

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

**MEETING OF MARCH 1, 2023
SOUTH LAKE TAHOE**

ITEM # 5

Renewal of General Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the East Walker River Watershed (Bridgeport Valley and Tributaries) of the Lahontan Region

CHRONOLOGY

June 13, 2007	Water Board adopted Conditional Waiver of Waste Discharge Requirements (Waiver) – (Board Resolution No. R6T-2007-0019)
July 11, 2012	Water Board adopted Renewal of Conditional Waiver of Waste Discharge Requirements (Board Resolution No. R6T-2012-0041)
July 13, 2017	Water Board adopted Renewal of Conditional Waiver of Waste Discharge Requirements (Board Resolution No. R6T-2017-0033)

BACKGROUND

The Waiver of Waste Discharge Requirements for Grazing Operations in Bridgeport Valley (Waiver) applies to landowners and operators conducting grazing operations on private lands in the Bridgeport Valley. It does not apply to grazing on federal lands. A cooperative group of grazers, the Bridgeport Ranchers Organization (BRO), assists with Waiver implementation by conducting surface water monitoring and assessing management practice effectiveness with input provided by University of California Cooperative Extension and Water Board staff. In 2007, the Lahontan Regional Water Quality Control Board (Water Board) adopted the Waiver and has since adopted a waiver every five years, including in 2012 and 2017.

Many of the ranches in Bridgeport Valley have been in operation since the 1800s. When the first Water Board waiver was issued in the early 2000s, most ranches in Bridgeport Valley were leased out to other grazing operators. Today, the ranches are primarily operated by owners. There are currently seven Bridgeport Grazing Waiver enrollees: Centennial Livestock, F.I.M Corp. - Bridgeport Ranch & Summers Meadows, Gansberg Ranch, Hunewill Land & Livestock, Sceirine Ranch, R.N. Fulstone Co., and Ullman Livestock LLC.

ISSUES

Should the Water Board renew the updated grazing Waiver?

DISCUSSION

As required by the [Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program](#), this Waiver regulates grazing related discharges of waste that could affect the quality of the waters of the State, including potential nonpoint sources of pollution. Dischargers under this Waiver comply by annually reporting out on management practices deployed and/or maintained throughout the year and by collecting water quality data that serves as an evaluation program or feedback mechanism to track progress towards the water quality goals.

The overall purpose of the agenda item is to update the grazing Waiver, which expired July 13, 2022. This proposed renewal of the Waiver is similar in scope and approach as the previous 5-year permits except for the following changes.

Bacteria Water Quality Objective: In 1995, the Water Board set the regionwide water quality objective for fecal indicator bacteria at 20 colony forming units (cfu) per 100 milliliter (ml) in the Basin Plan. Since then, more up-to-date science has found *E. coli* to be a better indicator for the presence or absence of harmful pathogens related to human health and the water contact recreation (REC-1) beneficial use. The monitoring plan in this Waiver has been refined to remove monitoring for fecal coliform and exclusively rely on *E. coli*.

Monitoring and Reporting Plan: Due to bacteria being such a variable parameter where very high and very low values are common, geomeans provide a more representational value for water quality in the Bridgeport Valley streams through a statistical evaluation that indicates the central tendency of a set of numbers. Therefore, the sampling events have been planned accordingly to calculate geomeans in 2023 and 2026 from June to September which represents the period where grazing and flood field irrigation most likely overlap. This approach will provide an understanding of the bacteria levels near the beginning and end of this Waiver's term that will determine progress towards interim goals, compliance with Waiver requirements, and inform subsequent Bridgeport grazing regulations. The Rangeland Water Quality Management Plan (RWQMP) reporting requirement was streamlined to require submittal once during the term of the Waiver instead of annually as required previously.

End-of Valley Project: In 2017, watershed-based approaches to address bacteria issues were discussed and led to the Natural Resources Conservation Service (NRCS) and Walker River Irrigation District working with the BRO to develop plans for an end-of-valley water treatment. Since then, the Dischargers have pivoted away from the End-of-Valley project due to the excessive project cost, issues with site access, lack of targeted instream water quality improvements, as well as the lack of organizational capacity to plan for, implement, and provide maintenance on the project in future years.

Irrigated Lands Regulatory Program, Eastern San Joaquin (ESJ) Requirements: The Bridgeport grazing operations covered under this Waiver meet the definition of

DISCUSSION

“irrigated lands” to which some ESJ precedential requirements apply. This renewed Waiver includes the limited subset of the ESJ review order precedential requirements: sediment and erosion control planning and implementation; management practice reporting; education and outreach; and groundwater quality monitoring.

State Water Board Irrigated Lands Fees: The 2017 Waiver underwent development before the 2018 ESJ Order was adopted and therefore the State Water Board irrigated lands fees had not been brought to the BRO’s attention until this Waiver renewal. Dependent on the Executive Officer’s approval, the BRO plans to serve as a group who will manage Discharger fee collection and payment and submit them to the State Water Board on behalf of the Dischargers at a significantly discounted rate (per acre fee) in comparison to the individual rate. Currently, the acreage on which the fee is based refers to the area that has been irrigated or cultivated by the discharger at any time in the previous five years.

SUSTAINABLE GROUNDWATER MANAGEMENT ACT BASINS

For purposes of the Sustainable Groundwater Management Act, the California Department of Water Resources identifies the following groundwater basin in Mono County, along with priority, near the discharge location within the Lahontan Region.

Priority Groundwater Basin

Very Low Bridgeport Valley (6-008)

Source: [Sustainable Groundwater Management Act Basin Prioritization](#)

CLIMATE CHANGE RESPONSE

Waste Discharge Requirements presented in the Board Resolution Order No. R6T-2017-0033 are consistent with [Resolution R6T-2019-0277](#), the Water Board’s Climate Change Mitigation and Adaptation Strategy in the following key resources areas: (1) Protection of Wetlands, Floodplains, and Headwaters. In particular, the Waiver’s recommendation to implement ongoing water quality BMPs help protect streambanks from excessive erosion near the headwaters of the East Walker River as well as protect riparian zones that connect a river to its floodplain and adjacent wetlands. Additionally, several Bridgeport Grazing Waiver enrollees have dedicated nearly 9,000 acres in total to conservation easements that will protect these parcels from development in perpetuity. The preserved open spaces are ideal habitat for mule deer, waterfowl, American badger, Sierra Nevada bighorn sheep, various other wildlife species, and, especially important for, the rare Bi-state greater sage-grouse.

PUBLIC OUTREACH/INPUT

Water Board staff coordinated nine stakeholder meetings with core BRO members in 2022 to collaboratively and collectively update the Waiver. Key topics discussed throughout the meetings included the status of 2007-2021 monitoring data, 2023

Waiver monitoring and reporting approaches, incorporation of ESJ requirements, updating the Annual Report and RWQMP to more efficient and user-friendly formats as well as including the State Board Agricultural and Irrigated Lands Fees.

Public notice for written comments pertaining to the [Tentative Waiver](#) were conducted from November 16 through 5:00 pm on December 22, 2022.

Written comments on the Tentative Waiver were provided by Steven Fulstone, president of the BRO, and Tess Dunham, on behalf Centennial Ranch (Enclosure 2). Water Board staff reviewed the submitted information, made minor adjustments to the waiver, and provided written responses to all comments received (Enclosure 3).

Language and requirements regarding on-farm drinking water have been removed from Finding 21 of the Waiver, section I, #7 of the Monitoring and Reporting Program - Attachment C, and under the ESJ Requirement Reporting section of the Annual Report - Attachment E.

The hearing associated with renewal of General Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the East Walker River Watershed (Bridgeport Valley and Tributaries) was noticed and the public has an opportunity to provide oral comment at the March board meeting. The Board Meeting agenda item was also distributed via the Board Meeting listserv and to the Regionwide Grazing listserv.

PRESENTERS

Mo Loden, Water Board, Environmental Scientist

RECOMMENDATION

Water Board staff recommends the adoption of Board Order No. R6T-2023-Proposed, Renewal of General Conditional Waiver of Waste Discharge Requirements For Grazing Operations in the East Walker River Watershed (Bridgeport Valley and Tributaries) of the Lahontan Region, as proposed.

ENCLOSURE	ITEM	BATES NUMBER
1	Water Board Proposed Board Order No. R6T-2023-PROPOSED and Attachments	5 - 5
2	Public Comments Received	5 - 45
3	Response to Public Comments	5 - 51

ENCLOSURE 1

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

**RENEWAL OF GENERAL CONDITIONAL WAIVER OF
WASTE DISCHARGE REQUIREMENTS
NO. R6T-2023-PROPOSED**

FOR

**GRAZING OPERATIONS IN THE EAST WALKER RIVER WATERSHED
(BRIDGEPORT VALLEY AND TRIBUTARIES) OF THE LAHONTAN REGION**

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

1. Discharger Description

This grazing Waiver is applicable to all private landowners and their operators conducting grazing operations on private lands in the Bridgeport Hydrologic Area (HU No. 630.30), which consists of the East Walker River above Bridgeport Reservoir in the Bridgeport Valley, and the East Walker Tributaries Hydrologic Area (HU No. 630.40), which includes Buckeye Creek, Clearwater Creek, Virginia Creek, Green Creek, Long Valley Creek, Summers Creek, Swauger Creek, and Robinson Creek. The receiving waters are the surface waters of the Bridgeport Hydrologic Area and the East Walker Tributaries Hydrologic Area. Grazing activities on federal land are not covered by this Waiver. This is the same area previously covered by Resolution Nos. R6T-2007-0019, R6T-2012-0041, and R6T-2017-0033, "Waiver of Waste Discharge Requirements for Grazing Operations in the East Walker River Watershed (Bridgeport Valley and Tributaries) of the Lahontan Region," which was adopted by the Water Board on July 1, 2017 (also referred to as the "2017 Waiver"). Dischargers are responsible for complying with the conditions of this Waiver. Both the landowner and the operator of the grazing operations are Dischargers under this Waiver (Dischargers). The Water Board will hold both the landowner and the operator liable for noncompliance with this Waiver, regardless of whether the landowner or the operator is the party to enroll under this Waiver.

2. Regulatory Authority

This proposed Waiver is a five-year renewal of the 2017 Waiver with some modifications. California Water Code Section 13260, subdivision (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 Water Board a report of waste discharge (ROWD) containing such information and data as may be required by the Water Board. Livestock manure containing fecal coliform and nutrients, and sediment discharges from livestock grazing on private lands are wastes that could affect the quality of the waters of the State.

Water Code Section 13260 and 13269 authorizes the Regional Water Boards to

waive the requirements of filing a report of waste discharge and obtaining Waste Discharge Requirements (WDR) if the Water Board determines that the Waiver is consistent with the applicable water quality control plan (Basin Plan) and is in the public interest (see Finding 19).

Water Code Section 13269 provides that any such Waiver of Waste Discharge Requirements (Waiver) shall be conditional, not to exceed five years in duration, but may be renewed. A waiver may be terminated at any time by the Water Board. The Water Board may include as a condition of a waiver the payment of an annual fee established by the State Water Resources Control Board (State Water Board).

Waiver monitoring requirements, includes the following provisions:

- a. Monitoring requirements shall be designed to support the development and implementation of the Waiver program, including but not limited to, verifying the adequacy and effectiveness of the Waiver's conditions. In establishing monitoring requirements, the Water Board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors.
- b. Monitoring results should be uploaded and made available to the public through the [California Environmental Data Exchange Network](#) (CEDEN).
- c. Inspections of management practices (MPs) related to water quality shall be performed as given in the Monitoring and Reporting Program (MRP), Attachment C, Section I. 6.

