

Regional Water Quality Control Board  
North Coast Region

Executive Officer's Summary Report  
Thursday, November 20, 2014  
Regional Water Board Office  
Santa Rosa, California

- ITEM: 9
- SUBJECT: Workshop on draft Policy in Support of Restoration in the North Coast Region (*Jonathan Warmerdam*)
- BOARD ACTION: This item is a Board workshop. No action will be taken by the Regional Water Board.
- DISCUSSION: The purpose of this Board workshop is for staff to introduce to the Regional Water Board and the public the draft *Policy in Support of Restoration in the North Coast Region* (Restoration Policy). The Restoration Policy is primarily a narrative expressing support for restoration and similar type projects. The accompanying resolution describes in more detail (1) the importance of restoration projects for the protection, enhancement and recovery of beneficial uses, (2) the obstacles that slow or preclude restoration actions, (3) the legal and procedural requirements for permitting restoration projects, (4) the ongoing Regional Water Board effort to provide support towards the implementation of restoration projects, and (5) directs staff to continue to support restoration in the future. The corresponding basin plan amendment provides a similar expression in support of restoration, but without specific details on current restoration efforts that will become dated over time. Staff proposes to include this Basin Plan narrative amendment in Chapter 4 (Implementation) of the Basin Plan, under nonpoint source measures.
- The implementation of restoration projects with potential to cause nonpoint source discharges of waste into waters of the State are regulated similarly to other types of nonpoint source activities. Restoration discharges are typically short-term (during the course of construction and/or as a result of the first storm events); but they sometimes exceed water quality objectives. The State and Regional Water Boards use their permitting authorities to implement the requirements of applicable State policies, State and regional water quality control plans. The State and Regional Water Boards may permit or certify restoration projects that result in significant and

sometimes unavoidable impacts (including temporary exceedances of water quality objectives) if it is shown that the project will result in long-term protection of beneficial uses and water quality.

Since 2010, Regional Water Board staff has been working on the development of a policy in support of restoration projects in the North Coast Region. Staff has long recognized the importance of restoration as an effective tool for the protection, enhancement, and recovery of beneficial uses. Staff has been actively engaging in numerous ways to effectively support the implementation of these projects. The proposed Restoration Policy is the culmination of several years of work by numerous State and Regional Water Board staff.

Beginning in 2010, draft planning documents were originally designed as “eligibility criteria” for “obtaining an exemption” from certain discharge prohibitions, specifically the prohibitions included within the Action Plan for Logging, Construction, and Associated Activities adopted in 1972. Staff has since conducted an additional and careful review of the genesis of the Action Plan for Logging, Construction, and Associated Activities, which revealed that the prohibitions are intended as an enforcement tool for the purpose of regulating unpermitted nonpoint source waste discharges, and not for the purpose of permitting restoration activities. This eliminates any need for an exemption process. The Restoration Policy makes clear that the prohibitions included in the Action Plan for Logging, Construction, and Associated Activities do not apply to restoration projects otherwise subject to an order by the State or Regional Water Board.

While the Restoration Policy is primarily a narrative and description of existing law, staff proposes to treat the Restoration Policy as a regulatory amendment out of an abundance of caution. Staff already circulated a CEQA scoping document and intends to rely on the Supplemental Environmental Document (SED) generated for the Temperature Policy (adopted by the Regional Water Board on March 13, 2014). The SED analyzed and addressed potential impacts and mitigation measures of a full range of potential restoration projects that could be implemented to meet temperature objectives. The SED includes a programmatic statement of overriding considerations if the State or Regional Water Board finds that a project’s potentially significant, unavoidable environmental impacts could be acceptable in light of the benefits of attainment and protection of beneficial uses. Of course, any site-specific activity

would be evaluated on a project level to balance the impacts and the benefits individually and within the watershed context.

Staff will prepare an addendum that analyzes factors to determine whether this Restoration Policy will result in any new significant effects, or substantially more severe significant effects than previously examined (Cal. Code of Regs., tit. 14, §15162.)

**RECOMMENDATION:** This Board workshop is being conducted to provide information regarding the draft Restoration Policy, answer questions, and to gather Regional Water Board and public input. No recommendations are proposed at this time.

A formal hearing to consider adoption of the Restoration Policy is scheduled for January 29, 2015.

**SUPPORTING  
DOCUMENTS:**

Draft Policy in Support of Restoration in the North Coast Region;  
Resolution No. R1-2015-0001 (with proposed Basin Plan  
Amendment Language)