

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

BOARD ORDER NO. R6T-2014-00XX

CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS

FOR

**WASTE DISCHARGES RESULTING FROM
TIMBER HARVEST AND VEGETATION MANAGEMENT ACTIVITIES
IN THE LAHONTAN REGION
"2014 TIMBER WAIVER"**

Modoc, Lassen, Plumas, Sierra, Nevada, Placer, El Dorado, Alpine, Mono, Inyo,
_____ San Bernardino, Kern, and Los Angeles Counties _____

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A. FINDINGS

WHEREAS the California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. California Water Code (Water Code) section 13260, subdivision (a) requires that any person (hereby referred to as "enrollee") discharging waste or proposing to discharge waste as defined by Water Code section 13050 (including but not limited to waste earthen and organic materials) that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Water Board a report of waste discharge containing information that may be required by the Water Board. Only persons proposing timber harvest and/or vegetation management activities that may potentially result in a discharge or threatened discharge of waste to waters of the state are subject to regulation by the Water

Board and coverage under this waiver of waste discharge requirements (and waiver of the requirement to file a report of waste discharge) or file a report of waste discharge pursuant to Water Code section 13260.

2. The Water Board has identified wastes associated with timber harvest and vegetation management activities (as defined in Attachment A) as having a potential effect on water quality. These vegetation management activities have the potential to effect water quality by causing soil to discharge to a waterbody, slump or erode by wind, or be compacted or deformed which limits the soil's ability to infiltrate or filter runoff. Activities eligible for this Timber Waiver range from fuel reduction work conducted around existing structures to commercial timber harvest and vary in potential threat to water quality. For example, project characteristics such as method of tree removal, intensity and proximity of activities to surface waters, and the sensitivity of the area will influence the mitigation measures needed to ensure the activity will have a less-than-significant impact on water quality and the environment. The types of activities that are eligible for this Timber Waiver have been divided into six categories to address the diversity of activities and the associated conditions. Segregating these activities into categories is intended to assist enrollees in identifying eligibility criteria and conditions that apply to their particular activity. Table 1 summarizes the six categories of activities eligible for the Timber Waiver.

Table 1: Summary of Timber Harvest and Vegetation Management Activity

Categories. Please note that this table supplies only a brief summary of the eligibility criteria, conditions, and requirements of each category, please refer to Section D. Timber Waiver Categories (pages 15-31) for more complete information. For a summary and timeline of the monitoring and reporting required for Categories 4, 5, and 6 please review Attachment P.

Category	Type of timber harvest and vegetation management activities	Notification, application, and monitoring requirements	Application processing timeline
1	Activities associated with defensible space, defense zone, forest fire prevention, and construction activities	No notification, application or monitoring.	None
2	Activities conducted by hand crews, including limited prescribed fire inside Waterbody Buffer Zones		
3	Planned post fire rehabilitation	Written notification within 7 days of initiation. No monitoring required as part of Timber Waiver.	

Category	Type of timber harvest and vegetation management activities	Notification, application, and monitoring requirements	Application processing timeline
4	Activities that rely on existing roads, meet 11 criteria, limited prescribed fire inside Waterbody Buffer Zones, and may include winter period operations	Application, implementation monitoring and reporting, and Project Completion Form submittals required. Winter monitoring required if equipment is operated during the winter period.	Work may begin upon receipt of application by Water Board.
5	CAL FIRE – approved Timber Harvest Plan, Non-Industrial Timber Management Plans, or other CAL FIRE Plans	Application, monitoring and reporting, and Project Completion Form submittals required.	
6	Activities that do not qualify for categories 1-5, and may include activities within 100-year floodplains or Stream Environment Zones	Application, monitoring and reporting, and Project Completion Form submittals required	Application submitted at least 30 days before beginning work.

3. The provisions of Water Code section 13260, subdivisions (a) and (c); section 13263, subdivision (a); or section 13264 subdivision (a) may be waived by the Water Board pursuant to Water Code section 13269 for a specific type of discharge if the Water Board determines, after any necessary meeting, that the waiver is consistent with the Water Quality Control Plan for the Lahontan Region (Basin Plan) and is in the public interest.
4. Water Code section 13269 includes the following provisions:
 - (a) The waiver may not exceed five years in duration, but may be renewed by the Water Board at any time;
 - (b) The waiver shall be conditional and may be terminated at any time by the Water Board;
 - (c) The conditions of the waiver shall include the performance of agency, individual, group, or watershed-based monitoring, unless waived because the Water Board determines that the discharges do not pose a significant threat to water quality;
 - (d) Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions;

- (e) In establishing monitoring requirements, the Water Board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based compliance and effectiveness monitoring efforts; the size of the project area; and other relevant factors;
 - (f) Monitoring results shall be made available to the public; and
 - (g) The Water Board may include as a condition of a waiver the payment of an annual fee established by the State Water Resources Control Board (State Water Board). (At the time of adoption of this Timber Waiver, CA Assembly Bill 1492 precludes the charging of fees for regulation of timber harvest and vegetation management activities).
5. The Lahontan Regional Water Quality Control Board (Water Board) acknowledges the State Water Resources Control Board (State Board) and the USDA Forest Service signed a Management Agency Agreement in 1981 that recognized the USDA Forest Service as a water quality management agency for its lands. The Water Board is aware of the potential for the development of a statewide regulatory action by the State Water Board for vegetation management and other activities on National Forest lands. If, during the period that this Lahontan 2014 Timber Waiver is in effect, the State Board adopts a new statewide regulatory action for vegetation management, then the Water Board will consider revisions to the Timber Waiver consistent with the adopted provisions.
6. The Basin Plan contains water quality standards and implementation measures for specific watersheds. Because of the high quality waters found in the Lahontan Region, additional conditions beyond current state and federal forestry-related regulations are included in this waiver to ensure protection of water quality and compliance with the Basin Plan. In the Lake Tahoe, Little Truckee River, and Truckee River Hydrologic Units (HUs), the Water Board adopted waste discharge prohibitions to limit soil erosion and sediment delivery in and around surface waters and their associated floodplains and Lake Tahoe Stream Environment Zones (SEZs). The Water Board has identified extremely fine sediment (less than 16 micrometers in size) to be the primary cause of clarity loss in Lake Tahoe and the US EPA adopted a Total Maximum Daily Load (TMDL) for sediment and nutrient discharges to Lake Tahoe in August 2011. The US EPA adopted a TMDL for sediment discharge to the Truckee River in September 2009 focusing on controlling sediment from roads and land disturbances. Therefore, this waiver adds additional conditions and requirements within the Lake Tahoe, Little Truckee River, and Truckee River HUs to ensure compliance with the Basin Plan.
7. Soil compaction and deformation depends upon soil moisture content, soil characteristics, organic content within the soil, and compaction forces. Geotechnical Engineers, when striving to achieve compacted soils for construction purposes, have developed the term “optimum moisture content by weight” to describe the moisture level at which soils are most conducive to being compacted. Soil that lacks sufficient moisture, below the soil’s optimum moisture content by weight, is less susceptible to being compacted to that soil’s maximum dry density. Soils with a high organic

content are less susceptible to compaction. Repeated heavy traffic produces additive forces that can compact a soil. Soil that contains moisture at its optimum moisture content by weight is highly susceptible to compaction. Soils at or above optimum moisture content will commonly exhibit wheel or track ruts that are typically deeper than about two to three inches. Soil with more moisture than its optimum is highly susceptible to deformation and this can be observed when heavy equipment operates in those areas and either deep ruts (>3 inches) form or the soils deflect under the weight and are observed to “pump”. The deflection or “pumping” is from the excess water content in the soil. Optimum soil moisture is specific to each soil type and the moisture content within the soil depends on many factors, including precipitation, snowmelt, runoff, organic content, and groundwater levels. Operable soil conditions are defined in Attachment A, and must be restricted to times when the soil lacks sufficient moisture, below the soil’s optimum moisture content to protect water quality.

8. The Water Board recognizes the need statewide to address the current and growing threat of catastrophic wildfire and impacts from climate change. Efforts are underway on a statewide basis to study and address climate change and its effects on forest health. Decades of fire suppression have resulted in unhealthy forests with thick stands of trees and vegetation that require thinning, and in some cases, prescribed fire. Many of these activities need to occur in areas adjacent to waterbodies where there is a higher potential to adversely impact water quality than if the same activity was to occur away from a waterbody. Limited quantitative information about site specific effects of certain timber harvest and vegetation management activities conducted in these areas are known. On the other hand, the water quality effects from wildfire in these areas can be significant and, to some extent, may be estimated based on fire intensity and predicted hydrology. Extensive research has been conducted that supports the efficacy of proactive fuel treatments in limiting the intensity and environmental impacts of wildfires.

