

California Regional Water Quality Control Board
North Coast Region

Order No. R1-2015-0021

Waiver of Waste Discharge Requirements

for

Nonpoint Source Discharges Related to
Certain Federal Land Management Activities
on National Forest System Lands

in the
North Coast Region

The California Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board) finds that:

1. The North Coast Region encompasses 12,434,700 acres (19,429 square miles). The United States Forest Service (USFS or National Forest) administers and manages approximately 5,099,078 acres (7,967 square miles) of National Forest System (NFS) lands within two USFS Regions and six National Forests, accounting for approximately 41 percent of the North Coast Region:
 - a. The USFS Region 5 (Pacific Southwest Region) manages the Modoc National Forest, Klamath National Forest, Shasta-Trinity National Forest, Six Rivers National Forest, and Mendocino National Forest (referred to cumulatively as National Forests), accounting for approximately 5,015,756 acres of the North Coast Region.
 - b. The USFS Region 6 (Pacific Northwest Region) manages the Rogue River-Siskiyou National Forest, accounting for approximately 83,322 acres of the North Coast Region.
2. The USFS manages NFS lands for multiple uses, which include activities such as grazing, forestry, recreation, vegetation management, and restoration. Activities associated with these uses may generate sediment, affect shade canopy, or influence other water quality parameters of waters of the state. This Waiver of Waste Discharge Requirements For Nonpoint Source Discharges Related to Certain Federal Land Management Activities on NFS Lands in the North Coast Region (“Waiver”) addresses nonpoint source discharges of waste to waters of the state from activities associated with specific uses of NFS lands (also referred to as “nonpoint source activities”) detailed in Finding No. 4.
3. The USFS’s land management over a large portion of the North Coast Region provides a unique opportunity for comprehensive permit coverage that can provide more efficient protection of the beneficial uses of water by addressing temperature and sediment sources systematically across the landscape.

4. This Waiver covers discharges from nonpoint source activities, which have the potential to discharge wastes that may affect waters of the state. Most of the potential water quality impacts are associated with erosion and sediment delivery and/or alterations to riparian systems that may reduce shade and affect water temperatures. These activities and their potential water quality impacts are described below:

- **Timber Harvesting:** Timber harvesting activities on NFS lands and the associated road network have the potential to generate sediment from equipment use and from erosion of bare ground on roads, landings, and skid trails, and to reduce shade canopy from tree removal due to logging, road construction, and equipment operations.
- **Roads:** Maintenance, construction, upgrades (measures taken to bring a road up to current design standards), stormproofing (a storm proofed road is one where measures have been taken to either upgrade or decommission the road as to minimize the risk and potential magnitude of future erosion and sediment delivery), and decommissioning (removal of those elements of a road that unnaturally reroute hillslope drainage or present slope stability and/or erosion and sediment delivery hazards) of roads pose a potential impact to water quality from erosion, mass wasting, and canopy removal. The NFS road network is extensive, serving the multiple uses associated with NFS lands, including timber harvesting, recreation, mining, and grazing.
- **Grazing:** Grazing by livestock in designated riparian zones has the potential to generate the discharge of nutrients and pathogens from animal waste, and to remove riparian shade. Grazing in designated riparian zones can also cause increased sediment loads to surface waters and physical compaction of the streambed. Disturbance and overgrazing of streambanks can cause decreased bank stability, increased erosion, and reduced riparian and instream vegetation to trap sediment.
- **Recreation:** There is a wide array of recreational activities that take place on NFS lands. The most common water quality impacts from recreational activities that are addressed with this waiver are erosion and sedimentation associated with the use of trails, roads, and camping sites.
- **Vegetation Management:** In addition to timber harvesting, the USFS manages vegetation on its lands for forest health, restoration, rehabilitation, and fuel management. Management may include thinning, prescribed burns, and other means to improve forest health and resiliency, reduce the likelihood and severity of wildfire, and protect communities at risk. Vegetation management activities have the potential to increase erosion and sedimentation as well as alter natural shade and stream temperatures.
- **Restoration:** These activities are generally associated with road decommissioning (addressed above), road upgrades and stormproofing,

remediation of existing and potential sediment discharge sites, stream channel and floodplain habitat improvements, and forest rehabilitation. These activities are restorative in nature and are designed to reduce long-term erosion and sedimentation. There is the potential for short-term increases in sedimentation during and immediately after construction.

- **Fire Suppression**: These activities may generate sediment and impact designated riparian zones during and after the firefighting process, which may include road building, re-opening of old roads, fire line construction, and back-burning. Immediate remediation of potential discharge sites generated by wildfire is required under the USFS Burned Area Emergency Rehabilitation (BAER) program, whose objective, in part, is to prescribe and implement emergency treatment on federal land to minimize threats to life or property from the effects of a fire, and to stabilize and prevent unacceptable degradation to natural or cultural resources. Firefighting and the implementation of the BAER program are conducted pursuant to specific plans and procedures set out in each National Forest's Land and Resource Management Plan (LRMP). A National Forest may conduct activities after the BAER activities to address additional erosion control, reforestation, and riparian improvements.
 - **Fire Recovery**: Fire recovery operations include various management measures including timber harvesting, vegetation management and restoration activities described above. Depending on the size of the fire, the project area can be very large and even involve multiple watersheds. Timber harvesting activities, including hazard tree removal, from fire salvage on NFS lands have the potential to generate sediment discharges from equipment use and from erosion of bare ground on roads, landings, and skid trails, and to reduce shade canopy from tree removal due to logging, road construction, and equipment operations. Fire recovery projects will be analyzed on a case-by-case basis under Category B. This Waiver covers discharges from emergency actions defined in California Code of Regulations, title 14, section 15269. See Finding Nos. 44-49 for additional details on emergency projects.
5. This Waiver applies to two categories of activities, Category A and Category B, which are grouped according to the level of potential impact to water quality. Activities that have a low potential impact to water quality are eligible for Category A. Activities that have a moderate potential impact to water quality are eligible for Category B. Finding No. 37 provides additional details about these categories.
 6. Subject to public notice and approval by the Executive Officer, other federal agencies conducting activities described under Finding No. 4 may elect to enroll and comply with this Order to ensure that discharges are authorized. A federal agency may rely on USFS BMPs or demonstrate equally or more protective water quality measures. All provisions of the Order shall apply except General Condition Nos. 2, 5-6, 13-14, 16, 36-37, and 39, and Category B Condition Nos. 9 and 18. The application must include appropriate monitoring and reporting requirements that shall become enforceable under Water Code section 13267 upon approval by the Executive Officer.

7. This Waiver does not authorize:

- Mining discharges, except for control of nonpoint sources to the extent that the USFS employs management practices that address sediment and temperature from roads, unvegetated soil, and building pads that are associated with mining activity on NFS land. Where prospecting or mining related actions discharge or have the potential to discharge waste(s) into waters of the state, the operator is required by state law to file a report of waste discharge (ROWD) with the Regional Water Board.
- Discharges by third parties conducting activities on NFS lands under written authorization of the USFS except as specified in General Condition No. 11 and Nos. 21-34.
- Discharges of hazardous or human waste.
- Discharges from the application of herbicides or pesticides. Notification of proposed pesticide applications are required in General Condition No. 18 to help determine if permitting by the Regional Water Board is required.
- Waste discharges that require a separate permit from the State or Regional Water Board or other agencies, such as activities that require a Clean Water Act section 404/401 permit, a National Pollutant Discharge Elimination System (NPDES) permit, or a construction stormwater permit.
- This Waiver does not apply to specific projects associated with the activities on federal land identified herein when the specific project may result in impacts to water quality that cannot be mitigated to less-than-significant levels.

8. This Waiver contains primarily the same requirements as the Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on National Forest System Lands, Order No. R1-2010-0029 (2010 Waiver), with a few updates and improvements. The 2010 Waiver was the first permit to comprehensively regulate nonpoint source pollution on USFS lands in the North Coast Region. The 2010 Waiver functioned well in providing a framework for permitting nonpoint source activities and protecting water quality on USFS lands over the past five years; however, lessons learned (by both Regional Water Board and USFS staff) from the first five years of implementation help inform refinements for this next iteration of the permit. Improvements in this Waiver include: citing new USFS programs that address restoration and water quality protection; new National Best Management Practices (BMPs) and monitoring protocols; alternatives for addressing the treatment of legacy sediment sites in certain Category B projects; establishment of forest-wide in channel monitoring networks; additional monitoring of livestock grazing, road project effectiveness and post-fire monitoring; and requirements for tracking and reporting treatment of sediment discharge sites. This Waiver will supersede Order No. R1-2010-0029 except for conditions that apply to individual projects already covered by the 2010 Waiver and projects already in development as shown on the March 2015 USFS Schedule of Proposed Actions (SOPA, a public list of upcoming USFS projects) with accompanying NEPA Decision Notice by October 1, 2015, or for which the NEPA process has been initiated prior to October 8, 2015, provided they meet the eligibility criteria and

remain in compliance with the conditions of Order No. R1-2010-0029 until completed.

