California Regional Water Quality Control Board
North Coast Region

Order No. R1-2010-0029

Waiver of Waste Discharge Requirements For Nonpoint Source Discharges Related to Certain Federal Land Management Activities On U.S. Forest Service Lands In the North Coast Region

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

1. The North Coast Region encompasses 12,409,600 acres (19,390 miles^2) of lands. The United States Forest Service (USFS) owns and manages public lands encompassing approximately 55.5% of the North Coast Region (6,889,419 acres) spread between two USFS Regions and six national forests:

    a. The USFS Region 5 (Pacific Southwest Region), manages all of or a portion of the following National Forests: Modoc National Forest, Klamath National Forest, Shasta/Trinity National Forest, Six Rivers National Forest, and Mendocino National Forest (referred to cumulatively as "forests"). These forests comprise about 6,793,819 acres of the North Coast Region.

    b. The USFS Region 6 (Pacific Northwest Region) manages a portion of the Rogue River-Siskiyou National Forest, accounting for approximately 95,600 acres of the North Coast Region.

2. The USFS manages lands for multiple uses, which include grazing, forestry, recreation, vegetation manipulation, and restoration. Activities associated with these uses may generate sediment, affect shade canopy, or influence other water quality parameters of waters of the state. This Waiver of Waste Discharge Requirements For Nonpoint Source Discharges Related to Certain Federal Land Management Activities On Forest Service Lands In the North Coast Region ("Waiver") addresses nonpoint source discharges of waste to waters of the state from activities associated with specific uses of USFS lands (also referred to as "nonpoint source activities").

3. The USFS's management over a large portion of the North Coast Region coupled with its planning framework that, when implemented, meets the water quality protection needs of the Regional Water Board, provides a unique opportunity for comprehensive permit coverage that provides better and more efficient protection of the beneficial uses of water by addressing temperature and sediment sources systematically across the landscape.

4. This Waiver covers discharges from nonpoint source activities described below, which have the potential to discharge wastes that affect waters of the state. Most of

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the potential impacts are associated with erosion and sediment delivery and/or changes to riparian systems that may reduce shade and affect water temperatures. These activities and their potential water quality impacts are as follows:

- **Timber Harvesting:** Timber harvesting activities on USFS lands and its associated road network have the potential to generate sediment from equipment use and from erosion of bare ground on roads, landings, and skid trails, and to reduce shade canopy from tree removal due to logging, road construction, and equipment operations.

- **Roads:** Maintenance, construction, and decommissioning of roads pose a potential impact to water quality from erosion, mass wasting, and canopy removal. The USFS road network is extensive, serving the multiple uses associated with USFS lands, including timber harvesting, recreation, mining, and grazing.

- **Grazing**: Grazing by livestock in riparian areas has the potential to cause impacts to water quality. These impacts include the discharge of nutrients and pathogens from animal waste and the removal of riparian shade by browsing livestock. Grazing in the riparian zone also causes increased sediment load to surface waters and physical compaction of the streambed. Disturbance and overgrazing of streambanks causes decreased bank stability, leading to increased erosion, and reduces the ability of riparian and instream vegetation to trap sediment.

- **Recreation:** There is a wide array of recreational activities that take place on USFS lands. The most common water quality impacts from recreational activities are erosion and sedimentation associated with the use of trails, roads, and camping sites.

- **Vegetation Manipulation:** In addition to timber harvesting, the USFS thins vegetation on its lands as part of its fuel management practices, which are intended to reduce the likelihood and severity of wildfire and protect communities at risk; as part of forest rehabilitation activities (selection cuts and thinning addressed as timber harvest); and as part of riparian area rehabilitation to improve diversity and promote conifer species. These activities can generate sediment and alter natural shade conditions.

- **Restoration**: These activities are generally associated with road decommissioning (addressed above), remediation of existing and potential sediment discharge sites, instream habitat improvements, and forest rehabilitation.

- **Fire Suppression**: These activities may generate sediment and impact riparian areas during the fire fighting process, which may include road building, fire line construction, and back-burning. Immediate remediation of potential discharge sites is required under the USFS Burned Area Emergency Rehabilitation (BAER) program, whose objective, in part, is to prescribe and implement emergency

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treatment on federal land to minimize threats to life or property from the effects of a fire and to stabilize and prevent unacceptable degradation to natural or cultural resources. Fire fighting and the implementation of the BAER program are conducted pursuant to specific plans and procedures set out in each Forest's Land and Resource Management Plan. A Forest may conduct activities after the BAER activities to address erosion control, reforestation, and riparian improvements.