The Water Board also recognizes the need to actively manage forests to protect and preserve forest health. Aspen is considered a keystone species in the montane zone of the Sierra Nevada Range, as aspen communities are critical for maintaining biodiversity in western landscapes. Concerns exist related to the observed decline in the health and distribution of aspen stands throughout this area. In order to prevent the replacement of aspens by conifers in the Sierra Nevada, active management will be required. Thinning conifers in riparian areas has been shown to stimulate aspen suckering, and it is hoped that this prescription will result in improved health and distribution of aspen stands within the Sierra Nevada region.

The Water Board recognizes a need for more information on the impacts and appropriate mitigation measures for new and innovative vegetation management activities, including but not limited to, aspen stand restoration/regeneration and equipment use and pile burning within riparian areas. On May 14, 2009, the Water Board adopted the Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region (Resolution No. R6T-2009-0029; 2009 Timber Waiver), which allowed

research and demonstration activities to be conducted in sensitive areas in order to find out more information on the impacts and appropriate mitigation measures for the new and innovative vegetation management practices. The Water Board is allowing these innovative activities to continue under this waiver, and to ensure these innovative activities do not cause a potentially significant effect on the environment, Water Board directs its staff to:

- (a) Impose additional monitoring, such as quantitative monitoring of impacts to soils (compaction, infiltration rate, etc.), ground cover inventories, vegetation recovery, or water quality analysis (see Conditions 5 and 6 of Category 6);
 - (b) Ensure plans include appropriate design features to prevent or limit impacts to water quality;
 - (c) Impose specific environmental triggers or thresholds that must not be exceeded during implementation;
 - (d) Ensure plans contain specific management response(s) in the event that triggers or thresholds are reached;
 - (e) Consider the need to require the project proponent to submit the proposal for external peer review in order to evaluate the appropriateness of the proposed research or demonstration project implementation or analysis; and
 - (f) Notify the public of projects requiring a prohibition exemption a minimum of ten days before such an exemption and coverage under this waiver is considered by the Executive Officer, except for prohibition exemptions which are granted as part of this Timber Waiver (Attachment N).
9. During the term of the 2009 Timber Waiver, the Water Board found that the results of the USFS-Lake Tahoe Basin Management Unit Heavenly Valley Creek Stream Environment Zone Demonstration Project (USFS-LTBMU, 2008) provided sufficient evidence that the operation in the SEZ of cut-to-length (CTL) equipment with ground pressures less than 13 pounds per square inch (psi) did not result in the permanent disturbance of soils, and therefore there was a low risk of the soils discharging to a waterbody via runoff, slumping, or wind erosion. These results are sufficient for allowing future activities using this equipment on similar soils to proceed without requiring a Basin Plan prohibition exemption when monitoring to verify operable soil conditions occurs. Additionally, the results will be considered sufficient for use of the same or similar low ground pressure equipment under comparable conditions elsewhere in the Lahontan Region.
10. Hand-thinning operations within SEZs and other sensitive areas result in a large volume of material (also referred to as slash), which poses a challenge in being removed efficiently in a manner that causes the least disturbance to the sensitive area. The practice of using hand crews to pile and burn slash can be an effective and efficient method for reducing the fuel load in those sensitive areas. Hand thinning crews are the least disruptive to the sensitive area soils as compared to operating mechanized equipment, which has the potential to disturb sensitive soils and vegetation. The 2009 Timber Waiver determined that creating certain-sized slash piles that cover no more than 30% acre in the SEZ, and that burning up to half of those piles (i.e., piles covering up to 15% of the SEZ area) in any given year,

creates a less than significant impact to the resources. Building and burning small piles of this slash in situ within the SEZs is an effective way to remove the fire danger from these sensitive locations; however, this practice often leaves burn scars in which the unique soil functions may be lost and exposes the bare soil to re-colonization by invasive species and potential erosion problems. The 2009 Timber Waiver did not specify a performance standard for vegetative recovery of the burn scar in the SEZ; rather it specified that slash piles not exceed ten feet diameter by five feet high. Research has since shown that the size of the material in the burn pile has more influence on the intensity of the soil impacts than the size of the pile itself, so the pile size specification in the 2009 Timber Waiver is being replaced with a requirement that burn scars show vegetative recovery within two growing seasons.

This Timber Waiver modifies the 2009 Waiver by requiring project implementers to ensure that burn scars show vegetative recovery prior to allowing additional slash pile burning in that acres of the SEZ. Pile burning appears to have a moderate (impacting water repellency and porosity) to severe (impacting infiltration and the native plant community) effect on the physical properties of soils. Research has also shown that soil bacteria and fungal mycelium, along with their nutrient-cycling processes, may be impacted at relatively low temperatures; additionally, carbon and nitrogen may be increased and liberated. Individually monitoring each pile, post-burn, to determine whether the specific soil functions unique to these environments have been impacted is impractical. Monitoring of vegetative recovery within these burn scars to ensure the soil functionality has not been impacted, and is being restored, is more practical. There currently exists little literature regarding what is an acceptable percentage of vegetation colonization in order for vegetative recovery to be considered successful.

Vegetative recovery of burn pile scars can be sped up with actions either before or after the pile is burned. Research has shown that by raking off the organic duff (surface) layer from the area the pile is to be built upon, and raking back this duff post-burn restores resilience and greatly increases recovery of soil functionality within a relatively short time frame. Raking the duff into a pile along the downhill side of the burn pile may also act as a deterrent to any potential erosion. Raking the duff back increases roughness, encouraging re-colonization and assisting infiltration. Raking native plant seeds into the burn scar soil can speed up the time to vegetative recovery.

11. This Timber Waiver allows pile burning within Waterbody Buffer Zones (WBBZs) and SEZs if the projects meet the requirements of Attachment Q, "Required Management Actions for Pile Burning within Waterbody Buffer Zones and Stream Environment Zones Under Timber Waiver Category 6." Enrollees under the 2009 Timber Waiver who proposed slash piling and burning within SEZs were required to provide Water Board staff with the information necessary to justify a Basin Plan prohibition exemption and wait for a 10-day public review and comment period prior to the Water Board's Executive Officer granting an exemption to proceed. The granting of project level Basin Plan prohibition exemptions under this process was repeatedly done during the term of the 2009 Timber Waiver without public concern or significant environmental impact being

identified. In the interest of streamlining the permitting process for hand-thinning activities within SEZs, and based on the information provided in Finding #9, above, this Timber Waiver includes conditional Basin Plan Prohibition Exemption coverage for limited slash piling and burning within SEZs (Attachment N).

12. Pursuant to Water Code section 13269, subdivision (a)(3), the Water Board may waive monitoring requirements for discharges that it determines do not pose a significant threat to water quality.

- (a) For projects conducted under the criteria and conditions of Category 1, which are set forth in Section D, the Water Board waives monitoring requirements. Category 1 covers only those activities:
 - i. conducted near structures, or in or near areas zoned as residential, commercial or industrial. The Water Board finds that these activities do not pose a significant threat to water quality due to their limited scale and typical location and adherence to Category 1 eligibility criteria and conditions;
 - ii. conducted under a Forest Fire Prevention Exemption issued by the California Department of Forestry and Fire Protection (CAL FIRE) pursuant to California Code of Regulations (CCR), title 14, section 1038, subdivision (i). The Water Board finds that these activities do not pose a significant threat to water quality because of the CAL FIRE requirements that limit the scale of these activities and adherence to Category 1 eligibility criteria and conditions which also limits these activities; or
 - iii. conducted under a Dead, Dying, Diseased Exemption issued by CAL FIRE pursuant to California CCR, title 14, section 1038 (b) without exceptions to 1038 (b) condition nos. 6 or 9. The Water Board finds that these activities do not pose a significant threat to water quality because of the CAL FIRE requirements and adherence to Category 1 eligibility criteria and conditions.
- (b) For projects conducted under the criteria and conditions of Category 2, which are set forth in Section D, the Water Board waives monitoring requirements. Category 2 covers only those activities that are conducted by hand crews and low-ground-pressure chippers, brush mowers, or similar equipment for onsite processing of materials cut by hand crews. The Water Board finds activities that comply with the criteria and conditions for Category 2 set forth in Section D do not pose a significant threat to water quality.
- (c) For projects conducted under the criteria and conditions of Category 3, which are set forth in Section D, the Water Board waives monitoring requirements. Category 3 applies only to those activities conducted for post-wildfire rehabilitation, and covers activities to minimize threats to life, property, water quality, and natural and cultural resources. These activities are either limited in scope or specifically intended to control erosion and sedimentation. The Water Board finds activities conducted under Category 3 do not pose a significant threat to water quality.