USFS Planning Framework

9. The USFS activities are governed by a planning framework that contains overarching policies and guidance as well as standards and specific guidelines, which represent a reasonable and logical approach to addressing water quality protections needed in a watershed. The planning framework sets a process for determining and implementing measures not only to mitigate potential water quality impacts, but also to enhance and protect water quality. As described in detail below, elements of the planning framework range from the overarching watershed protection goals of the Northwest Forest Plan (NWFP) and Sierra Nevada Forest Plan (SNFP), to very specific BMPs for USFS activities, including nonpoint source activities on NFS land to prevent, minimize, and mitigate waste discharges and other controllable water quality factors.
10. The water quality protections and measures contained in the USFS plans, policies, and other documents that comprise the USFS planning framework are described in Finding Nos. 11-18, and are referred to collectively in this Waiver as “USFS Guidance.”
11. NFS lands are managed according to the USFS Guidance, which is applied through a nesting or hierarchy of spatial scales (e.g. nationally, regionally, provinces, forest, district, watershed, site). Forest Service Manuals provide national direction for NFS lands. Forest Service Handbooks (FSH) provide regional policy direction. The NWFP provides overall guidance on a multiple-forest scale. LRMPs are developed for each National Forest. Individual National Forests use the Watershed Condition Framework¹ (WCF) to guide watershed assessment and restoration on a watershed scale. WCF replaces the Watershed Improvement Program (WIP) referenced in the 2010 Waiver and accomplishes the same assessment and restoration goals and activities. The assessments developed for each watershed are used to identify priority watersheds and develop watershed restoration plans that guide restoration activities within each priority watershed. In this way, the approach to addressing potential impacts from USFS activities and projects, including water quality, in the broader multiple-region guidance is consistent with the guidance established for each National Forest, watershed, and each specific site, with projects at the site-scale being responsive to watershed needs and consistent with the NWFP and LRMPs.
12. The USFS Guidance addresses protection, maintenance, and enhancement of water quality in a reasonable and logical manner at its various spatial scales. Key water quality components of the broadest planning framework are described below:

NWFP - The NWFP provides the USFS with an assessment and planning process that guides its activities in the Six Rivers, Klamath, Mendocino, Shasta-Trinity, and Rogue

¹ USDA, 2011. Watershed Condition Framework replaces previous Watershed Improvement Program.

River-Siskiyou National Forests, as well as that portion of the Modoc National Forest within the NWFP.

LRMPs - In 1994, the NWFP amended LRMPs for National Forests within its jurisdiction, making LRMPs the land management plans for those National Forests.

Aquatic Conservation Strategy - The primary mechanism protecting aquatic resources within the NWFP is the establishment of the Aquatic Conservation Strategy (ACS), which has nine objectives for maintaining and restoring the function, diversity, and integrity of the riparian and aquatic system, including water quality protection². The focal areas of the ACS are Riparian Reserves and Key Watersheds.

Riparian Reserves - Riparian reserves are a key component of the ACS and comprise lands along streams, and unstable and potentially unstable areas where special standards and guidelines direct land management. Riparian reserves apply to five categories of streams or wetlands as follows: 1) fish bearing streams; 2) permanently flowing non-fish bearing streams; 3) constructed ponds and reservoirs, and wetlands greater than one acre; 4) lakes and natural ponds; and 5) seasonally flowing or intermittent streams, wetlands less than one acre, and unstable and potentially unstable areas. These reserve areas maintain hydrologic, geomorphic and ecological processes that directly affect streams and fish habitats. Widths of the reserves can range from a minimum of 100 feet on each side of intermittent streams to over 300 feet on each side of perennial fish bearing streams. Only activities that protect or enhance ACS objectives are permissible within a riparian reserve.

Riparian reserves serve to protect aquatic resources and water quality from timber harvesting activities, road building, and other nonpoint source activities, by maintaining a diverse riparian community that provides resiliency to the system, a buffer area from upslope activities, canopy for shade and aquatic nutrition, and maintaining the function of the designated riparian zones to filter and meter sediment coming from hillsides and down a watercourse.

Key Watersheds – Tier 1 key watersheds contribute directly to conservation of at-risk anadromous salmonids, bull trout, and resident fish species. They also have a high potential for being restored as part of a watershed restoration program. Tier 2 key watersheds may not contain at-risk fish stocks but are important sources of high quality water. Specific direction for the management of these areas is contained in each National Forest's LRMP.

Sierra Nevada Forest Plan - A portion of the Modoc National Forest is not included in the NWFP, but is covered by the Sierra Nevada Forest Plan (SNFP), amended in 2004 (<http://www.fs.fed.us/r5/snfpa/final-seis/>). The SNFP is analogous to the NWFP, providing similar guidance for National Forests in the Sierra Nevada Mountains and Modoc Plateau, including an Aquatic Management Strategy (AMS) similar to the ACS.

² <http://www.reo.gov/library/reports/newsandga.pdf>

The SNFP equivalent to the “Riparian Reserve” is the “Riparian Conservation Area.” The term “designated riparian zone” is defined and used in this Waiver to include both the NWFP “Riparian Reserve” and the SNFP “Riparian Conservation Area.” ACS and AMS components, including riparian protections, are included in LRMPs for each National Forest.

The SNFP has Critical Aquatic Refuges (CARS) that are similar to Key Watersheds that provide some of the healthiest and most productive aquatic habitat on the National Forests. These areas receive a greater level of protection and are considered priorities for restoration to ensure that high quality areas are retained.

13. The USFS WCF is a nationwide program that guides: assessment of watershed conditions; identification of priority watersheds and essential restoration needs for those priority watersheds; and implementation of restoration activities. Essential restoration projects for priority watersheds are documented in Watershed Restoration Action Plans (WRAP), which are maintained in the USFS Watershed Condition Assessment Tracking Tool. All restoration projects within the priority watersheds are entered into the Watershed Improvement Tracking (WIT) database, along with other restoration projects not located in priority watersheds. Implementation of the WCF results in assessment and restoration at the watershed scale.

Watershed restoration projects address legacy and potential sediment delivery sites. The identification, prioritization, and remediation of legacy sediment sites to address specific problems and meet goals for improving and maintaining watershed functions is also an important component for the Regional Water Board’s nonpoint source program and TMDL compliance. Watershed restoration projects also address aquatic, riparian, and terrestrial habitat enhancement, and improving forest stand resiliency to wildfire.

14. The U.S. Department of Agriculture *Strategic Plan for FY 2010-2015* (USDA, 2010a³) targets the restoration of watershed and forest health as a core management objective of the USFS. To achieve this goal, the USFS is directed to restore degraded watersheds by strategically focusing investments in watershed improvement projects and conservation practices at landscape and watershed scales.

The WCF is a comprehensive approach for classifying watershed condition, proactively implementing integrated restoration in priority watersheds on National Forests and grasslands, and tracking and monitoring outcome-based program accomplishments for performance accountability.

15. The WCF was completed nationwide in 2012 following an iterative six-step process, which will be updated periodically as conditions change on the ground. This six-step process is listed below:

³ USDA, 2010a. *Strategic Plan for the U.S. Department of Agriculture 2010 – 2015*.

- classify the condition of all sixth field subwatersheds⁴ in the National Forest by using existing data layers, local knowledge, and professional judgment;
 - prioritize watersheds for restoration and establish priority watersheds for targeted improvement equivalent to a five-year program of work (each forest initially selected two priority watersheds; however, additional priority watersheds will be added beginning in 2016);
 - develop WRAPs that identify comprehensive project-level improvement activities;
 - implement integrated suites of projects in priority watersheds;
 - for selected watersheds, verify performance accountability for watersheds reported as having completed all essential projects; and
 - monitor improvement of watershed conditions.
16. USFS documents that provide guidance for watershed-scale planning, restoration, and assessment, include:
- the USFS Region 5 Forest Service Handbook (FSH) 2509.22 - Soil and Water Conservation Handbook, Chapter 20 (July 1988) that provides direction for assessing cumulative watershed effects;
 - the USFS Region 5 Forest Service Handbook (FSH) 2509.22 - Soil and Water Conservation Handbook, Chapter 10 (December 2011) that provides direction for protection and improvement of water quality on National Forest System lands in California;
 - USFS publication FS-977, Watershed Condition Framework (May 2011) that provides a framework for assessing and tracking changes to watershed condition; and
 - the USFS Manual, Chapter 2020 (September 2008) that provides a policy for using ecological restoration in the management of NFS lands, further supporting watershed analysis and restoration, and the ACS.
17. Individual projects and activities on NFS land undergo analysis to determine appropriate site-specific management practices necessary to avoid water quality impacts. The USFS in California operates under a Management Agency Agreement with the State Water Resources Control Board (State Water Board), which was developed through the Clean Water Act section 208 program in 1981. The Management Agency Agreement relies, in part, on BMPs⁵.
18. The BMPs described in the USFS BMP Manual are performance based management measures to be applied to activities on NFS lands to avoid water quality impacts, and for each individual site, specific on-the-ground prescriptions have to be identified and implemented to meet BMPs. Several documents and processes provide guidance for effective identification and implementation of site-specific on-the-ground prescriptions including:

⁴ Watershed classification systems are discussed in the Monitoring and Reporting Program that accompanies this Waiver.