3. Basin Plan

On March 31, 1995, and in subsequent amendments, the Water Board adopted a Basin Plan that establishes beneficial uses, water quality objectives, waste discharge prohibitions, and implementation programs that apply to waters of the State and discharges to waters of the State within the Lahontan Region.

The Basin Plan pages 4.9-20 to 4.9-21 section titled "**Regional Board Control Actions for Livestock Grazing**" section states:

"In addition to relying on the grazing management expertise of agencies such as the USFS, BLM or RMAC [Range Management Advisory Committee], the Regional Board can directly regulate grazing activities where voluntary implementation of best management practices (BMPs) are deemed by the Regional Board or its Executive Officer to be inadequate to ensure protection of water quality and beneficial uses of water. Actions available to the Regional Board include:

- a. *Require that a Report of Waste Discharge be filed, that an AMP (Allotment Management Plan) be prepared, or that an Individual Rangeland Water Quality Management Plan (RWQMP) or Coordinated Resource Management Plan (CRMP) be adopted within one year of documentation of erosion problems, destruction or major impairment of vegetation, or significant addition of*

nutrients, pathogens and/or sediments to surface waters or ground waters resulting from grazing or grazing management activities. Such problems indicate impairment of beneficial uses or violation or threatened violation of water quality objectives.

- b. Require that all AMPs, RWQMPs and CRMPs contain BMPs necessary to correct existing water quality problems or to protect water quality so as to meet all applicable beneficial uses and water quality objectives contained in Chapters 2 and 3 of this Basin Plan. Corrective measures would have to be implemented within one year of submittal of the AMP, RWQMP or CRMP, except where staged BMPs are appropriate. Implementation of a staged BMP must commence within one year of submittal of the AMP, RWQMP or CRMP.*
- c. Require that each AMP, RWQMP or CRMP include specific objectives, actions, and monitoring and evaluation procedures. The discussion of actions must establish the seasons of use, number of livestock permitted, grazing system(s) to be used, a schedule for rehabilitation of ranges in unsatisfactory condition, a schedule for initiating range improvements, and a schedule for maintenance of improvements. The schedule for initiating and maintaining range improvements must include priorities and planned completion dates. The discussion of monitoring and evaluation must propose a method and timetable for reporting of livestock forage conditions, watershed condition, and surface and ground water quality.*
- d. Require that all AMPs and CRMPs be circulated to interested parties, organizations, and public agencies.*
- e. Consider adoption of waste discharge requirements if an AMP, RWQMP or CRMP is not prepared or if the Executive Officer and the landowner do not agree on BMPs proposed in an AMP, RWQMP or CRMP.*
- f. Decide that AMPs, RWQMPs and CRMPs prepared to address a documented watershed or water quality problem may be accepted by the Regional Board's Executive Officer in lieu of adoption of Waste Discharge Requirements.*
- g. Oversee monitoring of water quality variables and beneficial uses. Provide data interpretation."*

4. Nonpoint Source Implementation and Enforcement Policy

- a. Grazing activities can adversely impact water quality and impair beneficial uses by contributing excessive sediment, nutrients, and pathogens. These nonpoint source discharges from agricultural grazing operations within the Lahontan Region are considered discharges of waste that could affect the quality of waters of the State. The State Water Resources Control Board, May 20, 2004, *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy) requires that all sources of nonpoint source pollution be regulated through Waste Discharge Requirements (WDRs), Waivers to WDRs, or prohibitions, or some combination of these Policy, p. 3).
- b. The NPS Policy encourages the Water Board "to be as creative and efficient as possible in devising approaches to prevent or control NPS pollution." This includes supporting the development of third-party programs. The Bridgeport Ranchers Organization (BRO) is a cooperative group of grazers that work

together to implement elements of the Waiver. BRO members have been active in monitoring of surface water quality and assessment of management practice effectiveness in the Bridgeport Valley since April of 2006, with assistance provided by University of California Cooperative Extension (UCCE) staff and input from Water Board staff. The BRO is not responsible for fulfilling the requirements and conditions of this Waiver. However, as indicated in the Waiver, dischargers have the option to participate in a cooperative monitoring effort performed by the BRO in lieu of conducting individual monitoring. The BRO may also be eligible to manage fee collection and payment of State Water Board annual fees upon approval by the Water Board or the Water Board's Executive Officer. Annually, the BRO shall identify a point of contact who is the sole personnel responsible for the administrative duties associated with the fee collection.

- c. The NPS Policy requires Dischargers covered under this Waiver prepare and execute a nonpoint source pollution control implementation program that does the following:
 - (1) States the purpose of the program. Implementation programs must address nonpoint source pollution in a manner that achieves and maintains water quality objectives and beneficial uses, including any applicable antidegradation requirements.
 - (2) Includes a description of the MPs and other program elements that are expected to be implemented to ensure attainment of the nonpoint source pollution control implementation program's stated purpose(s), the process to be used to select or develop MPs, and the process to be used to ensure and verify proper implementation of MPs.
 - (3) Where a Water Board determines it is necessary to achieve water quality requirements, the implementation program shall include a time schedule and corresponding quantifiable milestones designed to measure progress toward reaching the specified requirements. CWC Sections 13242 (b) and 13263 (c) and the NPS Policy recognize that there are instances where it will take time to achieve water quality requirements. The effort may involve all or some of various processes, including identification of measurable long-term and interim water quality goals; a timeline for achieving these goals; identification and implementation of pollution control MPs; provision(s) for maintenance of the implementation actions; provision(s) for additional actions if initial actions are inadequate; and, in the case of third-party organizations, identification of a responsible third party to lead the efforts.
 - (4) The program shall include sufficient feedback mechanisms so that the Water Board, dischargers, and the public can determine whether the program is achieving its stated purpose(s), or whether additional or different MPs or other actions are required.
- d. Consistent with the NPS Policy, this Waiver of WDRs requires a nonpoint source pollution control implementation program in the form of prescribed MPs, or a RWQMP. Further, this Waiver establishes a time schedule to achieve the *Escherichia Coli* (*E. coli*) concentrations. Numeric quantifiable milestones, also referred to as an "interim goal" in this Waiver, are set to

confirm progress is being made to reduce the discharge of bacteria to levels that would address the impairments and meet the *E. coli* water quality objective.

5. Bacteria Water Quality Objective

In 1995, the Water Board set the Region-wide water quality objective for fecal indicator bacteria at 20 colony forming units (cfu) per 100 milliliter (ml) in the Basin Plan. Since then, more up-to-date science has found *E. coli* to be a better indicator for the presence or absence of harmful pathogens related to human health and the water contact recreation (REC-1) beneficial use as designated in the Bridgeport Valley. In 2018, the State Water Board adopted the statewide 100 cfu/100 ml objective for *E. coli*. The Water Board will be considering an amendment to remove the fecal coliform numeric water quality objective from the Basin Plan.

This Waiver begins a time schedule for compliance with the *E. coli* water quality objective for REC-1 with a quantifiable milestone consisting of an interim goal of 150 cfu/100ml for *E. coli* by 2026. The intent of the Waiver's interim goal is to set the Dischargers on track to eventually meet the 100cfu/100ml for *E. coli* in a future waiver or WDR.

At the time of this Waiver's adoption, the fecal coliform water quality objective of 20 cfu/100ml is still effective. To be consistent with the Basin Plan and State Water Board Plans and Policies, as required by Water Code section 13269, this Waiver develops a time schedule for compliance with the fecal coliform water quality objective with a quantifiable milestone in the Waiver term. The quantifiable milestone associated with the fecal coliform water quality objective is based on the *E. coli* indicator and is the same as the quantifiable milestone associated with the *E. coli* water quality objective for REC-1: interim goal of 150 cfu/100ml for *E. coli* by 2026. It is necessary to have quantifiable milestones to measure progress towards attainment of the fecal coliform water quality objective, because at the time of Waiver adoption the water quality objective was still effective. However, utilization of the *E. coli* indicator instead of the fecal coliform indicator will streamline monitoring and maintain consistency with the time schedule for meeting requirements associated with the *E. coli* water quality objective. These interim goals will ensure that the dischargers are moving towards attainment of the bacteria water quality objectives, while not creating additional requirements on dischargers if the fecal coliform objective is removed from the Basin Plan.

6. Summary of Discharger Activity

Since 2007, the Dischargers have had challenges meeting the region-wide bacteria water quality objective (WQO) of 20 cfu/100 ml for fecal coliform and the interim goal of 200 cfu/100 ml in some locations. The Dischargers have implemented many MPs such as fencing, off-stream drinking water systems, vegetated buffer strips, hardened water crossings, and irrigation structure improvements totaling approximately four million dollars since the Waiver's inception. Nevertheless, compliance with the interim WQO has not been consistently achieved at the downstream sampling and compliance points.

Considerable progress has been made by the Dischargers to protect and improve water resources in Bridgeport Valley over the past 15 years. A total of 1,232 water quality samples were collected between 2006 and 2021, estimated at over \$300,000. Sampling efforts were largely funded by the BRO as well as UC Rangelands, Rustici Endowment, and Atwill & Dahlgren Labs. According to a statistical analysis provided by the UCCE staff, the data showed a 73% improvement in fecal coliform levels from 2006 to 2017; however, levels are still above the 200 cfu/100ml fecal coliform interim target identified in previous iterations of the permit.

Several Bridgeport Grazing Waiver Dischargers have collectively dedicated over 15,000 acres to conservation easements that will protect these parcels from development in perpetuity.

BRO members continue to participate in ongoing collaborative stakeholder processes to reach collaborative outcomes benefiting the natural resources of California.

7. Existing Water Quality Impairments

Several water bodies within the Bridgeport Hydrologic Area and the Bridgeport Valley and the East Walker Tributaries Hydrologic Area are listed as water quality impaired for pathogens under Section 303(d) of the federal Clean Water Act. These water bodies include Buckeye Creek, East Walker River above Bridgeport Reservoir, Robinson Creek, Swauger Creek and Virginia Creek. Most of these water bodies were first placed on the 303(d) impaired water body list in 2001 except for Virginia Creek which was listed in 2018 based on water quality data that showed fecal coliform concentrations above the water quality objectives in these streams.

8. Rationale for Changes to the 2017 Waiver

The grazing Waiver approach establishes a framework of cooperative interaction between the dischargers and Water Board staff that results in ongoing identification of effective grazing MPs and implementation of these improved grazing MPs. The grazing Waiver requires management practice implementation resulting in water quality improvements to proceed according to the schedule for management practice implementation and maintenance in Water Board-approved RWQMP consistent with Basin Plan Section 4.9 "*Regional Board Control Actions for Livestock Grazing*," the Non-Point Source Policy, and other state requirements.

a. Monitoring and Reporting Plan (Attachment C)

The monitoring plan in this Waiver has been refined to remove fecal monitoring and exclusively rely on *E. coli* data as well as to adjust the monitoring frequency to calculate geomeans. In line with the State Board's transition to the more modern bacteria indicator, *E. coli*, this Waiver will require *E. coli* sampling only. Due to bacteria being such a variable parameter where very high and very low values are common, geomeans provide a more representational value for water quality in the Bridgeport Valley streams through a statistical evaluation that indicates the central tendency of a set of numbers. Geomeans have been planned for 2023 and 2026 from June to September which represents the period where grazing and flood field irrigation

most likely overlap. This approach will provide an understanding of the bacteria levels near the beginning and end of this Waiver's term that will determine progress towards interim goals, compliance with Waiver requirements, and inform subsequent Bridgeport grazing regulations. The RWQMP reporting requirement was updated to a more streamline process so that it will only require submittal to occur once during the term of the Waiver instead of the previous annual update requirements. The RWQMP will be tracked with information supplied in the Annual Report (Attachment E) to ensure the plan is carried out as intended.

b. End-of Valley Project

In 2017, watershed-based approaches to address bacteria issues were discussed and led to the Natural Resources Conservation Service (NRCS) and Walker River Irrigation District working with the BRO to develop plans for an end-of-valley water treatment. The project would have essentially created rock and wood levees to help slow and disperse water at the bottom of the valley and above the Bridgeport Reservoir allowing sunlight ultraviolet rays to break down *E. coli* more easily in shallower water as well as filter bacteria and nutrients. Anticipating the End-of-Valley project would increase the BRO's coordination and planning efforts, the 2017 Waiver decreased monitoring frequency and sampling sites significantly to allow the BRO to focus on the water treatment project. The current Waiver does not decrease the monitoring frequency to accommodate the planning of this project. Since then, the Dischargers have pivoted away from the End-of-Valley project due to the excessive project cost, issues with site access, lack of targeted instream water quality improvements, as well as the lack of organizational capacity to plan for, implement, and provide maintenance on the project in future years.