13. Between 1988 and 2003, the Water Board waived waste discharge requirements for timber harvest activities operating under approved CAL FIRE Timber Harvesting Plans or federal timber sales, according to Resolution No. 6-88-18, Waiver for Waste Discharge Requirements for Specific Types of Discharges. In 2003, after a legislatively-imposed expiration of Resolution No. 6-88-18, the Water Board adopted the initial Timber Waiver. Subsequent Timber Waivers were adopted in accordance with the requirements of Water Code section 13269, which stipulated that waivers be limited to five years in duration. Those waivers were adopted in 2007 and 2009. Following the 2007 Angora fire in South Lake Tahoe, the Water Board adopted Resolution R6T-2009-0029 (the 2009 Timber Waiver), revising R6T-2007-0008 (the 2007 Timber Waiver). This early revision was done in response to the May 2008 Proclamation by the Governor of California encouraging the Water Board to consider recommendations made by the California-Nevada Tahoe Basin Fire Commission to implement actions to improve planning and streamline regulatory processes for fuel reduction activities.

The Water Board is considering a revised Timber Waiver at this time to address:

- (a) The five-year time limit imposed by Water Code section 13269;
- (b) Sections of the R6T-2009-0029 that have been identified by Water Board staff as vague, duplicative, unnecessarily burdensome to staff or operators, or outdated due to recent scientific research; and
- (c) Specific requests made by the Water Board and regulated public and agencies concerning operable soil conditions off roads, slash piling and burning in Lake Tahoe SEZs, and the Monitoring and Reporting Program.

14. Certain terms used in this Timber Waiver have a specific, regulatory definition. The definition of these terms as listed in Attachment A may differ from common, dictionary definitions. All other terms shall have the same definitions as prescribed by the California Forest Practice Rules (FPRs) (CCR, title 14, section 895.1 et seq.), California Public Resources Code (PRC) section 4528, subdivision (f), and the Porter-Cologne Water Quality Control Act (Water Code section 13000 et seq.). Definitions contained in Water Code section 13050(d) controls for the purpose of the Timber Waiver.

15. As defined in Attachment A, "Enrollee" means the landowner(s), any duly authorized representative of the landowner(s), and anyone working on behalf of the landowner(s) in the conduct of timber harvest and vegetation management. Enrollee includes any "person" as that term is defined by Water Code section 13050, subdivision (c).

16. The Water Board adopted the Basin Plan that establishes beneficial uses, water quality objectives, waste discharge prohibitions, and implementation policies that apply to waters of the state and waste discharges to waters of the state within the Lahontan Region. The Basin Plan contains water quality objectives developed to protect the waters for the listed beneficial uses. The factors in Water Code section 13241, including economic considerations, were considered as required during the development

of water quality objectives. Prohibitions, provisions, and conditions contained in this Timber Waiver implement these previously developed water quality objectives. Compliance with water quality objectives will protect the waters for beneficial uses as identified in the Basin Plan.

17. State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintenance of High Quality Waters in California") requires that the Water Board regulate discharges of waste to waters of the state to protect existing high quality waters and achieve the highest water quality consistent with maximum benefit to the people of the state. It 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 Timber Waiver is consistent with Resolution No. 68-16 because it requires compliance with applicable water quality control plans, including applicable water quality objectives, prohibits the creation of pollution or nuisance, and sets forth conditions that require the implementation of additional management practices (in addition to those required in the FPRs [CCR, title 14, section 895.1 et seq] and U.S. Forest Service Best Management Practices guidance manuals) to assure protection of beneficial uses of waters of the state and maintenance of the highest water quality consistent with maximum benefit to the people of the state.
18. The Timber Waiver is consistent with the Basin Plan and is in the public interest as described below.
 - (a) Compliance with the conditions of the Timber Waiver will result in protection of water quality.
 - (b) Without the Timber Waiver, dischargers would be required to submit a report of waste discharge and wait for up to 140 days for the Water Board to prescribe individual waste discharge requirements. Due to limited staff resources, the Water Board would be unable to prescribe requirements in every case, allowing activities to move forward after a lengthy delay without Water Board permit. The Timber Waiver is a regulatory option imposing enforceable conditions that can be used by the Water Board to address a greater percentage of timber harvest activities, while allowing limited resources to be directed to the activities with greatest water quality risk.
 - (c) Forest fuel hazard reduction efforts have increased statewide to address the current and growing fire threat from decades of fire suppression. This revised Timber Waiver continues to respond to the need for expedited permitting for lower-impact fuels hazard reduction and forest enhancement activities, while still maintaining water quality protection through conditions and a monitoring program (under certain circumstances) described in the attachments. This approach balances the need to reduce fire risk quickly while ensuring appropriate management practices and mitigation for water quality impacts are still implemented.
 - (d) The Timber Waiver contains conditions requiring compliance with monitoring and reporting programs for some categories of activities based on the level of potential

threat to water quality pursuant to Water Code section 13267, subdivision (b)(1). The required monitoring will assist in the protection of water quality and in the verification of the adequacy and effectiveness of Timber Waiver conditions pursuant to Water Code section 13269, subdivision (a)(3).

- (e) The Timber Waiver contains conditions that require compliance with the Basin Plan.
- (f) The Timber Waiver prohibits the creation of pollution, contamination or nuisance as defined in Water Code section 13050.
- (g) Violations of Timber Waiver conditions are subject to enforcement remedies including, but not limited to Water Code section 13350 in the same manner as enforcement of waste discharge requirements.
- (h) Water Board staff will continue to participate in the pre-harvest review of proposed timber activities under the FPRs. This provides a process for the incorporation of water quality protective measures into Timber Harvest Plans beyond those required by the FPRs.

19. This Timber Waiver shall not create a vested right to discharge waste and all such discharges shall be considered a privilege, as provided for in Water Code section 13263, subdivision (g). The Water Board Executive Officer may terminate the applicability of the Timber Waiver described herein to any activity at any time when such termination is in the public interest and/or the activity could affect the quality of waters of the state for beneficial uses.

20. On May 14, 2009, the Water Board adopted a mitigated negative declaration in conjunction with the adoption of the 2009 Timber Waiver, in accordance with section 15072 of the CEQA Guidelines (CCR, title 14, section 15000 et seq.), determining there will be no significant adverse impacts to the environment from waiving waste discharge requirements for the categories of activities specified within the 2009 Timber Waiver ("2009 Mitigated Negative Declaration," SCH No. 2009012005). The Regional Board has reviewed that 2009 Mitigated Negative Declaration and has determined, in light of recent research and proposed updates to the 2009 Timber Waiver, that none of the conditions set forth in section 15162 of the CEQA Guidelines calling for the preparation of a supplement EIR or negative declaration have occurred. These findings are supported in an addendum prepared by the Regional Board. Both the 2009 Mitigated Negative Declaration and the addendum reflect the Regional Board's independent judgment and analysis, which concludes that with the implementation of mitigation, which have been incorporated into the requirements of this Timber Waiver, no significant adverse impacts will occur from the adoption of this Timber Waiver. The Regional Water Board will file a Notice of Determination within five days from the issuance of this order.

21. The Water Board held a public hearing on April XX, 2014, in South Lake Tahoe, California, and considered all evidence concerning this matter.

IT IS HEREBY ORDERED that in order to be enrolled under this Timber Waiver, an enrollee must meet applicable eligibility criteria and requirements for that category of

activities covered by this Waiver, including the General Provisions and all applicable general and category-specific conditions of this Timber Waiver, as set forth below.