5. This Waiver does not authorize mining discharges, except to the extent that the USFS employs management practices that address sediment and temperature from roads, unvegetated soil, and building pads that are associated with mining activity on USFS land. This Waiver does not authorize discharges of hazardous or human waste. This Waiver does not authorize discharges from the application of herbicides or pesticides. This Waiver does not apply to waste discharges that require a separate permit from the State or Regional Water Board, such as activities that require a Clean Water Act 404/401 permit, a NPDES permit, or a construction stormwater permit. This Waiver does not apply to specific projects associated with the activities on federal land identified herein, when the specific project may result in impacts to water quality that cannot be mitigated to less-than-significant levels.

USFS Planning Framework

6. The USFS activities are governed by a planning framework that contains overarching policies and guidance as well as standards and specific guidelines, which represent a reasonable and logical approach to addressing water quality protections needed in a watershed. The planning framework sets a process for determining and implementing measures not only to mitigate potential water quality impacts, but also to enhance and protect water quality. As described in detail below, elements of the planning framework range from the overarching watershed protection goals of the Northwest Forest Plan, to very specific best management practices for USFS activities, including nonpoint source activities, on USFS land to prevent, minimize, and mitigate waste discharges.

7. The water quality protections and measures contained in the USFS plans, policies, and other documents that comprise the USFS planning framework are described in Findings 8-18, and are referred to collectively in this Waiver as "USFS Guidance."

8. USFS lands are managed according to the USFS Guidance, which is applied through a nesting or hierarchy of spatial scales (multiple-region, Forest, watershed, site). The Northwest Forest Plan (NWFP) provides overall guidance on a multiple-forest scale. Land and Resource Management Plans (LRMPs) are developed on the Forest scale. Individual forests use the Watershed Improvement Program (WIP) to guide watershed assessment and restoration on a watershed level. Watershed Restoration Plans are developed from the watershed assessments. The assessments and priorities developed for each watershed and contained in a Watershed Restoration Plan guide USFS site-specific activities within each watershed. In this way, the approach to addressing potential impacts from USFS activities and projects, including water quality, in the broader multiple-region guidance is consistent with the guidance established for each individual Forest,

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watershed, and each specific site, with projects at the site-scale being responsive to watershed needs and consistent with the NWFP and LRMPs.

9. The USFS Guidance addresses protection, maintenance, and enhancement of water quality in a reasonable and logical manner at its various spatial scales. Key water quality components of the broadest planning framework are described below:

   NWFP - The NWFP provides the USFS with an assessment and planning process that guides its activities in the Six Rivers, Klamath, Mendocino, Shasta-Trinity, and Rogue River-Siskiyou National Forests, as well as that portion of the Modoc National Forest within the NWFP.

   LRMPs - In 1994, the NWFP amended LRMPs for the forests within its jurisdiction, making the LRMPs the land management plans for those forests.

   ACS - The primary mechanism protecting aquatic resources within the NWFP is the establishment of the Aquatic Conservation Strategy (ACS), which has nine objectives for maintaining and restoring the function, diversity, and integrity of the riparian and aquatic system, including water quality protection (http://www.reo.gov/library/reports/newsandga.pdf).

   Riparian Reserves - Riparian reserves are a key component of the ACS and comprise lands along streams and unstable and potentially unstable areas where special standards and guidelines direct land use. Riparian reserves apply to all ephemeral, intermittent, and perennial streams and geologically unstable areas. These reserve areas maintain hydrologic, geomorphic and ecological processes that directly affect streams and fish habitats. Widths of the reserves can range from a minimum of 100 feet on each side of ephemeral and/or intermittent streams to over 300 feet on each side of perennial fish bearing streams. Only activities that protect or enhance ACS objectives are permissible within a riparian reserve.

   Riparian reserves serve to protect aquatic resources and water quality from timber harvesting activities, road building, and other nonpoint source activities such as grazing, by maintaining a diverse riparian community that provides resiliency to the system, a buffer area from upslope activities, canopy for shade and aquatic nutrition, and maintaining the function of the riparian areas to filter and meter sediment coming from hillsides and down a water course.

