

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

**MEETING OF MARCH 13-14, 2019
SOUTH LAKE TAHOE**

ITEM 8

RENEWAL OF 2014 TIMBER WAIVER

CHRONOLOGY

January 2003	The Water Board adopted the categorical 2003 Timber Waiver.
February 2007	The 2007 Timber Waiver was adopted by the Water Board, incorporating monitoring conditions consistent with 2005 amendments to California Water Code section 13269.
May 2009	The Water Board adopted an updated 2009 Timber Waiver in response to the 2007 Angora Fire.
April 2014	The Water Board adopted the 2014 Timber Waiver, incorporating changes based on research and monitoring, with a shifted focus on outcome-based performance standards, rather than prescriptive requirements.
October 2018	Water Board staff conducted stakeholder outreach regarding planned renewal of the expiring 2014 Timber Waiver.

BACKGROUND

On April 10, 2014, the Water Board adopted Board Order No. R6T-2014-0030, Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region (2014 Timber Waiver). The 2014 Timber Waiver expires on April 10, 2019 unless renewed, rescinded, or superseded prior to expiration. In California, all waivers of waste discharge requirements may not exceed five years in duration (California Water Code [CWC] section 13269(a)(2)). If a waiver expires without Water Board action (i.e., renewal or replacement), projects subject to that waiver no longer have regulatory coverage unless project proponents submit a Report of Waste Discharge and are issued individual waste discharge requirements. As of fall 2018, there are 57 projects enrolled under the 2014 Timber Waiver.

DISCUSSION

Based on outreach conducted in fall 2018, one of the primary issues that Water Board staff heard from stakeholders was the concern that there was inadequate time to update the 2014 Timber Waiver and still fully understand and account for the regulatory implications of new statewide wildfire policy initiatives signed into law in late 2018. After thoughtful considerations of these comments by Water Board staff and management, staff proposes to renew the 2014 Timber Waiver, with no changes. This will allow time for an updated waiver or General Order of waste discharge requirements to incorporate the changes from these new laws to be brought to the Water Board for later consideration.

In response to the increased incident of wildfires in California, the Governor and Legislature have mandated statewide regulatory and policy changes to allow a more streamlined approach to forest management. More legislation is likely forthcoming in 2019. These changes may result in new requirements for projects which do not readily fit into the defined categories of the 2014 Timber Waiver. For example, [Senate Bill 901](#) is a new law to address multiple aspects of wildfire prevention and recovery in California. Among its provisions, SB

901 creates two new timber harvesting exemptions within the Forest Practice Rules, including one which would allow for road building for fuel reduction and wildfire mitigation projects on small land ownerships. In addition, it requires utility companies to develop vegetation management plans to reduce wildfire risk associated with electrical infrastructure, and revises rules related to CALFIRE’s permitting of non-industrial timber management plans. Another key policy change was made in May 2018, when Governor Brown released Executive Order [B-52-18](#), outlining steps for increasing forest management and restoration, providing regulatory relief, and reducing barriers for prescribed fire (regulatory revisions in response to this Executive Order are in development). On January 8, 2019, only days after taking office, Governor Newsom signed Executive Order [N-05-19](#), directing CAL FIRE, in consultation with other agencies, to provide a report outlining the most impactful administrative, regulatory, and policy changes or waivers that can be made to mitigate (i.e., allow for more rapid and effective fuel management projects) the devastating impacts from wildfires, with emphasis on environmental sustainability and protection of public health.

Water Board staff are contemplating ways to respond to potential significant changes to statewide requirements, and direction in the two orders from the Governor’s Office, to streamline permitting for projects that improve forest health and resilience to increasing levels of wildfire risk worsened by climate change, while continuing to protect and maintain water quality. This renewal of the 2014 Timber Waiver (see Enclosure 1) will provide Water Board staff additional time to conduct additional stakeholder outreach and develop new timber harvest regulations that accommodate stakeholder input and new legislative requirements. As part of this effort, Water Board staff will continue to gather information on upcoming changes to statewide requirements, and work together with the regulated community and other stakeholders to develop either an updated waiver or a General Order of waste discharge requirements which aligns with the dynamic regulatory climate for forest management in California.

