. Clark*, 747 F.2d 1240, 1248 (9th Circuit, 1984) and *Southern Oregon Citizens v. Clark*, 720 F. 2d 1475, 1480 (9th Cir. 1983)). These court decisions and others affirmed that although the USFS can use U.S. EPA toxicology data, it is still required to do an independent assessment of the safety of pesticides rather than relying on the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) registration alone. The Courts have also found that FIFRA does not require the same examination of impacts that the USFS is required to undertake under NEPA. Further, USFS assessments consider data collected from both published scientific literature and data submitted to U.S. EPA to support FIFRA product registration, whereas U.S. EPA utilizes the latter data only. The U.S. EPA also considers many forestry pesticides uses to be minor. Thus, the project-specific application rates, spectrum of target and non-target organisms, and specialized exposure scenarios evaluated by the USFS are frequently not evaluated by U.S. EPA in its generalized registration assessments.

Post-Fire Pesticide Application and Regulations

Post-fire applications of pesticides follow the same pesticide labeling rules as used in 'green tree' forestry pesticide applications (as shown on the individual pesticide label), regardless of the severity of the fire and the amount of vegetation cover removed by the fire or the risk of erosion.

All pesticide label requirements, including those related to aquatic buffers are initially approved by the U.S. EPA based on evaluation of pesticide registrant submitted data used to support proposed label uses. In order for pesticide products to be used in California, the Department of Pesticide Regulation (DPR) reviews all U.S. EPA pesticide label components. State specific modifications to address necessary additional restrictions may be incorporated in coordination with registrant and EPA. Each pesticide label has general use instructions with specific state requirements. A Pest Control Advisor (PCA) is a trained, licensed individual that provides site specific pesticide recommendations. Most commonly used forestry pesticides have no aquatic buffers listed on the label, as indicated in Table 1 below.

Table 1 – Pesticide aquatic buffer widths as provided in current labels*

Active Ingredient	Formulation Name	Aquatic Buffer (feet)	Label Toxicity Warnings	Additional Labeling
Aminopyralid	Milestone	0		
Clopyralid	Transline	0		
Glyphosate	Accord XRT II	0		
Hexazinone	Velpar L	0		
Imazapyr	Polaris	0		
	Arsenal	0		
	Chopper	0		
	Stalker	0		
	Rotary 2 SL	0		
Oxfluorfen	Pindar GT	25 **Vegetated buffer strip	<i>This product is toxic to aquatic invertebrates and wildlife</i>	<i>Runoff from treated areas may be hazardous to aquatic organisms in neighboring areas</i>
	Cleantraxx	25 **Vegetated buffer strip	<i>This product is toxic to aquatic invertebrates and wildlife</i>	<i>Runoff from treated areas may be hazardous to aquatic organisms in</i>

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Active Ingredient	Formulation Name	Aquatic Buffer (feet)	Label Toxicity Warnings	Additional Labeling
				<i>neighboring areas.</i>
Sulfometuron methyl	Oust XP	0		
Triclopyr	Garlon 4	0	<i>This pesticide is toxic to fish.</i>	<i>The use of this chemical in areas where soils are permeable, particularly where the water table is shallow, may result in groundwater contamination.</i>
	Element 4	0	<i>This pesticide is toxic to fish.</i>	<i>The use of this chemical in areas where soils are permeable, particularly where the water table is shallow, may result in groundwater contamination.</i>
	Forestry Garlon XRT	0	<i>This pesticide is toxic to fish.</i>	<i>The use of this chemical in areas where soils are permeable, particularly where the water table is shallow, may result in groundwater contamination.</i>
*** 2,4-D	Weedone LV6 EC	0	<i>This pesticide is toxic to fish.</i>	<i>The use of this chemical in areas where soils are permeable, particularly where the water table is shallow, may result in groundwater contamination.</i>
	Weedone LV4	0	<i>This pesticide is toxic to fish.</i>	<i>The use of this chemical in areas where soils are permeable, particularly where the water table is shallow, may result in groundwater contamination.</i>

** This table provides a summary of current label requirements and is subject to change. The most up to date requirements for individual pesticides are listed on the label and should take precedent.*

*** Vegetated buffer: Note that in many wildfires with high burn severity there is no vegetation remaining to provide an aquatic buffer.*

**** 2,4-D is a Restricted Material: Restricted Materials are designated by DPR, based on hazards to public health, applicators, farm workers, domestic animals, honeybees, the environment, wildlife, or crops other than those being treated.*

Pesticide Application Monitoring (DPR/County Ag)

For non-restricted materials, licensed pesticide applicators are required to report pesticide use to the respective county agricultural commissioner (CAC) within seven days of the completion of the application. Restricted material pesticides (e.g., 2,4-D and strychnine) have to report to the CAC 24 hours in advance of application. Restricted Materials are designated by DPR, based on hazards to public health, applicators, farm workers, domestic animals, honeybees, the environment, wildlife, or crops other than those being treated. There is no evidence that any monitoring of forestry pesticide applications is conducted by CAC staff (Central Valley Water Board staff personal communication with CAC staff and RPFs, May 2016).

Post-Fire Pesticide Detections

Following the 2012 Ponderosa Fire in the Battle Creek watershed located in Shasta and Tehama counties, salvage operations were conducted throughout the watershed on non-federal lands. During 2013 and early 2014, approximately 12,000 pounds of Hexazinone (Active Ingredient – A.I.) 1395 pounds of Imazapyr, 115 pounds of Triclopyr, and 30 pounds of 2,4-D were applied in the Battle Creek watershed, most of it associated with post-fire conifer plantation establishment. Through a contract agreement with the Central Valley Water Board, a water sampling and analysis pilot study was conducted by the California Department of Fish and Wildlife (CDFW) between November 2013 and March 2014. Hexazinone, 2, 4-D, Triclopyr, and Imazapyr were detected. Hexazinone was detected in all 26 samples. The primary purpose of the pilot study was to test the utility of the Continuous Low Level Aquatic Monitoring (CLAM) collection devices for detecting pesticides downstream of forestry operations. This study did not quantify concentrations of specific chemicals; however, pesticide chemicals were present and detectable. While detections were indicated, significant issues with regard to the equipment reliability of the CLAM sampling devices, testing protocols, and verification standards indicate that further study is needed. Until further study can be conducted, the General Order establishes specific requirements in Parts III.C.3.b.ii. and III.F.3.c.ii. to provide reasonable protection measures to address potential threat to water quality from pesticides in forestry application.

Post-Fire Mitigations for Protecting Water Quality

The previous sections have summarized the naturally occurring and anthropogenic sources of accelerated erosion and sediment delivery that can occur following a major wildfire, including: the mechanics of increased runoff rates, hydrophobicity, surface soil erosion, and the inability of burned landscapes to buffer increased erosion. In unmanaged landscapes where no salvage logging operations will occur, these processes will occur naturally and play a vital role in ecosystem dynamics and landscape scale erosional processes. In managed landscapes where salvage logging will occur, BMPs and mitigations are needed to reduce management-related sediment sources to watercourses within the burned area. The most widely used and most cost-effective management measures and BMPs used to mitigate erosion and sediment delivery are erosion barrier treatments, mulch treatments, chemical soil surface treatments, and natural reestablishment of vegetative cover.

Erosion barrier treatments are designed to slow runoff, and trap and store eroded sediment. Common post-fire hillslope erosion barriers include contour-felled logs, straw wattles, contour trenches or ‘contour ripping’ (hand or machine dug), and straw bales (Napper 2006). Erosion barriers, and contour-felled logs in particular, may reduce runoff and sediment yields for low intensity rain events, but they are unlikely to have a significant effect for high intensity rain events and can concentrate flow, creating erosion if implemented incorrectly (Robichaud et al. 2010). Contour ripping has been used by some landowners and land managers as cost-effective erosion mitigation in post-fire environments (James 2014). Contour ripping can be implemented generally on slopes 35% or less, where erosion is lower than on steeper slopes, and is not restricted by natural barriers, such as rocky terrain. The contours created by this practice must be deep enough to penetrate the hydrophobic layer created by high intensity fire and be constructed “on-contour”, perpendicular to slope, to reduce flow pathways and concentration of runoff that could result in rilling and gullyng. A study conducted by a large industrial landowner in the Ponderosa Fire footprint indicates that contour ripping reduces post-fire surface erosion (James 2014).