⁵ USFS BMPs were initially developed by Pacific Southwest Region of Forest Service in 1981, and revised in 1987, 2000 and 2011. National BMPs were developed and published in April 2012.

- National Best Management Practices for Water Quality Management on National Forest System Lands (USDA 2012⁶);
 - Individual USFS Land and Resource Management Plans;
 - USFS Timber Sales Administration Handbook;
 - Project-specific design criteria;
 - Regional Soils standards included in the LRMPs (provide direction for protecting soil productivity, particularly as it applies to ground disturbance relative to soil compaction and erosion);
 - Wet Weather Operation Standards that each National Forest has to address practices to avoid erosion and sedimentation from activities conducted during wet weather; and
 - Project implementation mechanisms (e.g., contracts, grazing permits, and other agreements).
19. Many individual projects and activities on NFS land are conducted by private parties under contracts or permits issued by the USFS. For example, private parties bid on timber sales and other projects, and if awarded, enter into a contract with the USFS to perform those activities. The contractors that enter into contracts with the USFS to conduct nonpoint source activities in Finding No. 4 and Category B are referred to as “contractors” and the contracts as “contracts” for the purposes of this Waiver. In addition, private parties apply for and are issued a grazing permit, a written permit authorization by the USFS that allows the private parties to graze their animals or livestock and conduct incidental activities (e.g., camps, water troughs, temporary corrals, herding, livestock loading and unloading) on NFS lands. These private parties to whom the USFS issues a grazing permit to conduct private parties’ nonpoint source activities set forth in Finding No. 4 and Category B are referred to as “grazing permittees” and the permit as a “grazing permit” for purposes of this Waiver. In order to be covered by this Waiver, contractors and grazing permittees must conduct activities on NFS land in accordance with the contract or grazing permit (specifying on-the-ground prescriptions) and applicable conditions of this Waiver. Contractors and grazing permittees are subject to General Condition No. 11 and Nos. 21-34.

Legal and Regulatory Structure

20. Water Code section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, must file with the appropriate regional water board a ROWD containing such information and data as may be required.
21. Pursuant to Water Code section 13260, regional water boards prescribe waste discharge requirements (WDRs) except when it finds, pursuant to Water Code section

⁶ USDA, 2012. National Best Management Practices for Water Quality Management on National Forest System Lands. USDA Forest Service, FS-990a, April 2012.

13269 that a waiver of waste discharge requirements for a specific type of discharge is in the public interest.

22. The State Water Board 2004 *Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy) requires that nonpoint source discharges of waste be regulated by waste discharge requirements, waiver of waste discharge requirements, or prohibition to ensure compliance with regional water board water quality control plans.
23. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan) and State Water Board plans and policies, including State Water Board Resolution No. 88-63, and consistent with the federal Clean Water Act, the existing and potential beneficial uses of waters in the North Coast Region include one or more of the following:
 - a. Municipal and Domestic Supply (MUN)
 - b. Agricultural Supply (AGR)
 - c. Industrial Service Supply (IND)
 - d. Industrial Process Supply (PROC)
 - e. Groundwater Recharge (GWR)
 - f. Freshwater Replenishment (FRSH)
 - g. Navigation (NAV)
 - h. Hydropower Generation (POW)
 - i. Water Contact Recreation (REC-1)
 - j. Non-contact Water Recreation (REC-2)
 - k. Commercial and Sport Fishing (COMM)
 - l. Cold Freshwater Habitat (COLD)
 - m. Warm Freshwater Habitat (WARM)
 - n. Wildlife Habitat (WILD)
 - o. Preservation of Areas of Special Biological Significance (BIOL)
 - p. Rare, Threatened, or Endangered Species (RARE)
 - q. Marine Habitat (MAR)
 - r. Migration of Aquatic Organisms (MIGR)
 - s. Spawning, Reproduction, and/or Early Development (SPWN)
 - t. Shellfish Harvesting (SHELL)
 - u. Estuarine Habitat (EST)
 - v. Aquaculture (AQUA)
 - w. Native American Culture (CUL)
 - x. Flood Peak Attenuation/Flood Water Storage (FLD)
 - y. Wetland Habitat (WET)
 - z. Water Quality Enhancement (WQE)
 - aa. Subsistence Fishing (FISH)
24. The Basin Plan contains water quality objectives to protect these beneficial uses.
25. Numerous streams in the North Coast Region are listed as impaired for sediment and temperature pursuant to Clean Water Act section 303(d). The Clean Water Act requires states to address impaired waters by developing a total maximum daily load (TMDL) or implementing water quality programs that result in the attainment of water quality standards. Sediment and temperature TMDLs have been developed for the majority of the impaired waters in the North Coast Region and these TMDLs have many components in common. While the actual load allocations and targets may vary from one TMDL to another, all address the basic issues of reducing and preventing excess sediment inputs and of decreasing water temperature by protecting and restoring natural shade.
26. The conditions in this Waiver provide reasonable assurance that sediment, temperature, and nutrient impairments on NFS lands will be restored by requiring: 1)

protection, maintenance, and enhancement of riparian conditions and shade; 2) inventories and remediation of legacy sediment sites; 3) the application of BMPs and on-the-ground prescriptions on NFS land to avoid excess sediment discharges and to improve shade; and 4) periodic review, monitoring, and reassessment.

27. TMDL Implementation Plans (aka Action Plans) contain specific implementation actions related to timber harvest and other activities on NFS lands, and are consistent with the provisions of this Waiver.
28. USFS implementation of the TMDLs for the Scott River and Salmon River watersheds were addressed in separate Memoranda of Understanding (MOU) between the Regional Water Board and the USFS. It is the intent of the Regional Water Board to add any specific implementation tasks of those MOUs to this Waiver in General Condition Nos. 13 and 14. The implementation strategy for the remainder of the sediment and temperature impaired waters, including those with completed TMDLs, is described in the *Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters in the North Coast Region* (Resolution R1-2004-0087) and the *Policy for the Implementation of the Water Quality Objective for Temperature* (Resolution R1-2014-0006). Both of these policies state that the Regional Water Board shall address sediment waste discharges on a watershed-specific basis and direct staff to use permitting authorities to control sediment waste discharges.
29. The Scott River MOU between the Klamath National Forest (KNF) and the Regional Water Board specified the USFS shall complete an inventory, and develop a priority list and schedule, for the repair of all road and non-road related sediment sources on NFS lands in the Scott River watershed. The MOU also specified that KNF shall develop and implement a forest-wide water quality monitoring plan describing and implementing sediment control practices to repair and control sediment waste discharge sites, and describing grazing management practices that meet BMPs. Most of the tasks specified in the MOU have been successfully completed, including developing an inventory and priority list for the repair of road-related sediment sources, developing and implementing a forest-wide water quality monitoring plan, and describing and implementing sediment control practices and BMPs. Completion of a schedule for the repair and control of significant road and non-road related sediment sources in accordance with the MOU remains to be completed. A schedule for treatment of these sediment sources shall be completed by October 1, 2016 as specified in General Condition No. 13.
30. The Salmon River MOU between the KNF and Six Rivers National Forest, and the Regional Water Board, specified that all management activities comply with the KNF LRMP, the Salmon River Sub-basin Restoration Strategy continue to be implemented, and the KNF develop and implement a forest-wide water quality monitoring plan. The MOU also specified that the Salmon River Sub-basin Restoration Strategy be updated. Most of the tasks specified in the MOU have been successfully completed. Road stormproofing has been completed on 26 miles of road in the Salmon River watershed since the MOU was signed, and a forest-wide sediment and temperature monitoring

plan has been developed and implemented. An update to the Action Plan contained in the Salmon River Sub-basin Restoration Strategy remains to be completed in accordance with the MOU. This Action Plan shall be updated by October 1, 2016 in accordance with General Condition No. 14 and shall address the risk of elevated stream temperatures caused by management-related debris flows in the Salmon River sub-basin, and shall include an evaluation of mine tailing piles and grazing allotment riparian area restoration potential and priorities.

31. Compliance with this Waiver constitutes TMDL compliance for established TMDLs. In addition, this Waiver provides the implementation mechanism to address impairments in watersheds listed on the Clean Water Act section 303(d) list.