PUBLIC OUTREACH/INPUT

From October 1, 2018 to November 15, 2018, Water Board staff solicited comments from stakeholders on potential revisions to the 2014 Timber Waiver. An overarching concern expressed by stakeholders, was that new statewide mandates, such as those described above, may result in significant changes to key rules and regulations (including possible changes to California’s Forest Practice Rules) and that any update or renewal of the 2014 Timber Waiver should account for and be in alignment with those changes. Stakeholders have expressed a desire to extend the 2014 Timber Waiver “as is” to help ensure that future updates or renewals are well-crafted, and are consistent with, new statewide policies and regulations. This proposed Board Order is in response to that feedback.

A tentative version of this Board Order was circulated from December 28, 2018 to January 31, 2019. Two letters supporting this tentative Board Order (see Enclosure 2) were received during this public comment period, and no comments were received.

RECOMMENDATION

Adopt the Order as proposed.

ENCLOSURE	ITEM	BATES NUMBER
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2	Letters of Support	8-9
3	Staff presentation	8-15

ENCLOSURE 1

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

BOARD ORDER NO. R6T-2019-PROP

(RENEWAL OF BOARD ORDER NO. R6T-2014-0030)

**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR
WASTE DISCHARGES RESULTING FROM
TIMBER HARVEST AND VEGETATION MANAGEMENT ACTIVITIES
IN THE LAHONTAN REGION**

Modoc, Lassen, Plumas, Sierra, Nevada, Placer, El Dorado, Alpine, Mono, Inyo,
San Bernardino, Kern, and Los Angeles Counties

WHEREAS, the California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. On April 10, 2014, the Water Board adopted Board Order No. R6T-2014-0030, *Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region* (2014 Timber Waiver). The 2014 Timber Waiver has categorical conditions and eligibility criteria to limit waste discharges from projects that range from homeowner defensible space operations; to local Fire Protection Districts' community protection plans; to large Wildland Urban Interface projects proposed by the California Department of Parks and Recreation, the Bureau of Land Management, and the US Forest Service (USFS). Commercial timber harvest conducted by small landowners, industrial timber companies, and federal land management agencies are all eligible for coverage under multiple 2014 Timber Waiver categories.
2. The 2014 Timber Waiver expires on April 10, 2019, unless rescinded, renewed, or superseded prior to expiration. In California, all conditional waivers of waste discharge requirements may not exceed five years in duration. (California Water Code [CWC] section 13269(a)(2)). If a waiver expires without Water Board action (i.e., renewal or replacement), projects subject to that waiver no longer have regulatory coverage unless project proponents submit a Report of Waste Discharge and are issued waste discharge requirements. As of fall 2018, there are 57 projects enrolled under the 2014 Timber Waiver.
3. In response to the increased incident of high severity wildfires in California, the Governor and Legislature have mandated statewide policy and regulatory changes to allow a more streamlined approach to forest management. More legislation is also

likely forthcoming. These changes may result in new requirements for projects which do not readily fit into the defined categories of the 2014 Timber Waiver. Water Board staff are contemplating ways to respond to these and other upcoming changes to facilitate more streamlined permitting for projects intended to improve forest resilience and mitigate mounting wildfire risk worsened by climate change, while protecting and maintaining water quality.

