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## North Coast Regional Water Quality Control Board

September 30, 2014

Dr. J. Keith Gilliss  
Chair, Board of Forestry and Fire Protection  
P. O. Box 944246  
Sacramento, CA 94244-2460

Dear Dr. Gilliss:

Subject: Comments on the Proposed Working Forest Management Plan

File: Timber, General

Assembly Bill 904 created a new alternative for managing “working forest” timberlands up to 15,000 acres in size. The Bill states that “It is the policy of the state to encourage prudent and responsible forest resource management of nonindustrial timberlands by approving working forest management plans in advance and authorizing working forest timber harvest notices to be filed ministerially.” Working Forest Management Plans (WFMPs) are intended to build on the model provided by nonindustrial timber management plans.

Over the course of the last twenty months, North Coast Regional Water Quality Control Board (Regional Water Board) staff have participated in the discussions of the Management Committee of the Board of Forestry and Fire Protection (BOF or Board) on the proposed WFMP rule language.

During those discussions, on several occasions, we expressed our concern with the language of proposed section 1094.6(e)(8), a subsection of 1094.6, “Contents of WFMP.” The proposed subsection states:

“A description and discussion of the methods to be used to avoid significant sediment discharge to watercourses from timber operations. This shall include disclosure of active erosion sites from roads, skid trails, crossings, or any other structures or sites that have the potential to discharge sediment attributable to timber operations into waters of the state resulting in significant sediment discharge and violation of water quality requirements. The WFMP shall also include an erosion control implementation plan and a schedule to implement erosion

controls that prioritizes significant existing erosion site(s). This subdivision shall not apply to the extent that the RPF provides documentation to the Department that the WFMP is in compliance with similar requirements of other applicable provisions of law.”

While Regional Water Board staff strongly support including a description and discussion of methods to be used to avoid significant sediment discharge and including an erosion control implementation plan in WFMPs, addressing only “active” and “existing” erosion sites, while making no mention of threatened or potential erosion sites is problematic. Besides being reactive rather than proactive, addressing only active and existing erosion sites is inconsistent with other existing sections of the Forest Practice Rules, sections of the recently approved Road Rules, the requirements of the Water Quality Control Plan (Basin Plan) for the North Coast, and the Porter-Cologne Water Quality Control Act.

WFMPs are not exempt from the requirements of the rest of the Forest Practice Rules. Section 916.4(a) [936.4(a), 956.4(a)] requires an RPF to conduct a field examination and evaluate areas near, and areas with the *potential* to directly impact, watercourses and lakes for sensitive conditions, identify those conditions, and describe measures to protect and restore to the extent feasible, the beneficial uses of water. Section 923.1(e) [943.1(e), 963.1(e)] of the new Road Rules requires road inventories. It requires an RPF to evaluate all logging roads and landings in the logging area, including appurtenant roads, for evidence of significant existing *and potential* erosion sites, and specify necessary and feasible treatments for those sites.

Additionally, WFMPs are not exempt from the requirements of the regional Basin Plans or the Porter-Cologne Water Quality Control Act. Both the Act and the Basin Plans recognize threatened or potential discharges as well as active or existing discharges.

It should be noted that proposed section 1094.6(e)(8) twice uses the term “significant sediment discharge” a term that is defined as part of the Road Rules. The definition of significant sediment discharges includes the concept of potential as well as active discharges. The section then uses the undefined term “significant existing erosion site(s).” Since this term is undefined, it leads to ambiguity and the inevitable question of “What is *significant*?” This could be avoided by using the existing defined term “significant existing or potential erosion site.”

The two defined terms use nearly identical language:

**“Significant Sediment Discharge** means soil erosion that is currently, or 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.”

**“Significant Existing or Potential Erosion Site** means a location where soil erosion is currently, or 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 first term describes the sediment that is or may potentially be discharged, while the second term describes the location from which the sediment is or may potentially be discharged. It is curious why the WFMP language chooses to use a defined term in one case and an undefined term in the other, especially when it adds ambiguity and makes this section internally inconsistent with the rest of the Forest Practice Rules.

In order to make the WFMP language internally consistent with other provisions of the Forest Practice Rules and to make it consistent with the requirements of the regional Basin Plans and the Porter-Cologne Water Quality Control Act, Regional Water Board staff propose the following revision to proposed section 1094.6(e)(8):

“A description and discussion of the methods to be used to avoid significant sediment discharge to watercourses from timber operations. This shall include disclosure of active erosion sites from roads, skid trails, crossings, or any other structures or sites that have the potential to discharge sediment attributable to timber operations into waters of the state resulting in significant sediment discharge and violation of water quality requirements. The WFMP shall also include an erosion control implementation plan and a schedule to implement erosion controls that prioritizes significant existing and potential erosion site(s). This subdivision shall not apply to the extent that the RPF provides documentation to the Department that the WFMP is in compliance with similar requirements of other applicable provisions of law.”

Regional Water Board staff believe that without these proposed revisions, it is likely that the proposed WFMP regulations may not insure compliance with the Water Quality Control Plan for the North Coast. This could lead to WFMPs written under the currently proposed rule language that may not comply with the Basin Plan. 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.

I was very glad to attend the joint Regional Water Board/Board of Forestry meeting in Fort Bragg last week. It was very encouraging hear the reaffirmation to work together cooperatively from both Boards, as well as both CAL FIRE and Regional Water Board staff. One item that particularly stood out for me was the desire to work to identify and close any “gaps” between the requirements of the Forest Practice Rules and the Basin Plan. I believe this is an opportunity to do just that.

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

Sincerely,

David Fowler  
Regional Water Board staff  
Nonpoint Source and Timber Harvest

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