

**Regional Water Quality Control Board
North Coast Region
Executive Officer's Summary Report
December 8, 2022**

ITEM: 2

SUBJECT: Public Hearing on Order No. R1-2022-0031 (Proposed Order) to consider adoption of Conditional Waiver of Waste Discharge Requirements for Specific Categories of Low Threat Discharge in the North Coast Region (Charles Reed, Rachel Prat)

BOARD ACTION: The Board will consider adoption of Conditional Waiver of Waste Discharge Requirements Order No. R1-2022-0031.

BACKGROUND: The California Water Code (Water Code) section 13260 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, shall file with the appropriate Regional Water Board a report of waste discharge, containing the information which may be required by the Regional Water Board.

Water Code section 13269 authorizes Regional Water Boards to waive reports of waste discharge and waste discharge requirements for specific discharges or types of discharge if the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The waiver may not exceed five years in duration but may be renewed by a Regional Water Board in five year increments. The waiver is to be conditional and may be terminated at any time by the Regional Water Board. For those discharges that the Regional Water Board determines pose minimum threat to water quality, monitoring requirements may be waived.

The North Coast Regional Water Board last renewed the Conditional Waiver of Waste Discharge Requirements for Specific Categories of Waste Discharge in the North Coast Region on December 15, 2017, adopting Order No. 2017-0039 (Categorical Waiver). Every five years, before the expiration date of the waiver of waste discharge requirements, Regional Water Board staff reviews the Categorical Waiver categories and waiver conditions established in Attachment A of the Categorical Waiver to assess whether the Order remains in the public interest and, as necessary, recommends changes to the Order.

On March 28, 2022, Gavin Newsom signed Executive Order N-7-22 (Executive Order), to address proclaimed states of emergency across all the counties of California, due to extreme and expanding drought conditions. The Executive Order directed Regional Water Quality Control Boards to prioritize water quality certifications, waste discharge requirements, and conditional waivers of waste discharge requirements, to accelerate approvals for projects that enhance the ability of a local or state agency to capture high

precipitation events for local storage or recharge consistent with water right priorities and protections for fish and wildlife.

DISCUSSION: Staff has reviewed Order No. R1-2017-0039, Conditional Waiver of Waste Discharge Requirements for Specific Categories of Waste Discharge in the North Coast Region and each of the waiver categories and waiver conditions cited in Attachment A of the order. Based on this review staff has made the following proposed change:

1. The addition of a new waiver category titled “Flood Managed Aquifer Recharge.”

Flood Managed Aquifer Recharge (Flood-MAR) is a management strategy that uses surface water flows resulting from, or in anticipation of, rainfall or snowmelt for aquifer recharge (MAR) on agricultural lands and working landscapes. The projects can be implemented at multiple scales, from individual landowners diverting flood water with existing infrastructure, to using extensive detention/recharge areas and modernizing flood protection infrastructure/operations.

Flood-MAR projects focus on applying surface waters directly on large acreages of active agricultural land, fallowed land, working landscapes, dedicated recharge basins (new or existing), or open space. Direct spreading of this water is accomplished by ponding water in dedicated percolation basins or spreading across landscapes where it infiltrates downward into unconfined aquifers. For active farmland, recharge water is anticipated to be applied during the non-irrigation season, using existing or additional irrigation equipment or conveyance facilities.

Flood-MAR projects can recharge/replenish aquifers and provide flood risk reduction, drought preparedness, ecosystem enhancement, and other potential benefits. It is also a promising climate change adaptation strategy that takes an integrated approach to help address two of the most challenging elements of future climate changes: more flashy, intense flood flows, and longer, more severe droughts. Streamlined permitting and implementation of Flood-MAR projects is a priority action outlined in *California’s Water Supply Strategy – Adapting to a Hotter, Drier Future* released by the Newsome Administration in August 2022. Flood-MAR can improve groundwater quality by increasing the amount of water in storage and potentially diluting impaired or contaminated aquifers, where they exist, especially with respect to salts and nutrients. Increasing groundwater levels through Flood-MAR projects can also help prevent or slow seawater intrusion into coastal aquifers. Flood-MAR projects may also improve surface water quantity and quality where the infiltrated water is of high quality and groundwater contributes to surface water flows.

The addition of the Flood-MAR category to the Proposed Order is needed to provide a streamlined path for the Regional Water Board to regulate eligible Flood-MAR projects located within the North Coast Region. The discharge of uncontaminated surface water to groundwater is inherently a low threat to groundwater quality. Waiving waste discharge requirements allows for expeditious water quality permitting of qualifying projects. To be eligible for coverage under the Proposed Order, the Discharger must comply with all conditions of the Order including conditions specific to this new category.

The Regional Water Board finds that issuing a Waiver of WDRs for qualifying discharges under the Flood-MAR waiver category will not have any effect on the environment and this activity is covered by one or more California Environmental Quality Act (CEQA) exemptions. In addition, pursuant to Executive Order N-7-22, during a continued drought emergency and so long as that Order remains in effect, provisions of CEQA are suspended for the issuance of a waiver for Flood-MAR projects.

In accordance with the provisions of Water Code section 13269, Regional Water Board staff has determined that in each case, the discharges for which the existing and new proposed waiver categories are established, will not be subject to general or individual waste discharge requirements at this time, and the issuance of waivers for these categories of waste is consistent with the Water Quality Control Plan for the North Coast Region and is in the public interest.

A draft of this Order was posted on the Regional Water Board website and was available for public comment from August 22, 2022 through September 22, 2022. No comments were received. Staff anticipates that the Proposed Order will be uncontested.

RECOMMENDATION: Adopt Order No. R1-2022-0031, as proposed.

SUPPORTING DOCUMENTS:

1. Proposed Order No. R1-2022-0031
2. Attachment A – Waiver Categories and Requirements
3. Attachment B – Notice of Intent (NOI)
4. Attachment C – Technical Information Form (TIF)
5. Public Notice

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