B. GENERAL PROVISIONS

1. Pursuant to Water Code section 13269, subdivision (a), the Water Board waives requirements to submit reports of waste discharge and obtain waste discharge requirements for persons proposing or conducting activities which meet the eligibility criteria and comply with the conditions and general provisions set forth in this Timber Waiver.
2. The Water Board anticipates that most activities will proceed under a single category of the Timber Waiver. However, if a project is phased, or divided geographically, such that portions qualify under Category 1, 2, or 3; and other portions qualify under Category 4, 5, or 6; the enrollee has the option of enrolling such phases or portions under different categories. Water Board notification is only required for the portions of projects or activities that qualify under Category 4, 5, or 6.
3. The Water Board does not waive the filing of a report of waste discharge or waive waste discharge requirements for persons proposing projects that include activities with impacts that are not mitigated to less-than-significant levels, such as those identified in a CEQA environmental impact report, or a National Environmental Policy Act (NEPA) or Tahoe Regional Planning Agency (TRPA) environmental impact statement. Not all timber harvest and vegetation management activities proposed in the Lahontan Region will be eligible for this Timber Waiver. Enrollees proposing activities that are not eligible for this Timber Waiver must file a report of waste discharge with the Water Board pursuant to Water Code section 13260.
4. This Timber Waiver shall not create a vested right to discharge waste and all such discharges shall be considered a privilege, as provided for in Water Code section 13263, subdivision (g). The Water Board Executive Officer may terminate the applicability of the Timber Waiver described herein to any activity at any time when such termination is in the public interest and/or the activity could affect the quality of waters of the state for beneficial uses.
5. This Timber Waiver shall become effective on April XX, 2014 and shall expire on April XX, 2019 unless terminated or renewed by the Water Board. Discharges regulated under this Timber Waiver are not authorized, and waste discharge requirements are not waived, after April XX, 2019 unless this Timber Waiver is renewed by Water Board action.
5. Discharges currently regulated under the 2009 Timber Waiver may proceed under the conditions of that waiver, or may be re-enrolled under this 2014 Timber Waiver. After April 9, 2014 no new applications for permit coverage under Resolution No. R6T-2009-0029 (the 2009 Timber Waiver) will be accepted.
6. Timber harvest and vegetation management activities approved by CAL FIRE under an Exemption or Emergency Notice may be eligible for coverage under Timber Waiver

Categories 1, 2, 3, 4, or 6, depending on the scope of the proposed activities.

7. A monitoring and reporting program is adopted in conjunction with this 2014 Timber Waiver and shall be adhered to by all waiver enrollees, using the attached monitoring forms adopted by the Water Board.
8. Pursuant to Water Code section 13269, Timber Waiver enrollees may request a waiver of monitoring or propose an alternate monitoring and reporting program, subject to approval by the Executive Officer. The Executive Officer may impose additional or revised monitoring and reporting requirements pursuant to Water Code section 13267. The Executive Officer may modify application, monitoring, and reporting forms (Attachments C through M).

C. GENERAL CONDITIONS

1. Activities must be conducted in compliance with the Basin Plan, and other applicable laws, regulations, and plans.
2. Wastes, including but not limited to, petroleum products, soil, silt, sand, clay, rock, felled trees, slash, sawdust, bark, ash, pesticides, must not be discharged to surface waters or be deposited in locations where such material may discharge to surface waters. If discharge of wastes to surface waters occurs (not previously authorized by the Water Board), the enrollee must notify the Water Board by telephone or email within 24 hours of detection of the discharge or the next business day, whichever comes first.
3. **Condition for activities within the Little Truckee River, Truckee River, or Lake Tahoe HUs only:** If timber harvest and vegetation management activities are planned within 100-year floodplains of the Little Truckee River, Truckee River, or Lake Tahoe HUs, SEZs, or high erosion hazard lands (Bailey Land Classification 1a, 1c, or 2) of the Lake Tahoe HU, waste discharge prohibitions may apply. The Water Board grants a conditional Basin Plan Prohibition Exemption in certain cases as described in Attachment N, for slash piling and burning in Lake Tahoe HU SEZs that is conducted under Waiver Category 6, and in accordance with the requirements of Attachment Q. Review Attachments N and Q to verify if any proposed activities would need a Basin Plan prohibition exemption prior to proceeding.
4. Activities conducted under the Timber Waiver must comply with the category-specific eligibility criteria and conditions, including monitoring and reporting requirements where specified. The enrollee must conduct activities in accordance with information submitted in the application for waiver coverage, if one is required. For Categories 4, 5, and 6, the enrollee must conduct monitoring and reporting pursuant to Water Code section 13267 unless alternate monitoring and reporting requirements have been approved by the Executive Officer.
5. Timber harvest and vegetation management activities must be conducted in accordance with any design features, management actions, mitigation measures,

and monitoring plans developed as part of complying with CEQA, NEPA, the FPRs, and/or TRPA environmental analysis requirements.

6. Timber harvest and vegetation management activities subject to this Timber Waiver must not create a pollution, contamination, or nuisance, as defined by Water Code section 13050, subdivisions (k), (l), and (m).
7. All equipment used must be monitored for leaks, and removed from service if necessary to protect water quality. All spills must be immediately contained and spilled materials and/or contaminated soils must be properly disposed. An emergency spill kit adequate to contain spills that could result from onsite equipment must be at the project site at all times of equipment use.
8. This Timber Waiver does not permit any illegal activity, and does not preclude the need for permits or licenses that may be required by other governmental agencies, or other approvals by the Water Board such as discharges subject to a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act, including silvicultural point sources as defined in 40 Code of Federal Regulations, section 122.27. This waiver is not a substitute for state Water Quality Certification (WQC) under section 401 of the federal Clean Water Act which is required if a federal permit, such as a Clean Water Act section 404 permit, is required. Also, persons practicing forestry must ensure that they maintain appropriate licenses and certifications pursuant to Public Resources Code sections 752 and 753.
9. Pursuant to Water Code section 13267 subdivision (b) and Water Code section 13269 subdivision (a), any proposed material change to the activities proceeding under the Timber Waiver must be reported to Water Board staff in advance of implementation of any such change. Material changes include, but are not limited to:
 - (a) Change of project location or increase in size;
 - (b) The addition of winter period operations;
 - (c) Relocation or addition of watercourse crossings; or
 - (d) Addition or relocation of roads or skid trails into a WBBZ.
10. Any proposed material change to a project that does not result in a change in qualification under this waiver to a higher Category (e.g., Category 4 to Category 4) must be reported to the Water Board prior to implementation. Material changes to Category 6 projects shall not proceed until Category 6, Condition 1 is satisfied.

Any proposed material change to a project that results in a change in qualification under this waiver to a higher category (e.g., Category 2 to 4, or Category 4 to 6) must follow the notification requirements as if it was a new application.
11. A report of waste discharge must be filed with the Water Board pursuant to Water Code section 13260 for any proposed material change to the activities proceeding under the Timber Waiver that would result in ineligibility for Timber Waiver coverage.

12. For the purpose of performing inspections and conducting monitoring, Water Board staff must be allowed reasonable access onto property where timber harvest and vegetation management activities are proposed, are being conducted, or have been terminated or completed. Inspections and monitoring may include sample collection, measuring, and photographing/taping to determine compliance with waiver conditions and eligibility criteria. Such inspections and monitoring are consistent with Water Code section 13267, subdivision (c), PRC section 4604, subdivision (b)(1), and other applicable laws.

Prior to, or immediately upon entering the property, Water Board staff will attempt to contact the site owner, persons performing the timber harvest and vegetation management activities, or other on-site representative(s) in order to inform the landowner or persons onsite of each inspection, and to discuss any safety considerations. If consent to access to property is unreasonably withheld, the Executive Officer may terminate the applicability of the Timber Waiver.

13. **Condition for Categories 4, 5, or 6:** For the purpose of observing, inspecting, photographing, digitally recording or videotaping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with the eligibility criteria, conditions, or provisions of this Timber Waiver, enrollees agree to allow Water Board staff:
- (a) Entry at any time, with or without advance notice, onto: (1) the real property where timber harvest and vegetation management activities covered under this Timber Waiver are proposed, are being conducted, or have concluded; and (2) any and all outdoor areas in the control or ownership of the enrollee, in the vicinity of and downstream of timber harvest and vegetation management activities; and
 - (b) Access to and permission to copy any record required to be kept under the conditions of this Timber Waiver, including, but not limited to, any self-monitoring records and/or equipment used to fulfill monitoring requirements.