Mulch treatments can be an effective post-fire mitigation for reducing surface erosion and involves the spread of material over the exposed soil surface to protect it from rain drop impact, overland flow, and erosion. Mulching is a quick way to immediately increase ground cover in areas that are at high risk of erosion and can be an effective post-fire mitigation. Mulches include wet mulches, such as hydromulches, which are mixed with water and sprayed over the soil surface. Dry mulches include straw, wood chips, wood shreds, and wood strands. Large wood chippers and masticators have proven to be very effective at generating wood chips and wood shreds using on-site fuels and logging slash. A limiting factor with dry mulches is that they are generally applied only on slopes from 20 to 60 percent, or where chippers can broadcast chipped materials on to the hillslope. “Straw bombing” or heli-mulching is another technique that has been utilized most frequently on federal post-fire landscapes by dropping cut hay bales from helicopters. This method can be effective, however, the operational cost of helicopters to “bomb” the hillside is often cost prohibitive (usually over \$1500 per acre), and can result in less than two percent of the landscape being successfully treated.

Tackifiers—also known as soil binding agents—are another form of erosion treatment that is applied directly to the soil surface, forming a thin web of polymer designed to hold soil particles together. The soil binder polyacrylamide (PAM), a soil particle flocculant, is designed to connect small particles, thus increasing their size and mass. PAM is the only soil binder that has been used as a post-fire hillslope stabilization treatment. Post-fire treatment effectiveness studies that include PAM have generally been inconclusive or have shown no treatment effect.

For landscape-scale fires, many of the mitigations mentioned above are costly, with varying degrees of effectiveness (Robichaud et al. 2010, Wagenbrenner et al. 2006). The natural re-establishment of ground cover has shown to be the most feasible and cost-effective method to reduce erosion and sediment production (MacDonald and Larsen 2009, Benavides-Solorio et al. 2001). For many non-federal industrial timberland owners, however, allowing burned forestlands to regenerate naturally is not a viable economic option for maximizing commercial tree species production. For these landowners, herbicide (pesticide) use has been proven to be an effective measure for delaying the re-establishment of natural vegetative cover and increasing the rate of survival for replanted conifer seedlings. As discussed in previous sections of this document, the application of pesticides in the post-fire environment can have both a direct and indirect effect on rates of soil erosion, and the potential discharge of residual chemicals directly into surface waters.

Ground cover and riparian buffers can reduce pesticide discharge into streams by providing dissipation, filtration, chemical sequestration, and chemical degradation/biodegradation (Wenger 1999, Larson et al. 1997). Ground cover has been shown through numerous studies to be effective at reducing erosion and sediment transport. Research consistently indicates that 50% ground cover functions as the threshold where erosion and sediment production is significantly reduced (Benavides-Solorio et al. 2005, Foltz and Wagenbrenner 2010, Golman et al. 1986, Harrison et al. 2016, MacDonald and Robichaud 2008, Prats et al. 2012, Robichaud et al. 2012, Wagenbrenner et al. 2006, Yanosek et al. 2006).

Riparian buffers are shown to protect water quality, habitat, and biota in *non-burned* landscapes (Sweeney and Newbold 2014, Wenger 1999, U. S. Army Corps of Engineers 1991). Unburned or stream buffers burned with low severity are critical to protect water quality and other beneficial uses in post-fire environments because of the increased sediment production due to runoff after wildfires. Appropriate sized stream buffers (generally ≥ 30 meters or 100 feet) have been shown to mitigate stream impacts from *green tree* logging activities, while small buffers (≤ 10 meters) do not significantly protect a stream from logging impacts (Davies and Nelson 1994). Areas with high

resource value—such as wetlands and fish bearing streams—benefit from buffers that are a minimum of 15 meters, or approximately 50 feet (Castelle et al. 1994). Studies on herbicide fate and transport show that average buffer widths of 38 m and 50 m, in restored and managed riparian forests respectively, reduced herbicide concentrations to at or below detection limits (Lowrance et al. 1997, Vellidis et al. 2002). A review of pesticide buffers found that cases of high pesticide concentrations only occurred when no buffer was used and that generally, bufferstrips of 15 m or larger are effective in minimizing pesticide contamination in streams (Neary et al. 1993).

This General Order requires the implementation of buffers based upon the information provided above. While slightly larger than research indicates necessary, required buffers are the same as those required in the FPRs to address large variations in soil, topography, resource sensitivity, etc. This General Order also allows the discharger to propose an optional plan (Attachment C) should they wish to test out emerging or alternate methods, technology, or pesticide use within the buffer(s) or on the slopes above.

Development of effective post-fire mitigations and BMPs to reduce impacts from erosion and sediment delivery to streams is an area of research and development that is being explored by many leading fire scientists, soil scientists, watershed scientists, foresters, and many state and federal resource agencies throughout the western U.S., including California. In an effort to provide more site-specific research into the effects of post-fire salvage logging in California, and to support an adaptive management framework where new science and research is used to support or promulgate existing and new rules and regulations, the Central Valley Water Board is funding a study through the AB 1492 Timber Regulation and Forest Restoration Fund (TRFRF) on Boggs Mountain Demonstration Forest (BMDSF), managed by CAL FIRE. BMDSF burned in 2015 during the Valley Fire and has provided a valuable opportunity to explore the effects of post-fire management on water quality by assessing the responses of runoff and sediment to logging and reforestation activities, and to demonstrate effective logging BMPs to landowners and land managers that are well suited for post-fire landscapes to mitigate potential water quality impacts. The project has three primary purposes: (1) to quantify the effects of post-fire salvage logging and common post-salvage site preparation techniques including mechanical and herbicide (pesticide)-assisted reforestation on soil properties controlling runoff, hillslope erosion rates, and vegetative recovery; (2) to understand processes occurring at small-catchment scales so that small-plot results can be extrapolated to sizes of specific interest to land managers and watershed stakeholders; and (3) to develop and demonstrate alternative BMPs used to reduce runoff and erosion from post-fire salvage logging. This study is currently underway and is expected to be completed by 2019. Initial study results are presented in Wagenbrenner et al. (2016a) and Olsen (2016).

Evaluation of Significant Existing or Potential Erosion Sites (SEPES)

The BOF, through a lengthy stakeholder process, developed and adopted a section in the FPRs referred to as the Road Rules, 2013, Rule Package. This rule package was intended to clarify, streamline and organize all of the FPRs where roads were included. The development process resulted in some additions as well, including the new definition of “Significant Existing or Potential Erosion Site (SEPES)” (Cal. Code of Regs., title 14, § 895.1) based upon a need to address such sites for water quality protection. The FPRs now include the following definition:

“Significant Existing or Potential Erosion Site means a location where soil is currently, or there are visible physical conditions to indicate soil erosion may be in the future, discharged

to watercourses or lakes in quantities that violate Water Quality Requirements or result in significant individual or cumulative adverse impacts to the beneficial uses of water.”

The Road Rules, 2013, Rule Package became effective on January 1, 2015. Central Valley Water Board staff has been reviewing and commenting on the application of this definition for the past two years through the THP process and noting inconsistent interpretations. In Attachment A of the Order, an expanded definition has been provided that embeds the definition of Water Quality Requirements (also provided California Code of Regulations, title 14, section 895.1):

“Significant Existing or Potential Erosion Sites (SEPES)” means a location where soil erosion is currently, or there are visible physical conditions to indicate soil erosion may be in the future, discharged to watercourses or lakes in quantities that violate a water quality objective (narrative or numeric), prohibition, Total Maximum Daily Load (TMDL) implementation plan, policy, or other requirement contained in a water quality control plan adopted by the Central Valley Water Board and approved by the State Water Central Valley Water Board, or a location where soil erosion may result in significant individual or cumulative adverse impacts to the beneficial uses of water” (emphasis added).

