
North Coast Regional Water Quality Control Board

January 12, 2022

Jennifer Mata
BLM Redding Field Office Manager
6640 Lockheed Drive
Redding, CA 96002
jmata@blm.gov

Dear Ms. Mata:

Subject: **Request for Information Pursuant to Water Code section 13267 for assessment of compliance with North Coast Regional Water Quality Control Board Orders No. R1-2020-0021, R1-2015-0021 and R1-2010-0029**

File: USDI, Bureau of Land Management Redding Field Office (CW-849167)

The North Coast Regional Water Quality Control Board (Regional Water Board) Forest Activities Program is currently developing the fourth iteration of our nonpoint source permit for federal lands within the North Coast Region. Part of the process for developing the next permit, which we refer to as the “Federal Lands Permit”, or “FLP”, is an evaluation of the effectiveness of and compliance with past iterations of our permits, including 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. R1-2010-0029¹ (2010 Waiver) and the subsequent *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. R1-2015-0021² (2015 Waiver). On August 24, 2020, The Regional Water Board approved the short-term renewal of the 2015 Waiver. Order No. R1-2020-0021 includes the same conditions and provisions as the 2015 Waiver.

¹ The 2010 Waiver can be found at the following web location:

https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2010/100617_10_0029_Waiver_USFS.pdf

² The 2015 Federal Waiver can be found at the following web location:

https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2015/15_0021_Waiver_USFS.pdf

The purpose of this letter is to request information about the status of Legacy Sediment Site (LSS)³ treatments for the Category B projects we have previously enrolled under the Waivers.

Legacy Sediment Site Treatments

Beginning with the 2010 Waiver, National Forests are required to inventory, prioritize, and treat LSS within Category B project areas⁴. Coverage was expanded to all federal agencies' Category B projects in the 2015 Waiver. As part of our development of the FLP, Regional Water Board staff are also reviewing each Federal Agency's status of completion of LSS treatments for the Category B projects which were enrolled by the Executive Officer under the 2010 and 2015 Waivers.

With a few exceptions, the 2015 Waiver requires all active and potential LSS within Category B project areas to be identified, inventoried, prioritized, scheduled for treatment, and treated. Projects within a Watershed Condition Framework Priority Watershed with an approved Watershed Restoration Action Plan are excluded from project-level LSS treatment requirements. Pending Executive Officer approval, the 2015 Waiver provides for trading of LSS within the same sixth-field watershed where a project is located, or Federal Agencies can propose an alternative LSS treatment plan that treats a subset of LSS on very large project areas, such as for large post-fire recovery projects.

The Regional Water Board recognizes that many Category B projects that are enrolled may not be fully implemented as of the date of this letter. We further understand that this means that many enrolled projects still may have pending LSS treatments to complete, depending upon project type, size, setting, and other factors. Attachment 1 to this letter includes Table 1: *Category B Projects enrolled in 2010 and 2015 Waivers*. Table 1 contains details of the Category B projects that our agency has enrolled under the 2010 and 2015 Waivers. Table 1 contains the total number of LSS required to be treated, the enrollment date, and completion dates for each project. Please refer to the list of Required Actions provided in this letter.

³ Please note that the Federal Lands Permit would replace the term "legacy sediment site" or "LSS" with "controllable sediment discharge source" or "CSDS." Although the definition of LSS and CSDS will remain the same, the purpose of this change is to eliminate the word "legacy" from the term, since non-legacy sources (i.e., those caused by recent activities) can also meet the CSDS criteria, and to align the terminology used to refer to these sites with permits for forestry activities on private lands.

⁴ Note that this letter is not requesting information on projects that were 'grandfathered' under the conditions of the 2004 USFS Waiver. Legacy sediment site treatment was not a requirement of the 2004 Waiver.

Request for Technical Information

Regional Water Board staff are seeking to confirm each Federal Agency's conformance with Federal Waiver requirements, including treatment of LSS.

Water Code section 13267, subdivision (a) provides that the Regional Water Board may investigate the quality of any water of the state within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation, may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of preparing these reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The technical reports required by this Order are necessary to assess compliance with various aspects of the 2010 and 2015 Waivers, as described above.

Regional Water Board requests for technical documents pursuant to Water Code section 13267 now must include an estimate of costs to response to such requirements. Regional Water Board estimate that the cost to respond to the required actions below, by providing information relative to your Federal Agency's performance relative to Category B project implementation and reporting requirements per the MRP, are between \$574 to \$1,616, based upon 20-40 hours of work performed by a staff person at the GS-9 to GS-11 maximum hourly pay rate of \$40.41 (for California GS-11). The burden, including costs, of preparing and submitting this Report bears a reasonable relationship to the need for the report as the information is necessary to evaluate compliance with the 2010 and 2015 Waivers, and to ensure that activities are protective of water quality, and comply with the California Water Code, Water Quality Control Plan for the North Coast Region, Total Maximum Daily Loads (TMDLs), and other State and Regional Water Board plans and policies.

Required Actions

1. By April 1, 2022, please verify whether the list of Category B projects identified in Table 1 is correct. If any project(s) enrolled under the 2010 and 2015 Waivers are not identified in Table 1, please provide the project name, the number of LSS proposed for treatment, and the number of LSS within that project that have been treated by the date of your submittal.
2. By April 1, 2022, please provide the total number of completed LSS in each of the projects identified in Table 1, as well any additional projects identified in Item 3 above, by the date of your response.
3. By April 1, 2022, please provide information detailing any reasons why LSS have not been completed per the approved project LSS treatment schedule for any project in Table 1 or identified in Item 3 above.

If for any reason, your agency is unable to submit the requested information in Required Actions 1-3 by April 1, 2022, you may request, in writing, an extension. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may only be granted by written approval of the Executive Officer.

Right to Petition

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 calendar days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

https://www.waterboards.ca.gov/public_notices/petitions/water_quality/

Please contact Devon Jorgenson at Devon.Jorgenson@waterboards.ca.gov or Carley Dunleavy at Carley.Dunleavy@waterboards.ca.gov if you have any questions or require more information regarding this matter.

Sincerely,

Matthias St. John
Executive Officer

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cc: Nina Hemphill, nhemphill@blm.gov