D. TIMBER WAIVER CATEGORIES

Category 1: Defensible space, fire prevention, dead-dying-diseased tree removal, and construction activities

Eligibility Criteria:

Activities that may proceed under this category are those:

- (1) Undertaken to comply with state, local, or county defensible space requirements, including PRC section 4291 requirements, OR
- (2) Conducted on undeveloped lots (as defined in Attachment A) up to three acres in size for the purpose of fuels reduction and/or construction activities, OR

- (3) Conducted on public lands or with public funding (where a Registered Professional Forester (RPF), Federal Forestry Professional, or Natural Resource Professional has developed and oversees the plan) to provide up to a 300-foot defense zone adjacent to subdivision boundaries, private parcel lot lines, and/or around structures and facilities (not including linear features such as roads, trails, or utility corridors), OR
- (4) Conducted under a CAL FIRE issued Forest Fire Prevention Exemption and in compliance with CCR, title 14, section 1038, subdivision(i), OR
- (5) Undertaken to remove isolated hazard trees in response to an imminent threat to life or property, OR
- (6) Conducted under a CAL FIRE issued Dead, Dying, Diseased Exemption in compliance with CCR, title 14, section 1038(b) without any exceptions to section 1038(b) condition nos. 6 or 9.

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above are not required to notify, apply, or report monitoring to the Water Board if they comply with the following conditions:

- (1) Timber harvest and vegetation management activities must not cause or create erosion, destabilization of stream banks, temperature increases in waterbodies, disturbance to non-target WBBZ (as defined in Attachment B) vegetation, or concentrated surface runoff.
- (2) All areas disturbed by activities must be stabilized (as defined in Attachment A) at the conclusion of the activity or before the winter period (as defined in Attachment A), whichever is sooner.
- (3) Chipped and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs, chipped and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.
- (4) Slash piles must not be built or burned within WBBZs, SEZs (as defined in Attachment A), or 100-year floodplains (as defined in Attachment A).
- (5) Equipment, including tractors and vehicles, must not be driven into SEZs, wet areas, or WBBZs, except over existing roads or watercourse crossings where vehicle tires or tracks remain dry.
- (6) The operation of equipment, including tractors and vehicles, shall minimize soil disturbance to the maximum extent practicable.

- (7) No tractor, vehicle, or equipment use on saturated soils (as defined in Attachment A).
- (8) All activities conducted under Category 1 must comply with the General Conditions of this Timber Waiver and meet one of the category-specific eligibility criteria listed above.

Category 2: Activities conducted by hand crews (as defined in Attachment A) including thinning operations and prescribed fire

Eligibility Criteria:

Activities that may proceed under this category must meet all of the following eligibility criteria:

- (1) Activities shall be conducted by hand, except for low impact equipment, see Eligibility Criteria 2(a) below, to assist hand crew operations.
- (2) Tractor, vehicle, and equipment access shall be limited to existing roads with the following exceptions:
 - (a) Low impact equipment with ground pressures less than 10 psi, such as chippers, brush mowers, or similar equipment for onsite processing of materials cut by hand crews; and
 - (b) Single passenger all-terrain vehicles (ATVs) or snowmobiles.
- (3) No construction or expansion of roads, crossings, landings, staging areas, etc.

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above are not required to notify, apply, or report monitoring to the Water Board if they comply with the following conditions:

- (1) On existing roads, tractors, vehicles, low-ground-pressure chippers or other equipment shall not be operated during saturated soil conditions (as defined in Attachment A).
- (2) Operation of ATVs, chippers, brush mowers, or similar equipment off roads must always occur at distances greater than 25 feet from a waterbody and when at least one of the following conditions occurs:
 - (a) Soils are operable (as defined in Attachment A); or
 - (b) Hard-frozen soil conditions (as defined in Attachment A) exist; or
 - (c) Snow depth is sufficient to not allow visible disturbance of soils.
- (3) Prior to the commencement of activities within WBBZs (as defined in Attachment B), trees with a diameter-at-breast-height (DBH, as defined in Attachment A) greater than three inches planned for removal, or trees designated for retention,

must be marked (including a base mark below the cutline) or designated by written prescription and/or sample mark. However, all trees with a DBH greater than 14 inches planned for removal within WBBZs must be marked (including a base mark below the cutline). Marking or written prescription must be done by either a(n):

- (a) RPF or supervised designee;
 - (b) Federal Forestry Professional (as defined in Attachment A) or supervised designee; or
 - (c) Natural Resource Professional or supervised designee.
- (4) Activities must not cause or create erosion, destabilization of stream banks, temperature increases in waterbodies, disturbance to non-target WBBZ vegetation, or concentrated surface runoff.
- (5) All areas disturbed by timber harvest and vegetation management activities must be stabilized at the conclusion of operations or before the winter period (as defined in Attachment A), whichever is sooner.
- (6) Chipped and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs chipped and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.
- (7) The following conditions apply to prescribed fire:
- (a) Areas burned within WBBZs must be left in a condition such that waste, including ash, soils, and/or debris, will not discharge to a waterbody.
 - (b) If fuel breaks are constructed, effective waterbreaks must be constructed at the end of burning operations or prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.
 - (c) Broadcast burning (as defined in Attachment A) is allowed as long as the prescription does not include active ignition within WBBZs
 - (d) Burn piles may be placed within WBBZs under all of the following circumstances:
 - i. Piles must not be located within 100-year floodplain (as defined in Attachment A) of any watercourse.
 - ii. Piles must be located a minimum of 25 feet from any waterbody.
 - iii. Piles must be limited in size to no more than 10 feet in diameter;
 - iv. No more than 10% of a treatment acre within the WBBZ shall be covered in piles.; and
 - v. No placement or burning of piles within SEZs (as defined in Attachment A) in the Lake Tahoe HU.

(Note: Prescribed fire within WBBZs that do not meet the above conditions may be authorized pursuant to an activity-specific notification under Category 6. See General Provision 2, in Section B, above.)

- (8) All activities conducted under Category 2 must comply with the General Conditions of this Timber Waiver and meet the category-specific eligibility criteria listed above.

Category 3: Post-fire emergency rehabilitation

Eligibility Criteria:

Activities implemented to minimize threats to life or property, and/or to stabilize soil and prevent unacceptable degradation to natural and cultural resources resulting from the effects of a wildfire and suppression of a wildfire. Non-post-fire activities conducted under a CAL FIRE Emergency Exemption (e.g., emergency removal of trees dead or dying as a result of animal or plant infestations, extreme weather impacts, or pollution, or removed for emergency repair or maintenance of roads, or removed due to a significant fire threat, etc.) do not qualify for Category 3. Non-emergency activities initiated more than 60 days of a wildfire being controlled, are also not eligible. All post-fire rehabilitation projects, either Federal or Non-Federal, which cannot meet these criteria or conditions, must apply for coverage under Categories 4 or 6.

Conditions:

- (1) Land owners or their representatives planning or conducting activities described above must contact Water Board staff in writing within seven (7) days of initiating these activities and provide the location and a description of the activities being conducted.
- (2) **Condition for activities within the Little Truckee, Truckee River, or Lake Tahoe HUs only:** If timber harvest and vegetation management activities are planned within 100-year floodplains (as defined in Attachment A) of the Little Truckee River, Truckee River, or Lake Tahoe HUs, or Lake Tahoe HU SEZs (as defined in Attachment A), waste discharge prohibitions may apply. Review Attachment N to verify if any proposed activities would need a Basin Plan prohibition exemption prior to proceeding.
- (3) Slash, chipped, and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs (as defined in Attachment B) compressed slash, chipped, and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.
- (4) Post-fire emergency activities conducted under Category 3 are exempt from monitoring and reporting unless the Executive Officer imposes individual monitoring requirements based upon potential water quality impacts related to the activities. If a U.S. Forest Service Burned Area Emergency Response (BAER) report or similar is prepared independent of Water Board requirements, the land owner or representative must make a copy available to Water Board staff upon request.

- (5) All activities conducted under Category 3 must comply with the General Conditions of this Timber Waiver, set forth in Section C, above, and meet the category-specific eligibility criteria listed above.