   A portion of the Modoc National Forest is not included in the NWFP, rather is covered by the Sierra Nevada Forest Plan (SNFP), amended in 2004 (http://www.fs.fed.us/r5/snfpa/final-seis/). The SNFP is analogous to the NWFP, providing similar guidance for forests in the Sierra Nevada Mountains and Modoc Plateau. The SNFP equivalent to the “Riparian Reserve” is the “Riparian Conservation Area.” Reference to “Riparian Reserve” in the descriptions below also applies to the SNFP’s “Riparian Conservation Area.” The term “designated riparian zone” is defined and used in the conditions sections of this Waiver to include both the NWFP “Riparian Reserve” and the SNFP “Riparian Conservation Area.”

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10. ACS components, including riparian protections, are included in LRMPs for each Forest.

11. The USFS Watershed Improvement Program (WIP) is a nation-wide USFS program that guides assessment of watershed conditions, inventories and identifies watershed restoration needs, and implements restoration activities. Implementation of the WIP results in assessment and restoration on a watershed scale.

12. In accordance with the WIP, each Forest identifies the priority watersheds for restoration, and the essential projects that will bring about improvement in watershed condition. The intent of the program is to focus watershed restoration activities in priority watersheds and progress through the priority watersheds in a stepwise manner, eventually providing assessment and restoration for all the watersheds. As described in more detail below, priority watersheds receive heightened water quality protection under the USFS Guidance and are integral for maintaining sanctuary habitats for threatened and endangered species and unique plant and animal communities. Watershed restoration projects are not limited to priority watersheds, and are used to address watershed issues and water quality problems in lower priority watersheds.

13. The primary components of the WIP are:

- Priority Watershed Selection ("Key Watersheds")
- Watershed Assessments or Watershed Analyses
- Watershed Improvement Needs Inventories
- Essential Project Identification (e.g., road crossings, road decommissioning, landslide stabilization)
- Watershed Restoration Plans
- Annual Watershed Improvement Accomplishments Reporting

14. The WIP, including the selection of Key Watersheds, Watershed Analysis, and Watershed Restoration planning are important components for addressing legacy[1] nonpoint sources. These components of the WIP are described below:

    a) **Key Watersheds** comprise a system of large refugia based on a watershed scale that are specifically established for the protection of fish and water quality. Key Watersheds comprise nearly 40% of USFS lands within the North Coast Water Board Region. Key Watersheds are the cornerstone for maintaining or recovering habitat for anadromous and resident fish species. Guidance established for Key Watersheds includes placing a high priority on their restoration and a policy of no net increase in total road mileage in the watershed.

    The establishment of Key Watersheds and the management of those areas are designed to protect the watersheds and their water resources from activities that negatively affect aquatic resources. As a result, nonpoint

[1] Legacy sources or sites are considered those existing discharge or potential discharge areas or sites that are the result of human activity from the past and can reasonably and feasibly be remedied.

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source activities in Key Watersheds receive heightened attention, which provides additional water quality protection and improvement.

b) **Watershed Analysis** evaluates the geomorphic and ecological processes operating in a watershed and is intended to enable watershed planning to achieve ACS objectives. Watershed Analysis provides the basis for monitoring and restoration programs, and has been completed for a majority of the USFS watersheds in the North Coast Region. This Waiver requires the USFS to provide a list of watersheds that have undergone a Watershed Analysis and those that have not, with an anticipated date for completion of Watershed Analysis.

   Watershed Analysis informs restoration planning efforts through the identification of watershed problems, such as erosional features, problem roads and road sections, and riparian areas not meeting the ACS objectives, as well as identifying those areas that should be preserved from any activities.

c) **Watershed Restoration** is a comprehensive, long-term program of restoration and remediation of sites within a watershed that is intended to restore watershed health and aquatic ecosystems, including the habitats supporting fish and other aquatic and riparian-dependent organisms. Current restoration emphasis is on controlling and preventing sediment runoff from roads through upgrading and decommissioning roads.

