

**California Regional Water Quality Control Board
North Coast Region**

Order No. R1-2018-0018

**Scott River TMDL Conditional Waiver
of
Waste Discharge Requirements**

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

1. The *Action Plan for the Scott River Sediment and Temperature Total Maximum Daily Loads*, hereinafter known as the Scott River TMDL Action Plan or Action Plan, is incorporated into the Water Quality Control Plan for the North Coast Region (Basin Plan).¹ The Action Plan describes the implementation actions necessary to achieve the Sediment and Temperature TMDLs and attain water quality standards in the Scott River watershed. The Action Plan assigns specific actions for the Regional Water Board and Dischargers² in Table 4-10 of the Basin Plan (Attachment A). The implementation actions are designed to encourage and build upon on-going, proactive restoration and enhancement efforts in the watershed.
2. Pursuant to Water Code section 13269, and consistent with California's [Policy for Implementation and Enforcement of Nonpoint Source Pollution Control Program](#) (May 20, 2004), the Regional Water Board adopted Order No. R1-2006-0081, *Conditional Waiver for Discharges Related to Specific Land Management Activities in the Scott River Watershed North Coast Region* on August 9, 2006 (2006 Order). In the 2006 Order, for Discharges not already authorized under an existing permit or order, the Regional Water Board conditionally waived the requirement for Dischargers to file a Report of Waste Discharge (ROWD) and obtain Waste Discharge Requirements (WDR) pursuant to Water Code section 13269. The 2006 Order applied to Dischargers that participate in specified on-going collaborative programs and implement the measures outlined in the 2006 Order. To be covered under the 2006 Order, Dischargers were required to employ land stewardship practices and activities that minimize, control, and prevent discharges of sediment and elevated solar radiation loads to the Scott River and tributaries.
3. On October 4, 2012 the Regional Water Board adopted Order No. R1-2012-0084 (2012 Order), updating the existing Scott River Conditional Waiver of Waste Discharge Requirements and extending its coverage until October 4, 2017.

¹http://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/scott_river/060307/bpl/Basin_Plan_Language.pdf.

²The term "Dischargers" is used in this Order and includes individuals or entities that are responsible for discharges of waste into the Shasta River as well as those responsible for maintaining operations that may limit or control discharges of waste.

4. On June 1, 2017 the Regional Water Board initiated a 37 day public comment period on Order No. R1-2017-0031 (2017 Order). On June 14, 2017 the Regional Water Board held a staff workshop in Yreka and on June 29, 2017 held a Board workshop in Santa Rosa to solicit public comment on the draft 2017 Order.
5. This 2017 Order waives the requirement for Dischargers to file a ROWD and obtain WDRs for parties who implement the required conditions of this Order and the associated measures described in Table 4-10 of the Basin Plan (Attachment A) and participate in on-going collaborative programs. The Scott River TMDL Action Plan identifies specific implementation actions that apply to Dischargers responsible for road and sediment waste discharge sites, Dischargers responsible for vegetation that shades water bodies, and Dischargers that conduct grazing activities.
6. The Scott River TMDL Action Plan, the 2006 Order, and the 2012 Order did not include automatic requirements for Dischargers to submit enrollment or annual reporting documents. As with the previous Orders, this 2017 Order does not require active enrollment or annual reporting requirements as a condition of obtaining coverage. The Regional Water Board finds that to efficiently prioritize resources for Order implementation it is appropriate for staff to continue to focus on those activities and Dischargers that pose the highest risk to water quality.
7. The Scott River TMDL Action Plan and this 2017 Order include provisions requiring Grazing and Riparian Management Plans and Erosion Control Plans on an as-needed, site-specific basis when required by the Executive Officer. When required, Grazing and Riparian Management Plans must describe, in detail: (1) sediment waste discharges and sources of elevated water temperatures caused by livestock grazing; (2) how and when such sources are to be controlled and monitored; and (3) management practices that will prevent and reduce future sources. For Dischargers responsible for roads, Erosion Control Plans must describe, in detail, sediment waste discharge sites and how those sites will be controlled.
8. The Scott River TMDL Action Plan and this 2017 Order also provide that monitoring and reporting shall be conducted as required by the Executive Officer. Monitoring shall involve one or more of the following: upslope effectiveness monitoring, instream effectiveness monitoring, and compliance and trend monitoring.
9. Factors that increase risk to water quality include type and intensity of land use, proximity to streams, and the length of stream adjacent to such activities. These factors should be considered in determining when Plans shall be required. Accordingly, this Order directs staff to continue its focus on working with Dischargers whose operations present higher risks to water quality. For timberlands managed for timber production, staff should focus on working with the largest Dischargers responsible for upland road management and sediment control.