Category 4: Activities that rely on existing roads, meet the following 11 criteria, and may include winter-period operations

Eligibility Criteria:

Activities that may proceed under this category must meet the following eligibility criteria:

- (1) No construction of new temporary or permanent roads.
- (2) No widening of watercourse crossings or road surfaces.
- (3) No construction of new watercourse crossings except for the construction of over-snow watercourse crossings.
- (4) The use of up to one crossing of a dry Class III watercourse per $\frac{1}{4}$ mile of stream length that does not disturb the bed or banks of the stream channel. Prior to use operable (as defined in Attachment A) soil conditions must exist and the crossing shall be passable by standard production 4-wheel drive vehicles without any grading or excavation of the stream bed or banks or crossing approaches.
- (5) No tractor, vehicle, or equipment operations within SEZs (as defined in Attachment A) or WBBZs (as defined in Attachment B), except for:
 - (a) Use and maintenance of existing roads and crossings;
 - (b) Up to one crossing of a dry Class III watercourse per $\frac{1}{4}$ mile of stream as described in Criteria 4, above;
 - (c) Use of equipment with ground pressures less than 13 psi at distances greater than 25 feet from a waterbody, when soils are operable;
 - (d) When snow depth is sufficient to not allow visible disturbance of soils or
 - (e) When hard frozen conditions exist (as defined in Attachment A)
- (6) No mechanical site preparation (as defined in Attachment A).
- (7) No activities on slopes greater than 60%, except for aerial or cable operations.
- (8) No tractor, vehicle, or equipment operations on slopes greater than 50%.
- (9) No construction of new skid trails on slopes greater than 40%, except over-snow operations.
- (10) No construction of landings requiring earthwork (i.e., grading or excavation) on slopes greater than 20% within 200 feet of a watercourse and where there is potential for sediment delivery to a waterbody due to soil disturbances.

- (11) No tractor, vehicle, or equipment operations on soils with high or extreme erosion hazard rating, known slides, or unstable areas, except over-snow operations.

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above must comply with the following conditions in order to proceed under this Timber Waiver category:

- (1) Submit a complete Category 4 Application Form (Attachment C). Activities may begin upon verification from Water Board staff that an application was received as determined by a notice of receipt from Water Board staff or by confirmation of delivery by the United States Postal Service or other private carrier.
- (2) Pursuant to Water Code section 13267, **Implementation monitoring**, as described in the Category 4 Implementation Monitoring Form (Attachment D), must be completed before November 15 of every year for the duration of activities. Monitoring information must be submitted to the Water Board by January 15 of the following year.
- (3) Pursuant to Water Code section 13267, if tractor, vehicle, or equipment operations occur in the winter period (as defined in Attachment A), the enrollee must comply with the Category 4 **Daily Winter-Period Monitoring Program** (Attachment E) and conduct Winter Implementation Monitoring (Attachment H). Data accumulated during this monitoring must be retained by the enrollee and submitted July 15 of every year.
- (4) Over-snow watercourse crossings may be constructed as long as they are removed at the conclusion of operations or before a rain event if there is a risk of diversion or obstruction of the natural flow of water within the channel. Removal of such watercourse crossings must be done without disturbing watercourse bed or banks.
- (5) Facilities that cross Class I watercourses that support fish must be installed and maintained so as to allow for unrestricted passage of fish during all life stages.
- (6) In the Truckee River, Little Truckee River, and Lake Tahoe HUs, only 13 psi CTL equipment may operate within 100-year floodplains (as defined in Attachment A) or Lake Tahoe SEZs without a Basin Plan prohibition exemption, provided the conditions of Table N1 (in Attachment N) are met. Enrollees proposing other equipment or activities on volcanic soils must apply for a Basin Plan prohibition exemption for Executive Officer consideration under Category 6 of the waiver.
- (7) Tractor, vehicle, or equipment operations on roads or anywhere outside WBBZs and SEZs must be limited to:
 - (a) Times of the year when soils are not saturated (as defined in Attachment A);
 - or

- (b) Over hard-frozen soil conditions; or
 - (c) When snow depth is sufficient to not allow visible disturbance of soils.
- (8) Prior to the commencement of activities within WBBZs, trees with a DBH greater than three inches planned for removal, or trees designated for retention, must be marked (including a base mark below the cutline) or designated by written prescription and/or sample mark. However, all trees greater than 14-inch DBH planned for removal within WBBZs must be marked (including a base mark below the cutline). Marking or written prescription must be done by either a(n):
- (a) RPF or supervised designee;
 - (b) Federal Forestry Professional (as defined in Attachment A) or supervised designee; or
 - (c) Natural Resource Professional or supervised designee.
- (9) Activities must not cause or create erosion, destabilization of stream banks, temperature increases in waterbodies, disturbance to non-target vegetation within WBBZs, or concentrated surface runoff.
- (10) Slash, chipped, and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs, compressed slash, chipped, and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.
- (11) All completed areas disturbed by activities must be stabilized at the conclusion of operations or before the winter period (whichever is sooner). For winter operations, areas must be stabilized prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.
- (13) In areas where tractors, vehicles, or equipment are operated over-snow the following must be clearly marked for operator visibility:
- (a) All waterbodies;
 - (b) Culverts; and
 - (c) Stream crossings.
- (14) Plowing of roads, landings, and turnouts during over-snow operations must allow for adequate road drainage, and must not:
- (a) Expose soils;
 - (b) Damage road surfaces and associated drainage structures; or
 - (c) Result in concentrated flows of snowmelt and runoff that has the potential to reach a waterbody.
- (15) The following conditions apply to prescribed fire:

- (a) Areas burned within WBBZs must be left in a condition such that waste, including ash, soils, and/or debris will not discharge to a waterbody;
- (b) If fuel breaks are constructed, effective waterbreaks must be constructed at the end of burning operations or prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours;
- (c) Broadcast burning (as defined in Attachment A) is allowed as long as the prescription does not include active ignition within WBBZs.
- (d) Burn piles may be placed within WBBZs under all of the following circumstances:
 - i. Piles must not be located within 100-year floodplain of any watercourse;
 - ii. Piles must be located a minimum of 25 feet from any waterbody
 - iii. Piles must be limited in size to no more than 10 feet in diameter;
 - iv. No more than 10% of a treatment acre within the WBBZ shall be covered in piles.;
 - v. No placement or burning of burn piles within SEZs in the Lake Tahoe HU;

(Note: Prescribed fire within WBBZs that do not meet the above conditions may be authorized pursuant to an activity-specific notification under Category 6. See General Provision 2 in Section B above.)

- (16) Pursuant to Water Code section 13267, notify the Water Board in writing at least **30 days prior** to the proposed application of pesticides (as defined in Attachment A), except for application of borax and/or sporax directly to tree stumps. The written notice must include the following:

- (a) Type of pesticide
- (b) Method and area of application
- (c) Projected date of application
- (d) Measures that will be employed to assure compliance with the Basin Plan. Subsequent changes to the proposal must be submitted in writing at least 14 days before the application, unless Water Board staff agrees in writing to a shorter notice period.

- (17) Upon completion of timber harvest or vegetation management activities, enrollees must submit an Implementation Monitoring Form (Attachment D) and request termination of coverage under the Timber Waiver in accordance with Attachment M, Notice of Activity Completion Form.

The enrollee and the activities remain subject to all applicable Timber Waiver criteria and conditions (including required monitoring and reporting) until a Notice is received from Water Board staff terminating coverage under the Timber Waiver. Prior to approving (or declining) termination, Water Board staff may inspect the project area.

- (18) All activities conducted under Category 4 must comply with the General Conditions of this Timber Waiver, set forth in Section C, above, and meet the category-specific eligibility criteria listed above.

**Category 5: CAL FIRE approved Plans
(including Timber Harvest Plans, Non-Industrial Timber Management
Plans, other Plans, and Amendments)**

Eligibility Criteria:

Activities eligible under this category must meet the following criteria:

- (1) The Timber Harvest Plan or Nonindustrial Timber Management Plan (Plan) has been approved by CAL FIRE.
- (2) If recommendations have been made by Water Board staff during the CAL FIRE Review Team process, they have been incorporated into the approved Plan or the Timber Waiver application (if not, apply under Category 6, or submit individual Report of Waste Discharge).