   Watershed level assessment and planning is used to identify appropriate restoration projects for each watershed, resulting in the development of a Watershed Restoration Plan, which includes prevention, restoration, and monitoring. Restoration addresses legacy and potential sediment delivery sites and riparian area needs, as well as other improvements, such as instream habitat enhancement or improving forest stand conditions, and involves taking inventory of watershed needs, prioritizing projects to implement those needs, and implementing those specific projects. The identification, prioritization and remediation of legacy nonpoint sources to address specific problems and meet goals for improving and maintaining watershed functions is also an important component for the Regional Water Board's nonpoint source program and TMDL compliance.

15. USFS documents that provide guidance for watershed-scale planning, restoration, and assessment, include:

- The USFS Region 5 FSH 2509.22 Soil and Water Conservation Handbook Chapter 20 (July 1988) that provides direction for assessing cumulative watershed effects.
- The USFS Manual, Chapter 2020 (September 2008) that provides a policy for using ecological restoration in the management of National Forest lands, further supporting watershed analysis and restoration and the ACS.

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16. Individual projects and activities on USFS land undergo analysis to determine appropriate site-specific management practices necessary to avoid water quality impacts. The USFS in California operates under a Management Agency Agreement (MAA) with the State Water Resources Control Board, which was developed through the Clean Water Act section 208 program in 1981. The MAA relies, in part, on a manual of Best Management Practices (BMPs) (USFS 2000[2]), referred to in this Waiver as the "USFS BMP Manual."

17. The BMPs described in the USFS BMP Manual are performance based management measures to be applied to activities on USFS lands to avoid water quality impacts, and for each individual site, specific on-the-ground prescriptions have to be identified and implemented. Several documents and processes provide guidance for effective identification and implementation of site-specific, on-the-ground prescriptions, including:

    - Individual Forest Land and Resource Management Plans
    - USFS Timber Sales Administration Handbook
    - Project-specific design criteria
    - Regional Soils standards included in the LRMPs (provide direction for protecting soil productivity, particularly as it applies to ground disturbance relative to soil compaction and erosion)
    - Wet Weather Operation Standards that each Forest has to address practices to avoid erosion and sedimentation from activities conducted during wet weather
    - Project implementation mechanisms (e.g., contracts and agreements)

18. Many individual projects and activities on USFS land are conducted by private parties that contract with the USFS. For example, private parties bid on timber sales and other projects, and if awarded, enter into a contract with the USFS to perform those activities. A similar process is engaged for parties conducting grazing activities on USFS land ("lessees"). For the purposes of this Waiver, private parties that enter into agreements with the USFS to conduct Category B timber and grazing activities are referred to as "contract operators" and all agreements entered into between contract operators and the USFS are referred to as "contracts". In order to be covered by this Waiver, contract operators must conduct activities on USFS land in accordance with the contract (specifying on-the-ground prescriptions) and applicable conditions of this Waiver. Specific application procedures set forth in Waiver conditions 6 and 19-30 apply to contract operators for timber sales and grazing allotments.

Legal and Regulatory Structure

19. Water Code section 13260(a) 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, must file with the

[2] USFS, 2000. Water Quality Management for Forest System Lands in California, Best Management Practices. USDA Forest Service, Pacific Southwest Region, Vallejo, CA.

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appropriate regional water board a report of waste discharge (ROWD) containing such information and data as may be required.

20. Pursuant to Water Code section 13260, regional water boards prescribe waste discharge requirements except when it finds, pursuant to Water Code section 13269 that a waiver of waste discharge requirements for a specific type of discharge is in the public interest.

21. The State Water Board 2004 *Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy) requires that nonpoint source discharges of waste be regulated by waste discharge requirements (WDR), waiver of waste discharge requirements, or prohibition to ensure compliance with regional water board water quality control plans.

22. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan) and State Water Board plans and policies, including State Water Board Resolution No. 88-63, and consistent with the federal Clean Water Act, the existing and potential beneficial uses of waters in the North Coast Region include one or more of the following:

    a. Municipal and Domestic Supply (MUN)
    b. Agricultural Supply (AGR)
    c. Industrial Service Supply (IND)
    d. Industrial Process Supply (PROC)
    e. Groundwater Recharge (GWR)
    f. Freshwater Replenishment (FRSH)
    g. Navigation (NAV)
    h. Hydropower Generation (POW)
    i. Water Contact Recreation (REC-1)
    j. Non-contact Water Recreation (REC-2)
    k. Commercial and Sport Fishing (COMM)
    l. Cold Freshwater Habitat (COLD)
    m. Warm Freshwater Habitat (WARM)
    n. Wildlife habitat (WILD)
    o. Preservation of Areas of Special Biological Significance (BIOL)
    p. Rare, Threatened, or Endangered Species (RARE)
    q. Marine Habitat (MAR)
    r. Migration of Aquatic Organisms (MIGR)
    s. Spawning, Reproduction, and/or Early Development (SPWN)
    t. Shellfish Harvesting (SHELL)
    u. Estuarine Habitat (EST)
    v. Aquaculture (AQUA)