The intent in combining the two definitions in Attachment A of the Order is to emphasize that level of significance relative to existing and potential erosion sites is ultimately determined by, and is the responsibility of the Central Valley Water Board, who have a legal mandate and the authority to determine the significance of any discharge to waters of the state, and to ensure permitted discharges are in conformance with the appropriate Basin Plan, permit, policy, or other requirement (see Finding 18 of the Order).

Indicators of SEPES on the Existing Road Network

As noted in California Code of Regulations, title 14, Technical Rule Addendum No. 5: Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings (1st Edition), section B, indicators of SEPES with the existing road drainage systems include:

- *Evidence of direct sediment entry into a watercourse or a flood prone area from road surfaces or drainage structures and facilities (e.g., ponded sediment, sediment deposits, delivery of turbid runoff from drainage structures during rainfall events).*
- *Ditch scour or downcutting resulting from excessively long undrained ditches with infrequent ditch drain (relief) culverts or other outlet structures or facilities. This condition can also result from design inadequacies (e.g., spacing not altered for steep ditch gradient), inadequate erosion prevention practices (e.g., lack of armoring), or ditches located in areas of erodible soils.*
- *Gullies or other evidence of erosion on road surfaces or below the outlets of road drainage facilities or structures, including ditch drain (relief) culverts, with transport or a high likelihood of transport to a watercourse.*

Additionally, if a road and/or ditch runoff is hydrologically connected to a watercourse, the following factors elevate the risk of sediment delivery to a watercourse:

- *Existing or high potential for cutbank sloughing or erosion into inside ditches.*
- *Native-surfaced road exhibiting erosion.*
- *Native-surfaced road composed of erodible soil types (e.g., granitic soils).*

- *Rilled, gullied, or rutted road approaches to crossings.*
- *Existing ditch drain (relief) culverts or other road drainage structures with significant plugging from sediment and/or small woody debris.*
- *Existing ditch drain (relief) culverts or other road drainage structures with decreased capacity due to damage or impairment (e.g., crushed or bent inlets, flattened dips due to road grading).*
- *Decreased structural integrity of ditch drain (relief) culverts, waterbreaks, or other road drainage structures (e.g., excessive culvert corrosion, breached waterbreaks, or rutted road segments).*

Under the FPRs, a standard 'green tree' THP must include an analysis of all SEPES and a schedule for addressing such sites within the project area as a part of the CEQA EIR equivalent process. However, post-fire salvage operations conducted under an Emergency Notice are exempt from the requirement to disclose and address SEPES. Previous sections of this Information Sheet have described the concerns that Central Valley Water Board staff have with salvage logging operations conducted under an Emergency Notice, and to address these concerns, the Order contains requirements for SEPES disclosure as a condition for enrollment of post-fire salvage operations.

SEPES in the Post-Fire Environment

For post-fire salvage areas (Category 2A and 5A), and areas not salvage logged but proposed for reforestation with pesticide applications, the Discharger shall evaluate SEPES considering the factors listed below that elevate the risk of sediment delivery to watercourses. The intent of this expanded SEPES evaluation is to identify existing or the potential for upslope erosional features (e.g., landslides, debris flows, significant gully networks, channel initiation and other mass wasting features) within the burned/logged area that have the potential to significantly influence the downslope road network. Documentation of hillslope level SEPES is only required where there is, or there is the potential for, an interaction of that feature with the below road network that will result in significant erosion and sediment delivery to a watercourse.

- Increased runoff and associated sediment/debris in high/moderate burn severity areas originating at mid to upper, convergent slope within the fire salvage area; or in areas outside the salvage area that contribute increased runoff to watercourse crossings and drainage structures within the fire salvage area or to appurtenant roads.
- Rilling and gullying along existing or proposed skid trails and water bars within the fire salvage area that have potential for sediment delivery to a watercourse;
- Existing watercourse crossings, particularly those with a structure (i.e. culvert, bridge), that are now undersized and at an elevated risk of failure due to any of the bulleted items listed above.

How Information is Used in the General Order

This Information Sheet sets forth the background and rationale used in the development of certain requirements in Order No. R5-2017-0061. Many of these requirements are new and represent significant changes between Order No. R5-2014-0144 (Timber "Waiver") and Order R5-2017-0061, specifically creation of Category 2A and Category 5A for post-fire salvage operations on non-federal and federal lands, respectively. The following requirements and the rationale for these requirements will be summarized in this section: 50% Effective Ground Cover and Minimum

Watercourse Pesticide Buffers (Parts III.C.3.b.ii. and III.F.3.c.ii. of the General Order); Table 1. Erosion Site Table for Significant Existing or Potential Erosion Sites (SEPES) and New Watercourse Crossings (Category 2A and 5A NOI); and the Post-Fire Management and Reforestation Plan (Attachment C).

50% Effective Ground Cover

Based on thorough research and review of dozens of peer reviewed studies, technical guidance documents, and handbooks on post-fire effects, and the mechanisms that are driving both increased rates of erosion and sediment delivery on managed and un-managed post-fire landscapes, the rationale for selecting 50% effective ground cover as a requirement for Category 2A and 5A in the Order (see Parts III.C.3.b.ii. and III.F.3.c.ii.) is based four primary factors:

- The dominant factor for controlling soil erosion rates post-fire is ground cover;
- Fifty-percent effective ground cover is the value most often referred to the reviewed literature (e.g., U.S. Forest Service 2012, Benavides-Solorio et al. 2001, 2005, Berg and Azuma 2010, Doerr et al. 2009, Goldman et al. 1986, Harrison et al. 2016, Hyde et al. 2007, 2014, and 2015, Johansen et al. 2001, Stubblefield et al. 2016);
- Fifty-percent effective ground cover is a value that is most easily assessed and verified from visual estimations; and
- Ground cover is shown to be the most feasible and cost-effective method to reduce erosion and sediment production.

Watercourse Pesticide Buffers

The rationale behind the requirement for standard watercourse riparian buffers (see Parts III.C.3.b.ii. and III.F.3.c.ii. of the Order) in Category 2A and 5A in the Order is based on four primary factors:

- Extensive literature review indicates that ground cover and aquatic buffers can reduce pesticide discharge into streams by providing dissipation, filtration, chemical sequestration, chemical degradation/biodegradation (Brosofske et al. 1997, Reeves et al. 2006, Davies and Nelson 1994, Sweeney and Newbold 2014, Richardson et al. 2012, Wenger 1999, ACOE 1991, MacDonald 2011, Lindenmayer and Noss 2006, Minshall 2003);
- Studies on herbicide fate and transport show that average buffer widths of 38 m and 50 m, in restored and managed riparian forests respectively, reduced herbicide concentrations to at or below detection limits (Lowrance et al. 1997, Vellidis et al. 2002).
- A review of pesticide buffers found that cases of high pesticide concentrations only occurred when no buffer was used and that generally, bufferstrips of 15 m or larger are effective in minimizing pesticide contamination in streams (Neary et al. 1993).
- Buffers widths for pesticide applied in the post-fire landscape are limited or non-existent (see Table 1);
- Post-fire pesticide sampling by CDFW in 2014 indicates that label instructions and applications were ineffective at preventing discharge of specific chemicals (Hexazinone, 2, 4-D, Triclopyr, and Imazapyr) to surface waters; and
- The buffer requirements that are in the Order (see Parts III.C.3.b.ii. and III.F.3.c.ii.) are existing buffer widths for WLPZs as specified in California Code of Regulations, title 14, section 936.5 for 'green tree' timber harvesting activities, have been proven to be effective at reducing transport of waste to surface waters, and are widths that are familiar to RPFs. For federal projects, these same buffer widths are specified around perennial, intermittent, and ephemeral streams.