4. From October 1, 2018 to November 15, 2018, Water Board staff solicited comments from stakeholders on potential revisions to the 2014 Timber Waiver. An overarching concern is that new mandates such as those described above will result in significant changes to key rules and regulations, including possible changes to California's Forest Practice Rules. In light of potential significant changes to statewide requirements, stakeholders have expressed a desire to extend the 2014 Timber Waiver "as is" to help ensure that future updates or renewals are well-crafted, and take into consideration, and are consistent with, new statewide policies and regulations.
5. This renewal of the 2014 Timber Waiver will provide Water Board staff additional time to conduct additional stakeholder outreach and develop new timber harvest regulations that accommodate stakeholder input and new legislative requirements. Water Board staff will gather information on upcoming changes to statewide requirements, and work together with the regulated community and other stakeholders to develop either an updated conditional waiver or a General Order of waste discharge requirements which aligns with the dynamic regulatory climate for forest management in California.
6. This renewal of the 2014 Timber Waiver retains all provisions of the 2014 Timber Waiver, which include terms and conditions to protect water quality. Renewal of the 2014 Timber Waiver requires compliance with applicable water quality objectives, prohibits the creation of pollution or nuisance, and sets forth conditions to protect beneficial uses of waters of the state and maintain the highest water quality consistent with the maximum benefit to the people of the state. The Water Board retains all its authorities to address discharges of waste from projects, including, but not limited to, enforcement actions, requesting reports of waste discharge for individual projects or sites, and authority to deny or terminate coverage under the renewed 2014 Timber Waiver, as appropriate.
7. Consistent with CWC sections 13267 and 13269, the renewal of the 2014 Timber Waiver requires compliance with the 2014 Timber Waiver monitoring and reporting programs, which apply to certain categories of activities based on the level of potential threat to water quality. The requirements of the monitoring and reporting programs include: 1) visual inspections of best management practice implementation and effectiveness, 2) winter-period, photo-point, and post-rain event monitoring where required, and 3) monitoring report submittal. The monitoring and reporting requirements included in the renewed 2014 Timber Waiver are necessary to determine compliance with the conditions of the renewed 2014 Timber Waiver and

to assess any impacts due to discharges authorized under the waiver. As such, the burden, including costs of monitoring and reporting, bears a reasonable relationship to the need for the information, and the benefits obtained from that information.

8. For the reasons described in Findings 6 and 7, renewal of the 2014 Timber Waiver is in the public interest and consistent with the Water Quality Control Plan for the Lahontan Region. The renewal is necessary and appropriate to maintain and extend regulatory coverage for existing and new timber harvest and vegetation management projects meeting the conditions and eligibility criteria of the 2014 Timber Waiver.
9. Dischargers enrolled under Board Order No. R6T-2014-0030 at the time of the adoption of this Renewal of the 2014 Timber Waiver Order shall be automatically enrolled and covered under the Renewal of the 2014 Timber Waiver, so there is no requirement for those Dischargers to submit forms for re-enrolling.
10. State Water Board Resolution No. 68-16 (“Statement of Policy with Respect to Maintenance of High Quality Waters in California”) requires that the Water Board regulate discharges of waste to waters of the state to achieve the highest water quality consistent with maximum benefit to the people of the state. It further requires that dischargers meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state will be maintained. Renewal of the 2014 Timber Waiver is consistent with State Water Board Resolution No. 68-16 because it requires compliance with applicable water quality control plans, including applicable water quality objectives, prohibits the creation of pollution or nuisance, and set for conditions that require the implementation of additional management practices (in addition to those required in the California Forest Practice Rules [California Code of Regulations, title 14, section 895.1 et seq] and U.S. Forest Service Best Management Practices guidance manuals) to assure protection of beneficial uses of waters of the state and maintenance of the highest water quality consistent with maximum benefit to the people of the state.
11. In accordance with the California Environmental Quality Act (Public Resources Code section 21000 et seq.) (CEQA), the renewal of the 2014 Timber Waiver is a “project” and the Water Board is the lead agency responsible for approving that project. A project is 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.” (Cal. Code Regs., tit. 14, §15061(b)(3).) The renewal of the 2014 Timber Waiver will not have any effect on the environment because the environmental baseline, against which the Water Board considers the environmental impacts of a project, includes the protections provided by the 2014 Timber Waiver. There is no possibility that the project will have a significant effect on the environment, and it is, therefore, exempt from CEQA under Section 15601(b)(3).

12. The Water Board has notified interested parties of its intent to provide a renewal of Board Order No. R6T-2014-0030 until adoption of a revised waiver or General Order of waste discharge requirements. The Water Board, in a public meeting on March 13, 2019, heard and considered all comments pertaining to this renewal.

IT IS HEREBY ORDERED, that Board Order No. R6T-2014-0030, *Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region* and the associated monitoring and reporting program is renewed. The term of the renewed Conditional Waiver is for five years. This renewed Conditional Waiver expires on March 13, 2024, unless it is rescinded, renewed, or superseded before the expiration date.