23. The Basin Plan contains water quality objectives to protect these beneficial uses.

24. Numerous North Coast streams are listed as impaired for sediment and temperature pursuant to Clean Water Act section 303(d). The US Environmental Protection Agency (EPA) has established Total Maximum Daily Loads (TMDLs) for 25 impaired stream segments in the North Coast Region. EPA references components of the

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NWFP in its implementation recommendations for temperature and sediment TMDLs for the Eel River, Trinity River and Van Duzen River. In its implementation recommendations, EPA identifies the NWFP standards and guidelines as being potentially sufficient to attain riparian vegetation characteristics (e.g., shade, vegetation diversity) that are consistent with temperature load allocations on USFS lands. Riparian reserves protect surface waters from the effects of timber harvesting. EPA also cites USFS ongoing efforts for the protection and restoration of refugia watersheds (e.g., South Fork Trinity River) for possible TMDL compliance in certain watersheds.

The Regional Water Board has adopted four TMDLs with accompanying implementation plans. Of these, three are Basin Plan amendments (Garcia, Scott, and Shasta Rivers), and one is a Memorandum of Understanding with the USFS (Salmon River). A Memorandum of Understanding has been signed between the Regional Water Board and the USFS for implementation of the Scott River TMDL Implementation Plan as well. The majority of the North Coast TMDLs developed to date address sediment and temperature impairments, and these TMDLs have many components in common. While the actual load allocations and targets may vary from one TMDL to another, all address the basic issues of reducing and preventing excess sediment inputs and of decreasing water temperature by protecting and restoring natural shade.

25. The Waiver conditions that implement the USFS Guidance address sediment and temperature impairments by requiring: 1) protection, maintenance, and enhancement of riparian conditions and shade, 2) inventories and remediation of sediment delivery sites, and 3) the application of BMPs and on-the-ground prescriptions activities on USFS land to avoid excess sediment discharges and to improve shade. For discharges associated with activities identified in finding 4, it is anticipated that compliance with the conditions contained in this Waiver will constitute TMDL compliance with all sediment, temperature, dissolved oxygen and nutrient TMDLs in the North Coast Region, subject to periodic review, monitoring and reassessment.

26. The Regional Water Board TMDL Implementation Plans for the Scott, Shasta, and Salmon River watersheds contain specific tasks for the USFS to implement. USFS compliance with the conditions, monitoring, and reporting of this Waiver constitutes compliance with the TMDL implementation plan for the Shasta River watershed. USFS implementation of the TMDLs for the Scott and Salmon River watersheds is addressed in separate Memoranda of Understanding (MOUs) between the Regional Water Board and the USFS. These MOUs contain similar implementation strategies; however, each is subject to different timelines with minor differences in detail. The two MOUs remain in force and effect. Compliance with those MOUs and this Waiver constitute compliance with the TMDL implementation plans for the Scott and Salmon River watersheds.

The Waiver

27. This Waiver contains three primary substantive components in addition to monitoring and reporting requirements. They are: 1) the maintenance and restoration of

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riparian reserves pursuant to the ACS; 2) the timely implementation of watershed restoration plans that require inventories, prioritization and remediation of pre-existing sediment sources; and 3) for site-specific activities, the implementation of on-the-ground prescriptions to meet the BMP goals identified for the activities covered by this Waiver.

28. As described in finding 9, the ACS in the NWFP applies riparian reserves to all ephemeral, intermittent, and perennial streams and geologically unstable areas. Riparian reserves provide shade to meet the Basin Plan water temperature objective; buffer surface waters from discharges of waste associated with upslope activities by trapping sediment; and protect the natural diversity of vegetation that enhances resiliency of the riparian system and the morphology of the stream system. This Waiver requires the USFS to protect and maintain riparian reserves. (See Waiver condition 1.) Successful implementation is required for sediment and temperature TMDL compliance.