Erosion Site Table for Significant Existing or Potential Erosion Sites (SEPES) and New Watercourse Crossings

The rationale behind the requirement to disclose road and crossing-related SEPES within project areas enrolling in Category 2A and 5A NOI is based on five primary factors:

- Decades of research in post-fire hydrologic response and erosional processes indicate that roads and associated watercourse crossings are particularly susceptible to accelerated rates of erosion due to increased runoff rates and transport of associated sediment and debris;
- SEPES and new/reconstructed watercourse crossings in the post-fire environment necessitate additional evaluation and review, as normal input values for calculating stream flow to determine the appropriate size and capacity of stream crossing structures (e.g., culverts) may need modification (Cafferata et al. 2017);
- Emergency Notices pursuant to California Code of Regulations, title 14, §§ 1052.1 et seq., for fire salvage do not provide adequate information to properly assess whether a project has SEPES and whether those sites will be mitigated to a level that is less than significant (for enrollment in Category 2A);
- Following wildfires on federal lands, values at risk assessed through BAER teams do not directly consider or prioritize water quality and aquatic habitat for immediate resource protection; and
- Requirement of an Erosion Site Table for Category 2A and 5A allows for better treatment prioritization and implementation tracking.

Post-fire Management and Reforestation Plan (PFP)

The rationale behind the Order requirement for Category 2A and 5A to provide a PFP (Attachment C) in-lieu of complying with the watercourse buffers and ground cover standards, is based on four primary factors:

- A PFP provides the Discharger flexibility in applying specific management practices across the fire salvage area that consider all aspects of the timing of the fire salvage, site-preparation, and other activities associated with reforestation; provides for site specificity in terms of topography, soils, climate, hydrology, and soil burn severity; and consider all sources of potential negative water quality impacts from those activities (i.e., sediment and pesticide applications);
- Allows the Discharger the option to address multiple Emergency Notice areas (non-federal), and fire salvage areas (federal projects), under one comprehensive post-fire plan;
- Provides the Discharger the option and flexibility in applying post-fire management practices and mitigations other than those identified in Parts III.C.3.b.ii. and III.F.3.c.ii. of the Order, including experimental practices; and
- Ensures an appropriate monitoring plan will be developed for a PFP.

COST OF MONITORING FOR NON-FEDERAL PROJECTS

Water Code section 13267(b)(1) states that “the burden, including costs, of these [required monitoring and] reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.” Based upon information provided by timber industry representatives, staff estimates an annual cost of required visual monitoring and reporting, depending on project type and enrollment category, to range from \$100 to \$2,800 per enrolled project once operations have been initiated. Table 2 provides an estimate for a ‘green-tree’ THP on non-federal lands with a maximum operational lifespan of 7 years enrolled under Category 3A and for a post-fire salvage Emergency Notice project with a maximum operational lifespan of 1 year enrolled in Category 2A. Projects can remain enrolled in the General Order beyond the maximum operational lifespan if risks to water quality are identified and additional management measures, monitoring and reporting are necessary to protect the beneficial uses.

Table 2. Example Monitoring Cost Estimate for 7 Year THP and 1 Year Post-Fire Salvage Emergency Notice (EM).

MRP Activity	THP (3A) Cost Range	EM (2A) Cost Range
Inspection Plan Development (1 time cost per project)	\$200-\$500	\$200-\$500
Erosion Site Inventory Table	NA	\$500-\$700
Implementation Monitoring**	\$500-\$700	\$500-\$700
Forensic Monitoring**	\$500-\$700	\$500-\$700
Effectiveness Monitoring	\$500-\$700	\$500-\$700
Reporting (annual and NOV)	\$100-\$200	\$100-\$200
1 st Year Cost Estimate*	\$1,800-\$2,800	\$2,300-\$3,500
Total Cost Estimate for 7 years of enrollment	\$11,200-\$16,100	NA
Total Cost Estimate for 2 years of enrollment	NA	\$4,200-\$6,000

* Mileage not included, extreme variability in distance to monitored sites exists.

** Implementation and forensic monitoring required by the FPRs for THPs.

The visual monitoring required for ‘green tree’ projects (THPs) on non-federal lands has, since 2005 under the Timber Waiver, included two rounds of forensic monitoring during the winter period once operations have commenced. Eleven years of enrolled project monitoring has resulted in staff proposing to reduce this type of monitoring from twice per winter to once per winter under the General Order, comprising a modest annual cost savings to the timber/timberland owner of these projects.

It must also be noted that implementation monitoring is a requirement of the FPRs, as is forensic monitoring. The FPRs specify that the Regional Water Board’s monitoring and reporting requirements may be used in the evaluation of the road rule requirements. California Code of Regulations, title 14, section 943.7(k)(2) under Maintenance and Monitoring of Logging Roads and Landings specifies: “Inspections conducted pursuant to California Regional Water Quality Control Board requirements may be used to satisfy the inspection requirement of this section.” While the FPRs require visual implementation inspections prior to the winter period, and inspections during the winter period (essentially “forensic” monitoring), no formal reporting is required. So, even should the Central Valley Water Board determine that no additional monitoring or reporting will be required of projects enrolled in the Order, implementation and forensic inspections are still required by the FPRs (even for projects eligible to file an Notice of Non-Applicability under the General Order), though no reporting occurs. Thus, requiring development of an inspection plan,

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effectiveness monitoring, Notice of Violation (NOV) reporting and annual reporting are additional costs to non-federal Dischargers not required by the Forest Practice Rules.

The Central Valley Water Board concludes that the cost of monitoring and reporting required by the General Order represent a reasonable cost of conducting permitted operations that pose a threat to water quality. Benefits inherent in the proposed monitoring and reporting are many and include: increased awareness on the part of the landowner/land manager of sensitive water quality resources; potential impacts and effectiveness of management measures; increased potential for identifying threats before they impact water quality and the beneficial uses; increased data available to aid in future risk analyses; lessons learned regarding specific threats and effective mitigations that can be presented to the BOF for consideration in developing rule revisions or used in the furtherance of best management practice development.

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EXHIBIT 2



Battle Creek Alliance

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April 6, 2017

Public Comment on “General Order of Waste Discharge Requirements for Discharges Related to Timberland Management Activities (Order) in the Central Valley region”

Dear Members of the Central Valley Water Board,

Battle Creek Alliance (BCA) was formed in 2008 due to concerns regarding the excessive logging which had begun occurring in the Battle Creek watershed in 1998. BCA has been collecting Citizen’s Water Quality Monitoring data since 2009 because we found that there was very little public data available to track the cumulative watershed effects of industrial logging in inland California watersheds. As of this date over 7,500 samples have been collected, including turbidity, both water and soil temperature, and water pH. This data has been analyzed by 5 different hydrologists in 2011, 2012, 2014, and 2016. These ongoing analyses show continuing deterioration, which the various regulatory agencies, including the Central Valley Water Board, have failed to take action to stop.

BCA has decades of extensive knowledge and experience of the watershed, and years of dealing with the regulatory agencies, the public comment process, and the legal system.

The Battle Creek watershed is a prime example of how the State Water Board’s timber rules have failed to protect the waters of the state in this, and other, forested watersheds.

We agree with your staff that changes are needed. Unfortunately, the proposed General Order does nothing substantive to address the root causes of the problems which are continually occurring in the forested watersheds of California.

1. Substantial evidence exists that current regulations are producing significant environmental cumulative effects.

Page 7 of your order states “The Central Valley Water Board, acting as the lead agency for this project under the California Environmental Quality Act (CEQA)(Public Resources Code, section 21000 et seq.), conducted an Initial Study in 2002 in accordance with California Code of Regulations, title 14, section 15063. The Central Valley water Board adopted a negative declaration pursuant to CEQA on 30 January 2003...”

However, a Negative Declaration can be prepared only when there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment. ([PRC §21080\(c\)](#)), ([14 C.C.R. §15070](#)). Your Negative Declaration study was conducted 15 years ago. There have been substantial changes in those 15 years. The negative declaration is outdated and irrelevant to current conditions, which in turn means that CEQA's requirements are not being met.

