California Regional Water Quality Control Board
North Coast Region

RESOLUTION NO. R1-2007-0098

Policy for Waiving Waste Discharge Requirements
for Specific Types of Waste Discharge

WHEREAS, 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, shall file with the appropriate regional water board a report of the discharge ("report of waste discharge" or "ROWD") containing such information and data as may be required by the regional water board; and

WHEREAS, the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), has a statutory obligation, pursuant to California Water Code Section 13269, to prescribe waste discharge requirements except where the Regional Water Board finds that a waiver of waste discharge requirements for a specific type of discharge is consistent with the Water Quality Control Plan for the North Coast Region (Basin Plan) and is in the public interest; and

WHEREAS, California Water Code Section 13269 provides that any such waiver of waste discharge requirements shall be conditional and may be terminated at any time by the Regional Water Board; and

WHEREAS, the Regional Water Board, in accordance with California Water Code Section 13269, waived waste discharge requirements for certain categories of discharge as set forth in Regional Water Board Resolution No. R1-2002-0080 ("Waiver Resolutions"); and

WHEREAS, amendments to California Water Code Section 13269 (SB 390) provide that waivers of waste discharge requirements for specific types of discharges must be renewed every five years; and

WHEREAS, the Regional Water Board, in compliance with California Water Code Section 13269, reviewed Regional Water Board Resolution No. R1-2002-0080 and considered at several public meetings whether the discharges for which the categorical waivers were established should be subject to general or individual waste discharge requirements, and

WHEREAS, under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) (CEQA), the renewal of the categorical waivers is a "project" and Regional Water Board is the lead agency responsible for approving that project; and

WHEREAS, section 15061(b)(3) of the CEQA Guidelines (section 15000 et seq of title 14 of the California Code of Regulations) allows a lead agency to find a project exempt from CEQA if "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment;" and

WHEREAS, the Regional Water Board can see with certainty that readoption of the categorical waivers set out in R1-2002-0080 with no changes will not have any effect on the environment because the environmental baseline, against which the Regional Water Board considers the environmental impacts of a project, includes the existing categorical waivers; and

WHEREAS, the Regional Water Board conducted public hearings on October 25, 2007 in Weaverville, California, and December 6, 2007 in Eureka, California, and considered all evidence concerning this matter.

THEREFORE BE IT RESOLVED, that the Regional Water Board, based on the aforementioned hearings and review of Resolution No. R1-2002- 0080, finds that waivers of waste discharge requirements for the specific categories of waste discharge identified herein in Attachment A of this Resolution are consistent with the Basin Plan and in the public interest provided that all dischargers **–**

(a) comply with all applicable provisions of the Water Quality Control Plan for the North Coast Region (Basin Plan);

(b) comply with the conditions for waivers of waste discharge as set forth herein;

(c) file with the Regional Water Board, or with the appropriate permitting agency by written agreement with the Regional Water Board, a ROWD, or functional equivalent, to demonstrate that compliance with the waiver conditions specified herein can be achieved;

(d) comply with applicable State Water Resources Control Board policies including, but not limited to, Resolution 68-16 relating to maintaining high quality waters in California.

BE IT FURTHER RESOLVED, that the Regional Water Board finds, after reviewing Resolution No. R1-2002-0080, that the existing list of categorical waivers is appropriate and should remain unchanged at this time, and that the discharges for which the categorical waivers were established should not be subject to general or individual waste discharge requirements.

BE IT FURTHER RESOLVED, that the Regional Water Board, in accordance with CEQA and the CEQA Guidelines, determines that because the proposed project is to renew the categorical waivers contained in Resolution No. R1-2002-0080 with no changes, there is no possibility that the project will have a significant effect on the environment, and is, therefore, exempt from CEQA.

BE IT FURTHER RESOLVED, that this Resolution shall serve as a certificate of determination that the project is exempt from CEQA, and the Regional Water Board directs the Executive Officer to file a notice of such determination with the appropriate agencies.

BE IT FURTHER RESOLVED, that pursuant to California Water Code Section 13269, and subject to the conditions set forth in this Resolution, the Regional Water Board waives the issuance of waste discharge requirements for the specific categories of waste discharge shown in Attachment A of this Resolution,

except for those waste discharges for which waste discharge requirements have been adopted.

BE IT FURTHER RESOLVED, that a person whose waste discharge requirements have been waived pursuant to this Resolution, in accordance with the following general conditions, shall

(a) comply with all applicable provisions of the Water Quality Control Plan for the North Coast Region;

(b) discharge only in accordance with a complete ROWD or equivalent;

(c) not create a pollution, contamination, or nuisance, as defined by California Water Code Section 13050;

(d) not discharge any waste not specifically regulated by the waivers described herein;

(e) implement a monitoring and reporting program, unless this requirement is waived as not against the public interest, according to criteria to be subsequently developed by the Regional Water Board Executive Officer;

(f) allow Regional Water Board staff reasonable access onto the affected property for the purpose of performing an inspection to determine compliance with waiver conditions.

BE IT FURTHER RESOLVED, that the additional conditions specified herein for waivers of specific waste discharges or categories of waste discharge, as shown in Attachment A to this Resolution, incorporated herein by reference, are hereby adopted.

BE IT FURTHER RESOLVED, that the discharge of any waste not specifically regulated by the categorical waivers described herein is prohibited.

BE IT FURTHER RESOLVED, that any person seeking coverage for any specific waste discharge or category of waste discharge specified in this Resolution shall file a full and complete ROWD or its functional equivalent to the Regional Water Board or to the appropriate permitting agency by written agreement with the Regional Water Board. When submitted to the Regional Water Board, such ROWD or equivalent must be certified and accompanied by the requisite fee pursuant to the California Water Code Section 13260.

BE IT FURTHER RESOLVED, that, pursuant to California Water Code Section 13269, the waiver of waste discharge requirements for the categories of waste specified herein shall not exceed five years in duration.

BE IT FURTHER RESOLVED, that, in compliance with California Water Code Section 13269, this Resolution and the categorical waivers described herein, shall be reviewed and amended as necessary no later than five years from the date of adoption of this Resolution.

BE IT FURTHER RESOLVED, that, in compliance with California Water Code Section 13269, the Executive Officer will develop and implement a program to require compliance with the conditions pursuant to which waste discharge requirements are waived by this Resolution.

BE IT FURTHER RESOLVED, that this action waiving the issuance of waste discharge requirements for certain specific types of discharges (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Water Board from administering enforcement remedies (including civil penalties) pursuant to the California Water Code.

BE IT FURTHER RESOLVED, that a waiver of waste discharge requirements for a type of discharge may be superseded by the adoption by the State Water Resources Control Board or Regional Water Board of waste discharge requirements or general waste discharge requirements for that type of discharge.

BE IT FURTHER RESOLVED, that, as provided by California Water Code Section 13350(a), any person may be liable for civil penalties if that person in violation of a waiver condition or certification, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance.

BE IT FURTHER RESOLVED, that the Regional Water Board hereby adopts the aforementioned findings and directs the Executive Officer to file all appropriate notices.

Certification:

I, Robert R. Klamt, Interim Executive Officer
do hereby certify that the foregoing
is a full, true, and correct copy of
a Resolution adopted by the California
Regional Water Quality Control Board,
North Coast Region, on December 6, 2007.

Original signed by
_____
Robert R. Klamt
Interim Executive Officer

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