10. Plans required by the Regional Water Board Executive Officer can range from a simple submittal describing practices implemented to minimize, control and prevent discharges of sediment or elevated solar radiation to the Scott River and tributaries to a plan that comprehensively describes existing sources of sediment discharge and elevated water temperatures, the management practices employed to minimize, control and prevent the sources, and a monitoring and reporting program to document actions taken to control the sources and the effectiveness of such actions. The level of detail required in a plan will be dependent on the site-specific characteristics of an activity or operation, and will be specified in writing by the Regional Water Board Executive Officer.
11. Dischargers who are not required to submit plans and are not otherwise notified by Regional Water Board staff need not file anything with the Regional Water Board so long as they meet conditions of this Order. All Dischargers are required to comply with the provisions in Table 4-10 of the Action Plan (Attachment A of this Order).
12. This Order provides some examples of the types of management measures that minimize, control, and prevent the discharge of sediment and elevated solar radiation loads to the Scott River watershed, consistent with Table 4-10 of the Action Plan (Attachment A). These types of management measures are the type that will minimize, control, and prevent the discharge of waste and other controllable water quality factors associated with a site. Alternative site-specific management measures that achieve equal or better level of performance as the measures contained in this Order may be developed in consultation with Regional Water Board staff for a specific site and activity.
13. Since the adoption of the 2012 Order, important actions have been taken to improve water quality in the Scott River watershed. Fifteen ranches have been assessed by Regional Water Board staff, including 6 of the 15 largest Dischargers in the watershed, as characterized by risk to water quality, accounting for 55 miles of total stream frontage or approximately 33% of the total stream frontage adjacent to private property.
14. Concurrent with these assessments 11 acres of riparian vegetation have been planted, 6 beaver dam analogues have been installed, and 4 major bank stabilization projects have been completed. Additionally, a comprehensive groundwater model has been developed with the support of University of California Davis researchers. This effort has identified management options for increasing flows in the Scott River throughout the summer. Since 2006, a total of \$1.6 Million in grant and contract funding has been awarded to implement many of these actions and promote practices that implement the Scott River TMDL Action Plan.
15. The Regional Water Board, acting as the lead agency under the California Environmental Quality Act (Public Resources Code, sections 21000-21777) (CEQA), conducted an environmental analysis as part of the Scott River TMDL development and adoption process in accordance with title 14, California Code of Regulations, section 15251(g). The implementation of this Order (the "project") will not result in any physical changes in the environment different than those that were analyzed in the Scott River TMDL Action Plan. This project will not result in any new impacts to the environment, accordingly this Order

does not require preparation of a subsequent or supplemental environmental document pursuant to California Code of Regulations, title 14, sections 15162 or 15163. There is no evidence to indicate that substantial changes are proposed for the project, that substantial changes have occurred with respect to the circumstances of the project, or that there is new information of substantial importance with respect to the project. The issuance of this Order is also exempt from the provisions of CEQA in accordance with the following categorical exemptions: title 14, California Code of Regulations sections 15301, (existing facilities); 15304, (minor alterations to land); 15306 (information collection); and 15307 and 15308 (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 determination and exemption after adoption of this Order.