As just one example of significant changes, consider the Battle Creek watershed.

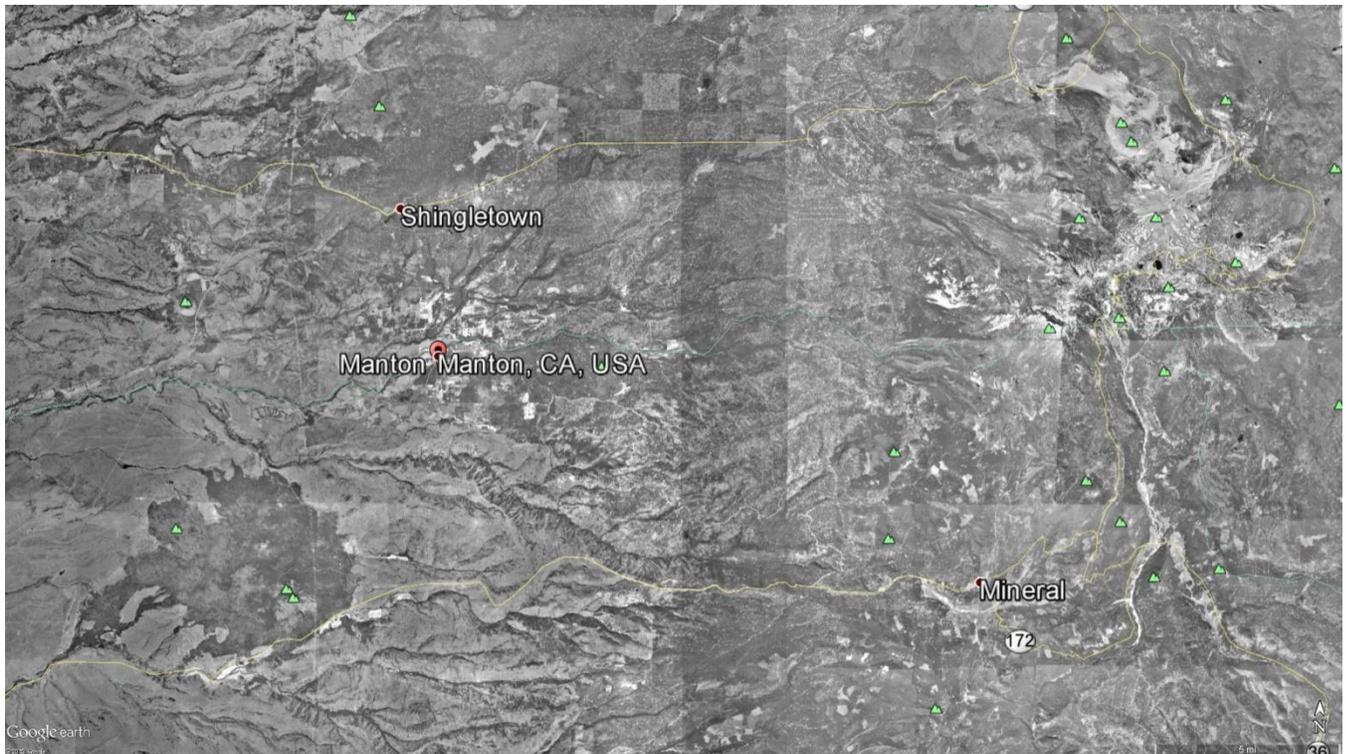


Figure 1. The Battle Creek watershed in 1998, before clearcutting and salvage logging.

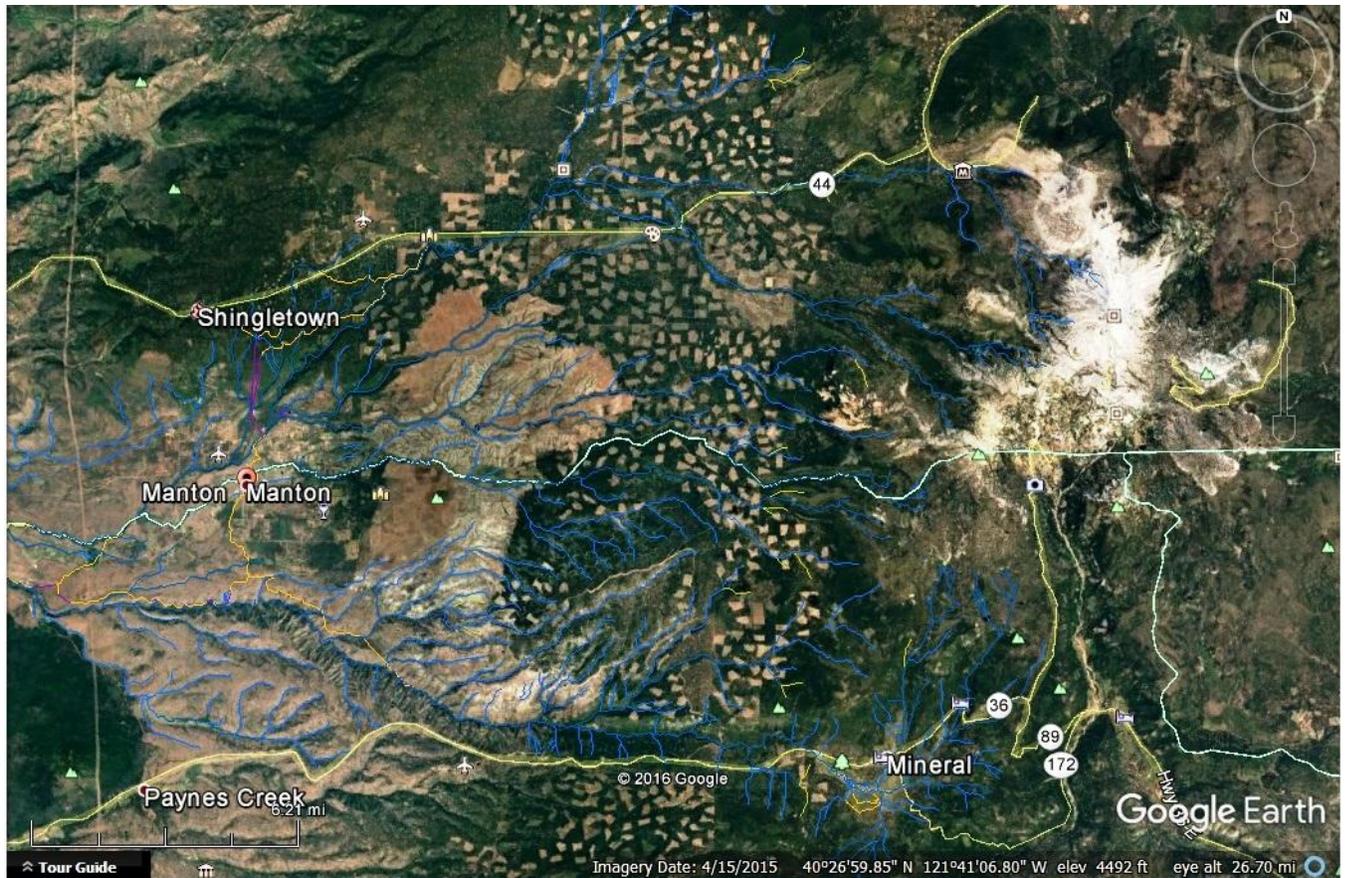


Figure 2. The most recent (2015) image of the Battle Creek watershed post clearcutting and salvage logging following the 2012 Ponderosa fire. The brown boot shape to the left of center is the fire and salvage logged area. The regularly spaced brown holes are clearcuts. The blue lines are the USGS National Hydrography Dataset flow lines which show the many larger streams flowing (generally) from east to west. The multitude of intermittent and ephemeral streams are not shown.