- c. Irrigated Lands Regulatory Program, Eastern San Joaquin Requirements
For discussion on changes resulting from State Board Order WQ 2018-002, 'In the Matter of Review of Waste Discharge Requirements General Order No. R5-2012-0116 for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group Issued by the California Regional Water Quality Control Board, Central Valley Region' ("ESJ Review Order"), see Finding 21.

9. Maintenance of High-Quality Waters in California

State Water Board Resolution 68-16 ("Statement of Policy with Respect to Maintenance of High-Quality Waters in California") finds:

"Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with the maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies. Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high-quality waters will be

required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.”

Constituents of concern associated with the discharge include bacteria, sediment, nitrogen, and phosphorus. This Waiver is addressing an existing discharge and involves minimum change in use beyond that previously existing. Compliance with the terms of this Waiver should result in an improvement in water quality for the constituents of concern. Any degradation to water quality as a result of the renewal is not anticipated. If degradation of high-quality waters was to occur, this Waiver is consistent with Resolution 68-16 because it requires implementation of MPs in an adaptive manner to arrive at the best practicable treatment or control of the discharge, to protect beneficial uses, and to attain the highest water quality possible. This Waiver requires compliance with an interim water quality target and Basin Plan water quality objectives in accordance with a time schedule. The economic prosperity of rural communities and associated grazing activities is of maximum benefit to the people of the State. Further, this Waiver, in allowing for existing operators to continue in business and apply MPs in an adaptive manner to achieve improvements to water quality, is consistent with the maximum benefit to the people of the state. This Waiver requires Dischargers to implement additional grazing MPs to assure protection of beneficial uses of waters of the state and maintain the highest water quality consistent with maximum benefit to the people of the State.

The MRP (Attachment C) requires surface water quality monitoring and visual inspection of MPs which ensures that best management treatment or control is effective, water quality objectives will not be exceeded, and confirms that water quality will be maintained at a level that is protective of beneficial uses.

10. Receiving Water Beneficial Uses

Pursuant to the Basin Plan and State Board Plans and Policies, including State Water Board Resolution No. 88-63, the existing and potential beneficial uses of waters potentially affected by the proposed activity include:

- a. Agricultural Supply (AGR)
- b. Cold Freshwater Habitat (COLD)
- c. Commercial and Sportfishing (COMM)
- d. Freshwater Replenishment (FRSH)
- e. Ground Water Recharge (GWR)
- f. Municipal and Domestic Supply (MUN)
- g. Water Contact Recreation (REC-1)
- h. Non-contact Water Recreation (REC-2)
- i. Spawning, Reproduction, and Development (SPWN)
- j. Wildlife Habitat (WILD)

11. California Environmental Quality Act

The Water Board is the lead agency for this project under the California

Environmental Quality Act (CEQA, Public Resources Code Section 21000 et seq.). Pursuant to Title 14, California Code of Regulations, section 15164(b) of the CEQA Guidelines, the Lahontan Water Board has prepared an Addendum (Attachment A) to its Negative Declaration, certified on June 13, 2007, in support of the 2007 Grazing Waiver. This 2023 addendum summarizes the changes to the Project as part of the third renewal of the 2007 Grazing Waiver.

Since June 13, 2007, there has been no expansion of the operations, or the area covered by this Waiver. An addendum to the 2007 negative declaration was prepared for the 2012, 2017, and 2023 Waiver updates, pursuant to 14 CCR § 15164 to support the decision that a subsequent negative declaration was not necessary for the following reasons:

- a. There have been no substantial changes in the projects covered by this Waiver that would result in new significant environmental effects or increases in the severity of previously identified significant effects;
- b. There have been no changes with respect to the circumstances under which the projects are undertaken, which would require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- c. There has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous negative declaration was adopted. The addendum is provided in Attachment A.

12. Grazing Waiver Strategy

The Water Board is engaged in a collaborative stakeholder process with ranchers to identify a coordinated strategy to improve water quality in Bridgeport Valley surface waters and ultimately, in downstream Bridgeport Reservoir. Continuation of the grazing Waiver is an appropriate regulatory option for facilitation of this cooperative process.

13. Grazing Operation Definition

The term “grazing operation” is defined as a facility where animals are fed or maintained on irrigated vegetation or rangeland forage for a total of 45 days or more in any 12-month period, and vegetation forage growth is sustained over the lot or facility during the normal growing season.

14. Federal Lands

Activities on federal lands adjacent to or upstream of the Bridgeport Hydrologic Area as described in Finding 1 are not subject to this Waiver.

15. Compliance Schedule

Consistent with Basin Plan Chapter 4 “*Regional Board Control Actions for Livestock*

Grazing” (Finding 3), this Waiver requires Dischargers to develop a schedule for management practice implementation in their RWQMP that continues to reduce *E. coli* concentrations in surface waters downstream of grazing operations to an interim goal of 150 cfu/100ml for *E. coli* by 2026 and may reduce other pollutants such as sediment and nutrients.

If, at any time, the Water Board determines that Dischargers are not making sufficient progress towards meeting the bacteria water quality target, coverage under this Waiver may be revoked and WDRs may be pursued. In addition, if the bacteria water quality target is not met, the Water Board may take that into account when revising the Waiver or establishing a new general waiver or WDR. This is consistent with the NPS Policy which indicates that a potential Regional Board response to inadequate or ineffective programs can include adopting a revised program.

16. Intent to Issue Renewed Waiver

California Water Code Section 13269 allows Water Boards to waive submission of Reports of Waste Discharge (ROWDs) and/or issuance of Waste Discharge Requirements (WDRs) if it finds that the Waiver is consistent with the Basin Plan and is in the public interest. The Water Board adopted Resolution No R6T-2017-0033, “Waiver of Waste Discharge Requirements for Grazing Operations in the East Walker River Watershed (Bridgeport Valley and Tributaries) of the Lahontan Region,” on June 13, 2017. This is a renewal of that Waiver with some modifications.

17. Public Notification and Meeting

The Water Board has notified the Dischargers and all known interested agencies and persons of its intent to issue a renewed Waiver of Waste Discharge Requirements. Public notice for written comments pertaining to the [Tentative Waiver](#) were conducted from November 16 through 5:00 pm on December 22, 2022. The Water Board conducted a public hearing at the March 1, 2023, board meeting in South Lake Tahoe, California, and considered all testimony and evidence concerning this matter.

18. Monitoring Reports

Technical and monitoring reports specified in this Waiver are required. (Wat. Code, § 13267.) Failing to furnish the reports by the due date or falsifying information in the reports, are misdemeanors that may result in assessment of civil liabilities against the Discharger. Water Code section 13267 states, in part:

“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need

for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports.”

The technical reports required by this Waiver and the MRP are necessary to ensure compliance with this Waiver. The burden and cost of preparing the reports is reasonable and consistent with the interest of the state in maintaining water quality.

The Dischargers operate facilities that discharge waste subject to this Waiver. The wastes contain bacteria and discharges cause or contribute to exceedances of the Basin Plan water quality objective for bacteria. Therefore, the monitoring reports required by this Waiver and the MRP are necessary to assure compliance and track grazing management practice implementation type, extent, and effectiveness.

Failing to furnish the reports by the due date, falsifying information, or intentionally withholding information required by applicable laws, regulations, or order, failure to monitor or provide complete and accurate information as required are considered violations of the Waiver and may result in assessment of civil liabilities against the Discharger.

The State Board’s Bacteria Provisions and a Water Quality Standards Variance Policy recommends a sample frequency of five times over a six-week (42-day) period for improved data quality, as log-normalization of more than one value per month attenuates occasional high spikes in bacteria concentrations common to this statistic, improving the probability of compliance with target *E. coli* concentrations.

However, consistent with Water Code Section 13269(a)(3)(b), this Waiver requires a sampling frequency of at least three samples within a 42-day period from June through September in 2023 and 2026 of Attachment C, the MRP. No water quality sampling requirements in years 2024, 2025, and 2027 will allow the BRO to focus resources on implementing and/or maintaining grazing and irrigation MPs as well as strategic stakeholder engagement processes.

19. Public Interest

Water Code section 13269 requires the Water Board determine that any waiver of waste discharge requirements is in the public interest. The Water Board has considered all the comments of the public and finds that this Waiver waiving waste discharge requirements for dischargers of waste from irrigated lands is in the public interest as further described. The Water Board has many options to regulate discharges of waste, including through individual and general waste discharge requirements, prohibitions in the Basin Plan, and individual and general conditional waivers of waste discharge requirements.

The Lahontan Water Board finds that the Waiver is in the public interest because: (a) compliance with the conditions of the Waiver will result in protection of water quality; (b) efforts to control and regulate discharges from irrigated agriculture has increased statewide and this Waiver is consistent with precedential requirements; (c) the

Waiver contains conditions requiring compliance with the monitoring and reporting program that will assist in the protection of water quality and in the verification of the adequacy and effectiveness of MPs pursuant to Water Code section 13269, subdivision (a)(3); (d) the Waiver contains conditions that require compliance with the Basin; (e) the Waiver prohibits the creation of pollution, contamination or nuisance as defined in Water Code section 13050. (g) Violations of Waiver conditions are subject to enforcement remedies including, but not limited to Water Code section 13350 in the same manner as enforcement of waste discharge requirements. (h) Water Board staff will continue to work cooperatively with the BRO to ensure that grazers are incorporating the best water quality protective measures into their plans.

20. Environmental Justice: Disadvantaged and Tribal Communities

When issuing or reissuing regional waste discharge requirements or waivers of waste discharge requirements, Regional Boards shall make a concise, programmatic finding on potential environmental justice, tribal impact, and racial equity considerations related to the issuance. (Water Code § 13149.2, effective Jan. 1, 2023). For reissuances, the finding may be limited to considerations related to any changes to the requirements of the prior waste discharge requirements or waivers of waste discharge requirements.