The Waiver

32. This Waiver contains four primary components. The primary components are: 1) the maintenance and restoration of designated riparian zones pursuant to the Aquatic Conservation Strategy and Aquatic Management Strategy; 2) the timely implementation of watershed restoration plans that require inventories, prioritization, and treatment of legacy sediment sites; 3) BMPs for site-specific activities including the implementation of on-the-ground prescriptions; and 4) a Monitoring and Reporting Program (MRP).
33. As described in Finding No. 12, the ACS in the NWFP and corollary AMS in the SNFP, apply designated riparian zone protection to all intermittent streams, perennial streams, and wetlands. Designated riparian zones provide shade to meet the Basin Plan water temperature objective; buffer surface waters from discharges of waste associated with upslope activities by trapping sediment; and protect the natural diversity of vegetation that enhances resiliency of the riparian system and the morphology of the stream system. This Waiver requires the USFS to protect and maintain designated riparian zones (see General Condition No. 4). Successful implementation of the Waiver is required for sediment and temperature TMDL compliance.
34. The USFS will actively addresses legacy sediment sites or pre-existing threats to water quality through identification, prioritization, and treatment of such sites within Category B projects and/or through essential projects in the WCF process as described in Finding Nos. 13-15. A legacy sediment site meets all of the following conditions:
 - a. is discharging or has the potential to discharge sediment to waters of the state in violation of applicable water quality requirements;
 - b. was caused or affected by human activity; and
 - c. may feasibly and reasonably respond to prevention and minimization management activities.

This Waiver requires that all active and potential legacy sediment sites be identified, inventoried, prioritized, scheduled, and implemented for treatment for all Category B

projects and/or through the WRAP (see Category B Condition No. 1). If the USFS does not have a WRAP for the sixth field subwatershed where a Category B activity is proposed for coverage under this Waiver, the USFS must propose treatments of all existing legacy sediment sites within the project area as part of the proposed project. Grazing allotments are exempt from the requirement to identify and treat legacy sediment sites.

Trading the treatment of legacy sediment sites inside a Category B project area with legacy sediment sites outside of the project area may be acceptable, provided the treatment sites are within the same sixth field subwatershed and it can be demonstrated that the proposed treatments provide an equal or greater benefit to water quality. Such alternatives shall be submitted to the Executive Officer for approval. (See Category B Condition No. 2)

This Waiver requires the USFS to make legacy site inventories and WRAPs available to Regional Water Board staff for review and allow inspection of sites as needed to assist in prioritization (see General Conditions Nos. 5 and 6). Regional Water Board staff will confer with the USFS on legacy site inventories and treatment projects to verify reasonable progress. Successful implementation of treatments and WRAPs is required for sediment and temperature TMDL compliance. The USFS should identify and prepare a WRAP for at least one priority watershed (sixth field subwatershed) within each TMDL listed watershed (fourth field sub-basin) to help assure reasonable progress with TMDL compliance.

35. Some Category B projects may be too large or contain project specific conditions that make it infeasible or unnecessary to treat all legacy sediment sites. In such cases, this Waiver provides for alternative legacy sediment site treatment plans that inventory existing sites and propose to treat some portion of the largest sediment producing sites within the project area may be submitted to the Executive Officer for approval. (See Category B Condition No. 3) Alternative plan submittals shall include a description (e.g. project type, location, volume of sediment, etc.) of past legacy sediment site treatments and restoration efforts implemented with the same sixth field watershed within the past 20 years.
36. As described in Finding Nos. 18 and 19, site-specific activities covered under this Waiver must implement on-the-ground prescriptions to meet BMP goals to avoid water quality impacts. To rely on the implementation of USFS Guidance and the USFS BMP Manual to ensure water quality protection, there must be transparency in which on-the-ground prescriptions are selected to implement BMPs, and documentation of BMP implementation and its effectiveness. To address these needs, this Waiver contains: 1) conditions that the USFS and its contractors and grazing permittees implement the USFS Guidance and the USFS BMP Manual, including the identification of on-the-ground prescriptions for an individual project; 2) a mechanism to ensure their implementation; and 3) monitoring requirements to ensure implementation of the on-the-ground prescriptions and to evaluate their effectiveness. Successful implementation of on-the-ground prescriptions to meet BMP goals is required for sediment and temperature TMDL compliance.

The above process results in the BMPs being translated into site specific on-the-ground prescriptions for a project or activity and for those prescriptions to be included in contracts, grazing permits, or other agreements. The monitoring program includes a checklist approach whereby each of the on-the-ground prescriptions is verified as being properly implemented.

37. As summarized in Finding No. 5, this Waiver applies to two categories of activities, which are grouped according to level of potential impact to water quality. Activities that have a low potential impact to water quality are eligible for Category A. The Category A list in Attachment A specifies those activities found to meet this classification. Category B applies to activities with a moderate potential impact to water quality and requires the USFS provide more information to the Regional Water Board, who will then conduct a more detailed review. In Category B, characteristics of an activity, such as intensity and proximity to surface waters, and the sensitivity of the area, will determine which BMPs and on-the-ground prescriptions are needed to ensure the activity will have a less-than-significant impact on water quality. The Category B list in Attachment B specifies those activities found to meet this classification. This Waiver does not apply to specific projects associated with the activities on federal land identified herein when the specific project may result in impacts to water quality that cannot be mitigated to less-than-significant levels.

Certain factors increase the risk of potential water quality impacts:

- the activity's proximity to water (e.g. inside a designated riparian zone vs. outside a designated riparian zone);
 - the type and size of the activity; and
 - the on-the ground conditions where the activity takes place (e.g. equipment on steep ground vs. flat ground).
38. Pursuant to Water Code section 13263, subdivision (i), it is appropriate to regulate discharges from nonpoint source activities as described in Finding No. 4 under a general waiver rather than individual discharge requirements because this Waiver addresses the same or similar discharges of waste from the same or similar operations and proposes the same or similar treatment methods and management practices. By regulating these discharges and activities under a general waiver, it simplifies and streamlines the regulatory process and allows Regional Water Board staff to focus its limited resources on working with the USFS to protect water quality. It is not an efficient use of Regional Water Board staff time to process WDRs for each and every USFS activity when many of the proposed activities have only a potentially low or moderate impact on water quality and an effective Waiver program can be established that can rely, in part, on the USFS administration of its existing programs that are in place to protect water quality. This Waiver contains monitoring and reporting requirements that allow the Regional Water Board to assess the Waiver's effectiveness at protecting water quality. The Regional Water Board will reevaluate the Waiver no later than five years, when it must be renewed, and earlier if

appropriate. At that time the Regional Water Board can make any necessary adjustments.

Monitoring and Reporting

39. The Management Agency Agreement, which was described in Finding No. 17, requires implementation and effectiveness monitoring of the management practices included in the USFS BMP Manual. The USFS conducted a BMP Evaluation Program (BMPEP) to meet this requirement. Through 2014, BMP monitoring was conducted following protocols developed for the Pacific Southwest Region (Region 5) of the USFS. In 2013, all National Forests began testing implementation of the National Core BMP Monitoring Program. The Regional BMP Monitoring program will be replaced by the National Core BMP Monitoring Program once the final technical guide and national directives are released, which is anticipated to occur at the end of 2016. Both the BMPEP and the National BMP Monitoring Programs provide annual onsite assessments of a randomly selected subset of all BMPs that were implemented as part of activities conducted within a National Forest, assessing both proper implementation and effectiveness. Implementation of effective BMPs is necessary to reach water quality goals and objectives. USFS BMP monitoring results for the North Coast Region from 2011 through 2014 conducted under the Regional monitoring protocols show that 93 percent of BMPs were rated as implemented correctly and 82 percent were rated as effective in preventing adverse water quality effects.
40. Additional monitoring is needed to ensure full implementation and to provide a feedback loop to measure the effectiveness of various management practices. There must be monitoring and reporting to demonstrate that the actual on-the-ground prescriptions identified for a particular activity are effective at meeting the goals of the specific BMPs identified to address impacts of specific activities and to demonstrate that they were implemented and effective. A checklist approach to verifying proper implementation of on-the-ground prescriptions is included in the MRP for this Waiver.
41. In addition, monitoring of instream conditions is important and needed to describe the extent to which beneficial uses are supported and to assist in prioritizing remediation and watershed restoration activities.
42. Pursuant to Water Code section 13267, the MRP is attached which includes:
 - a. establishment of a forest-wide in-channel monitoring network;
 - b. tracking projects and activities designed to abate existing and threatened sediment discharges;
 - c. descriptions of USFS road and trail patrols, and inspection programs;
 - d. summary of BMPEP and/or National BMP Monitoring activities;
 - e. retrospective monitoring to evaluate the long-term performance of BMPs and attendant on-the-ground prescriptions;
 - f. a checklist approach for all Category B activities to ensure full implementation of BMPs and on-the-ground prescriptions;

- g. a checklist approach for road-related Category B activities to ensure effectiveness of road-related BMPs and on-the-ground prescriptions;
 - h. grazing allotment monitoring including streambank, wetland and riparian vegetation monitoring, and pathogen indicator bacteria monitoring; and
 - i. post-fire Burned Area Emergency Rehabilitation reports.
43. Klamath National Forest has developed the Klamath National Forest Sediment and Temperature Monitoring Plan and Quality Assurance Project Plan (USDA 2010b⁷) to address TMDL implementation in the portions of the Salmon, Scott, Shasta, and Klamath rivers within the Klamath National Forest. This monitoring plan supersedes the requirement for a forest-wide in-channel monitoring network described in the MRP.