One of the conclusions of the 2014 and 2016 analysis of BCA's water monitoring data by Lewis et al. is: "The average change in turbidity for a watershed that has been 30% cut is +200% and, for a watershed that has been 90% cut it is 3000%. These changes, which are far in excess of the Water Board's Turbidity Standard for the Central Valley region, are unlikely to have been caused by factors other than harvesting, fire, salvage logging, and associated road use." The analyses may be found on our website on this page:

<http://www.thebattlecreekalliance.org/library.html>

As part of the analysis for our 2014 report and 2016 paper, logged areas were identified using 1 meter resolution imagery from the US Department of Agriculture's National Agriculture Imagery Program (NAIP) that was acquired on 8/17/2014 and digitized into a GIS at a scale of 1:24,000 by GIS specialist Curtis Bradley.

Hydrologist Jack Lewis identified areas within the Ponderosa fire area that were salvage logged using Google Earth imagery. Lands zoned for timber production were

identified with GIS data and maps from Shasta and Tehama County. We then intersected the logged and salvaged logged areas with the areas zoned for timber production to determine the proportion of timber producing lands that were logged. Looking at lands zoned for timber production within the watershed, 28,483 acres of 85,385 acres of those lands have been cut, or about 33%, in ~15 years. This has occurred within the current regulations, including your Board's adoption of the Waiver of Waste Discharge Requirements (R5-2003-005) in 2003, and the renewals of it in 2005, 2010, and 2014. The initial draft of your currently proposed order contained this statement as part of the monitoring and reporting attachment: "Additionally, Class I CalWater Planning Watersheds that have been subject to land disturbance activities of 20% or greater over the past 10 years may trigger additional monitoring requirements that will be developed and issued by the Executive Officer on a site-specific basis." But even this vague reference (that further limited the analysis of effects to a 10 year period) to the Rate of Harvest (ROH) was removed from your current version.

The ROH contributes to significant cumulative watershed effects, which have been occurring for nearly 20 years under the current regulations. These effects have not been alleviated by Best Management Practices (BMPs). As Lewis et al. states:

"Cumulative impact assessments in California THPs routinely state that there are no 'reasonably potential significant adverse effects' (possibly after mitigation) on watersheds, soil productivity, biological and other resources; and that any nearby THPs or other projects produce no significant environmental impacts. However, it is well-documented that BMPs do not completely eliminate logging impacts on accelerated sediment delivery (Ziemer and Lisle 1993; GLEC 2010; Klein et al. 2012; Wagenbrenner et al. 2015, 2016). These studies are consistent with our results indicating strongly that BMPs did not prevent major increases in turbidity and, hence, sediment delivery associated with logging in the study area.

A central issue is whether cumulative impacts from a large number of spatially and temporally proximal logging activities deemed "insignificant" in THPs, are significant at the watershed scale. Our results indicate that they are significant, despite BMPs, with negative impacts on water quality, aquatic habitats, and imperiled salmonids. While regulatory agencies have assumed otherwise, removing the forest canopy affects both hydrology and slope stability/erodibility and, regardless of road design or harvest method, increases sediment delivery to waterways, especially in mountainous terrain. The results of this and other studies (e.g. Klein et al. 2012; Lewis et al 2001) indicate that individual logging operations cumulatively elevate sediment delivery to streams. Thus, a high concentration of projects in space and time is likely to degrade water quality and aquatic ecosystems via sedimentation, and it is unlikely that such negative impacts can be prevented or avoided without limiting the total area logged in watersheds."



Fig. 3. Example of sediment impacts still occurring in Battle Creek, June 18th, 2016 after 1" of rain (4 years post-fire and salvage logging, 18 years post-clearcutting)

2. Unpublished industry reports are not reliable evidence.

The largest timberland owner in California, Sierra Pacific Industries (SPI), has been circulating a document for the past several years which discusses their own purported study of post-fire salvage logging and sediment (James 2014). Hydrologist Tom Myers reviewed the earlier version in 2013:

<http://nebula.wsimg.com/83bd6de31f359b050bbb5eec36bb998f?AccessKeyId=01B8D7A67C3CF9F65262&disposition=0&alloworigin=1> and Jack Lewis reviewed the 2014 version in 2016: <http://nebula.wsimg.com/aa5a4911ce3802a3c5901dd13843a9da?AccessKeyId=01B8D7A67C3CF9F65262&disposition=0&alloworigin=1> The 2016 analysis concluded:

"Some of the differences in runoff and erosion among study sites that was reported by SPI are certainly due to reduced infiltration that results from faster runoff on steeper slopes. Slope steepness is universally recognized to be a very important control and no erosion study is complete without a consideration of this factor. There is not a word about slope steepness in the SPI Report and it is an egregious omission."

Several other SPI-produced reports have been reviewed by outside professionals and found to also contain "egregious omissions" (e.g. Peter Miller, NRDC, 2008, review of SPI's "Carbon Sequestration in Californian Forests; Two Case Studies in Managed Watersheds", Sue Britting's 2007 review of SPI's Plant Diversity Study).

In 2015, fish biologist Matt Brown from the US Fish & Wildlife Service wrote to the Regional Water Board regarding his department's concerns regarding increasing fine sediment in Battle Creek http://www.battle-creek.net/docs/gbcwwg/USFWS_MemoIncreaseInFneSedimentSouthForkBattleCreek_final.pdf. His department's observations and analysis is diametrically opposed to SPI's. He wrote:

"...an RBFWO employee responsible for collecting temperature data from temperature loggers deployed throughout the Battle Creek watershed was tasked to collect, in addition to temperature data, information on the condition of SF Battle Creek and related tributaries in regards to increased sedimentation... He noted that there was a considerable increase in sand throughout Battle Creek in this area and significant erosion and evidence of high flows in Soap Creek. This area of the Battle Creek watershed is influenced by effects stemming from the Ponderosa Fire, which occurred in this area 8-31-2012." (Page 2.)

"During trap sampling from all years prior to the Ponderosa fire, the maximum reading was 35.4 NTU's. Since August 2012, the maximum reading was 832 NTU's during a thunderstorm in May 2015. We think that the increase in turbidity is a result of the August 2012 Ponderosa Fire, subsequent salvage logging and other forest management practices, and highly precipitous "Atmospheric River," rain events in December of 2012 and 2014 within the Battle Creek watershed. We plan to further analyze our data as it becomes available.

4) **Additional turbidity measurements.** Turbidity samples have also been collected when the BCJSMP fish traps were not fishing or during the course of other studies. In some cases samples were taken because turbidities were remarkably high. This data was not used in the previous analysis because sampling effort has increased in recent years due to the increase in turbidity. Many samples taken during high flow events since August 2012 were higher than 832 NTU's. The maximum reading of a non-sampling day in February of 2014 was over 1700 NTU's." (Page 6.)

3. Ongoing and interconnected causes and effects.

a. Landslides

Our residency in the area, coupled with our field work, means we spend frequent and regular time on the back roads in the timbered/burnt parts of the watershed. Even so, we see a very small percentage of the land. Yet, we see a marked increase in landslides. Slides are still continuing years after salvage logging, as shown in Figures 4, 5, and 6.



Fig. 4. Sept. 2014. Salvage logged 2012-2013.



Fig. 5. Forwards Mill Road, Dec. 2016. Salvage logged in 2012-2013.



Fig. 6. Rock Creek Rd., Dec. 2016. Salvage logged in 2012-2013.

b. Road closure due to prejudicially finding Shasta County solely responsible for sediment effects.

The regional Water Board sent a letter to Shasta County in 2015, regarding the county road (Rock Creek) which traverses some of the most burned and salvage logged timberland. This letter threatened to levy thousands of dollars of fines per day if the county took no action. The Board of Supervisors voted to close the road for the winter season, built gates, and kept them closed from December 2015 to May 2016. As may be seen in Figures 4, 5 and 6, the effects of salvage logging are ending up in the roads (and potentially being transported to the waterways), but the problems are not being initiated from the roads. The problems originate from the land stripped bare above the roads. As far as we know, no threats of high fine fees were sent to the timberland owners. We don't understand this prejudicial treatment, but consider it highly unsupportable.

