From: Sweeney, Stephen
To: Waye, Don
Sent: 12/2/2014 9:41:26 AM
Subject: Ex. 5 - Attorney Client

Thanks.

Also, when is the Benita briefing? Should I plan on attending? I was not invited.

Thanks,

Steve

From: Waye, Don
Sent: Monday, December 01, 2014 6:27 PM
To: Sweeney, Stephen
Subject: RE: Ex. 5 - Attorney Client

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Here's some text from the NOAA/EPA 1998 findings document (online at http://coast.noaa.gov/czm/pollutioncontrol/media/findca.txt)...

"Although California does have the basic legal and programmatic tools to implement a forestry program in conformity with Section 6217, these tools have not been fully effective in ensuring water quality standards are attained and maintained and beneficial uses are protected. California waters currently experience significant impacts from forestry. For example, silviculture is the leading source of impairment to water quality in the North Coast of California. Related to these water quality problems, California has a number of species, in particular salmon, that are endangered, threatened or otherwise seriously at risk, due in very significant part to forestry activities that impair their spawning, breeding and rearing habitat.

Section 6217 recognizes that implementation of the (g) management measures alone may not always be adequate to protect coastal waters from nonpoint sources of pollution. In these cases, Section 6217 requires the identification and implementation of additional management measures. Thus, California will need to adopt additional management measures for forestry to address coastal waters that are not attaining or maintaining applicable water quality standards or protecting beneficial uses, or that are threatened by reasonably foreseeable increases in pollutant loadings from new or expanding forestry operations. (See Section XII, page 16)"

"XII. ADDITIONAL MANAGEMENT MEASURES

FINDING: California's program does not provide for the identification of additional management measures and the continuing revision of management measures applicable to critical coastal areas and cases where (g) measures are fully implemented but water quality threats or impairments persist.

CONDITION: Within two years, California will include in its program a process for developing and revising management measures to be applied in critical coastal areas and in area where necessary to attain and maintain water quality standards. Within one year, the State wil identify additional management measures for forestry necessary to attain and maintain water quality standards.

RATIONALE: California's program identifies some critical coastal areas. In addition, it provides an example of how management measures are applied within a critical coastal area (Tomales Bay watershed). However, the program does not include a continuing process, including milestones for implementing, evaluating and, as necessary, revising the additional management measures. The 6217 Program Development and Approval Guidance identifies a number of alternatives for selecting additional management measures. These include developing measures not covered in the (g) guidance, and applying the (g) measures more intensively or more stringently. The State needs to establish a continuing process for identifying and implementing additional management measures that includes milestones for implementation, evaluation and, as necessary, revision.

California needs to develop and implement additional management measures for forestry. As discussed in Section III above, California's program includes management measures for forestry in conformity with the (g) guidance. However, in some cases, these measures have been ineffective for attaining and maintaining water quality standards and protecting beneficial use As indicated in the State's submittal "(m)ost of the critical coastal areas in this region [the Coast of California] are impaired because of historical and current timber harvesting". To address this type of situation, CZARA provides for the implementation of additional management measures. Therefore, NOAA and EPA have included a condition regarding the need for additional forestry management measures.

The need to improve California's forestry program to protect water quality has been documented during the past decade by federal and State agencies including EPA and the California Department of Forestry and Fire Protection (CDF). In 1988, EPA reviewed the Water Quality Management Plan for Timber Operations on NonFederal Lands submitted by the State Water Resources Control Board, and set forth specific conditions that addressed inspection and compliance, monitoring and evaluation, enforcement, conflict resolution and financial capabilit

According to the State's 1995 CDF report (discussed below) and the CZARA evaluation report (UC Davis, 1995), many of these concerns and issues are still unresolved today.

In October, 1995, the State issued a Final Report on Implementation and Effectiveness of the Watercourse and Lake Protection Rules (CDF 1995) to obtain a qualitative assessment of the Watercourse and Lake Protection Rules (WLPZ) rule performance and needs. The Report summarized problems and proposed improvements in numerous areas related to the management measures including roads, landings, and skid trails; watercourse crossings; soil and debris stabilization; and enforceable standards and rule evaluation. Furthermore, as part of the Stat preparation of its 6217 submittal, a report was prepared entitled Evaluation of the Coastal Zon Management Act, April 1995, that raised similar concerns regarding the adequacy of the Forest Practices Rules to protect water quality and the environment, particularly as they relate to ma wasting, road planning in landslide-prone areas, and sizing of drainage structures.

As the water quality management agency for silvicultural activities, the Board of Forestry and CDF should utilize their established processes for identifying and implementing additional forestry management measures necessary to attain and maintain water quality standards. In identifying additional forestry management measures, California should refer to the interagency team report which is being developed to address concerns raised in the Final Report on Implementation and Effectiveness of the Watercourse and Lake Protection Rules report (CDF,1995). In addition, the State should build upon related efforts including: recommendation from the Coastal Salmon Initiative, which is developing voluntary measures for landowners to undertake to address adverse effects of forestry activities on salmon habitat and populations; Northwest Forest Plan; and, other related watershed activities that are addressing nonpoint sou pollution related to forestry activities."

From: Sweeney, Stephen
Sent: Monday, December 01, 2014 5:19 PM
To: Waye, Don
Subject: **Ex. 5 - Attorney Client**
Importance: High

Ex. 5 - Attorney Client

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