16. State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (Resolution No. 68-16), requires Regional Water Boards to regulate the discharge of waste to maintain high quality waters of the State to ensure that discharges will not unreasonably affect beneficial uses and will not result in water quality less than that described in Regional Water Board policies. This Order is the latest in a series of regulatory orders that implement the Scott River TMDL Action Plan and requires Dischargers to take actions that minimize, control, and prevent non-point source discharges in the watershed. This Order is consistent with Resolution No. 68-16 because it requires that Dischargers employ the best practicable treatment and control measures in order to minimize degradation, achieve water quality standards and prevent nuisance. The Scott River TMDL Action Plan and the management measures required by this Order establish an iterative process that includes evaluation and implementation of management practices in a timely manner to minimize, control, and prevent the discharge of waste. These management practices are enforceable through this Order, and the effectiveness of these measures will be verified through monitoring and reporting as required by the Executive Officer. The Regional Water Board anticipates that any changes in water quality that may occur as a result of Order implementation will, over time, reflect an improvement in water quality, not degradation. Thus, any change in water quality will be consistent with maximum benefit to the people of the State and will not unreasonably affect beneficial uses.
17. The Regional Water Board determines that the adoption of this Order is consistent with the Basin Plan, all applicable statewide plans and policies, is in the public interest, and will not have a significant adverse impact on the environment.
18. Following the expiration or replacement of this 2018 Order, the Regional Water Board intends to address water quality concerns associated with agriculture in the Scott River watershed through a permitting program (i.e. order) more consistent with approaches implemented in other parts of the state. The future order is anticipated to follow the same general approach as this 2018 Order, requiring Dischargers to proactively implement land stewardship practices and activities that minimize, control, and prevent discharges of sediment and solar radiation loads to the Scott River and tributaries. The future order would continue to involve on-site water quality assessments with Regional Water Board staff. However, the future order may differ from this Order by incorporating

a tiered structure, employing multiple levels of permitting rigor commensurate with the level of discharge or threat of discharge, and may require active enrollment procedures and payment of fees. It is likely that the lowest risk tier would be for those properties that have already been assessed by Regional Water Board staff and successfully implemented practices that minimize, control, and prevent discharges of sediment and solar radiation loads to the Scott River and tributaries. Higher tiers with increased monitoring and reporting requirements would likely apply to those properties that have not developed plans or taken actions to comply with the conditions of this 2018 Order. Any future order would be subject to noticing and public comment before consideration of adoption by the Regional Water Board.

THEREFORE, 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 Dischargers in the Scott River watershed that comply with the following conditions:

1. Dischargers that are implementing applicable management measures outlined in this Order will be considered eligible for coverage under this Order. Such Dischargers shall employ land stewardship practices as described below and in Attachment A of this Order.
2. If required in writing by the Regional Water Board Executive Officer, Dischargers shall provide Grazing and Riparian Management Plans, and/or Erosion Control Plans as required.
3. The Regional Water Board Executive Officer may direct the Discharger to develop and implement a site specific monitoring and reporting plan, which upon request, shall be submitted for the Executive Officer's review and approval. Monitoring and reporting may include, but is not limited to, the following:
 - a. Photo documentation related to implementation of management measures;
 - b. Evaluation and documentation of instream and near-stream management measures (e.g., riparian buffer establishment affecting sediment and temperature discharges);
 - c. Stream temperature monitoring;
 - d. Collection of tailwater data, including impacts from tailwater discharge (e.g. collection of water temperature, nutrients, or dissolved oxygen data in tailwater and receiving water and estimates of tailwater discharge volumes);
 - e. Annual summary of progress towards implementing management measures in an approved Grazing and Riparian Management Plan and/or Erosion Control Plan, or other activities designed to minimize, control, and prevent potential water quality impacts; and
 - f. Results of specific monitoring requirements.
4. When any plan as described above is required and subsequently approved by the Executive Officer, the Discharger shall implement the plan. Failure to submit or implement the plan as approved is a violation of this Order.