29. As described in finding 14(c), the USFS actively addresses legacy nonpoint sediment sources, or pre-existing threats to water quality. Active and potential sediment delivery sites are inventoried, prioritized, and scheduled for remediation. This Waiver requires the USFS to make those inventories available to Regional Water Board staff for review and allow inspection of sites as needed to assist in prioritization. (See Waiver conditions 2-4.) Each Forest will provide on an annual basis a list of its watersheds and prioritization for restoration, and detail the progress made in each watershed. Regional Water Board staff will confer with the USFS on legacy site inventories and remediation projects to verify reasonable progress. Successful implementation of watershed restoration plans is required for sediment and temperature TMDL compliance. If the USFS does not have a Watershed Restoration Plan or an inventory and prioritization of legacy nonpoint sites for the watershed where a site-specific activity to be covered under this Waiver is proposed, USFS must propose treatments of existing legacy nonpoint sources within the project area as part of the proposed project.

30. As described in findings 17 and 18, site-specific activities covered under this Waiver must implement on-the-ground prescriptions to meet BMP goals to avoid water quality impacts. To rely on the implementation of USFS Guidance and the USFS BMP Manual to ensure water quality protection, there must be transparency in which on-the-ground prescriptions are selected to implement BMPs, and documentation of BMP implementation and its effectiveness. To address these needs, this Waiver contains: 1) conditions that the USFS and its contractor operators implement the USFS Guidance and the USFS BMP Manual, including the identification of on-the-ground prescriptions for an individual project, 2) a mechanism to ensure their implementation, and 3) monitoring requirements to ensure implementation of the on-the-ground prescriptions and to evaluate their effectiveness. Successful implementation of on-the-ground prescriptions to meet BMP goals is required for sediment and temperature TMDL compliance.

31. This Waiver applies to two categories of activities, which are grouped according to level of potential impact to water quality. Activities that have a low potential impact to water quality are eligible for Category A. Category A lists those activities found to

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meet this classification. Category B applies to activities with a moderate potential impact to water quality and requires the USFS provide more information to the Regional Water Board, who will then conduct a more detailed review. In Category B, characteristics of an activity, such as intensity and proximity to surface waters, and the sensitivity of the area, will determine which BMPs and on-the-ground prescriptions are needed to ensure the activity will have a less-than-significant impact on water quality.

32. It is appropriate to regulate discharges from nonpoint source activities as described in finding 4 under a general waiver rather than individual discharge requirements, because this Waiver addresses the same or similar discharges of waste from the same or similar operations and proposes the same or similar treatment methods and management practices. By regulating these discharges and activities under a general waiver, it simplifies and streamlines the regulatory process and allows Regional Water Board staff to focus its limited resources on working with the USFS to protect water quality. It is not an efficient use of Regional Water Board staff time to process WDRs for each and every USFS activity when many of the proposed activities have a only potentially low or moderate impact on water quality and an effective Waiver program can be established that can rely, in part, on the USFS administration of its existing programs that are in place to protect water quality. This Waiver contains monitoring and reporting requirements that allow the Regional Water Board to assess the Waiver's effectiveness at protecting water quality. The Regional Water Board will reevaluate the Waiver no later than five years, when it must be renewed, and earlier if appropriate. At that time the Regional Water Board can make any necessary adjustments.

Monitoring and Reporting

33. The MAA, which was described in finding 16, requires implementation and effectiveness monitoring of the management practices included in the USFS BMP Manual. The USFS conducts a BMP Evaluation Program (BMPEP) to meet this requirement. The BMPEP provides annual on-site assessments of a randomly selected subset of all BMPs that were implemented as part of activities conducted within a Forest, assessing both proper implementation and effectiveness. Implementation of effective BMPs is necessary to reach water quality goals and objectives. BMPEP results from 2003-2007 show that 86% of BMPs were rated as implemented and that 89% of those were rated effective.

34. Additional monitoring is needed to ensure full implementation and to provide a feedback loop to measure the effectiveness of various management practices. There must be monitoring and reporting to demonstrate that the actual on-the-ground prescriptions identified for a particular activity are effective at meeting the goals of the specific BMPs identified to address impacts of specific activities, and to demonstrate that they were implemented and effective.