Emergency Activities

44. USFS emergency activities may include wildfire suppression and BAER. The USFS has procedures to address fire suppression activities and minimize impacts of the suppression activities on water quality. Each National Forest also has conditions and processes in its LRMP to address fire suppression activities, including guidance for fueling equipment, use of fire retardants, and other components of fire suppression.
45. Subject to a notification requirement, Water Code section 13269, subdivision (c) allows the Regional Water Board to waive WDRs for discharges resulting from immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor. These activities and those specific actions necessary to prevent or mitigate an emergency (does not include long-term projects) are exempt from CEQA. (Cal. Code Regs., tit. 14, §15269.) The Regional Water Board has discretion to establish conditions on any such waiver. (Water Code, § 13269, subd. (d).)
46. Extreme drought conditions have persisted in the State, increasing the risk and occurrence of wildfires. Lightning storms and high temperatures have further increased this risk, severity and the spread of additional wildfires. High severity wildfires result in the loss of significant vegetation, canopy, and root strength, and increased hydrophobic soils, and can lead to adverse impacts to water quality through increases in erosion, landslide frequency, sediment yield, turbidity, peak flows and flooding, temperatures, and various chemical parameters. Timely management can help to mitigate these impacts. For example, timely installation of erosion control, appropriately sized drainage structures, and critical dips can help mitigate impacts. Additionally, it is often necessary to remove hazard trees to protect the public and agency personnel, and salvage dead and dying trees with subsequent replanting to accelerate forest restoration. In some cases, these actions may result in short-term

⁷ USDA, 2010b. Klamath National Forest Sediment and Temperature Monitoring Plan and Quality Assurance Project Plan. USDA, Forest Service, Klamath National Forest. September 28, 2010.

impacts that cannot be mitigated to less-than-significant, but nevertheless can and should be implemented in a timely manner. The formal process for submitting a report of waste discharge and processing an individual WDR or waiver takes many months and unduly delays recovery. Providing coverage under the emergency exemption discussed above is an appropriate response in such cases, subject to Waiver conditions and satisfactory information provided under Finding No. 49 below.

47. During emergency responses the responsible USFS official is authorized to take actions necessary to control the immediate impacts of the emergency and to mitigate harm to life, property, or important natural or cultural resources. When taking such actions, the responsible official shall take into account the probable environmental consequences of the emergency action and mitigate foreseeable adverse environmental effects to the extent practical under 36 CFR § 220.4 General requirements: NEPA (42 U.S.C. 4332(2)(C)).(b)(1).
48. This Waiver covers discharges from emergency actions defined in California Code of Regulations, title 14, section 15269. The Waiver requires the USFS to post emergency incidents on its website and to maintain records for Regional Water Board staff review, as appropriate.
49. Portions of a fire recovery project submitted under Category B may qualify for the emergency exemption upon a finding by the Executive Officer. Under Water Code section 13269, subdivisions (c) and (d), the Executive Officer may add conditions or determine not to waive WDRs. In its Waiver Application, the USFS must describe how the project meets the description under California Code of Regulations, title 14, section 15269, and additional information under Order section C.7.

Additional Findings

50. State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintaining High Quality of Waters in California") requires that 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 must be maintained. Any change in the existing high quality is allowed by that policy only if it has been demonstrated to the Regional Water Board that any change will be consistent with maximum benefit to the people of the state and 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. The policy further requires that dischargers meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state will be maintained.

This Waiver is consistent with Resolution No. 68-16 because overall it will result in a net benefit to water quality by setting forth conditions that implement riparian and shade protections and enhancements, address legacy sediment sites, and implement BMPs and on-the-ground prescriptions for new activities. The activities permitted

under this Waiver have been determined to have a low potential impact to water quality when conducted pursuant to the terms of the Waiver, resulting in compliance with applicable water quality control plans, including applicable water quality objectives. The implementation of BMPs and on-the-ground prescriptions identified for each activity, and the monitoring of their effectiveness, will result in the best practicable treatment or control of the discharge and will assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state is maintained.

51. The Regional Water Board, acting as the lead agency under the California Environmental Quality Act (Public Resources Code, sections 21000-21777) (CEQA), adopted a mitigated negative declaration (SCH No. 2010042031) for Waiver R1-2010-0029 on June 10, 2010. (Cal. Code Regs., tit. 14, § 15072.) This Order does not result in any physical changes in the environment different from the previous Waiver and is therefore exempt from CEQA under title 14, California Code of Regulations, sections 15061, subdivision (b)(3). Two categorical exemptions are also applicable under title 14, California Code of Regulations sections 15307 and 15308, for certain actions by regulatory agencies to maintain, restore, or enhance natural resources and to protect the environment. The Regional Water Board will file a notice of exemption in accordance with title 14, California Code of Regulations, section 15062. Mitigation measures necessary to reduce or eliminate significant impacts on the environment, and monitoring and reporting are incorporated as conditions of approval below.
52. The Regional Water Board has reviewed the contents of this Waiver, the mitigated negative declaration prepared for Waiver R1-2010-0029, written public comments and testimony provided after notice and hearing, and hereby finds that the adoption of this Waiver is consistent with the Basin Plan, and is in the public interest.

THEREFORE, IT IS HEREBY ORDERED that Order No. R1-2010-0029 is rescinded, except for conditions that apply to individual projects on the March 2015 USFS Schedule of Proposed Actions (SOPA, a public list of upcoming USFS projects) with accompanying NEPA Decision Notice by October 1, 2015, or for which the NEPA process has been initiated prior to October 8, 2015, provided they meet the eligibility criteria and remain in compliance with the conditions of Order No. R1-2010-0029 until completed. By November 30, 2015, the USFS shall report the names and status of all projects to be covered under Order No. R1-2010-0029 to the Regional Water Board; and

IT IS HEREBY ORDERED that the provisions of Water Code section 13260, subdivision (a) and (c), and Water Code section 13264, subdivision (a) are hereby waived for discharges from NFS land that result from emergency actions, as defined in California Code of Regulations, title 14, section 15269; and

IT IS HEREBY ORDERED that pursuant to Water Code sections 13263, subdivision (a), 13267, and 13269, the Regional Water Board waives the requirement to submit a report of waste discharge and the requirement to establish waste discharge requirements for discharges of wastes resulting from activities on NFS lands described in Finding No. 4. The following conditions shall apply:

General Conditions (apply to both Category A and B Activities)

1. The USFS shall facilitate early Regional Water Board staff involvement in the project planning process for all projects that have a potential to impact water quality and for projects that will be covered by this Waiver. This includes project scoping, NEPA development and review, and pre-project consultations.
2. The USFS shall notify Regional Water Board staff when the SOPA reports are posted on their website to inform staff of upcoming activities. If possible, USFS should indicate which projects are likely to be enrolled in Category B.
3. Compliance with Waiver conditions will ensure that no significant environmental impact to water quality occurs from an activity covered by this Waiver. Activities that have potentially significant impacts to water quality that cannot be reduced to less than significant levels are not eligible for coverage under this Waiver and the USFS shall submit a ROWD to the Regional Water Board and/or obtain authorization from the appropriate agency for a permit not issued by the Regional Water Board.
4. USFS shall manage and maintain designated riparian zones (as defined in Finding No. 12), to ensure retention of adequate vegetative cover that results in natural shade conditions, within 300 feet slope distance on each side of fish-bearing streams, 150 feet slope distance on each side of perennial streams, and 100 feet slope distance on each side of intermittent streams, or the site potential tree height distance on each side of the stream, whichever is greatest (per NWFP ACS Strategy⁸). Reference to the NWFP ACS Strategy includes any modifications to those documents during the life of this Waiver, so long as the modifications are equally or more protective of water quality, as determined by the Executive Officer. Timely implementation is necessary for sediment and temperature TMDL compliance. Site-specific potential effective shade is defined as the shade on a watercourse equivalent to that provided by topography and potential vegetation conditions at a site. Exceptions to this condition will be considered. In order for Regional Water Board staff to determine the adequacy of the justification for an exception, the justification must identify the proposed canopy reduction and expected recovery time, provide an estimate of the pre- and post- project shade or solar impacts, and explain how such an exception will result in a net long-term benefit to water quality and stream temperatures.
5. Under the WCF, a WRAP should be in place for at least one priority subwatershed (sixth field) within each TMDL watershed (fourth field). The USFS shall consult with the Regional Water Board when selecting a priority watershed to help choose the watershed likely to produce the greatest benefit for sediment improvement. Once essential projects that address reducing impacts to water quality are completed within a priority watershed, another priority watershed will be selected under the WCF within the TMDL watershed, until all threats to water quality are addressed. The

⁸ The NWFP is currently under review and may be revised in the future.

