
North Coast Regional Water Quality Control Board

August 27, 2019

Ms. Ruth D'Amico, District Ranger
ATTN: Ms. Danika Carlson
Salmon/Scott River Ranger District
Klamath National Forest
11263 North Hwy 3
Fort Jones, CA 96032
Ruth.Damico@usda.gov

Dear Ms. D'Amico:

Subject: Scoping Comments - Bear Country Project, Klamath National Forest

File: USDA USFS Klamath National Forest (CW-754118)
Klamath NF Bear Country Project (CW-860676)

The North Coast Regional Water Quality Control Board (Regional Water Board) appreciates the opportunity to comment on the proposed Bear Country Project (Project). Klamath National Forest (KNF) proposes to prepare an Environmental Assessment (EA) for the Project, which is located in the Salmon/Scott River Ranger District. The purpose of this letter is to comment on the activities proposed in the Project. Additionally, we are providing you with information regarding compliance with Regional Water Board Order No. R1-2015-0021, *Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on National Forest System Lands in the North Coast Region* (Waiver). Please see the Waiver of Waste Discharge Requirements section below for more information about the Waiver and project specific comments.

Project Summary

On August 6, 2019 the Regional Water Board received the public scoping document for the Project. KNF proposes to treat 22,769 acres within the Project area with a combination of prescribed fire, commercial and pre-commercial thinning, hazard tree

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removal, fuel reduction around private property, construction of strategic fire breaks, and the scoping document states that the Project EA may propose construction of new roads.

Waiver of Waste Discharge Requirements

As background, California state law assigns responsibility for protection of water quality within north coast watersheds to the Regional Water Board. The Regional Water Board implements and enforces the Porter-Cologne Water Quality Control Act ("Porter-Cologne Act": Wat. Code, §13000 et seq.) and the Water Quality Control Plan for the North Coast Region (Basin Plan). All KNF projects within California must comply with all substantive and procedural requirements of the Porter-Cologne Act (Water Code) and the Basin Plan.

The Basin Plan contains water quality objectives, implementation plans for meeting those objectives, and other policies, including State Water Resources Control Board (State Water Board) and federal policies, which are applicable to operations on NFS lands within California. Water Code section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, must file with the appropriate Regional Water Board, a report of waste discharge containing such information and data as may be required. Pursuant to Water Code section 13260, Regional Water Boards prescribe waste discharge requirements (WDRs) except when it finds, pursuant to Water Code section 13269, that a waiver of WDRs for a specific type of discharge is in the public interest.

The State Water Board Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program requires that nonpoint source discharges of waste be regulated by WDRs, waiver of WDRs, or prohibitions to ensure compliance with the Basin Plan. Additionally, the Project must be in compliance with any total maximum daily load (TMDL) for the watersheds in which a project will occur.

The Regional Water Board developed and adopted the Waiver as a means for federal agencies' nonpoint source projects to comply with the Nonpoint Source Policy, the Water Code, and TMDLs. In order to receive coverage under the Waiver, a project must meet specific eligibility criteria and conditions. The Waiver is available for review and can be downloaded at the following web address:

Link to Timber Waiver web page

(http://www.waterboards.ca.gov/northcoast/water_issues/programs/timber_operations/timber_waiver/)

Please accept the following comments based on preliminary information provided in the project scoping document:

1. Underburning, road construction, and vegetation management with the potential to discharge sediment, are activities which may be covered under Category B of the Waiver. Category B applies to activities with a moderate potential impact to water quality. Please find Category B conditions and requirements on pages 24-34 of the Waiver.
2. The Project scoping document contains information on proposed vegetation management treatments. The scoping letter includes general information about silvicultural prescriptions proposed across the Project area but does not address specific tree or shade retention standards in designated riparian reserves. Additionally, the Project Treatment Map identifies that many of the silvicultural and fuel reduction units overlap riparian reserves throughout the Project area.

On April 8, 2015, the Regional Water Board adopted Resolution No. R1-2014-0016, *Amending the Water Quality Control Plan for the North Coast Region to include the Policy for the Implementation of the Water Quality Objectives for Temperature, and Action Plans to Address Temperature Impairments in the Mattole, Navarro, and Eel River Watersheds* (Temperature Policy). The Temperature Policy directs Regional Water Board staff to address protection of water temperature in permits. Retention of shade in riparian zones, including through implementation of riparian reserves, is how we address this requirement in the Waiver. General Condition 4 (page 19 of the Waiver) describes how the Waiver implements the Temperature Policy. In part, General Condition 4 states:

USFS shall manage and maintain designated riparian zones ... to ensure retention of adequate vegetative cover that results in natural shade conditions ... Site-specific potential effective shade is defined as the shade on a watercourse equivalent to that provided by topography and potential vegetation conditions at a site. Exceptions to this condition will be considered. In order for Regional Water Board staff to determine the adequacy of the justification for an exception, the justification must identify the proposed canopy reduction and expected recovery time, provide an estimate of the pre- and post- project shade or solar impacts, and explain how such an exception will result in a net long-term benefit to water quality and stream temperatures.

The Waiver application for the Project shall include a request and justification for an exception to General Condition 4 if proposed vegetation management treatments may reduce site-specific potential effective shade in riparian reserves.

3. A portion of Category B Condition 1 (page 24 of the Waiver) states:

The USFS shall actively address all legacy sediment sites (as defined in Finding No. 34) for Category B projects. All legacy sediment sites for Category B projects must be identified, inventoried, prioritized, scheduled, and implemented for treatment as part of the Category B project activities. The inventory shall be submitted to the Regional Water Board during project development.

Please identify, inventory, prioritize, and prepare a schedule for treatment of all legacy sediment sites contained within the Project area. Enrollment of the Project under Category B of the Waiver requires implementation of the legacy sediment site treatment plan during the life of the Project.

4. Waiver General Condition 9 (page 20 of the Waiver) states:

The USFS shall include specific on-the-ground prescriptions designed to meet the USFS BMPs within the environmental document prepared pursuant to NEPA. The specific prescriptions shall also be included in all contracts, grazing permits, agreements, and other instruments used to direct the activities of contractors, grazing permittees, USFS personnel, volunteers, or any other third parties specified in this Waiver. The intent is to provide clarity and transparency in how the BMPs will be implemented and to facilitate the monitoring of BMP implementation (Monitoring and Reporting Program, Section III.A).

Waiver General Condition 10 (page 20 of the Waiver) states:

In addition to providing specific on-the-ground prescriptions, the USFS shall provide copies of this Waiver to contractors and grazing permittees, and USFS volunteers and any other third parties specified in this Waiver, and notify them of their responsibilities to comply with the Waiver.

Category B project applications require the submittal of copies of the relevant portions of all environmental documents that set out the details of a project. Especially important are descriptions of project design features and on-the-ground prescriptions that implement BMPs relating to water quality. Additionally, copies of the on-the-ground prescriptions and the Waiver shall be provided to purchasers, contractors, or other third parties.

Thank you for the opportunity to comment on the KNF Bear Country Project. We would appreciate receiving copies of the environmental documents and wish to remain on the mailing list for future KNF projects.

August 27, 2019

If you have any questions, please feel free to contact Forest Fortescue at (707) 576-2595 or Forest.Fortescue@waterboards.ca.gov.

Sincerely,

Dean Prat
Senior Engineering Geologist
Northern Nonpoint Source and Forestry Unit

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