The Bridgeport Indian Colony (BIC), a California Native American Tribe, is located just outside of Bridgeport, California. The BIC have a federal reservation which is identified as a disadvantaged community in the 'Senate Bill 535 Disadvantaged Communities 2022 (Census Tracts and Tribal Areas)' data. No other tribal communities or disadvantaged communities were identified in the Bridgeport Valley. This community is located downstream of the grazing operations less than a half mile from the Bridgeport Reservoir shoreline where the tribal members may access the waterbody for recreation, fishing, or cultural activities. This Waiver regulates grazing on private lands in the Bridgeport Valley. Grazing activities have the potential to generate sources of bacteria, nutrients, and sediments that may discharge to and impact waters of the State. To address grazing related pollutants the Waiver requires the installation, inspection, and maintenance of MPs in strategic locations upstream of the reservoir, which over time improve the quality of waters entering the reservoir. Additionally, this Waiver's monitoring plan was updated to reflect the most up-to-date science that found *E. coli* to be a better indicator than fecal coliform for the presence or absence of harmful pathogens related to human health.

21. Irrigated Lands Regulatory Program, Eastern San Joaquin Requirements

The State Water Board reviewed on its own motion WDRs General Order No. R5-2012-0116 issued by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) for Growers within the Eastern San Joaquin River Watershed that are Members of a Third-Party Group. In Order WQ 2018-002, 'In the Matter of Review of Waste Discharge Requirements General Order No. R5-2012-0116 for Growers Within the Eastern San Joaquin River Watershed that are

Members of the Third-Party Group Issued by the California Regional Water Quality Control Board, Central Valley Region' ("ESJ Review Order"),

The State Water Board established a robust set of precedential requirements to be incorporated into all Irrigated Lands Regulatory Program (ILRP) permits by February 2023.

The Bridgeport grazing operations covered under this Waiver meet the definition of "irrigated lands" to which some ESJ precedential requirements apply. "Irrigated lands" are defined as "Land irrigated to produce crops or pasture for commercial purposes; nurseries; and privately and publicly managed wetlands." And commercial irrigated lands are "irrigated lands that have one or more of the following characteristics: (a) The landowner or operator holds a current Operator Identification Number/ Permit Number for pesticide use reporting; (b) The crop is sold to a third party including, but not limited to, (1) an industry cooperative, (2) harvest crew/company, or (3) a direct marketing location, such as farmers' markets; (c) The landowner or operator files federal taxes using federal Department of Treasury Internal Revenue Service Form 1040, Schedule F Profit or Loss from Farming. It is worth noting that while irrigated pastures are included in the Central Valley's ESJ irrigated lands definition, the ESJ Review Order states that some of the requirements may not be precedential to certain dischargers.

The Dischargers on irrigated land in the Bridgeport Valley do not use nitrogen fertilizers. Upon Waiver enrollment, Dischargers are prohibited from applying any external nitrogen which includes all nitrogen proactively added to a field from any source such as organic amendments, synthetic fertilizers, manure, and irrigation water. This renewed Waiver includes the limited subset of the ESJ review order precedential requirements: sediment and erosion control planning and implementation; management practice reporting; education and outreach; and groundwater quality monitoring.

- a. Sediment & Erosion Control Planning: The current Waiver requirements address this category through the RWQMP which includes measures to address sediment and erosion measures associated with grazing and along ranch roads, as needed.
- b. Management Practice Reporting: The current Waiver requirements addresses this category through the Annual Report requirement.
- c. Education & Outreach: See the Attachment C (MRP) Section II Eastern San Joaquin (ESJ) Requirements for discussion regarding the education and outreach requirements.
- d. Record Keeping: Third party record keeping associated with the ESJ precedential requirements is not required in this Waiver.
- e. Groundwater Quality Monitoring: The requirement for groundwater quality trend monitoring is precedential for irrigated lands regulatory programs statewide; however, the specific requirements and the monitored constituents specified are not precedential. Due to the Sustainable Groundwater Management Act 2019 Basin Prioritization's finding that included components such as water quality degradation, irrigated acreage, and assessments of adverse impacts on local habitat and local stream flows, Bridgeport Valley

basin was found to be a very low priority. Therefore, as long as grazing impacted wells within the Bridgeport Valley have available data from existing State Water Resources Control Board programs such as [GeoTracker](#) and the Groundwater Ambient Monitoring & Assessment Program (GAMA), such groundwater data is considered sufficient in lieu of expanding monitoring requirements. This approach is reasonable due to the current groundwater well data spanning many decades is within the influence of the Bridgeport Valley grazing ranches that have been in operation since the 1800s. The most current nitrate groundwater well data has met the monitoring concentration thresholds for safe drinking water levels.

- f. On-farm Drinking Water Well Monitoring: On-farm drinking water well monitoring associated with the ESJ precedential requirements is not required in this Waiver.
- g. Nitrogen Management & Reporting Requirements: Not precedential nor applicable due to no external fertilizers being applied.

THEREFORE:

IT IS HEREBY ORDERED that pursuant to Water Code sections 13267, and 13269, the Regional Water Board waives the requirement to establish waste discharge requirements for grazing operations in the Bridgeport Valley and the East Walker Hydrologic Area pursuant to the following conditions:

1. Eligibility for Coverage

Operators of grazing lands that meet all of the following are eligible for coverage under this Waiver:

- a. Grazing operations are in existence as of March 1, 2023;
- b. Each Discharger shall submit a complete Grazing Waiver Application (Attachment B) by **April 15, 2023**.
- c. An application fee may be required by the Water Board as a condition of enrollment.

2. Inventory and Plan

By April 15, 2023, each enrolled Discharger is required to submit a self-prepared RWQMP (Attachment G) or provide a copy of a NRCS-prepared Conservation Plan to the Regional Water Board Executive Officer. Minimum required elements of the RWQMP are outlined in the MRP (Attachment C).

3. Implementation

The Discharger must implement the RWQMP as accepted by Water Board staff and keep a copy of the plan at the ranch office. The Discharger must submit the RWQMP by **April 15, 2023**.

4. Interim Progress Report

By **October 1, 2027**, Dischargers must submit a collective Interim Progress Report in

accordance with Attachment C, MRP.

5. General Waiver Conditions

- a. The Discharger must implement measures identified in the RWQMP and make adaptive management practice adjustments to the RWQMP to reduce *E. coli* concentrations in surface waters to achieve an interim goal of the six-week rolling geometric mean of *E. coli* not to exceed 150 cfu/100ml calculated weekly, and a statistical threshold value of 320 cfu/100 mL not to be exceeded by more than 10 percent of the samples collected in a calendar month, calculated in a static manner.
- b. The Discharger must not cause or contribute to conditions of pollution or nuisance as defined in California Water Code Section 13050.
- c. The Discharger is prohibited from applying external nitrogen inputs on irrigated pasture.
- d. The Discharger must not cause or contribute to exceedances of any numeric or narrative water quality standards. For the bacteria water quality objectives, a specific time schedule and corresponding quantifiable milestones are established in this Waiver to measure progress in the ultimate achievement of the bacteria water quality objectives.
- e. The water quality *E. coli* target is a six-week rolling geometric mean not to exceed 150 cfu/100ml calculated weekly by 2026.
- f. This Conditional Waiver does not authorize the discharge of any waste not specifically regulated under this Waiver. Waste specifically regulated under this Waiver includes livestock wastes. Examples of wastes not specifically regulated under this Waiver include hazardous materials and human wastes.
- g. Groundwater influenced by irrigation activities and livestock management shall be of such quality to assure protection of all actual or designated beneficial uses.
- h. Water Board Inspections – Pursuant to Water Code section 13267, which states:

“In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.”

The Lahontan Water Board staff or its authorized representatives, may, at reasonable hours, investigate the property of persons subject to this Waiver to ascertain whether the purposes of the Porter-Cologne Act are being met and whether the Discharger is complying with the conditions of this Waiver. For purposes of this Waiver, the following two conditions apply:

- (1) The term “possessor” is understood to include lessees and/or operators when the owner is absentee and not involved actively in the grazing operation.
- (2) Enrollees under the Waiver must allow Regional Water Board staff entry onto the affected property for the purposes of observing, inspecting, photographing, videotaping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with this Waiver. If entry or consent to access to property is unreasonably withheld, the Executive Officer may terminate the applicability of the Waiver and a Report of Waste Discharge shall be submitted to the Regional Water Board pursuant to Water Code section 13260. Unauthorized discharges may result in enforcement action pursuant to Water Code section 13261.
- i. Annual Fees: Dischargers may be subject to an annual fee to the State Water Board in compliance with the fee schedule set forth in [California Code of Regulations, title 23](#) (see Section 2200.6. Annual Agricultural and Irrigated Lands Fee Schedule). A group that has been approved by the Water Board or Water Board Executive Officer to manage fee collection and payment may collect fees from Dischargers and submit them to the State Water Board on behalf of the Discharger.

6. Water Quality Monitoring

Monitoring and reporting must be conducted as described in the MRP, Attachment C.

Pursuant to water code Section 13267 and 13269, water quality monitoring and reporting of wastes discharged must be performed on a site specific or watershed basis. The Discharger may do so individually, or in cooperation with other similar Dischargers in the watershed with acceptance from the Water Board Executive Officer, in accordance with Attachment C – Monitoring and Reporting Plan for East Walker River Watershed. Three months prior (approximately in March) to water quality monitoring beginning in 2023 and 2026, a meeting between the Water Board, Dischargers, and their contracted lab of choice should be arranged to discuss the sampling season's expectations.

7. General Provisions

The Discharger shall comply with the applicable "General Provisions for Monitoring and Reporting," dated September 1, 1994, (Attachment D).

8. Termination Procedures

- a. In the event of closure or change in land use of the Discharger's facility, the Discharger must notify the Water Board, in writing.

- b. In the event of any change in operation control, or ownership of land or waste discharge facilities, the Discharger must immediately notify any succeeding Discharger of its responsibility to comply with this Waiver. A copy of such notice must be submitted to the Water Board in order for the original Discharger to be relieved of its responsibility to comply with this Waiver. In order to continue the discharge pursuant to this Waiver, the succeeding Discharger must submit a grazing Waiver application and a RWQMP to the Water Board within 21 days of receipt of such change and receive approval by the Water Board Executive Officer.

9. Failure to Comply with Terms and Conditions of this Waiver

Dischargers who fail to comply with the terms and conditions of this Waiver shall be subject to appropriate enforcement action. Discharges that could affect the quality of the waters of the State may commence only in accordance with Water Code Section 13264(a). The Water Board Executive Officer reserves the right to terminate individual's coverage under the Waiver and the Water Board can impose individual Waste Discharge Requirements after proper notice and hearing (Water Code Section 13263).

10. This Waiver expires March 1, 2028.

I, Michael Plaziak, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Waiver adopted by the California Regional Water Quality Control Board, Lahontan Region, on **March 1, 2023**.

MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

Attachments: A. CEQA Addendum
B. Grazing Waiver Application
C. Monitoring and Reporting Program
D. General Provisions for Monitoring and Reporting
E. Annual Report
F. 2023 Waiver Due Dates Chart
G. Rangeland Water Quality Management Plan Template

CEQA Addendum

Pursuant to Title 14, California Code of Regulations, section 15164(b) of the CEQA Guidelines, the Lahontan Water Board has prepared this addendum to its Negative Declaration, certified on June 13, 2007, in support of the 2007 Grazing Waiver. This 2023 addendum summarizes the proposed changes to the Project as part of the third renewal of the 2007 Grazing Waiver, as follows:

- 1) Changes to the Monitoring and Reporting Program (MRP) were made to update monitoring for indicator bacteria from fecal coliform to *E. coli*, adjust the collection frequency to optimize concentration interpretation, and streamline reporting requirements. Modern science found *Escherichia coli* (*E. coli*) to be a more sensitive parameter to indicate the presence of pathogens and will be the exclusive parameter required for 2023 Waiver MRP in accordance with the State Water Board's statewide bacteria water quality objective. Increasing the monitoring frequency will allow for geomeans to be calculated which are a type of average that dampens the effect of outliers and provides the central tendency of a set of numbers.
- 2) Enrollees will be required to prepare and submit the Rangeland Water Quality Management Plan (RWQMP) once during the term of the Waiver and implementation of the plan will be tracked with information supplied in the revised Annual Report to measure progress towards a new interim goal of 150 cfu/100ml for *E. coli* by 2026, and progress toward eventual compliance with the bacteria water quality objectives.
- 3) The Bridgeport grazing operations include "irrigated lands" and therefore incorporated the applicable Eastern San Joaquin (ESJ) requirements in this Waiver renewal process as was required by February 2023 or sooner.