USFS shall make WRAPs available to Regional Water Board staff for review and allow inspection of sites as needed to assist in prioritization.

6. The USFS shall work jointly with Regional Water Board staff to resolve any issues associated with prioritization of watersheds, including those under the WCF, especially with regard to addressing existing legacy sediment sites and/or instream restoration activities aimed at improving beneficial uses. Nothing in this Waiver precludes specific agreements made between the USFS and the Regional Water Board to develop National Forest specific BMPs that cover site-specific conditions when necessary.
7. All activities undertaken by the USFS shall comply with the USFS Guidance and the USFS BMP Manual for water quality protection. This includes following the Wet Weather Operation Standards as developed for each National Forest, and minimizing erosion and riparian disturbance from roads, watercourse crossings, road decommissioning, or other activities that have the potential to discharge sediment or affect natural shade conditions on watercourses. Reference to the USFS Guidance and USFS BMP Manual includes any modifications to those documents during the life of this Waiver, so long as the modifications are equally or more protective of water quality, as determined by the Executive Officer.
8. The USFS shall comply with all mitigation measures identified in the mitigated negative declaration (SCH No. 2010042031). CEQA mitigation measures shall constitute enforceable conditions under this Order.
9. The USFS shall include specific on-the-ground prescriptions designed to meet the USFS BMPs within the environmental document prepared pursuant to NEPA. The specific prescriptions shall also be included in all contracts, grazing permits, agreements, and other instruments used to direct the activities of contractors, grazing permittees, USFS personnel, volunteers, or any other third parties specified in this Waiver. The intent is to provide clarity and transparency in how the BMPs will be implemented and to facilitate the monitoring of BMP implementation (Monitoring and Reporting Program, Section III.A).
10. In addition to providing specific on-the-ground prescriptions, the USFS shall provide copies of this Waiver to contractors and grazing permittees, and USFS volunteers and any other third parties specified in this Waiver, and notify them of their responsibilities to comply with the Waiver.
11. Activities described in Finding No. 4, and undertaken by contractors and grazing permittees, shall comply with the USFS Guidance and the USFS BMP Manual and all applicable mitigation measures identified in the accompanying mitigated negative declaration for water quality protection as articulated by site-specific on-the-ground prescriptions identified in the USFS contract or grazing permit, and General Condition Nos. 21-34. This includes following the Wet Weather Operations Standards as developed for each National Forest, and minimizing erosion and riparian disturbance from activities that have the potential to discharge sediment that affect natural shade

conditions on watercourses. Violations of this Waiver are subject to enforcement to the extent allowed by law. The USFS will maintain exclusive authority to determine whether contractors or grazing permittees are complying with the terms and conditions of the USFS contract or grazing permit.

12. This Waiver does not authorize any nonpoint discharges by third parties conducting activities on NFS lands under written authorization of the USFS except as specified in the Waiver (General Condition No. 11, and Nos. 21-34).
13. A schedule for the repair and control of significant road and non-road related sediment sources, in accordance with the Scott River MOU, remains to be completed to fulfill the requirements of this MOU. A schedule for treatment of these sediment sources shall be completed and submitted to the Regional Water Board by the KNF by October 1, 2016.
14. An update to the Action Plan contained in the Salmon River Sub-basin Restoration Strategy, in accordance with the Salmon River MOU, remains to be completed to fulfill the requirements of this MOU. This Action Plan shall be updated by the KNF and Six Rivers NF by October 1, 2016 and shall address the risk of elevated stream temperatures caused by management-related debris flows in the Salmon River sub-basin, and include an evaluation of mine tailing piles and grazing allotment riparian area restoration potential and priorities.
15. Compliance with all of the conditions of this Waiver constitutes compliance with sediment and temperature TMDL implementation. TMDL implementation includes: legacy sediment site inventories, prioritization, and treatment; retention of natural shade within designated riparian zones; and application of on-the-ground prescriptions that meet USFS BMPs for new activities.
16. Regional Water Board staff and staff from each National Forest covered by this Waiver shall strive to meet annually, or as necessary, to discuss and rectify any issue with Waiver compliance, TMDL implementation, or any other issues associated with this Waiver.
17. USFS shall obtain coverage under the *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit, 2009-0009-DWQ, as amended by 2010-0014-DWQ and 2012-0006-DWQ) for non-timber construction projects on NFS lands that disturb one or more acres of soil, or less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. Construction activity subject to this permit includes clearing, grading, and disturbances to the ground such as stockpiling or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.
18. This Waiver does not authorize discharges from the application of herbicides or pesticides as stated in Finding No. 7. However, the USFS shall notify the Regional Water Board in writing at least 90 days prior to the proposed application of

herbicides or pesticides, unless Regional Water Board staff agrees in writing to a lesser notice. The notification shall include the type of pesticide, method and area of application, projected date of application, and measures that will be employed to assure compliance with the Basin Plan.

19. The USFS shall submit to the Regional Water Board a copy of any application to the State Water Board for a *Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications* (Order 2013-0002-DWQ).
20. The USFS may submit information on low risk uses or applications of pesticides (e.g. use around buildings/facilities, borax stump treatment for root disease) for consideration by Regional Water Board staff to develop a list of activities exempt from the notification in General Condition No. 18.
21. Activities conducted under this Waiver must be in compliance with water quality requirements, the Basin Plan, and amendments thereto.
22. The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.
23. The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into or affect any stream or watercourse in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.
24. This Waiver covers discharges of waste from activities described in Finding No. 4. This Waiver does not cover discharges associated with activities not described in Finding No. 4. For example, this Waiver does not cover discharges described in Finding No. 7 such as mining waste, hazardous material, or human waste.
25. Discharges of waste not specifically regulated under this Waiver are prohibited except in compliance with the Water Code.
26. Pursuant to Water Code section 13269, this Waiver, and any enrollment under this Waiver: 1) is conditional; 2) may be terminated at any time; 3) does not permit any illegal activity; 4) does not preclude the need for permits which may be required by other federal, state or local governmental agencies; and 5) does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the Water Code.
27. This Waiver, or individual activities enrolled under the Waiver, may be re-opened for modifications, revoked and reissued, or terminated. In the event that unforeseen

circumstances resulting from the Waiver have the effect of unreasonably constraining USFS activities, the USFS may seek consideration for modifications to the Waiver by written request to the Executive Officer.

28. This Waiver, including enrollments under this Waiver, shall not create a vested right, and discharges of waste shall be considered a privilege, as provided for in Water Code Section 13263.
29. A waiver of WDRs for a type of discharge may be superseded if the State Water Board or Regional Water Board adopts specific WDRs or general WDRs for this type of discharge.
30. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). USFS shall be responsible for meeting all requirements of the applicable Endangered Species Act. The USFS shall obtain as necessary, and comply with, all other applicable local, state, and federal regulations and/or required permits.
31. Activities authorized under this Waiver shall not cause pollution, contamination, or nuisance as defined by Water Code section 13050.
32. Violations of Waiver conditions are subject to enforcement actions in the same manner as enforcement of waste discharge requirements.
33. This Waiver must not affect the right of any person to maintain at any time any appropriate action for relief against a federal agency or a private party conducting operations on federal lands managed by the federal agency.
34. With the exception of General Condition No. 11, the USFS shall comply with all Waiver conditions including specific conditions for projects enrolled under Category B.
35. In situations where multiple activities are included as part of an application for coverage under the Waiver, USFS shall identify it as a Category B activity if any of the activities fall under Category B. If there is a question of whether a project is Category A or B, submit the project as a Category B and Regional Water Board staff will make a determination.
36. The USFS shall comply with the monitoring and reporting requirements contained in the Monitoring and Reporting Program of this Order. Monitoring and reporting requirements are issued pursuant to Water Code section 13267 and may be modified from time to time by the Executive Officer.
37. Corrective actions identified through implementation monitoring in the Monitoring and Reporting Program shall be taken while the project is active, prior to the release

of contractors, and prior to the onset of the first wet weather operations period after project initiation.