4. The Order doesn't consider post-fire salvage logging activity adequately.

Your Order partially addresses post-fire salvage logging. Fire is a natural part of sediment-producing processes; it is also a part of other ecological processes which salvage logging disrupts (Beschta et al. 2004). Fire effects and water effects are inextricably linked. Fire is usually not able to be controlled by humans, but choices about management before and after fire can be controlled, and the Water Board has regulatory authority to do that. Current regulations have no watershed scale limits on ROH for clearcutting and even fewer restrictions on post-fire salvage logging. The removal of the majority of standing trees and their root systems, living or dead, both destabilizes slopes (Klein et al. 2012) and increases GHG emissions (Talberth et al. 2015, Oertela et al. 2016).

There is misrepresentation and ignorance of the best-available science regarding fire being circulated by both CalFire and timber industry sources. Due to this, we incorporate by reference the Center for Biological Diversity's (CBD) comments on the Forest Carbon Plan, which CalFire is the lead agency on. Sections D and E of the CBD comment, pages 14-18, address the "incorrect characterization of fire activity in California's forests", and provide reference papers as proof:

"One of the Plan's core arguments is that California's forests are experiencing uncharacteristically severe and large wildfires that are "out of the historical norm" as a justification for massive increases in thinning in order to reduce fire activity. The Plan also states that forests that have missed fire cycles are burning more severely, and that high severity burn patches are increasing in size. However, the body of scientific studies on fire trends does not support these assertions, and instead demonstrates (1) no increasing trend in fire severity in California's forests, (2) no increasing trend in high-severity patch size, (3) the most fire suppressed forests are not burning more severely, and (4) no clear trends in fire size.

1. Fire severity is not increasing in California's forests.

The Plan repeatedly asserts that fire severity is increasing in California's forests. For this proposition, the Plan cites to three sources (e.g., Miller and Safford 2012, Mallek et al. 2013, unpublished draft Cal Fire report), but omits any mention of the much larger number of recent published, peer-reviewed studies that have found that fire severity is not increasing in California's forests. These studies are summarized in a scientific literature review by Doerr and Santin (2016), which concluded: "For the western USA, [current studies] indicate little change overall [in high-severity fire trends], and also that area burned at high severity has overall declined compared to pre-European settlement."

Specifically, the Plan fails to mention nine studies that analyzed recent trends in fire severity in California's forests in terms of proportion, area, and/or patch size found no significant trend in fire severity: Schwind 2008 (California forests), Collins et al. 2009 (central Sierra Nevada), Hanson et al. 2009 (Klamath, southern Cascades), Dillon et al. 2011 (Northwest California), Miller et al. 2012 (four Northwest CA forests), Hanson and Odion 2014 (Sierra Nevada, southern Cascades), Odion et al. 2014 (eastern and western Sierra Nevada, eastern Cascades), Baker 2015 (California dry pine and mixed conifer forests), and Picotte et al. 2016 (California forest and woodland)."

The Water Board must act to include all science sources, and make management and enforcement decisions based on all the information available, rather than maintaining a narrow focus that allows intensive logging, and its effects, to continue unabated.

5. Concerns regarding General Order effectiveness.

a. General concerns.

Cumulative effects: The primary root cause which is not being addressed by the General Order is the ongoing lack of analyses of the cumulative watershed effects that occur due to multiple projects in a contiguous area. These analyses are required by CEQA, but have been circumvented by the use of planning watersheds. There is nothing in the Draft Order to strengthen the regulations regarding this issue, which is a serious omission. We encourage you to strengthen your order to provide the protections which have been lacking. This could be done by taking a watershed-scale approach, rather than continuing on with the use of the failed "planning watershed" system.

Recent Clean Water Act lawsuits: BCA has been party to legal actions against industrial facilities in Shasta Lake City and Red Bluff in recent months. These were brought to address violations of the General Industrial Storm Water Permit. The facilities are required to monitor pollutant discharges, take four samples each year, and report the analytical results to the Regional Water Board. Although the monitoring was for the most part completed, and EPA benchmark exceedances were self-reported, the Regional Board, as is the case across the State, seems to lack the resources and political will to take any action beyond an occasional letter to the

discharger noting the exceedances. Without government oversight to enforce the standards, protection levels will not be met.

This General Order includes self-monitoring and reporting requirements. Based on our experience investigating storm water violations, BCA has serious concerns regarding actual enforcement of an order based on self-monitoring. Without enforcement, the Order and requirements are meaningless. Specific language needs to be included in the Order with definitions and concrete enforcement measures; those measures must translate into on-the-ground enforcement. That is the purpose of a regulatory agency, not the writing of vague and unenforceable orders which only create more paperwork, but produce no tangible results.

b. Specific concerns.

Page 1 of Attachment B Monitoring and Reporting Program states: Inspection Plans shall be maintained and updated as needed by the Discharger and/or agents thereof and shall be submitted to the Central Valley Water Board upon request.

BCA is very concerned about the phrase “submitted...upon request”. It should be a requirement that the inspection plans and results are submitted automatically. As a public agency responsible for the state’s waters, the Water Board should be receiving these documents and uploading them to the internet for public review to promote transparency, as they do with other reports.

Page 9 of Attachment B Monitoring and Reporting Program states: The Discharger shall report to Central Valley Water Board staff as soon as possible, but no later than 48 hours after detection of any of the following, including, but not limited to:

- Violation(s), threatened or actual, of any applicable water quality objective (i.e. for turbidity, sediment, temperature, dissolved oxygen, pesticides, etc.) caused by:
 - Failed management measures (e.g. watercourse crossing fill failure; watercourse diversion; major road, landing, or skid trail failure within or adjacent to a watercourse protection zone);
 - Failure to implement appropriate management measures;
 - Natural sediment sources (landslide/unstable areas);
 - Legacy timber activities (as assessed during Forensic Monitoring);
 - Non-timber harvesting related land disturbances (as assessed during Forensic Monitoring)

BCA agrees that all of these occurrences should be reported. But, what mechanism is in place so that a discharger actually sees any of those things? In the Battle Creek watershed alone, there are tens of thousands acres of industrial timberland. Without a more specific, detailed plan for **how** to detect these occurrences, this requirement will not accomplish any protection or enforcement measures.

Page 12 of Attachment B Monitoring and Reporting Program states:
POTENTIAL ADDITIONAL MONITORING REQUIREMENTS

Pursuant to California Water Code section 13267, the Executive Officer has the authority to issue site-specific and individually developed monitoring and reporting requirements to any Discharger whose activities could affect the beneficial uses of waters of the state.

Additional monitoring requirements may include, but are not limited to:

- Water column sampling (typically for sediment)
- Physical stream condition assessment for:
 - Gravel Embeddedness –Degree gravel is embedded with sand or finer sediments;
 - Pool Sedimentation –Degree of sediment depositions in pools;
 - Stream Channel Aggradation –Degree that stream channel has been raised by sedimentation;
 - Streambank Cutting, Mass Wasting and Stream Downcutting;
 - Stream-Side Vegetation;
- Streamflow data (current, historical, peak flows);
- Bioassessment.

As mentioned on page 4, this paragraph has been deleted: "Additionally, Class I CalWater Planning Watersheds that have been subject to land disturbance activities of 20% or greater over the past 10 years may trigger additional monitoring requirements that will be developed and issued by the Executive Officer on a site-specific basis." Although it only stated that it "may trigger additional monitoring requirements" it was a step in the direction of taking an action regarding high amounts of watershed scale disturbance. But, you have removed even that small step. BCA has also collected much published literature that shows the long term effects of disturbance; the 10-year limit is very low for the length of time that effects can last (Karraker et al. 2006, Reid et al. 2009, Klein et al. 2012, Kuras et al. 2012, Cafferata et al. 2013). As noted above (page 10, a.), the use of the smaller CalWater Planning Watersheds (subwatersheds) only serves to ignore the honest appraisal of cumulative impacts on a whole watershed.