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above must comply with the following conditions in order to proceed under this Timber Waiver category:

- (1) Submit a complete Category 5 Application Form (Attachment F). Activities may begin upon verification from Water Board staff that an application was received as determined by a notice of receipt from Water Board staff, or by confirmation of delivery by the United States Postal Service or other private carrier.
- (2) An RPF has clearly indicated (within the approved Plan) whether the proposed activities could occur within or affect the following areas:
 - (a) Aquatic or wetland habitat;
 - (b) Known landslides or unstable areas; and
 - (c) Areas of high or extreme erosion hazard rating.
- (3) An RPF has clearly indicated (within the approved Plan or as an addendum to the Timber Waiver application) whether the following conditions are present within the Plan area:
 - (a) Overflow channels resulting from the obstruction of stream flow or stream diversions; or
 - (b) Culverts showing evidence of inadequate flow capacity.
- (4) An RPF has clearly indicated (within the approved Plan or as an addendum to the Timber Waiver application) whether the following activities will occur:

- (a) Use of new or existing skid trails on slopes greater than 50% (or 30% in the Lake Tahoe HU). The identification of individual trails or the shading of areas planned for skid trail construction or reconstruction can satisfy this condition;
 - (b) Construction of new watercourse crossings and/or the modification of existing watercourse crossings;
 - (c) Landings or skid trails (including existing landings and skid trails and/or those to be constructed or reconstructed) proposed for use during timber harvest and vegetation management activities for which any portion of the landing or skid trail lies within a WBBZ (as defined in Attachment B);
 - (d) Equipment operations or chip placement within WBBZs, Lake Tahoe, Truckee River, or Little Truckee River HUs 100-year floodplains (as defined in Attachment A), or Lake Tahoe HU SEZs (as defined in Attachment A); or
 - (e) Prescribed fire within WBBZs, Lake Tahoe HU SEZs, or Lake Tahoe, Truckee River, or Little Truckee River HUs 100-year floodplains.
- (5) If any of the activities or conditions listed above (in Conditions 2 through 4) exist or are proposed, an RPF must provide within the approved Plan or Timber Waiver application, project modifications and/or mitigation measures to avoid any adverse impact(s) to water quality. The project must be conducted in accordance with the Plan and waiver application.

Within the Lake Tahoe, Little Truckee River, and Truckee River HUs, Basin Plan prohibitions may apply (see Attachment N). If an exemption is required, the enrollee must request an exemption and provide additional information in the Plan or as an addendum to the Waiver application to address the required Basin Plan findings and criteria. The Executive Officer must grant an exemption before activities subject to the prohibitions may occur.

- (6) Facilities that cross watercourses that support fish must be installed and maintained so as to allow for unrestricted passage of fish during all life stages.
- (7) Culverts at watercourse crossings in which water is flowing at the time of installation shall be installed using methods to temporarily isolate or divert stream flows from the culvert installation area.
- (8) Permanent watercourse crossings and approaches shall be installed and maintained to accommodate 100-year flood flows and associated debris.
- (9) Vegetation, other than target species (as defined in Attachment A), that is found along waterbodies, or within or bordering meadows and wet areas, must be retained and protected during timber harvest and vegetation management activities, unless they have been marked or designated by written prescription for removal by an RPF or supervised designee to achieve fuel reduction goals or riparian forest health.
- (10) Pursuant to Water Code section 13267, comply with the **Monitoring and Reporting Program** described in the Category 5 Application Form (Attachment F),

or as directed by the Executive Officer. As noted on the Category 5 Application Form, there are two instances where enrollees may temporarily suspend effectiveness and forensic monitoring:

- (a) Under certain extended periods where no site activities will occur between the last effectiveness monitoring after ground disturbing activities are completed and the stocking activities have resumed; or
- (b) Where project operations have commenced and are then subsequently suspended indefinitely by events above and beyond the control of the enrollee (e.g., large wildfires flooding mills with “black logs” while green logs are refused).

Under either of these temporary monitoring suspensions, the enrollee must agree that no project-related equipment shall enter the project sites during these periods of inactivity, either on or off roads. The enrollee must note these periods of inactivity on the annual monitoring reports and include an explanation for the temporary suspension. During these interim periods, the Timber Waiver shall remain in effect and monitoring shall resume either at the request of Water Board staff at any time (e.g., if a large storm event occurred during this period) or when on site equipment operations have resumed.

- (11) Pursuant to Water Code section 13267, notify the Water Board in writing at least **30 days prior** to the proposed application of pesticides (as defined in Attachment A), except for application of borax and/or sporax directly to tree stumps. The written notice must include the following:

- (a) Type of pesticide;
- (b) Method and area of application;
- (c) Projected date of application; and
- (d) Measures that will be employed to assure compliance with the Basin Plan

Subsequent changes to the proposal must be submitted in writing at least 14 days before the application, unless Water Board staff agrees in writing to a shorter notice period.

- (12) Pursuant to Water Code section 13267, upon completion of timber harvest activities enrollees must request termination of coverage under the Timber Waiver in accordance with Attachment M, Notice of Activities Completion Form.

The project and the enrollee remain subject to all applicable Timber Waiver criteria and conditions (including required monitoring and reporting) until a Notice is received from Water Board staff terminating coverage under the Timber Waiver.

- (13) Activities conducted under Category 5 must comply with the General Conditions of this Timber Waiver, as set forth in Section C, above, and meet the category-specific eligibility criteria listed above.

Category 6: Activities that do not qualify for Categories 1 – 5, and may include burning or equipment operations within Waterbody Buffer Zones, 100-year Floodplains, or Stream Environment Zones.

Eligibility Criteria:

Activities that do not qualify under Categories 1 – 5, including Federal and Non-Federal post-fire rehabilitation projects that cannot meet the conditions of Category 3, may be eligible under this category if the enrollee adheres to the following conditions.

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above must comply with the following conditions in order to proceed under this Timber Waiver category:

- (1) Submit a complete Category 6 Application Form (Attachment K). Activities may begin once Water Board staff has notified the enrollee that their application is complete, or **30 days** following receipt of an application by Water Board staff as determined by a notice of receipt from Water Board staff, or by confirmation of delivery by the United States Postal Service or other private carrier.
- (2) An RPF, Federal Forestry Professional (as defined in Attachment A), or Natural Resource Professional has clearly indicated (within certified environmental documents completed in compliance with CEQA and/or NEPA, or within the Timber Waiver Application submitted to the Water Board) whether proposed activities could occur within or affect the following:
 - (a) Known landslides or unstable areas;
 - (b) Areas of high or extreme erosion hazard rating;
 - (c) Overflow channels, flood prone areas, and riparian areas; or
 - (d) Aquatic or wetland habitat
- (3) An RPF, Federal Forestry Professional, or Natural Resource Professional has clearly indicated (within certified CEQA and/or NEPA document(s), or within the Timber Waiver Application) whether the following conditions are present within the project area:
 - (a) Overflow channels resulting from the obstruction of stream flow or stream diversions;
 - (b) Culverts showing evidence of inadequate flow capacity; or
 - (c) Migrating channels or erodible watercourse banks.
- (4) An RPF, Federal Forestry Professional, or Natural Resource Professional has clearly indicated (within certified CEQA and/or NEPA document(s), or within the Timber Waiver Application) whether the following activities are included within the proposed project:
 - (a) Skid trails on slopes greater than 50% (greater than 30% in Lake Tahoe HU);
 - (b) Construction of new watercourse crossings and/or modification of existing watercourse crossings;
 - (c) Landings and skid trails (including existing landings and skid trails and/or

- those to be constructed or reconstructed) proposed for use during timber harvest and vegetation management activities for which any portion of the landing or skid trail lies within a WBBZ (as defined in Attachment B);
- (d) Equipment operations within WBBZs or Lake Tahoe HU SEZs (as defined in Attachment A) or Lake Tahoe, Truckee River, or Little Truckee River HU 100-year floodplains (as defined in Attachment A);
 - (e) Prescribed fire within WBBZs, Lake Tahoe HU SEZs, or Lake Tahoe, Truckee River, or Little Truckee River HUs 100-year floodplains; or
 - (f) New roads within the Tahoe HU.

- (5) If any of the activities or conditions listed above (in Conditions 2 through 4) exist or are proposed, the enrollee must, in the application, NEPA, and/or CEQA document, explain and justify the proposal and provide project modifications and/or mitigation measures to avoid any adverse impact(s) to water quality. If details and mitigation measures are referenced in supporting documentation (NEPA, 401 WQC, etc.), that document must be attached or provided electronically, and the specific location of the referenced details must be noted. The project must be conducted in accordance with environmental documents and the waiver application (including implementation of design features and mitigation measures).

Within the Lake Tahoe, Little Truckee River, and Truckee River HUs, Basin Plan prohibitions may apply (see Attachment N). If an exemption is required, the enrollee must request an exemption and provide additional information in the Plan or as an addendum to the Waiver application to address the required Basin Plan findings and criteria including additional project specific monitoring to evaluate effects. The enrollee may also include project trigger(s) (as defined in Attachment A) or thresholds where activities will stop if the trigger(s) are reached. The enrollee will propose the appropriate and quantifiable triggers. However, if the enrollee does not propose trigger(s), or fails to propose trigger(s) adequate to prevent discharge, Water Board staff will work with the enrollee to develop appropriate trigger(s). The Executive Officer must grant an exemption before activities subject to the prohibitions may occur.