Based on the information in the record and the changes summarized in this Addendum, the Water Board finds that none of the circumstances set forth in Public Resources Code section 21166 or CEQA Guidelines section 15162, subdivision (a) requiring the preparation of a subsequent MND are present for this Project. Specifically, the Water Board finds (i) no substantial changes are proposed in the Project that will require major revisions to the previous CEQA analyses done by the Water Board in 2007 due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (ii) no substantial changes have occurred with respect to the circumstances under which the Project is to be undertaken that will require major revisions to the previous CEQA analyses due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (iii) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the CEQA analyses were adopted, that shows new significant effects, substantially more severe significant effects, or additional feasible mitigation measures. Therefore, the Water Board finds that this Addendum is appropriate to address the changes associated with the updated 2023 Grazing Waivers.

GRAZING WAIVER APPLICATION**Ranch Facility Name:****SECTION I. FACILITY OPERATOR INFORMATION**

Contact Person:		
Mailing Address:		
City:	State:	Zip Code:
Phone:	Email:	

SECTION II. LANDOWNER INFORMATION (IF OPERATOR IS NOT THE OWNER)

Contact Person:		
Mailing Address:		
City:	State:	Zip Code:
Phone:	Email:	

SECTION III. FACILITY INFORMATION*** Please fill out additional sheet(s) if Ranch Lands are not contiguous**

Contact Person:		
Location (describe nearest cross streets):	County:	
City:	State:	Zip Code:
Phone:	Email:	
Provide coordinates only if facility does not have a valid street address.		Latitude: Longitude:
Operations Type(s): Cattle Horse Sheep Goat Other:	Total Herd Size: 1-100 101-500 501-1,000 1,001-3,000 >3,000	Typical Dates for Grazing Operations: Start End
Approximate Pasture Acres Irrigated in Last Five (5) Years:		

SECTION IV. ADDRESS FOR CORRESPONDENCE

Send Correspondence to:

Facility Operator Mailing Address (Section I)

Owner Mailing Address (Section II)

SECTION V. RECEIVING WATER INFORMATION

Does your facility's storm water flow directly and/or eventually into waters of the State such as a stream, river, lake, irrigation flows, etc? Yes No

If yes, name the receiving waterbodies:

SECTION VI. IMPLEMENTATION OF WAIVER CONDITIONS

CONDITIONS OF WAIVER FOR DISCHARGES FROM GRAZING LANDS (check if true)

Facility is currently operating in compliance with Conditions of Waiver for Discharges from Grazing Lands

SECTION VII. Rangeland Water Quality Management Plan (RWQMP)

(Check if true) A Ranch Water Quality Plan is maintained at ranch offices.

SECTION VIII. OWNER NOTIFICATION

If the OPERATOR is not the owner of the facility, the OPERATOR must certify that the owner of the facility has been notified of this waiver and its requirements.

Operator Printed Name:

Signature:

Date:

SECTION VII. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of the waiver, including the implementation of a Ranch Water Quality Plan, will be complied with."

Printed Name:

Title:

Signature:

Date:

ORDER NO. R6T-2023-PROPOSED

**MONITORING AND REPORTING PROGRAM
FOR WAIVER OF WASTE DISCHARGE REQUIREMENTS**

FOR

**DISCHARGES RELATED TO GRAZING OPERATIONS IN THE
EAST WALKER RIVER WATERSHED (BRIDGEPORT VALLEY AND
TRIBUTARIES) OF THE LAHONTAN REGION**

This Monitoring and Reporting Program (MRP) is issued pursuant to California Water Code section 13267, which authorizes the Water Board to require preparation and submittal of technical and monitoring reports. The Water Board needs the information required by this MRP to determine compliance with the Waiver. As further demonstrated in the findings of the Waiver, the burden, including costs, of these reports bears a reasonable relationship to the need for the report and the benefits to be obtained from the reports.

I. Surface Water Sampling and Analysis

Dischargers must provide sampling for water quality constituents in the East Walker River Watershed, comprised of the Bridgeport Valley and its tributaries. In lieu of conducting individual monitoring, Dischargers may participate in a cooperative monitoring effort performed by the Bridgeport Rancher's Organization (BRO), following the plan developed through a collaborative process with the BRO, University of California Cooperative Extension (UCCE) staff, and Water Board staff.

1. Objectives of Surface Water Monitoring

Dischargers must conduct water quality sampling during the period grazing is mostly likely to overlap with field irrigation, which is typically June through September. Compliance monitoring sites are located at the bottom of the valley for assessment of effectiveness of grazing best-management practice implementation.

2. Surface Water Sites

Sample collection sites have been selected to monitor point-of-compliance sites at the bottom of the Bridgeport Valley. These are BRO historic monitoring sites: BRO 8 (Buckeye Creek at confluence with Bridgeport Reservoir); BRO 10 (Robinson Creek at confluence with Bridgeport Reservoir); and BRO 11 (East Walker River immediately above the town of Bridgeport). These sites represent points at which contact recreation beneficial uses occur, where fecal indicator bacteria standards should be met, and locations that have a consistent set of

baseline data collected between 2006 and 2016 to serve as a reference for change over the span of this pending waiver period.

3. Sample Collection Season, Frequency, and Type

The Monitoring Schedule for grazing seasons 2023 through 2027 is given in Table 1.

Table 1: Five-year sampling schedule for the Bridgeport grazing Waiver

Year	Months Sampled	Frequency of Samples	Sites Sampled	Parameters Sampled
2023	Jun-Sept	At least once every other week.	BRO 8, 10, 11	generic <i>E. coli</i>
2024	NA	NA	NA	No monitoring required to allow for BMP focus.
2025	NA	NA	NA	No monitoring required to allow for BMP focus.
2026	Jun-Sept	At least once every other week.	BRO 8, 10, 11	generic <i>E. coli</i>
2027	NA	NA	NA	No monitoring required to allow for BMP focus.

Monitoring is required at least once every other week beginning the first week of June through the last week of September so that, at minimum, three samples are collected within a 42-day period to calculate geomeans. The Dischargers may choose to sample more than the requirement which might improve the probability of compliance with the target *E. coli* threshold due to the occasional high spikes in bacteria concentrations common to this pollutant.

4. Water Sample Collection

All sampling must be conducted by a person trained in collection protocols (e.g., sub-sampling, bottle labeling, sample handling) to assure consistency and data quality. Note that additional water quality parameter analysis may be performed by the BRO at their discretion in cooperation with UCCE. This is encouraged, but only *E. coli* is required under this waiver of WDRs.

If the Dischargers participate in a cooperative monitoring effort performed by the BRO, collection dates will be established in coordination between the BRO and the analytical laboratories. Samples from all sites must be collected in the early morning on the same day, brought to a central collection point, and the one complete set of samples must be transported as soon as possible following collection (same day) to a laboratory for *E. coli* analysis within prescribed holding times. Sampling dates may be rescheduled to avoid sampling during heavy precipitation events that create unsafe sampling conditions for field crews.

Water sample collection must occur at a flowing, well mixed transect at each sample site. Water samples must be collected into a sterile plastic bottle for indicator bacteria analysis. All samples must immediately be placed on ice. The samples must be transported to a commercial laboratory for *E. coli* concentration analysis.

5. Analytical Determination of *E. coli*

E. coli analyses must be determined using the multiple tube/multiple well standard method Colilert-18 or other US EPA-approved method given in 40CFR 136.3, Table IH.

E. coli analyses must be performed at a laboratory certified in bacteriological analysis by the State Water Board Division of Drinking Water, Environmental Laboratory Assessment Program (ELAP) within the prescribed holding times of eight hours total (typically six hours from sampling until laboratory receipt of samples to allow adequate time for processing, 40 CFR 136.3 Table II).

6. Inspections

At a minimum, Dischargers must conduct visual inspections during the grazing season once a month, from June to September, to verify that chosen management practices (MPs) are being implemented and the Grazing Conditions for the Waiver are being met. The Discharger must:

- a. Visually inspect the closest receiving water, upstream and downstream of each pasture, to note any visual change in water quality resulting from facility operations. This inspection is needed to determine the effectiveness of the MPs implemented at the ranch facility. Examples of changes in visual characteristics in water that may be indicative of the effects of grazing and/or grazing MPs include, but are not limited to color, turbidity, floating material, algae concentration, bank stability, etc.
- b. Inspect facilities and MPs at the beginning of the grazing season and at least bimonthly during the grazing season. Any problems noted must be documented and corrected as soon as practicable.
- c. Report the dates of inspections; problems noted, and corrective actions taken, if any; and any recommendations for improvements in MPs in the annual report.
- d. Conduct before and after photo documentation of BMPs completed during the Waiver's term.

7. Eastern San Joaquin (ESJ) Requirements

As required by the ESJ Review Order, the discharger must comply with the following ESJ Review Order precedential requirements:

- a. Education and Outreach: Dischargers are required to participate in one (1) rangeland BMP educational event per waiver term and report on such activity

in the Annual Report. A variety of educational opportunities the Dischargers may choose to attend to satisfy this requirement could include attending a conference or course lead by technical professionals (NRCS, UCCE, Bureau of Land Management) either in-person or online.

II. Reporting Requirements

1. Water Quality Monitoring Data

All water quality monitoring data collected during 2023 and 2026, including any additional sampling completed beyond the three-sample minimum required for the geomean calculations, must be reported to the Water Board by **November 15 in 2023 and 2026**, respectively. The water quality data, at a minimum, must include *E. coli* lab results, chain of custody forms, and quality assurance/quality control documentation. If possible, the lab should have a contractual obligation to upload the data to the California Environmental Data Exchange Network (CEDEN).

2. Rangeland Water Quality Management Plan

A Rangeland Water Quality Management Plan (RWQMP) must be submitted by **April 15, 2023**. Submit a NRCS-prepared RWQMP or refer to the RWQMP template (Attachment G) to ensure that information provided in a self-prepared plan, at minimum, includes:

- a) An inventory of resources based on visual observations and/or existing reports.
- b) Problem assessment that identifies grazing and irrigation activities that have the potential to impact water quality within the discharger's property boundaries, as well as other conditions with potential to impact water quality that may be beyond the rancher's control.
- c) Description of previously implemented and on-going grazing, irrigation, or operational BMPs aimed at reducing *E. coli* concentrations and sediment loading within the Bridgeport Valley streams.
- d) An implementation schedule of proposed BMPs anticipated within the Waiver term to comply with the standards of this Waiver.
- e) A site map or aerial photo on a 1:12,000 scale showing property perimeter, buildings, roads, fences, watercourses, watercourse crossings, irrigation ditches, irrigated vs. upland pasture, and installed BMPs such as off channel water systems, salt licks, hardened crossings, and vegetated buffer strips. Please see the RWQMP template for acceptable level of detail that may be included when preparing the site map.

After submittal, RWQMP may require revisions to the RWQMP based on staff review.

