



North Coast Regional Water Quality Control Board

November 15, 2021

Jennifer Eberlien
Regional Forester
USDA Forest Service Pacific Southwest Region
1323 Club Drive
Vallejo, CA 96002

Subject: Scoping Comments – USFS Region 5 Post Disturbance Hazardous Tree Management

File: USDA NFS Pacific Southwest Region (CW-817444)
Post Disturbance Hazardous Tree Management Project (CW-877567)

Dear Ms. Eberlien,

The North Coast Regional Water Quality Control Board (Regional Water Board) appreciates the opportunity to comment on the proposed Region 5 Post Disturbance Hazardous Tree Management (Project). The Regional Water Board has regulatory authority to protect water quality in California's north coast watersheds including portions of the Mendocino, Modoc, Six Rivers, Klamath, and Shasta-Trinity National Forests. This letter provides information regarding compliance with the *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*, Order R1-2015-0021 (Waiver).

The Regional Water Board has already enrolled projects under the Waiver that will remove hazard trees on many of the roads presented in the Project map.

Waiver of Waste Discharge Requirements

As background, California state law assigns responsibility for protection of water quality within north coast watersheds to the North Coast Water Board. The North Coast 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 projects on federal lands within California must comply with all substantive and procedural requirements of the Porter-Cologne Act (Water Code) and the Basin Plan.

GREGORY A. GIUSTI , CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

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 federal 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 quality control board, a report of waste discharge containing such information and data as may be required. Pursuant to Water Code section 13260, regional water quality control 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* (Nonpoint Source Policy) requires that all 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 comply 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 and 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:

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

Project Summary

National Forest System (NFS) lands continue to be subjected to large, high intensity wildfires. Standing, dead and dying trees adjacent to roads and facilities pose a threat to safety and property. Also, standing, dead and dying trees and downed trees are a source of fuel for subsequent fires. This Project proposes to identify, fell, and remove hazardous trees along Maintenance Level 2, 3, 4, and 5 roads, County roads, and Highways and adjacent to developed facilities on NFS lands. Trees will be felled by hand and mechanical methods and tractor skidded. Wood material will be end-hauled for wood products or processed on site by chipping, lop and scatter, or pile burning. The Project also proposes to conduct road maintenance, including cleaning culverts, ditches and drains, and grading and re-establishing rolling dips or other drainage features of the roadbeds on haul routes within the Project areas. Project Design Features and best Management Practices are included to minimize potential negative effects.

Comments

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

1. Page 3 of the Waiver contains the following passage:

*Fire recovery operations include various management measures including timber harvesting, vegetation management and restoration activities described above. Depending on the size of the fire, the project area can be very large and even involve multiple watersheds. Timber harvesting activities, **including hazard tree removal**, from fire salvage on NFS lands have the potential to generate sediment discharges from equipment use and from erosion of bare ground on roads, landings, and skid trails, and to reduce shade canopy from tree removal due to logging, road construction, and equipment operations. Fire recovery projects will be analyzed on a case-by-case basis under Category B.*

Finding 37 of the Waiver identifies three factors to consider when determining potential risk to water quality:

- the activity's proximity to water (e.g., inside a designated riparian zone vs. outside a designated riparian zone);
- the type and size of the activity; and
- the on-the-ground conditions where the activity takes place (e.g., equipment on steep ground vs. flat ground).

Operating heavy equipment on non-system roadbeds within the riparian reserve zones of numerous streams is a potentially large disturbance in area and intensity that is proximate to water on soils destabilized by wildfire.

As the proposed Project includes activities that have a moderate risk to detrimentally impact water quality, it must enroll under the Waiver as a Category B project and actively addresses legacy sediment sites or pre-existing threats to water quality through identification, prioritization, and treatment of such sites. Please find Category B conditions and requirements on pages 24-34 of the Waiver.

2. Removal of roadside hazard trees along roads is generally a Category A activity under the Waiver. However, vegetation management, heavy equipment use, and road upgrade, decommission or deactivation within Riparian Reserves are Category B activities. The need to protect Riparian Reserves is even greater after wildfire. High severity wildfire depletes watercourses of instream large woody debris and shade. That leads to increased sediment and temperature, the principal impairments of regional watercourses. Trees felled in Riparian Reserves and left in place have the potential to provide erosion control, sediment retention and habitat improvement services. Riparian trees and shrubs often re-sprout quickly after fire, providing much needed stability and shade. Preservation of the vegetation is an important step towards watercourse recovery.

For this Project to meet Category A standards it must not include heavy equipment use off of designated roadways (non-system roads or skid trails) in

riparian reserves; skidding in riparian reserves; or underburning in the riparian reserves.

If you have any questions, please contact Forest Fortescue at forest.fortescue@waterboards.ca.gov.

Sincerely,

Jonathan Warmerdam
Environmental Program Manager
Nonpoint Source and Surface Water Protection Division
North Coast Regional Water Quality Control Board

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