I, Patty Kouyoumdjian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on March 13, 2019.

Patty Kouyoumdjian
Executive Officer

ENCLOSURE 2



January 30, 2019

Lahontan Regional Water Quality Control Board
Attention: Mr. Jim Carolan
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Re: Request for Comments - Tentative Board Order R6T-2019-TENT, Renewal of Board Order R6T-2014-0030, Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region

Dear Jim:

Thank you again for the opportunity to participate in the Lahontan Water Board's process for review and consideration of a Water Board action regarding current Board Order R6T-2014-0030, as referenced above.

We appreciate that Water Board staff working on this issue considered the input and points made in our letter of November 15, 2018. We have reviewed the Water Board staff memo dated December 28, 2018 and the draft of tentative Board Order No. R6T-2019-TENT as attached to the December 28 memo.

Expressing the views of the Tahoe Fire and Fuels Team (TFFT), we concur with the language and intent of the tentative Board order. One or more TFFT representatives plan to attend and provide oral testimony that reflects this letter at the Water Board meeting and hearing on this matter. We understand this meeting is scheduled for Wednesday, March 13 at the Lahontan Water Board Annex Hearing Room, 971 Silver Dollar Avenue, South Lake Tahoe, CA 96150.

Again, we appreciate the opportunity to participate in this Lahontan Water Board process and proposed Board action.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Baker", written over a horizontal line.

Scott Baker
Chair, TFFT Multi-Agency Coordinating Group
Fire Chief, Tahoe-Douglas Fire Protection District

A handwritten signature in blue ink, appearing to read "Michael S. Schwartz", written over a horizontal line.

Michael S. Schwartz
Vice Chair, TFFT Multi-Agency Coordinating Group
Fire Chief, North Tahoe Fire Protection District



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January 31, 2019

Ms. Patty Kouyoumdjian
Executive Officer
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

Attention: Mr. Jim Carolan

Dear Ms. Kouyoumdjian:

Subject: 2019 Timber Harvest Order

The Los Angeles Department of Water and Power (LADWP) would like to thank the Lahontan Regional Water Quality Control Board (Regional Board) for the opportunity to comment on the renewal of the 2014 Timber Harvest and Vegetation Management Regulatory Document (2014 Timber Waiver).

LADWP is committed to environmental stewardship and minimizing its environmental footprint through monitoring and reducing impacts from LADWP activities within the Lahontan Region. To accomplish these objectives, LADWP believes it is imperative to use sound science in the environmental regulatory process and LADWP remains committed to providing support to the Regional Board whenever possible.

LADWP would like to thank the Regional Board for considering the issues brought up by stakeholders in the solicitation period, and appreciates all the hard work done by the Regional Board staff in this process. LADWP supports the renewal of the 2014 Timber Waiver in order to work with stakeholders to develop an updated regulatory document.

Ms. Patty Kouyoumdjian
January 31, 2019
Page 2

LADWP appreciates the opportunity to provide comments on the 2014 Timber Waiver renewal, and looks forward to working with Regional Board staff in this process. Should you have questions regarding this letter, please contact me at (213) 367-0436 or Ms. Chloé Grison at (213) 367-1339.