3. Annual Report (Attachment E)

The Annual Report is a standardized and concise approach for dischargers to document each ranch's structural and/or operational rangeland BMPs aimed at improving water quality. The Annual Report is not designed to capture all grazing management operations performed on every individual pasture, but instead should address the ranch in its entirety. Attachment E may be updated and refined as needed by the Water Board's Executive Officer. The dischargers must submit the Annual Report by **January 15** each year beginning **January 15, 2024**.

4. Interim Progress Report

By **October 1, 2027**, Dischargers must submit an interim progress report summarizing the MPs undertaken during the Waiver's term. In lieu of developing and submitting an individual report, Dischargers may participate in a collective reporting effort prepared and submitted by the BRO. The interim progress report must include estimated costs of implemented MPs, and before and after photo documentation of MPs completed during the Waiver's term, and a timeline and implementation schedule for management of grazing activities, structural improvements, and livestock management to meet 100 cfu/100ml for *E. coli* in receiving waters. Additionally, Dischargers must also provide an updated site map for each Discharger (See Attachment G details).

Ordered by: _____
MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

Dated: _____

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

GENERAL PROVISIONS
FOR MONITORING AND REPORTING

1. **SAMPLING AND ANALYSIS**

- a. All analyses shall be performed in accordance with the current edition(s) of the following documents:
 - i. Standard Methods for the Examination of Water and Wastewater
 - ii. Methods for Chemical Analysis of Water and Wastes, EPA
- b. All analyses shall be performed in a laboratory certified to perform such analyses by the California State Department of Health Services or a laboratory approved by the Regional Board Executive Officer. Specific methods of analysis must be identified on each laboratory report.
- c. Any modifications to the above methods to eliminate known interferences shall be reported with the sample results. The methods used shall also be reported. If methods other than EPA-approved methods or Standard Methods are used, the exact methodology must be submitted for review and must be approved by the Regional Board prior to use.
- d. The Discharger shall establish chain-of-custody procedures to insure that specific individuals are responsible for sample integrity from commencement of sample collection through delivery to an approved laboratory. Sample collection, storage, and analysis shall be conducted in accordance with an approved Sampling and Analysis Plan (SAP). The most recent version of the approved SAP shall be kept at the facility.
- e. The Discharger shall calibrate and perform maintenance procedures on all monitoring instruments and equipment to ensure accuracy of measurements, or shall insure that both activities will be conducted. The calibration of any wastewater flow measuring device shall be recorded and maintained in the permanent log book described in 2.b, below.
- f. A grab sample is defined as an individual sample collected in fewer than 15 minutes.
- g. A composite sample is defined as a combination of no fewer than eight individual samples obtained over the specified sampling period at equal intervals. The volume of each individual sample shall be proportional to the discharge flow rate at the time of sampling. The sampling period shall equal the discharge period, or 24 hours, whichever period is shorter.

2. OPERATIONAL REQUIREMENTS

a. Sample Results

Pursuant to California Water Code Section 13267(b), the Discharger shall maintain all sampling and analytical results including: strip charts; date, exact place, and time of sampling; date analyses were performed; sample collector's name; analyst's name; analytical techniques used; and results of all analyses. Such records shall be retained for a minimum of three years. This period of retention shall be extended during the course of any unresolved litigation regarding this discharge, or when requested by the Regional Board.

b. Operational Log

Pursuant to California Water Code Section 13267(b), an operation and maintenance log shall be maintained at the facility. All monitoring and reporting data shall be recorded in a permanent log book.

3. REPORTING

- a. For every item where the requirements are not met, the Discharger shall submit a statement of the actions undertaken or proposed which will bring the discharge into full compliance with requirements at the earliest time, and shall submit a timetable for correction.
- b. Pursuant to California Water Code Section 13267(b), all sampling and analytical results shall be made available to the Regional Board upon request. Results shall be retained for a minimum of three years. This period of retention shall be extended during the course of any unresolved litigation regarding this discharge, or when requested by the Regional Board.
- c. The Discharger shall provide a brief summary of any operational problems and maintenance activities to the Board with each monitoring report. Any modifications or additions to, or any major maintenance conducted on, or any major problems occurring to the wastewater conveyance system, treatment facilities, or disposal facilities shall be included in this summary.
- d. Monitoring reports shall be signed by:
 - i. In the case of a corporation, by a principal executive officer at least of the level of vice-president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge originates;
 - ii. In the case of a partnership, by a general partner;
 - iii. In the case of a sole proprietorship, by the proprietor; or

- iv. In the case of a municipal, state or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
- e. Monitoring reports are to include the following:
 - i. Name and telephone number of individual who can answer questions about the report.
 - ii. The Monitoring and Reporting Program Number.
 - iii. WDID Number.
- f. Modifications

This Monitoring and Reporting Program may be modified at the discretion of the Regional Board Executive Officer.

4. NONCOMPLIANCE

Under Section 13268 of the Water Code, any person failing or refusing to furnish technical or monitoring reports, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in an amount of up to one thousand dollars (\$1,000) for each day of violation under Section 13268 of the Water Code.

x:PROVISIONS WDRS

file: general pro mrp

Annual Report Form - Attachment E

Ranch Name:

Please provide information for the best contacts regarding the Waiver requirements.

Primary Contact Name:	Landowner	Operator	Other:
Phone:	Email:		
Preferred Communication:	Phone	Text	Email
Secondary Contact Name:	Landowner	Operator	Other:
Phone:	Email:		
Preferred Communication:	Phone	Text	Email
Other Contact Name:	Landowner	Operator	Other:
Phone:	Email:		
Preferred Communication:	Phone	Text	Email

Grazing Operations

This report is due annually by January 15 and should include only activities accomplished during the previous calendar year. For example, the 2023 Annual Report is due January 15, 2024, and would only report on activities accomplished during the period January 1, 2023 through December 31, 2023.

Year covered in this report January 1, _____ through December 31, _____	
Operation Type: Cattle Horse Sheep Other:	
Grazing Start Date:	Grazing End Date:
Irrigation Start Date:	Irrigation End Date:
Were pastures irrigated <u>after</u> grazing? Yes No	Approximately how many days were there between the end of grazing and beginning of irrigation? _____ Days
Were livestock brought back on pastures after irrigation? Yes No	Approximately how many days after irrigation were livestock brought back onto pastures? _____ Days
Did livestock have access to alternative drinking water other than the surface waters? Yes No	
Any new grazed lands committed to conservation easements? Yes No If yes, how many acres? _____ Total grazed lands in conservation easements _____ (acres)	

Receiving Water Inspections

Check the closest receiving water downstream of your ranch: East Walker River, Clearwater Creek, Virginia Creek, Green Creek, Long Valley Creek, Summers Creek, Swauger Creek, or Robinson Creek
Please mark any relevant water quality observations made during the receiving water inspection:

Turbid water i.e., soupy or paint-like appearance	Algae	Unstable riverbanks Clear water	Oily sheen	Foam	Water discoloration
--	-------	------------------------------------	------------	------	---------------------

Best Management Practices (BMPs)

Please note the extent (e.g., miles, number), labor, and estimated costs of any grazing and irrigation practices implemented during the reporting period.

BMP	Extent	Labor Cost	Materials Cost	Total Cost (\$)
• Riparian/stream exclusion fencing (ft or mi) -----				
New construction				
Replacement				
Maintenance or repair				
• Livestock stream crossings (# units) -----				
New construction				
Replacement				
Maintenance or repair				
• Filter strip installed (sq. ac.) -----				
New construction				
Replacement				
Maintenance or repair				
• Off-stream drinking water systems (# units) -----				
New construction				
Replacement				
Maintenance or repair				
• Irrigation control structures (# units) -----				
New construction				
Replacement				
Maintenance or repair				
• Irrigation Management (hours)				
• Salt/Mineral Blocks (# units)				
• Strategic Herding/Rotation (hours)				
• Restoration (acres/linear ft) Description:				
• Tailwater Controls				
Other:				

Annual Report Form - Attachment E

New BMP Effectiveness Tracking (Please only include BMPs that have been installed during this Waiver's lifetime)

[illegible]

* BMP Effective Rate Scale (1=low to 5=high)

1. BMP is ineffective at filtering runoff water. More than 75% of runoff flow discharges to the Bridgeport Valley surface waters which include but aren't limited to the East Walker River, Buckeye Creek, Virginia Creek, Green Creek, Summers Creek, Swauger Creek, and/or Robinson Creek.
2. BMP is partially effective at filtering runoff water. Less than 50% of runoff flow discharges to Bridgeport Valley surface waters. BMP poorly/moderately maintained.
3. BMP is partially effective at filtering runoff water. Less than 50% of runoff flow discharges to Bridgeport Valley surface waters. BMP is well maintained.
4. BMP effective at filtering runoff water. Nearly 100% of runoff flow is filtered and does not reach a Bridgeport Valley surface water. Additional maintenance may be required to improve effectiveness.
5. BMP effective at filtering runoff water. Nearly 100% of runoff flow is filtered and does not reach a Bridgeport Valley surface water. BMP well maintained.

East San Joaquin (ESJ) Requirement Reporting

Were pesticides applied? Yes No			
If yes, Type of pesticide:		Application Method:	Est. area applied to:

			Est area in: Acres Square Ft.
Nearest receiving water: East Walker River, Clearwater		Est. distance away:	
Creek, Virginia Creek, Green Creek, Long Valley		_____	
Creek, Summers Creek, Swauger Creek, or Robinson		Est distance in: Miles Feet	
Creek			
Were nitrogen or fertilizers applied? Yes No			
If yes, Type of		Application Method:	Est. area applied to:
nitrogen/fertilizer:			_____
			Est area in: Acres Square Ft.
Nearest receiving water: East Walker River, Clearwater		Est. distance away:	
Creek, Virginia Creek, Green Creek, Long Valley		_____	
Creek, Summers Creek, Swauger Creek, or Robinson		Est distance in: Miles Feet	
Creek			
Attended a rangeland water quality or BMP educational event? Yes No (One required per Waiver term)			
If yes, Name of event:		Date of Event:	Main Topics Covered:
		Duration: (hours)	

Please provide more information on any grazing operation details, implemented BMPs, and/or ESJ requirements where a narrative summary may be helpful:

Form Completed By:

Date Form Completed:

Signature: _____

Please electronically submit this form annually by January 15 to:
mo.loden@waterboards.ca.gov and rb6-lahontan@waterboards.ca.gov

2023 Waiver Due Dates Chart

Item	Due Date	Description
Annual Report	Mon, Jan 15, 2024*	Annual Report (Attachment E)
	Wed, Jan 15, 2025	
	Thur, Jan 15, 2026	
	Fri, Jan 15, 2027	
	Sat, Jan 15, 2028*	
Bacteria Monitoring	Jun - Sept, 2023	Monitoring at BRO sites 8, 10, 11 is required at least once every other week beginning the 1st week of Jun through the last week of Sept so that, at minimum, three samples are collected within a 42-day period to calculate geomeans. The Dischargers may choose to sample more than the requirement which might improve the probability of compliance with the target E. coli threshold due to the occasional high spikes in bacteria concentrations common to this pollutant.
	Jun - Sept, 2026	
BMP Photo Documentation	Jun 2023	Conduct before (June 2023) and after (Sept 2027) photo documentation of BMPs completed during the Waiver’s term.
	Sept 2027	
Grazing Waiver Application	Sat, Apr 15, 2023*	Grazing Waiver Application (Attachment B)
Interim Progress Report	Fri, Oct 1, 2027	Dischargers must submit a collective Interim Progress Report in accordance with Attachment C, MRP
Inventory and Plan	Sat, Apr 15, 2023*	Submit a self-prepared Rangeland Water Quality Management Plan (Attachment G) or provide a copy of a NRCS-prepared Conservation Plan. Minimum required elements of the Rangeland Water Quality Management Plan are outlined in the MRP (Attachment C).
Lab Meeting	Mar 2023	A meeting between the Water Board, Dischargers, and their contracted lab of choice should be arranged to discuss the sampling season’s expectations.
	Mar 2026	
Visual Inspections	Jun - Sept, 2023	At a minimum, Dischargers must conduct visual inspections during the grazing season once a month, from Jun to Sept, to verify that chosen management practices (MPs) are being implemented and the Grazing Conditions for the Waiver are being met. See #6 in the MRP (Attachment C).
	Jun - Sept, 2024	
	Jun - Sept, 2025	
	Jun - Sept, 2026	
	Jun - Sept, 2027	
Water Quality Monitoring Data	Wed, Nov 15, 2023	The water quality data, at a minimum, must include E. coli lab results, chain of custody forms, and quality assurance/quality control documentation.
	Sun, Nov 15, 2026*	
*If a due date falls on a weekend or holiday, then said due date will be extended to the following Monday or business day, whichever occurs first.		