38. In the event an unauthorized discharge of waste occurs as a result of USFS activities, the USFS shall notify the Executive Officer within 48 hours of the discovery of the discharge, providing an accurate description of the nature of the discharge, any impacts from the discharge, and remedial actions taken to abate and clean up the discharge. A written report shall follow within 14 days of the notification of discharge.
39. By November 30, 2015, the USFS shall report to the Regional Water Board the names and status of all projects they believe are covered or will be covered under Order No. R1-2010-0029;

Project Categories A and B

A. Category A Projects

Category A includes activities that as proposed have a low likelihood of impacts to water quality, and as such, require no additional conditions. The General Conditions above apply to Category A Projects. Activities included in Category A are listed in Attachment A. The USFS may propose to add additional types of activities to this categorization, subject to approval by the Executive Officer.

No application is required for activities covered under Category A of this Waiver. The USFS shall keep records of activities covered under Category A of this Waiver, including any environmental assessments prior to, during, or after the activity, for Regional Water Board staff review, as deemed necessary.

B. Category B Projects

Category B projects include activities that require additional mitigation measures, as described under the Category B Conditions below, and Regional Water Board review and evaluation for compliance with the Waiver. The General Conditions above apply to Category B projects, as well as additional Category B Conditions listed below. Category B project activities are listed in Attachment B. Application for coverage under this Waiver is required for such activities and projects, as described under the Category B Waiver Application Procedures section below.

Category B Conditions:

1. The USFS shall actively address all legacy sediment sites (as defined in Finding No. 34) for Category B projects. All legacy sediment sites for Category B projects must be identified, inventoried, prioritized, scheduled, and implemented for treatment as part of the Category B project activities. The inventory shall be submitted to the Regional Water Board during project development. Grazing allotments are exempt from the requirement to identify and treat legacy sediment sites. If the Category B project is within a sixth field subwatershed that

contains an active WRAP that is treating legacy sediment sites, the Category B project is exempt from treating legacy additional sediment sites.

2. Trading the treatment of legacy sediment sites inside a Category B project area with legacy sediment sites outside of the project area may be acceptable, provided the treatment sites are within the same sixth field subwatershed and it can be demonstrated that the proposed treatments provide an equal or greater benefit to water quality. Such alternatives shall be submitted to the Executive Officer for approval.
3. Notwithstanding Category B Condition No. 1 above, some Category B projects may be too large or contain project specific conditions that make it infeasible or unnecessary to treat all legacy sediment sites. In such cases, alternative legacy sediment site treatment plans that inventory and propose to treat some portion of the largest sediment producing sites within the project area may be submitted to Executive Officer for approval. Any alternative plan submittal shall include a description (e.g. project type, location, volume of sediment, etc.) of past legacy sediment site treatments and restoration efforts implemented with the same sixth field watershed within the past 20 years.
4. The USFS shall make legacy site inventories and WRAPs available to Regional Water Board staff for review and allow inspection of sites as needed to assist in prioritization (see General Conditions Nos. 5 and 6). Regional Water Board staff will confer with the USFS on legacy site inventories and treatment projects to verify reasonable progress. Successful implementation of treatments and WRAPs is required for sediment and temperature TMDL compliance. The USFS should identify and prepare a WRAP for at least one priority watershed (sixth field subwatershed) within each TMDL listed watershed (fourth field sub-basin) to help assure reasonable progress with TMDL compliance.
5. The USFS shall conduct an interdisciplinary review of the proposed activity, including review by watershed specialists, and identify on-the-ground prescriptions needed to implement the USFS BMP Manual, and any additional necessary control measures for the proposed activity. The USFS shall clearly indicate within NEPA documents whether any of the following are included within a proposed project:
 - a. Activities within or which could affect:
 - i. designated riparian zones; or
 - ii. wetlands; or
 - iii. known active landslides or unstable areas.
 - b. Type of activity:
 - i. construction, reconstruction, upgrade, or repair of watercourse crossings;
 - ii. use or reconstruction of existing, or construction or use of new landings or skid trails within designated riparian zones;

- iii. equipment operations within designated riparian zones, except on existing permanent roads or crossings;
 - iv. prescribed fire within designated riparian zones;
 - v. pile burning within designated riparian zones;
 - vi. road decommissioning within designated riparian zones;
 - vii. instream restoration projects;
 - viii. forest restoration, including timber harvest and fuel reduction projects involving thinning within outer edges of designated riparian zones which utilize endlining or heavy equipment; or
 - ix. heavy equipment use on slopes over 40 percent.
6. The USFS shall submit a complete application, as described under the Category B Waiver Application Procedures section below.
7. For activities carried out by contractors and grazing permittees, USFS shall include in its contract or grazing permit:
 - a. Specific on-the-ground prescriptions developed for the activity that implement the USFS BMP Manual, and any additional water quality measures identified in the NEPA document and other environmental documents supporting the project;
 - b. A copy of this Waiver; and
 - c. A provision stating that contractor or grazing permittee is subject to this Waiver, specifically General Condition No. 11 and Nos. 21-34.
8. Where the proposed activity includes direct or indirect effects to water quality, the USFS shall conduct a cumulative watershed effects (CWE) analysis and include specific measures in the proposed activity needed to reduce the potential for CWEs in order to assure compliance with the Basin Plan. The scale and extent of CWE analyses will be commensurate with the scale and intensity of the projects seeking coverage under this Waiver. CWEs analyses will follow guidance in the regional CWE policy, R-5 FSH 2509.22, Soil and Water Conservation Handbook, Amendment 1, and may range from qualitative reasoning to application and interpretation of quantitative models.
9. The USFS shall include the larger planning context under the WCF for specific projects in any request for coverage under this Waiver (e.g., how a particular activity or project fits within the watershed priorities developed through the planning process). The USFS shall include the WRAP(s) for sixth field subwatershed(s) within the larger fourth field TMDL watershed. In addition, other legacy site restoration work already planned or underway outside of the WCF and within the larger fourth field TMDL watershed shall be identified. At least one WRAP should be developed within each fourth field TMDL watershed. This information will be included as part of the CWE narrative analysis and may be included in the CWE numerical analysis.

10. Activities must be conducted in accordance with the project description in the accompanying USFS NEPA document, including any project modifications and the specific on-the-ground prescriptions designed to implement the BMPs identified to avoid any adverse impact(s) to water quality.
11. Activities shall be monitored, pursuant to the Monitoring and Reporting Program, to assure that all on-the-ground prescriptions are implemented and effective in avoiding any adverse impact(s) to water quality. Should such monitoring indicate that on-the-ground prescriptions were not implemented or that unacceptable impacts occurred, corrective measures to remediate the impact and implement the on-the-ground prescription shall be taken as soon as feasible.
12. Areas where soil has been disturbed by project activities, excluding grazing, within designated riparian zones must be stabilized prior to the beginning of the winter period, and prior to sunset if the National Weather Service forecast is a "chance" (30 percent or more) of rain within the next 24 hours, or at the conclusion of operations, whichever is sooner.
13. The USFS shall report to the Regional Water Board, within ten days of discovery, areas within designated riparian zones that are disturbed by grazing that may result in a significant discharge, and any measures taken to prevent, minimize, or mitigate the potential to discharge. Monitoring to verify the effectiveness of the remediation may be required by the Executive Officer.
14. Where prescribed fire management activities are conducted within designated riparian zones, the USFS must prevent, minimize, and mitigate discharges to waters of the state by following the appropriate USFS BMPs or other standard erosion control techniques.
15. Each National Forest must ensure that grazing activities are consistent with ACS and AMS goals, and the USFS BMP Manual. USFS shall seek enrollment under this Waiver for any new grazing allotments or the renewal of grazing allotments.
16. Information from inspections and monitoring of conditions on grazing allotments shall be made available to Regional Water Board staff upon request, in addition to reporting requirements described the Monitoring and Reporting Program for this Waiver.
17. The USFS shall implement the ACS and AMS, and the riparian reserve program to prevent, minimize, and mitigate sediment discharges by following the appropriate BMPs and standard erosion control techniques for activities adjacent to streams and drainages, or other locations or situations where potential for discharge exists.
18. The USFS will collaborate with the Regional Water Board staff to evaluate research and demonstration activities on fuels reduction projects within

designated areas to ensure plans for those projects include appropriate design features to prevent or limit impacts to water quality and may require:

- a. additional monitoring as appropriate, such as quantitative monitoring of impacts to soils (compaction, infiltration rate, etc.), ground cover inventories, vegetation recovery, or water quality analysis; and
 - b. specific environmental triggers or thresholds that must not be exceeded during implementation.
19. The USFS shall minimize new road construction in watersheds designated by USFS as “Key Watersheds” and in high risk or 303(d) listed watersheds.⁹
 20. The USFS shall conduct, as identified by Regional Water Board staff, any additional assessments and environmental documentation for new roads associated with timber harvesting activities.