As can be seen on the following map of the Battle Creek watershed (Fig. 7), the Planning Watersheds (white boundaries) are very small compared to the overall watershed size (dark yellow boundary). By dividing the larger watershed into ever-smaller sub-drainages, the overall health of water and watersheds is being ignored. This was clearly described in Dunne et al. (2001):

"The resulting "postage-stamp", or "parcel-by-parcel", approach, in which only the immediate project area of a single, small timber harvest is ever reviewed—as all other reviewers have said—does not capture the cumulative influence of multiple harvests over a long period of time in a large, complex watershed. The Little Hoover Commission (1994, p. 55), quoting the State Water Resources Control Board, arrived at the same conclusion, referring to the results as "Inadequate, 'boilerplate' analyses and mitigation measures."

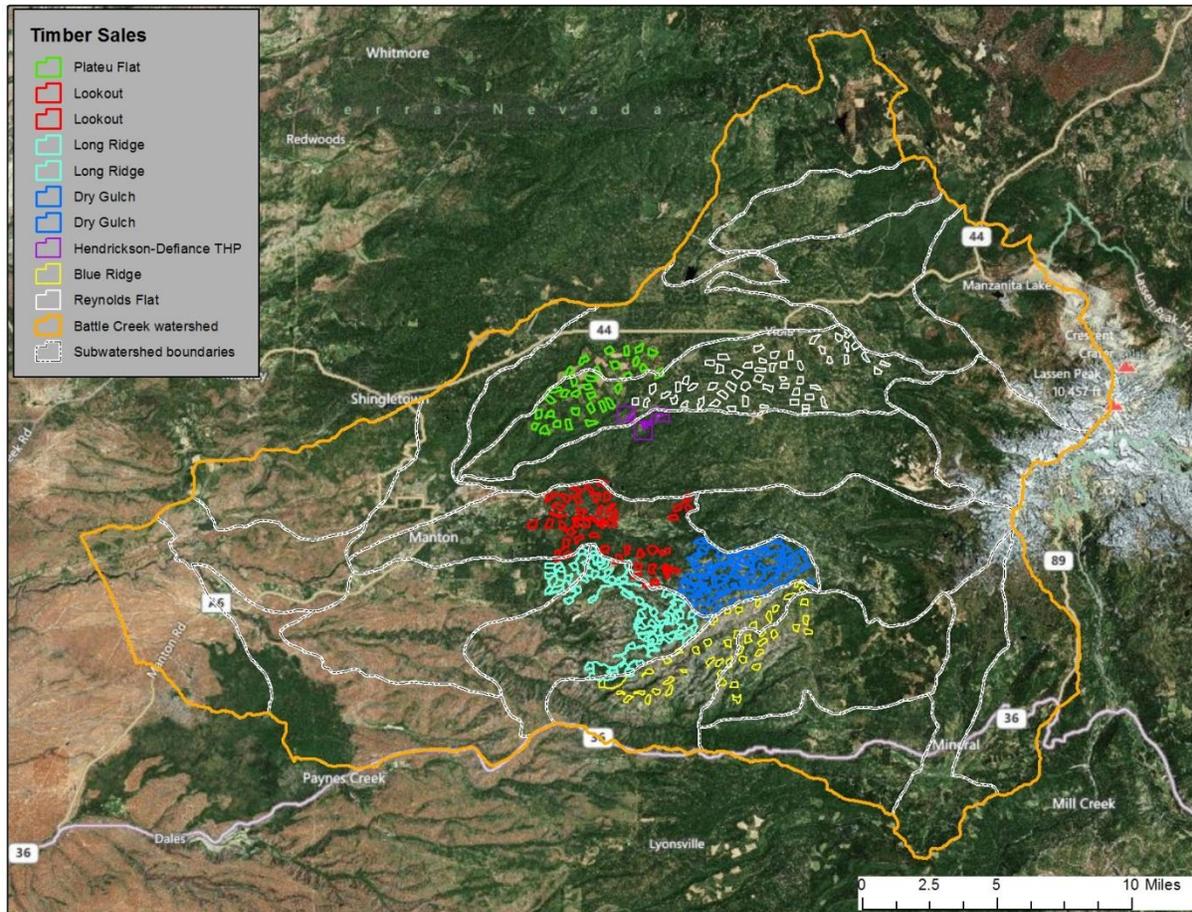


Fig. 7. Battle Creek watershed (yellow boundary line) with planning watershed boundaries (white with black dashed lines).

Figure 8 reveals the continuing upward trend in suspended sediment in the Battle Creek watershed. The steadily climbing trend shows more sediment being transported by storms of less magnitude and intensity. This is consistent with literature regarding peak flows increasing in response to more loss of forest canopy (Lewis et al. 2001, Kuras et al. 2012).

Suspended Sediment: Historical versus Current

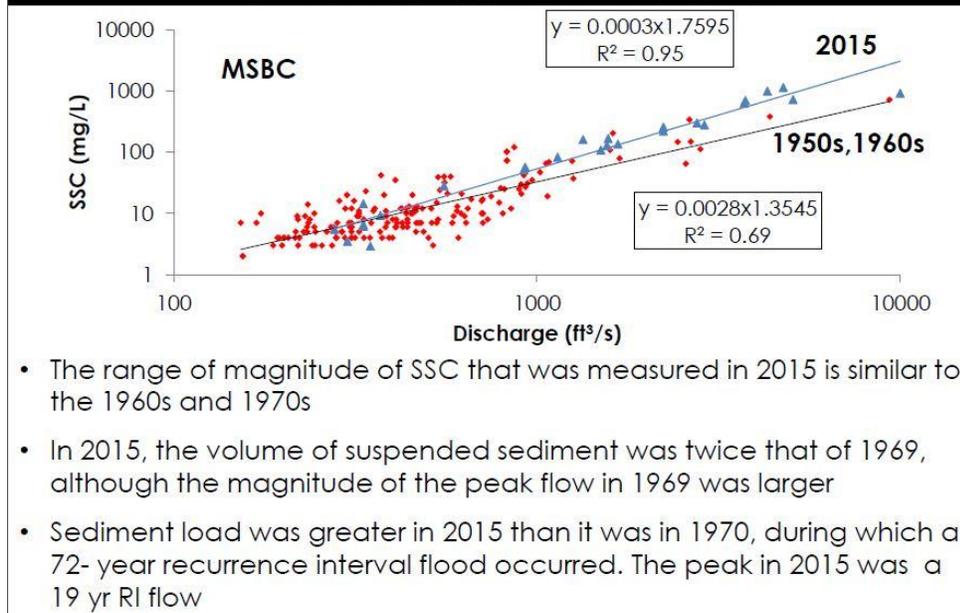


Fig. 8. Graph of Battle Creek sediment analysis from Henkle et al. (2016).

6. Summary

There is overwhelming evidence which demonstrates:

- Current BMPs are failing to protect the waters of the State.
- Current regulations are failing to protect the waters of the State.
- This order has no specific, measurable, enforceable on-the-ground standards to be met. It instead depends on the tiny percentage of chance that some random person will pass by a problem area in the 16 million acres of forested land in the CVRWQ area and report it. Somewhere far beyond the proverbial “finding the needle in the haystack”, isn’t it?

The forested watersheds of California will not benefit from an order which only requires more paperwork hoops for forest landowners to jump through, while the proven failing practices on the ground continue on the same trajectory. The lack of a full CEQA review and the ongoing extension of the Waiver of Waste Discharge Requirements over the past 15 years have allowed many forested watersheds of California to be irreparably damaged. We believe that it is your Board’s duty to write a strong order which will make a real difference in providing protection to the waters of the State.

Sincerely,



Marilyn Woodhouse, Director

battlecreekalliance@gmail.com

See the real effects of current regulations on the land. Our documentary “Clearcut Nation” is here: <https://youtu.be/Dde1dv86M7Q>

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