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## North Coast Regional Water Quality Control Board

November 1, 2013

Mr. J. Keith Gillless, Chair  
Mr. George D. Gentry, Executive Officer  
Board of Forestry and Fire Protection  
Post Office Box 944246  
Sacramento, CA 94244-2460

**Subject:** Comments on the Board of Forestry proposed revisions to the Anadromous Salmonid Protection Rules as part of the Road Rules 2013 package, Title 14 of the California Code of Regulations

**File:** Timber, General

Dear Mr. Gillless and Mr. Gentry:

We appreciate having had the opportunity to work cooperatively and collaboratively with the Board of Forestry and Fire Protection, other state and federal agencies, and members of the public during the revision and review process of the proposed Road Rules 2013 package (Road Rules). Our goal has always been to participate and provide input over the course of the review and revision process to ensure actions authorized under this regulation comply with Regional Water Quality Control Board requirements.

Although the public comment period has already closed, we feel the need to express a concern that arose during the October 9, 2013, hearing. As the Road Rules package is scheduled for "final approval" at the November 6, 2013, meeting of the Board, we are concerned about one item included in the final package that was neither discussed nor reviewed during the review and revision process. Line 7 of page 16 of the text of the Road Rules 2013 purports to delete section 916.9(o) "Erosion site identification and remedies" from the Anadromous Protection Rules (ASP rules) section of the Forest Practice Rules.

Our concern is multifold. This section was originally adopted in 2000 as part of the Threatened and Impaired Watershed rules and was reincorporated and strengthened with clarifying language as part of the ASP Rules in 2009. It applies to the entire logging area and is not restricted to roads. It was not discussed during the review and revision process because it is not a "road rule." We do not believe it should be deleted without adequate discussion and review.

Comment was made at the October 9, 2013, hearing on the Road Rules that section 916.4 of the Forest Practice Rules, "Watercourse and Lake Protection" accomplishes the same goal as 916.9(o). While section 916.4 requires an examination of "all lakes and watercourse" for sensitive conditions including "unstable and erodible watercourse banks," it does not

include the same provisions of 916.9(o) to “identify sites in the logging area where erosion and sediment production are ongoing during any period of the year and assess them to determine which sites pose significant risks to the beneficial uses of water.” Regardless, neither of these sections are specifically road related and therefore should be considered separately, not as part of the Road Rules package.

We fully support a future discussion of the relative merits of these two sections, but that has not yet occurred. We recommend that the text of section 916.9(o), instead of being deleted, could be moved and incorporated into section 916.4, but this should be a separate discussion apart from the Road Rules.

As if to underscore the fact that deleting section 916.9(o) has not received adequate review, the proposed text of the Road Rules 2013, appears to delete only the section title. While the Notice states in several places that the text of the proposed action uses “UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion,” only the section title is shown in strikethrough. Indeed, the text of the section is not shown at all. This leads to a confusing, vague, and ambiguous situation where it is unclear whether the whole section is proposed for deletion, or only the section title.

The solution to the problem is actually quite simple. **We suggest the Board delete line 7 of page 16 of the proposed text of the Road Rules 2013.** This would result in no change to existing rules and no conflict with the proposed rules. More importantly, this would allow for an open discussion of the issue in the appropriate forum.

We urge the Board of Forestry to take an active role in recognizing and addressing the Regional Water Board concerns with consistent regulations that address the beneficial uses of water that may be impacted from timber harvesting activities. We recommend that rules be developed that are consistent with applicable water quality objectives and protection of the applicable beneficial uses of water. This approach would help our agencies and provide the people of the state with efficient government.

If you or your staff have any questions regarding our comments, please contact David Fowler at (707) 576-2756.

Sincerely,

Original Signed By

Fred J. Blatt  
Division Chief  
Nonpoint Source and Timber Harvest

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