- (6) Pursuant to Water Code section 13267, comply with the **Monitoring and Reporting Program** described in the Category 6 Application Form (Attachment K) or as directed by the Executive Officer. If a BAER report or similar is prepared, this must be submitted to Water Board staff upon request.
- (7) Pursuant to Water Code section 13267, if tractor, vehicle, or equipment operations occur in the winter period (as defined in Attachment A), the enrollee must comply with the Category 6 **Daily Winter-Period Monitoring Program** (Attachment E). Data accumulated during this monitoring must be retained by the enrollee and submitted July 15 of every year.
- (8) Over-snow watercourse crossings may be constructed as long as they are removed at the conclusion of operations or before a rain event if there is a risk of diversion or obstruction of the natural flow of water within the channel. Removal of

such watercourse crossings must be done without disturbing watercourse bed or banks.

- (9) Tractor, vehicle, or equipment operations on existing roads, or off roads outside WBBZs, must be limited to:
 - (a) When soils are not saturated (as defined in Attachment A); or
 - (b) When hard-frozen soil conditions exist (as defined in Attachment A); or
 - (c) When snow depth is sufficient to not allow visible disturbance of soils.
- (10) Off existing roads within WBBZs, tractor, vehicle, or equipment operations can occur under Conditions 4(d) and 5, above, when (a), (b), or (c) below applies :
 - (a) When soils are operable (as defined in Attachment A); or
 - (b) When hard-frozen soil conditions exist; or
 - (c) When snow depth is sufficient to not allow visible disturbance of soils.
- (11) Within SEZs in the Lake Tahoe HU and 100-year floodplains of the Lake Tahoe, Truckee River, and Little Truckee River HUs, only CTL equipment with ground pressures less than or equal to 13 psi may be used without need for a Basin Plan prohibition exemption provided the conditions of Table N1 (in Attachment N) are met.
- (12) If operating within the sensitive areas described under Condition 11, above, CTL equipment must travel only over areas that have been scattered with sufficient limbs and tree tops to prevent rutting or compaction of underlying soils and minimize damage to native SEZ vegetation. The CTL Forwarder, or other low ground pressure method, shall remove this slash bed when backing out of a completed unit; sufficient slash shall be left to provide adequate ground cover (as defined in Attachment A).
- (13) In areas where sufficient slash is unavailable to adequately control erosion, the applicant shall identify and approximately map these areas, and detail equally-protective mitigation measures in the Timber Waiver application and apply for a Basin Plan prohibition exemption. In developing alternative mitigation measures to driving on a bed of slash where sufficient slash is not available, the applicant shall, at a minimum, create waterbreaks on these CTL equipment trails in accordance with the 2013 California FPRs, CCR, title 14, section 914.6. Waterbreaks or more protective mitigation measures shall be either created by hand work or using the CTL equipment as it is backing out of the unit.
- (14) Within 100-year floodplains of Lake Tahoe, Truckee River, and Little Truckee River HUs, and Lake Tahoe HU SEZs, other equipment may be used provided the Executive Officer has granted an exemption to the Basin Plan Prohibition (see Attachment N).

- (15) All areas disturbed by timber harvest and vegetation management activities must be stabilized at the conclusion of operations or before the winter period, whichever is sooner.
- (16) Slash, chipped, and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs, compressed slash, chipped, and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.
- (17) Facilities that cross Class I watercourses that support fish must be installed and maintained so as to allow for unrestricted passage of fish during all life stages.
- (18) Culverts at watercourse crossings in which water is flowing at the time of installation shall be installed using methods to temporarily isolate or divert stream flows from the installation area.
- (19) Permanent watercourse crossings and approaches shall be installed and maintained to accommodate 100-year flood flows and associated debris.
- (20) Prior to the commencement of timber harvest and vegetation management activities within WBBZs, trees with a DBH greater than three inches planned for removal, or trees designated for retention, must be marked (including a base mark below the cutline) or designated by written prescription and/or sample mark. However, all trees greater than 14-inch DBH planned for removal within WBBZs must be marked (including a base mark below the cutline). Marking or written prescription must be done by either a(n):
 - (a) RPF or supervised designee;
 - (b) Federal Forestry Professional or supervised designee; or
 - (c) Natural Resource Professional or supervised designee.
- (21) Vegetation, other than target species (as defined in Attachment A), that is found along waterbodies, or within or bordering meadows and wet areas, must be retained and protected during timber harvest and vegetation management activities.
- (22) The following conditions apply to prescribed fire within 100-year floodplains, WBBZs, or SEZs):
 - (a) Slash piles must not be located within the 100-year floodplain of any watercourse or within 25 feet of a watercourse;
 - (b) Piling and burning of slash within SEZs and WBBZs may be conducted provided the requirements of Attachment Q are adhered to. Enrollees proposing SEZ pile burning activities that don't meet the requirements in Attachment Q must apply for a Basin Plan prohibition exemption under this Timber Waiver category;

(c) Authorization for piling and burning slash not meeting the conditions in (a) or (b) above will be considered by the Executive Officer following Water Board staff review of burn plan(s) or supplemental information submitted with the Timber Waiver Category 6 Application that includes site specific information such as, but not limited to:

- i. Soil type(s);
- ii. Vegetative cover;
- iii. Minimum distances from waterbodies;
- iv. Topography;
- v. Percent of area to be burned within the WBBZ and/or SEZ;
- vi. Explanation why burn piles within the WBBZ and/or SEZ is proposed; and
- vii. Monitoring and mitigation measures or project design features to be implemented to ensure no significant adverse environmental effects will occur.

- (d) Broadcast burning (as defined in Attachment A) is allowed as long as the prescription does not include active ignition within SEZs or WBBZs;
- (e) These activities will be subject to additional monitoring and reporting requirements pursuant to Water Code section 13267 (e.g., vegetative recovery, invasive species, evidence of erosion or transport of ash);
- (f) Areas burned within WBBZs must be left in a condition such that ash, soils, and/or debris will not discharge to a waterbody; and
- (g) If fuel breaks are constructed, effective waterbreaks must be constructed at the end of burning operations or prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.

(23) Pursuant to Water Code section 13267, notify the Water Board in writing at least **30 days prior** to the proposed application of pesticides (as defined in Attachment A), except for application of borax and/or sporax directly to tree stumps. The written notice must include the following:

- (a) Type of pesticide;
- (b) Method and area of application;
- (c) Projected date of application; and
- (d) Measures that will be employed to assure compliance with the Basin Plan.

Subsequent changes to the proposal must be submitted in writing at least 14 days before the application, unless Water Board staff agrees in writing to a shorter notice period.

- (24) Pursuant to Water Code section 13267, upon completion of activities enrollees must request termination of coverage under the Timber Waiver in accordance with Attachment M, Notice of Activity Completion Form.
- (25) The project and the enrollee remain subject to all applicable Timber Waiver criteria and conditions (including required monitoring and reporting) until a Notice is

received from Water Board staff terminating coverage under the Timber Waiver. Prior to approving (or declining) termination, Water Board staff may inspect the project area.

- (26) Activities conducted under Category 6 must comply with the General Conditions of this Timber Waiver, as set forth in Section C, above, and meet the category-specific eligibility criteria listed above.

E. CERTIFICATION

I, Patty Kouyoumdjian, 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, Lahontan Region, on April XX, 2014

PATTY KOUYOUMDJIAN
EXECUTIVE OFFICER

Attachments:

- A: Definitions and List of Acronyms
- B: Waterbody Buffer Zones
- C: Category 4 Application Form and Monitoring and Reporting Program
- D: Category 4 Implementation Monitoring Form
- E: Category 4 and 6 Daily Winter Period Monitoring Program
- F: Category 5 Application Form and Monitoring and Reporting Program
- G: Fall Implementation Monitoring Form (Category 5 & 6)
- H: Winter Implementation Monitoring Form (Category 4, 5 & 6)
- I: Forensic Monitoring Form (Category 5 & 6)
- J: Effectiveness Monitoring Form (Category 5 & 6)
- K: Category 6 Application Form and Monitoring and Reporting Program
- L: Photo-Point Monitoring Form
- M: Notice of Activity Completion Form
- N: Waste Discharge Prohibition and Exemption Information for the Little Truckee, Truckee River, and Lake Tahoe Hydrologic Units
- P: Summary of Monitoring and Reporting Required for Categories 4, 5, and 6
- Q: Requirements for Pile Burning within SEZs or Waterbody Buffer Zones