ENCLOSURE 2

Re: Comments on Renewed Bridgeport Grazing Waiver

Loden, Mo@Waterboards <Mo.Loden@Waterboards.ca.gov>

Thu 12/22/2022 7:46 AM

To: Steven Fulstone [REDACTED]

Cc: Fiore-Wagner, Mary@Waterboards <mary.fiore-wagner@waterboards.ca.gov>; Jensen, Andrew@Waterboards <Andrew.Jensen@Waterboards.ca.gov>

Hi Steven,

Thanks for submitting comments on behalf of the BRO.

Hope you have a warm and wonderful time over the holidays with family.

Mo Loden

Environmental Scientist, Nonpoint Source Unit
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd, South Lake Tahoe, CA 96150
(530) 542-5450 | mo.loden@waterboards.ca.gov

From: Steven Fulstone [REDACTED]
Sent: Wednesday, December 21, 2022 12:47 PM
To: Lahontan <RB6-Lahontan@waterboards.ca.gov>
Cc: Loden, Mo@Waterboards <Mo.Loden@Waterboards.ca.gov>
Subject: Comments on Renewed Bridgeport Grazing Waiver

EXTERNAL:

To whom it may concern,

I would like to submit public comment for the renewal of the Bridgeport Grazing Waiver.

Bridgeport Ranchers Organization (BRO) met with LWQCB staff to review the Proposed Waiver. These comments are a summary of that meeting on December 15th, 2022.

The Bridgeport Ranchers Organization has been submitting waivers from 2007 to present. There have been many BMP's implemented over the years. Both the maintenance and continued implementation of new BMP's cost money. We feel that it would be the most beneficial to the Bridgeport Valley for the ranchers to spend their money maintaining these BMP's as well as continuing to build more, rather than paying the proposed fees that may be required with continued waivers. We are requesting an exemption under low risk agriculture, similar to the one provided to Goose Lake, in Modoc County. Since most of the hard work has already been accomplished there is only small margins for water quality improvement left available to us; this issue has been successful and we should continue to maintain the practices that work.

In addition BRO noted inconsistencies in the reporting dates for reporting in the current draft waiver. This should remain consistent.

Nitrate testing on domestic wells should also be taken out of the waiver. This is a point source issue and should not be included.

BRO would like to see a "Final Solution" where we can eliminate the waiver. During our meeting we discussed implementing a WDR if needed to reach a final solution.

Thank you for taking these comments into consideration.

Regards,
Steven A. Fulstone
BRO President



KAHN, SOARES & CONWAY, LLP

ATTORNEYS AT LAW

THERESA A. DUNHAM
(916) 448-3826

EMAIL:
tdunham@kscsacramento.com

December 22, 2022

VIA EMAIL ONLY

Mary Fiore-Wagner
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150
Mary.Fiore-Wagner@waterboards.ca.gov
Attn: Mo.Loden@waterboards.ca.gov
lahontan@waterboards.ca.gov

SUBJECT: Comments on Renewed Bridgeport Grazing Waiver

Dear Ms. Fiore-Wagner:

On behalf of Centennial Livestock, we appreciate the opportunity to provide comments on the Renewal of General Conditional Waiver of Waste Discharge Requirements No. R6T-2023-Tentative (Tentative Waiver). Further, we appreciate all of your efforts and the efforts of your staff to work with Centennial Livestock and the other ranchers in the Bridgeport Valley to put forward a Tentative Waiver that meets the needs of the Lahontan Regional Water Quality Control Board (Lahontan Water Board) while carefully considering the burdens that may be placed on the Bridgeport Ranchers in their implementation of the Tentative Waiver. Overall, we believe that Tentative Waiver strikes an appropriate balance.

Because of the collaborative process that you all engaged in with respect to development of the Tentative Waiver, Centennial Livestock has only a few remaining comments for further consideration. We provide first some general comments and then second more specific comments on a few provisions in the Tentative Waiver and its associated attachments.

I. General Comments

During the next five-year term of the Tentative Waiver, Centennial Livestock looks to work with the Lahontan Water Board and its staff to accomplish several major goals. First, Centennial Livestock continues to support the Lahontan Water Board's efforts to remove the existing fecal coliform objective of 20/100 ml from the Basin Plan and supports inclusion of the *E. coli*

objective as adopted by the State Board. We sincerely hope that the Basin Plan Amendments to remove the Fecal Coliform objective can come before the Lahontan Water Board in 2023 and be completely approved and effective before the end of the term of this Tentative Waiver. A draft of the Basin Plan Amendments were circulated for public comment and review last spring but as of this writing the Draft Amendments have not been scheduled for Lahontan Water Board consideration. We encourage the Lahontan Water Board to make this a priority project for 2023.

Second, we request that the Lahontan Water Board consider exempting grazing operations in the East Walker River Watershed (i.e., Bridgeport Valley and its tributaries) from the irrigated lands program (ILRP) at the end of the term of this Tentative Waiver. At the end of this term, a Conditional Waiver will have been in place in for over 20 years. During this time period, the Bridgeport Valley ranchers have made significant improvements to their irrigated pasture operations and have employed all known best management practices available to protect surface waters from their irrigated pasture operations. Other than ongoing maintenance of these best management practices, there is little more that can be done by these operations.

Most recently, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) released a draft staff recommendation to exempt irrigated pasture in the Upper Feather River from the ILRP. As part of the draft recommendation, the Central Valley Water Board staff finds that irrigated pastures are a low threat to water quality because unlike other types of irrigated agricultural operations there are no applications of fertilizers or pesticides. This same circumstance holds true for the East Walker River Watershed whereby no fertilizers or pesticides are applied to the irrigated pastures. Considering this similarity, we believe it is appropriate to exempt irrigated pasture in the Bridgeport Valley from the ILRP as well. We look forward to working with Lahontan Water Board staff over the next five years to develop a similar exemption for irrigated pasture in the Bridgeport Valley.

II. Specific Comments on Tentative Waiver

Centennial Livestock provided comments to Lahontan Water Board staff on the Administrative Draft version of the Tentative Waiver on August 31, 2022. Nearly all of Centennial Livestock's comments were addressed in the Tentative Waiver that was released for review and comment. We thank you and your staff for the constructive dialogue that resulted in addressing these comments. Our remaining comments are provided here.

- **Interim Goal of 150 cfu/100 ml for *E. coli* by 2026** – We appreciate that the Lahontan Water Board staff is looking to apply an *E. coli* based interim goal rather than the fecal coliform water quality objective as it currently stands in the Basin Plan. However, we are concerned that the interim goal of 150 cfu/100 ml for *E. coli* by 2026 may not be achievable for all sites. As conveyed this spring, Centennial Livestock individually and the BRO members collectively have implemented all known management practices to protect water quality from the presence of livestock that reside on the Bridgeport Valley floor during the irrigation season. With the implementation of these practices, there are recognized water quality improvements and significant reductions in pathogen indicators present in the receiving waters. However, the pathogen indicator standards are

exceedingly low and may not be realistically achievable by the date provided. We recommend that the date for meeting the Interim Goal be extended to March of 2028, which would allow the ranchers the full term of the Tentative Waiver to meet the Interim Goal.

- **Annual Report (Attachment E)** – The Monitoring and Reporting Program states that the Annual Reports will be due by January 15 of each year, beginning January 15, 2024. However, Attachment E uses a date of March 15 for submittal of the Annual Report. The two dates need to be consistent with each other.
- **Rangeland Water Quality Management Plan Template (Attachment G)** – The RWQMP template requests that as part of the inventory of resources that ranchers identify the number of acres of wetlands. Considering the ever-evolving change in the definition of what constitutes a wetland, this line item should be removed. Further, it is inappropriate for the ranchers to attempt to define what may or may not be considered a wetland on properties that are also irrigated pastures.

Again, thank you for the opportunity to provide comments. Please contact me at tdunham@kscsacramento.com or (916) 718-5774 if you have questions regarding the above.

Sincerely,

KAHN, SOARESW & CONWAY, LLP

A handwritten signature in black ink, appearing to read "Theresa A. Dunham". The signature is written in a cursive, flowing style.

Theresa A. Dunham

TAD/ehs

cc: Centennial Livestock

ENCLOSURE 3

This document constitutes responses to comments submitted regarding the [Tentative Waiver of Waste Discharge Requirements for Grazing Operations in the East Walker River Watershed of the Lahontan Region](#) (Waiver) circulated for review in November/December 2022.

Table 1. Comments received via Bridgeport Ranchers Organization (BRO) President Steven Fulstone

Comment	Water Board Response to Comment
<p>1. The Bridgeport Ranchers Organization has been submitting waivers from 2007 to present. There have been many best management practices (BMPs) implemented over the years. Both the maintenance and continued implementation of new BMP's cost money. We feel that it would be the most beneficial to the Bridgeport Valley for the ranchers to spend their money maintaining these BMP's as well as continuing to build more, rather than paying the proposed fees that may be required with continued waivers. We are requesting an exemption under low risk agriculture, similar to the one provided to Goose Lake, in Modoc County. Since most of the hard work has already been accomplished there is only small margins for water quality improvement left available to us; this issue has been successful and we should continue to maintain the practices that work.</p>	<p>Regional Boards are not required to follow the approaches of another Regional Board when determining how to regulate a group of dischargers. Every Region is different in terrain, climate, populations, culture, etc. and therefore may approach similar projects differently.</p> <p>Central Valley Regional Water Quality Control Board (Region 5) has several General Orders that encompass an irrigated lands regulatory program (ILRP). In “exempting” Goose Lake from the ILRP, the Central Valley Regional Water Board is not currently regulating the Goose Lake discharges under a Waiver or WDR. The Central Valley Regional Water Board’s decision to exempt Goose Lake from the ILRP was due to the low threat nature of the discharge. In making its decision, Region 5 recognized that discharges that would impact water quality would need to be regulated: “Goose Lake irrigated pasture operations have a minimal risk of impairing the quality of surface waters and groundwater. Where it is found that these operations need to take action(s) to address water quality impairments (e.g., TMDL or 303(d) listing), staff will identify and implement an appropriate regulatory mechanism.” (ORDER NO. R5-2021-0042 Amending Waste Discharge Requirements General Order for Growers within the Sacramento River Watershed that are Members of the Third-Party Group, R5-2014-0030-08).</p> <p>Some surface waters in the East Walker River watershed within the Bridgeport Valley</p>