Sincerely,

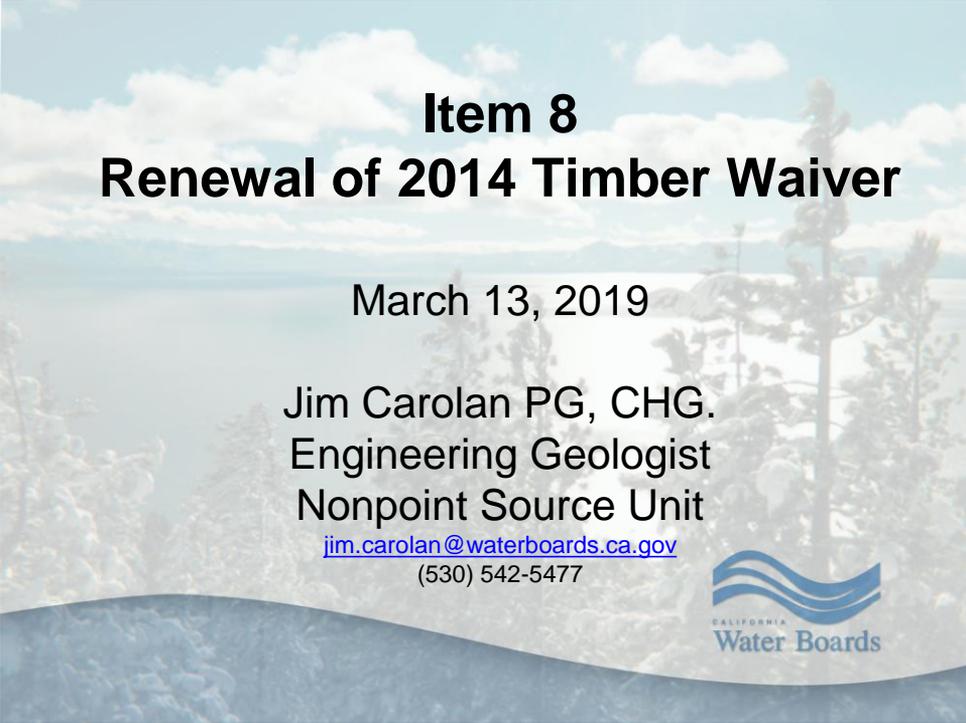


Katherine Rubin
Manager of Wastewater Quality and Compliance

CG

c: Ms. Chloé Grison, LADWP
Mr. Douglas Smith, Lahontan Regional Water Quality Control Board
Mr. Ben Letton, Lahontan Regional Water Quality Control Board
Mr. Doug Cushman, Lahontan Regional Water Quality Control Board
Mr. Jim Carolan, Lahontan Regional Water Quality Control Board

ENCLOSURE 3



Item 8 Renewal of 2014 Timber Waiver

March 13, 2019

Jim Carolan PG, CHG.
Engineering Geologist
Nonpoint Source Unit

jim.carolan@waterboards.ca.gov

(530) 542-5477



Presentation Outline

- Basis for Timber Waiver renewal
- State mandated changes in forest management
- Stakeholder outreach for today's action
- Future timber harvest regulation development
- Stakeholder support
- Staff recommendation

Basis for Timber Waiver Renewal

- The 2014 Timber Waiver expires in April 2019
- This renewal will provide interim regulatory coverage for timber waiver enrollees
- Forest management policies are being revised in response to recent catastrophic fires



Current and Anticipated Legislative Changes for Forest Management

- Recently adopted SB 901
- Multiple Executive Orders have been issued by the Governor's Office triggering changes in forest regulatory policy. More changes are anticipated



Early Stakeholder Input Regarding Future Timber Harvest Regulations

- Support for the Existing Timber Waiver
- Extend the 2014 Timber Waiver's Expiration Date
- Accommodate large, landscape level and multi-agency projects



Early Stakeholder Input Regarding Future Timber Harvest Regulations (continued)

- Minimize regulatory redundancy and streamline permit coordination with CalFire
- Develop simplified permitting process along public utility corridors
- Modify monitoring requirements based on lessons learned



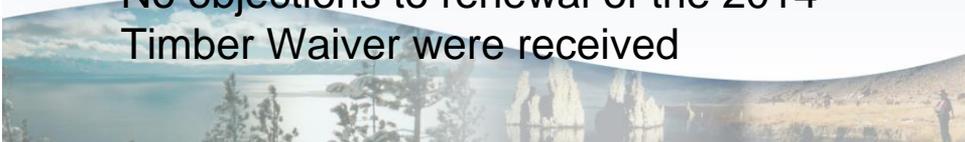
Future Timber Harvest Regulations Development

- Stakeholder engagement during 2019 and early 2020
- Incorporation of input into revised Timber Waiver or General Order
- Public noticing of proposed regulations
- CEQA document preparation



Support for Today's Board Action

- Two letters of support for the timber waiver renewal were received during the comment period
- Several stakeholders provided verbal input indicating support for the timber waiver renewal
- No objections to renewal of the 2014 Timber Waiver were received



Staff Recommendation

Staff recommends the Board adopt the
Renewal of the 2014 Timber Waiver