5. Dischargers shall comply with management measures that minimize, control, and prevent the discharge of sediment and elevated solar radiation loads that affect the Scott River watershed. The following are management measures that will minimize, control, and prevent the discharge of sediment and elevated solar radiation loads to the Scott River watershed. Dischargers shall implement management measures to comply with these standard conditions or management measures developed in consultation with Regional Water Board staff that provide equal or better protection:
- a. Riparian areas are managed in a manner that allows the natural establishment and abundance of native vegetation;
 - b. Riparian areas are managed in a manner that allows sufficient vegetation to minimize, control, and prevent surface erosion;
 - c. Riparian areas are managed in a manner that maintains their essential functions supporting beneficial uses (e.g. sediment filtering, woody debris recruitment, streambank stabilization, nutrient cycling, pollutant filtering, shading);
 - d. Grazed lands are managed in a manner that minimizes, controls, and prevents pollutant discharges;
 - e. Periodic grazing in riparian areas is limited to the late winter/early spring period, when impacts to woody species are minimized;
 - f. Grazing within riparian corridors occurs for short durations, and only when forage consisting of non-woody vegetation is available;
 - g. Livestock are removed from riparian areas when stubble height reaches 4 inches, or livestock shift preference to browsing of woody species, whichever occurs first;
 - h. Livestock are prevented from disturbing sediment discharge sites and other unstable features adjacent to watercourses;
 - i. At no time shall grazing in riparian areas cause a discharge of waste to surface waters;
 - j. Manure, soil, plant waste, and other debris are stockpiled away from areas where they could be washed or eroded into surface waters;
 - k. Management practices are in place to minimize, control, and prevent irrigation water or tailwater from reaching surface waters;
 - l. Tillage practices do not prevent the natural establishment and abundance of native riparian vegetation;
 - m. Management practices, such as buffer strips and cover crops, are in place to minimize, control, and prevent the erosion of sediments that could reach surface waters;
 - n. Nutrients from fertilizers, compost, soil amendments, or other sources are applied at agronomic rates to minimize, control, and prevent nutrient runoff into surface water or percolation into groundwater at levels that violate water quality standards;
 - o. Roads and related infrastructure are constructed and maintained in a manner that minimizes, controls, and prevents the discharge of sediment to surface waters;
 - p. Pesticides are stored, handled, applied, and disposed of in manner that minimizes, controls, and prevents discharge to a surface water or groundwater; and
 - q. Petroleum products and other liquid chemicals, such as gasoline, diesel, biodiesel, and oil shall be stored, handled, used, and disposed of in a manner that minimizes, controls, and prevents discharge to surface water and groundwater.

6. This Order shall not apply to any discharges for which an individual WDR or waiver of WDRs has been issued by the Regional Water Board. It also does not supersede or limit the requirements of any enforcement actions (e.g. cleanup and abatement orders) that are issued by the State Water Board or Regional Water Board.
7. Pursuant to Water Code section 13267, the Regional Water Board staff or its authorized representatives may investigate the property of persons subject to this Order to ascertain whether the purposes of the Porter-Cologne Act are being met and whether the Permittee is complying with the conditions of this Order. This inspection shall be made with the consent of the landowner, or if consent is withheld, with a duly issued warrant pursuant to the procedure set forth in Title 13 Code of Civil Procedure Part 3 (commencing with section 1822.50). However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.
8. Nothing in this Order precludes the Regional Water Board from taking enforcement actions for violations of any discharge prohibitions in the Basin Plan, California Water Code, or to require clean up and abatement of existing sources of pollution, where appropriate.
9. This Order shall not create a vested right, and discharges of waste shall be considered a privilege, as provided for in Water Code section 13263 subdivision (g).
10. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is 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). Dischargers are responsible for meeting all other applicable requirements of local, state, and federal regulations and/or required permits.
11. Discharges shall not cause conditions of pollution or nuisance as defined by Water Code section 13050.
12. This Order does not preclude the need for permits that may be required by other governmental agencies, nor does it supersede any requirements, ordinances, or regulations of any other regulatory agency, including necessary certification and permitting for the application of pesticides and herbicides and proper handling of human/domestic waste.
13. This Order expires five years following the date of adoption or when the Regional Water Board or State Water Board adopts a regulatory action that explicitly supersedes this Order, whichever occurs first.

Certification

I, Matthias St. John, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of Order R1-2018-0018, adopted by the California Regional Water Quality Control Board, North Coast Region, on April 19, 2018.

Matthias St. John
Executive Officer

18_0018_Scott_Waiver