Comment	Water Board Response to Comment
	<p>are listed as impaired for bacteria on the 303d list. Consistent with the non-point source policy, to address discharges of waste that can affect water quality, including non-point sources, grazers in the Bridgeport Valley must be regulated under WDRs, waivers of WDRs, or prohibitions, or combination. The Bridgeport Grazing Waiver is designed to make progress toward improving bacteria levels in surface waters and is necessary for the protection of water quality.</p> <p>Issuing a waiver for Bridgeport Valley Grazers without the precedential requirements of the Eastern San Joaquin Agricultural General Waste Discharge Requirements Order 2018-0002 (ESJ Order) would be inconsistent with State Board direction. The ESJ Order required Regional Boards to incorporate applicable precedential requirements in any existing ILRP permits by February 2023. While the Lahontan Region does not have a formal, holistic program regulating agricultural discharges, the region has been issuing permits to control such discharges on a case-by-case basis since the 1980s. To be responsive to the ESJ Review Order, staff evaluated all existing agricultural permits and found that the Bridgeport Grazing Waiver regulates irrigated grazed pasture and meets the definition of ILRP used in ESJ review order.</p> <p>California Water Code sections 13260 and 13269 allow the State Water Board to collect a fee to recover costs associated with the issuance, administration, reviewing, monitoring and enforcement of WDRs or waivers of WDRs. The State Water Board, and not the Lahontan Water Board, establishes the fee schedule. Currently, the State Water Board has established annual agricultural and irrigated lands fees. These fees apply to Waivers that regulate</p>

Comment	Water Board Response to Comment
	<p>discharges from agricultural lands, regardless of whether the lands are irrigated. In particular, the State Board indicates irrigated pastures with no external nitrogen input as an agricultural activity. While fee schedules are subject to change, it is likely that an annual fee would be applied associated with the Waiver, whether or not the Lahontan Water Board exempted the dischargers from the ILRP.</p>
<p>2. In addition BRO noted inconsistencies in the reporting dates for reporting in the current draft waiver. This should remain consistent.</p>	<p>Changes made per commenter request.</p>
<p>3. Nitrate testing on domestic wells should also be taken out of the waiver. This is a point source issue and should not be included.</p>	<p>Nitrates may be present in drinking water as a result of either point source or non-point source discharges. State Board has previously recognized the importance of the availability of reliable nitrate concentration data to consumers of well water, and those requirements have been included in WDRs and waivers associated with non-point source discharges. The Water Board does not agree with the claim that the testing should be removed because nitrates are a point source issue. However, the Water Board has removed the nitrate sampling of on-farm drinking water supply from the Waiver based on a different set of considerations.</p> <p>The ESJ Review Order recognized that there may be categories of uniquely-situated growers for whom the specific nitrogen management requirements made precedential in the Order are unnecessary. In particular, State Board acknowledged that these same nitrogen management requirements are not precedential for categories of growers that never apply nitrogen, and that the Order did not disturb the Central Valley's exemptions from nitrogen management and reporting requirements for irrigated pasture with no external nitrogen inputs. The ESJ Review</p>

Comment	Water Board Response to Comment
	<p data-bbox="846 247 1484 1671">Order, Section 8, Groundwater quality monitoring, does not include similar language regarding on-farm drinking water monitoring and an exemption from that requirement for irrigated pasture. Regardless of whether the on-farm well is located on a property with no external nitrogen application, there could be situations where on-farm drinking water requirements for nitrates would need to be conducted, including if there has been historic or current external nitrogen applications within the area over the groundwater basin or if data indicate high levels of nitrates in groundwater. These situations do not apply to the Waiver. In the Bridgeport Valley there is no evidence of historic or current external nitrogen application on irrigated pasture. Nor is there any other known historic or current farming activities in the area with any external nitrogen application. Recent data from groundwater wells within the influence of the Bridgeport Valley show nitrate levels at downstream and upstream locations are below 8 mg/L. Reading the language in section 4 and section 8 of the ESJ Review Order together, the Water Board has determined that the ESJ Review Order requirement for on-farm drinking water well monitoring does not apply to this Waiver and have removed the requirements. If data or information shows that there has been historic or current external nitrogen applications within the Bridgeport Valley, or that on farm drinking water wells have high levels of nitrates, the Water Board may determine that these ESJ Review Order requirements apply and must be included in a future WDR or waiver.</p> <p data-bbox="846 1711 1484 1890">Language and requirements regarding on-farm drinking water have been removed from Finding 21 of the Waiver, section I, #7 of the Monitoring and Reporting Program - Attachment C, and under the ESJ</p>

Comment	Water Board Response to Comment
	Requirement Reporting section of the Annual Report - Attachment E.
4. BRO would like to see a "Final Solution" where we can eliminate the waiver. During our meeting we discussed implementing a WDR if needed to reach a final solution.	Consistent with the Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program , consideration of a transition to a Waste Discharge Requirement (WDR) will be reviewed near the end of this Waiver's term. Outcomes associated with this Waiver's water quality monitoring and management practices aimed at reducing NPS pollution such as fecal coliform, nutrients, and sediment will help inform that future action.

Table 2. Comments received via Centennial Livestock legal representation Tess Dunham

Comment	Water Board Response to Comment
5. During the next five-year term of the Tentative Waiver, Centennial Livestock looks to work with the Lahontan Water Board and its staff to accomplish several major goals. First, Centennial Livestock continues to support the Lahontan Water Board's efforts to remove the existing fecal coliform objective of 20/100 ml from the Basin Plan and supports inclusion of the E. coli objective as adopted by the State Board. We sincerely hope that the Basin Plan Amendments to remove the Fecal Coliform objective can come before the Lahontan Water Board in 2023 and be completely approved and effective before the end of the term of this Tentative Waiver. A draft of the Basin Plan Amendments were circulated for public comment and review last spring but as of this writing the Draft Amendments have not been scheduled for Lahontan Water Board consideration. We encourage the Lahontan Water Board to make this a priority project for 2023.	<p>The Waiver requirements are not dependent on the bacteria water quality objective Basin Plan amendment moving forward; however, the bacteria water quality objective project is expected to be considered by the Water Board in 2023.</p> <p>More information on the bacteria water quality objectives project can be found at: https://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/#basin</p>

Comment	Water Board Response to Comment
<p>6. Second, we request that the Lahontan Water Board consider exempting grazing operations in the East Walker River Watershed (i.e., Bridgeport Valley and its tributaries) from the irrigated lands program (ILRP) at the end of the term of this Tentative Waiver. At the end of this term, a Conditional Waiver will have been in place in for over 20 years. During this time period, the Bridgeport Valley ranchers have made significant improvements to their irrigated pasture operations and have employed all known best management practices available to protect surface waters from their irrigated pasture operations. Other than ongoing maintenance of these best management practices, there is little more that can be done by these operations.</p>	<p>Please refer to response to BRO comment #1 (above).</p> <p>Furthermore, while progress has been made by the BRO enrollees to protect and improve water resources in Bridgeport Valley over the past 15 years there is no evidence-based information to determine if all known management practices to protect water quality from the presence of livestock have been implemented. Improvements such as water management, tail water control, and additional fencing could be BMPs of consideration in the future as well as maintaining previously installed BMPs. Some bacteria monitoring locations have shown concentration reductions since the Waiver's inception; however, the East Walker River's water quality has seen the least amount of improvement and therefore that subbasin may provide the most opportunity to enhance water quality through BMP efforts as discussed during the March 2022 informational item.</p>
<p>7. Most recently, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) released a draft staff recommendation to exempt irrigated pasture in the Upper Feather River from the ILRP. As part of the draft recommendation, the Central Valley Water Board staff finds that irrigated pastures are a low threat to water quality because unlike other types of irrigated agricultural operations there are no applications of fertilizers or pesticides. This same circumstance holds true for the East Walker River Watershed whereby no fertilizers or pesticides are applied to the irrigated pastures. Considering this similarity, we believe it is appropriate to exempt irrigated pasture in the Bridgeport Valley from the ILRP as well. We look forward to working with Lahontan Water Board staff over the next five years to develop a similar</p>	<p>Please refer to response to BRO comment #1 (above).</p>

Comment	Water Board Response to Comment
<p>exemption for irrigated pasture in the Bridgeport Valley.</p>	
<p>8. Interim Goal of 150 cfu/100 ml for E. coli by 2026 – We appreciate that the Lahontan Water Board staff is looking to apply an E. coli based interim goal rather than the fecal coliform water quality objective as it currently stands in the Basin Plan. However, we are concerned that the interim goal of 150 cfu/100 ml for E. coli by 2026 may not be achievable for all sites. As conveyed this spring, Centennial Livestock individually and the BRO members collectively have implemented all known management practices to protect water quality from the presence of livestock that reside on the Bridgeport Valley floor during the irrigation season. With the implementation of these practices, there are recognized water quality improvements and significant reductions in pathogen indicators present in the receiving waters. However, the pathogen indicator standards are exceedingly low and may not be realistically achievable by the date provided. We recommend that the date for meeting the Interim Goal be extended to March of 2028, which would allow the ranchers the full term of the Tentative Waiver to meet the Interim Goal.</p>	<p>Determining the newly improved monitoring plan was done through a lengthy and collaborative stakeholder process working closely with core BRO members. The final monitoring plan was suggested by the BRO and entailed sampling from June through September to collect a sufficient number of samples in Years 1 and 4 of the Waiver. This monitoring plan (1) will allow calculation of geomeans which offer a more accurate representation of bacteria levels, (2) is not overly burdensome on the BRO, and (3) allows the Water Board to get critically timed check-ins pertaining to the water quality in the Bridgeport Valley streams. Therefore, the interim goal of 150 cfu/100 ml for E. coli by 2026 was planned accordingly. Extending the interim goal to 2028 is not possible due to the 2023 Waiver's duration only covers relevant monitoring months through 2027; therefore, the interim goal could only be extended to 2027 and would require water quality monitoring be conducted in 2023, 2026, and 2027. The 2026 interim goal is a quantifiable milestone designed to measure progress towards achieving water quality objectives but is not a receiving water limitation.</p> <p>Due to a new monitoring parameter and approach, Water Board staff is not yet setting a date to achieve water quality objectives. This date will be considered in a future Water Board action that will be informed, in part, by information collected during the Waiver's term.</p>

Comment	Water Board Response to Comment
<p>9. Annual Report (Attachment E) – The Monitoring and Reporting Program states that the Annual Reports will be due by January 15 of each year, beginning January 15, 2024. However, Attachment E uses a date of March 15 for submittal of the Annual Report. The two dates need to be consistent with each other.</p>	<p>Please refer to response to BRO comment #2 (above).</p>
<p>10. Rangeland Water Quality Management Plan Template (Attachment G) – The RWQMP template requests that as part of the inventory of resources that ranchers identify the number of acres of wetlands. Considering the ever-evolving change in the definition of what constitutes a wetland, this line item should be removed. Further, it is inappropriate for the ranchers to attempt to define what may or may not be considered a wetland on properties that are also irrigated pastures.</p>	<p>Changes made to proposed Waiver.</p> <p>While the consideration of which wetlands are considered Waters of the United States is an ever-evolving area, the state definition of “wetlands” has already been established by the State Water Board and ranchers would not be expected to create their own definition. The State Water Board in “State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (ca.gov)” defines wetlands as <i>An area is wetland if, under normal circumstances, (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area’s vegetation is dominated by hydrophytes or the area lacks vegetation.</i></p> <p>But nonetheless we agree that the requirement to report on wetlands can be removed from the RWQMP due to wetland delineation being a fairly complex process.</p>