

Response to Written Comments

Draft Order No. R1-2017-0039, Conditional Waiver of Waste Discharge Requirements for Specific Categories of Low Threat Discharges in the North Coast Region

December 13, 2017

Comment Letter Received

The deadline for submittal of public comments regarding Draft Order No. R1-2017-0039, Conditional Waiver of Waste Discharge Requirements for Specific Categories of Low Threat Discharges in the North Coast Region was August 14, 2017. Timely comments were submitted by the OWTS Residents of the Russian River.

Each comment is followed by the Staff response. When the comment is quoted exactly, the text is included in italics. Where appropriate, text to be added in response to the comments is described by section number. Where added text is included word for word, text to be added is identified by underline, and text to be deleted is identified by strike through in this Response to Comments document.

Use of the term “Draft Order” refers to the public review draft. Use of the term “Proposed Order” refers to the post-public review version of the Order that will be presented to the North Coast Regional Water Quality Control Board (Regional Water Board).

A. Comments and Responses

1. Request for Clarification about Applicability of Conditional Waiver with Respect to Replacement OWTS (Finding No. 18)

In the Order, under No. 18, it is stated that this “category waiver will apply only to OWTS for which a replacement OWTS is needed to comply with the OWTS Policy and that were originally constructed and operated prior to the effective date of the OWTS Policy...”

Please add language stating what the trigger will be for needing replacement to comply with the OWTS Policy, i.e., failure of the existing system or application for a building permit that would trigger up-dating of the OWTS. Staff has reassured us that existing systems that are not failing will not otherwise be required to upgrade. A written statement to this effect will memorialize this assurance.

Response: This waiver category is intended to apply to OWTS that require replacement as a corrective action pursuant to section 11.0 of the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems, which was incorporated by reference into the Water Quality Control Plan for the North Coast Region (Basin Plan) on June 19, 2014. The Regional Water Board Executive Officer may also issue the conditional waiver for OWTS that are replaced in accordance with a local agency’s Local Agency Management Program (LAMP). Where an

approved LAMP authorizes the replacement of an OWTS that is not in need of corrective action pursuant to the Basin Plan's OWTS Policy (e.g., as a voluntary upgrade), the replacement OWTS must comply with all conditions of the waiver category in order to be eligible for coverage under the Proposed Order.

Finding No. 18 of Draft Order was revised as follows:

18. The Regional Water Board can see with certainty that the addition of the waiver category of Existing Onsite Wastewater Treatment Systems with Shallow Effluent Dispersal Systems will not have any effect on the environment and this activity is covered by one or more of the above listed CEQA exemptions because granting the waiver will enable the local regulatory agency to approve replacement of an existing OWTS where the replacement OWTS will provide a demonstrable improvement to water quality compared to the existing OWTS through the addition of supplement treatment components and/or improved effluent dispersal methods and the conditions of waiver category initiate active local regulatory oversight of the discharge of pollutants from the existing OWTS.

This waiver category will apply only to OWTS for which a replacement OWTS is needed to comply with the OWTS Policy and that were for OWTS replaced in accordance with an approved LAMP. To be eligible for coverage under this conditional waiver, the OWTS must have been originally constructed and operated prior to the effective date of the OWTS Policy (May 19, 2013) or for which a construction permit was issued prior to the effective date of the OWTS Policy.

2. Request for Clarification about Requirement to Comply with OWTS Policy's Conditional Waiver of Waste Discharge Requirements (Attachment A)

In Attachment A, under "Discharge from Existing Onsite Wastewater Treatment Systems with Shallow Effluent Dispersal Systems, the text states that the system must comply with "all other conditions set forth in section 12.0 (Conditional Waiver of Waste Discharge Requirements) of the Basin Plan Policy on the Control of Water Quality with Respect to On-site Waste Treatment and Disposal Practices." Please clarify that the referenced section 12.0 is in the State OWTS Policy, which will be included by reference in the update to the Basin Plan.

Response: Attachment A of the Draft Order was revised as follows:

The OWTS complies with all other conditions set forth in section 12.0 (Conditional Waiver of Waste Discharge Requirements) of the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems, including future revisions, which was incorporated into the Basin Plan's Policy on the Control of Water Quality with Respect to On-site Waste Treatment and Disposal Practices Implementation Plan for On-site Wastewater Systems.

3. Request for Consideration of Simplified Homeowner Application in Place of Complete Report of Waste Discharge

In Attachment A, the footnote to the Waiver includes a requirement that discharge be “in accordance with a complete ROWD [Report of Waste Discharge] or equivalent.” Preparation of a ROWD by individual homeowners for installation of a septic system would be unnecessarily burdensome. Given that the homeowner will be submitting an application for OWTS construction to the permitting agency, please consider accepting that application as the homeowner’s ROWD. The RWQCB could instruct the permitting agency as to minimum information required to meet ROWD requirements.

Response: The footnote to Attachment A states that a person applying for coverage under the Proposed Conditional Waiver may submit an application that is equivalent to a report of waste discharge. Regional Water Board staff are coordinating with local permitting agency staff to come to agreement what would be equivalent to a complete report of waste discharge for the purpose of applying for coverage under the Proposed Conditional Waiver.

4. Request for Consideration of Two-year Delay in Application of Minimum Requirements in the Draft Advanced Protection Management Program (APMP) for Upgrades for Cesspools and Failing OWTS

We reiterate the request made in our meeting with RWQCB staff on June 21, 2017, that the regulations for the Advanced Protection Management Program (APMP) area of the Russian River watershed include a 2- year continuation of Permit Sonoma’s current voluntary upgrade program. This continuation would provide a grace period during which property owners with cesspools or failing septic systems could make voluntary repairs to bring their systems to repair standards under current County regulations for permitted nonconforming OWTS. Systems installed either before or during this grace period would be vested for 20 years or until functional failure, whichever came first. Improvements to OWTS during the grace period would be at Owners’ expense, at a lower cost than for improvements under the new regulation and reduce the Agency workload considerably. Benefits would include (1) immediate improvements to ground- and surface-water quality; (2) creation of a reasonable, certain program which owners can act on now; (3) a gradual rather than abrupt transition from old regulations to new; and (4) implementation of regulations now, with reduced angst. This continuation program is consistent with the goal of improved water quality in the Russian River.

Response: Comment noted. The minimum requirements for the Program of Implementation for the Russian River TMDL are still under consideration. However, the OWTS Policy, which became effective on May 13, 2013, prohibits a local agency from authorizing in its LAMP any OWTS with less than two feet of separation between the effluent dispersal system and the anticipated highest groundwater level. The Regional

Water Board may authorize the OWTS, but only with conditions set forth in waste discharge requirements or waiver of waste discharge requirements. The Proposed Order provides a path of existing OWTS to be replaced when site conditions preclude a replacement OWTS with the minimum two feet of separation mandated by the OWTS Policy. A “grace period” during which the OWTS Policy requirements would not apply is not supported by the OWTS Policy.