C. Category B Waiver Application Procedures

1. The USFS shall submit a written Notice of Intent (NOI) (Attachment C) and Application to the Regional Water Board. The NOI certifies USFS’s intent to comply with conditions of this Waiver.
2. The NOI shall be signed by a USFS line officer or their authorized representative.
3. The NOI and Application (collectively the Waiver Application) shall be filed after project approval by USFS, and at least 30 days prior to anticipated commencement of on-the-ground activities. Certified mail may be used to confirm the delivery date of the NOI and the initiation of the 30-day review period. To the extent possible, Waiver Applications and related materials shall be submitted in a searchable Portable Document Format by email to NorthCoast@waterboards.ca.gov.
4. Subject to Category B Waiver Application Procedures No. 3, if the Waiver Application is complete, the Executive Officer shall accept or deny in writing within 30 days from its receipt of the Waiver Application.
5. The Executive Officer has the discretion to adjust timeframes at the written request of the USFS.
6. To be complete, the Waiver Application must contain the following information:

⁹ High risk watersheds are those watersheds that are at or above thresholds of concern for cumulative watershed effects, as determined by the Equivalent Roaded Area or other models, or in watersheds with 303(d) listed impaired waters.

- a. A brief description of the proposed activity. Providing a reference to more detailed explanations contained in supporting documents is sufficient.¹⁰
 - b. Activity start and end dates; reference to more specific timelines in supporting documents is sufficient (see footnote 10).
 - c. The name(s) and contact information for primary project management personnel.
 - d. A description of compliance with the Waiver conditions in general terms, with on-the-ground prescriptions set out in the supporting documents being sufficient (see footnote 10).
 - e. Implementation monitoring checklists and/or road project effectiveness monitoring checklists shall be developed by USFS project staff (timber, range, recreation, engineering, etc.) for each Category B project.
 - f. Identification, proposed treatments, and a schedule for treatment of existing legacy nonpoint source sediment sites, if the project is not in Watershed Condition Framework priority watershed and WRAPs.
 - g. The proposed project's relation to the Watershed Condition Framework priority watersheds and WRAPs, within applicable TMDL listed watershed(s). Copies of relevant WRAPs will be attached to the application.
 - h. Identification and proposed treatments of existing legacy sediment sites if an inventory and prioritization of legacy sediment sites has not been initiated in the project area, as described in the project description, (per General Condition Nos. 5 and 6) or reference to the legacy site inventory for watersheds with a WRAP.
 - i. Copies of relevant portions of all environmental documents that set out the details of a project, especially on-the-ground prescriptions, including supporting documents that describe in detail the activities and management practices that will be taken to reduce potential water quality impacts to less than significant levels (e.g., NEPA documents, wet weather operations standards, technical reports, design criteria, assessments, watershed restoration plans).
 - j. The USFS shall clearly indicate within NEPA documents, and provide an index of, the specific on-the-ground prescriptions designed to meet the BMPs to avoid any adverse impact(s) to water quality. Specific on-the-ground prescriptions shall be included in all contracts and grazing permits.
7. For portions of any fire recovery project subject the emergency exemption, the USFS shall describe how the project meets the description under California Code of Regulations, title 14, section 15269, and the following additional information:
- a. How the project is designed to minimize disturbance to riparian reserves (including roads and landings);
 - b. Avoidance measures (i.e. no wet weather operations, road treatments, slash pile placement, etc.); and
 - c. Any additional water quality protection measures.

¹⁰ Citation to a website or an electronic version of a document is acceptable.

D. Category B Waiver Termination Procedures

1. The USFS shall submit a Notice of Project Completion (Attachment D) upon project completion, certifying that all the conditions and monitoring and reporting required by this Waiver have been met. The enrollment under this Waiver will be terminated upon receipt of a Termination of Coverage letter from the Executive Officer, or 30 days after the Notice of Completion has been sent, whichever occurs first.

This Waiver shall become effective on October 8, 2015 and shall expire on October 8, 2020, unless extended by the Regional Water Board.

Certification:

I, Matthias St. John, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on October 8, 2015.

Matthias St. John
Executive Officer

15_0021_Waiver_USFS

Attachments:

- A. Category A Projects
- B. Category B Projects
- C. Notice of Intent (NOI) Application Form
- D. Notice of Project Completion (NOC) Form

Attachment A
Category A Projects

1. Christmas tree harvest under individual permits (does not include commercial Christmas tree cutting);
2. Cutting of firewood under individual permits (does not include commercial firewood cutting on federal lands);
3. Hazard tree removal in designated camp sites;
4. Hazard tree removal along roads;
5. Tree planting and revegetation of disturbed areas with no mechanical site preparation;
6. Routine annual road and OHV trail maintenance, such as culvert cleaning and low impact replacement/modification/upgrading outside of designated riparian zones where there is no risk of sediment delivery to watercourses, road surface improvements (paving, patching, blading, gravel surfacing), brushing, ditch cleaning and cross drain cleaning;
7. Hand Thinning without assistance from heavy equipment and no risk of discharge;
8. Minor activities in small areas that are conducted by hand crews;
9. Activities conducted in compliance with Road Use Permits;
10. Dispersed camping, camping in developed recreation sites, use of non-motorized trails, fence building, and similar low-impact, dispersed activities;
11. Timber harvest, fuel reduction, vegetation management, and understory or pile burning using hand crews outside of Riparian Reserves where there is no risk of sediment delivery to watercourses;
12. Installation of vault toilets;
13. Foot trail bridge replacement and trail work using hand crews;
14. Non-emergency fire restoration and rehabilitation of burned areas outside of designated riparian zones and where there is no risk of sediment delivery to watercourses; and
15. Road and Trail Maintenance:
 - a. Sign installation and maintenance
 - b. Brushing for sight distance and road clearance
 - c. Creating closure devices
 - d. Roadside hazard and maintenance trees
 - e. Installing and maintaining culvert appurtenances (inlet sections, riprap, over-side drains, drop inlets, risers etc.)
 - f. Repair, upgrade, or replacement of paved surfaces.

Attachment B
Category B Projects

1. Non-emergency restoration and rehabilitation of burned areas, and fire recovery;
2. Pre-Commercial thinning, heavy equipment use, or burning in designated riparian zones;
3. Vegetation management, particularly prescribed burns and mechanical mastication adjacent to streams and drainages, or other situations or locations where likelihood of discharge exists;
4. Timber harvest and fuel reduction activities, including forest restoration projects and research and demonstration projects on fuel reduction;
5. Understory or pile burning within Riparian Reserves;
6. Activities conducted by hand crews in designated riparian zones that pose a risk of discharge;
7. Road decommissioning and road storage/road deactivation;
8. Road upgrading and stormproofing where there is potential for discharge;
9. Road construction activities not subject to coverage under the state-wide construction stormwater permit;
10. Maintenance activities related to National Forest Transportation System (NFTS) motor vehicle trails adjacent to watercourses where the likelihood of discharge exists;
11. Range management activities;
12. Nonpoint source activities associated with mining (e.g., roads, building pads, unvegetated soil areas as described in Finding No. 7); and
13. Watershed projects, including but not limited to instream restoration projects and legacy sediment site treatment activities

Attachment C
Category B Notice of Intent Application Form

Notice of Intent to Comply with the *Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on National Forest System Lands in the North Coast Region* **Order No. R1-2015-0021**

USFS CONTACT INFORMATION

<hr/> USFS Project Contact	<hr/> National Forest
<hr/> <hr/>	<hr/> Ranger District
<hr/> Address	<hr/> Telephone number

PROJECT INFORMATION

<hr/> Project Name	<hr/> Project Size (acres)
<hr/> Primary Watershed Name(s)	<hr/> Stream Name(s)
<hr/> Project Type	<hr/> Stream Name(s)
<hr/> Project Description	

CERTIFICATION

<p>I hereby certify that I understand and intend to comply with all criteria and conditions of Order No. R1-2015-0021 and all applicable water quality control regulations.</p>	
<hr/> Signature, USFS Authorized Officer	<hr/> Date

Attachment D
Category B Notice of Project Completion Form

Notice of Project Completion and Final Certification of Compliance With the *Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on National Forest System Lands in the North Coast Region* **Order No. R1-2015-0021**

USFS CONTACT INFORMATION

<hr/> <p>USFS Project Contact</p> <hr/> <hr/> <hr/> <p>Address</p>	<hr/> <p>National Forest</p> <hr/> <p>Ranger District</p> <hr/> <p>Telephone number</p>
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PROJECT INFORMATION

<hr/> <p>Project Name</p>	
<hr/> <p>Primary Watershed Name(s)</p>	<hr/> <p>Stream Name(s)</p>
<hr/> <p>Project Type</p>	
<hr/> <p>Date of Project Completion</p>	

CERTIFICATION

<p>I hereby certify that the above Project was conducted in conformance with all applicable provisions of Order No. R1-2015-0021. Additionally, I certify that discharges resulting from the above Project were in compliance or are expected to comply with all requirements of applicable water quality control plans.</p>	
<hr/> <p>Signature, USFS Authorized Officer</p>	<hr/> <p>Date</p>