35. In addition, monitoring of instream conditions is important and needed to describe the extent to which beneficial uses are supported and to assist in prioritizing remediation and watershed restoration activities.

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36. Pursuant to Water Code section 13267, section B of this Waiver contains monitoring and reporting requirements which include: 1) a checklist approach for individual activities to ensure full implementation of on-the-ground prescriptions, 2) retrospective monitoring to evaluate the long-term performance of BMPs and attendant on-the-ground prescriptions, and 3) instream monitoring at key sites.

37. The Klamath National Forest developed a monitoring plan to address TMDL implementation in the portions of the Salmon, Scott, and Klamath rivers within the Klamath National Forest (*Klamath National Forest Sediment and Temperature Monitoring Plan and Quality Assurance Plan*). Note: The intent is that the monitoring plan will meet the needs of this Waiver and will be incorporated by reference into this Waiver, if it is completed and accepted by the Regional Water Board staff prior to adoption of this Waiver.

Emergency Activities

38. USFS emergency activities may include wildfire suppression and Burned Area Emergency Rehabilitation (BAER). The USFS has procedures to address fire suppression activities and minimize impacts of the suppression activities on water quality. Each Forest also has conditions and processes in its LRMP to address fire suppression activities, including guidance for fueling equipment, use of fire retardants, and other components of fire suppression.

39. Subject to a notification requirement, Water Code section 13269, subdivision (c) allows the Regional Water Board to waive waste discharge requirements for discharges resulting from immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor. These activities and those specific actions necessary to prevent or mitigate an emergency (does not include long-term projects) are exempt from CEQA. (Cal. Code Regs., tit. 14, §15269.) The Regional Water Board has discretion to establish conditions on any such waiver. (Wat. Code, § 13269, subd. (d).)

40. The USFS is also allowed to waive compliance with the National Environmental Policy Act (NEPA) during emergency situations. Title 36 of the Code of Federal Regulations, section 220.4 (b) waives NEPA requirements when a responsible official determines it is necessary to control the immediate impacts of an emergency and actions are urgently needed to mitigate harm to life, property, or important natural or cultural resources. The probable environmental consequences of the emergency action and mitigation of environmental effects are taken into account to the extent practical.

41. This Waiver covers discharges from emergency actions defined in California Code of Regulations, title 14, section 15269. The Waiver requires the USFS to post emergency incidents on its website, and to maintain records for Regional Water Board staff review, as appropriate.

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Additional Findings

42. State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintenance of High Quality Waters in California") requires that whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality must be maintained, until it has been demonstrated that any change will be consistent with maximum benefit to the people of the state, and will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies. 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 Waiver is consistent with Resolution No. 68-16 because overall it will result in a net benefit to water quality by setting forth conditions that implement riparian and shade protections and enhancements, address sediment delivery sites, and implement BMPs and on-the-ground prescriptions for new activities. The activities permitted under this Waiver have been determined to have a low potential impact to water quality when conducted pursuant to the terms of the Waiver, resulting in compliance with applicable water quality control plans, including applicable water quality objectives. The implementation of BMPs and on-the-ground prescriptions identified for each activity, and the monitoring of their effectiveness, will result in the best practicable treatment or control of the discharge and will assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state is maintained.

43. As lead agency under the California Environmental Quality Act (CEQA), the Regional Water Board provided notice of intent to adopt a mitigated negative declaration (SCH No._____) for this Waiver on [date]. (Cal. Code Regs., tit. 14, § 15072.) The mitigated negative declaration reflects the Regional Water Board's independent judgment and analysis. After considering the document and comments received during the public review process, the Regional Water Board hereby determines that the proposed project, with mitigation measures, will not have a significant effect on the environment. The documents or other material, which constitute the record, are located at 5550 Skylane Blvd, Suite A, Santa Rosa, CA 95403. The Regional Water Board will file a Notice of Determination within five days from the issuance of this order. Mitigation measures necessary to reduce or eliminate significant impacts on the environment, and monitoring and reporting are incorporated as conditions of approval below.

44. The Regional Water Board has reviewed the contents of this Waiver, its accompanying Initial Study and Negative Declaration, written public comments and testimony provided after notice and hearing, and hereby finds that the adoption of this Waiver is consistent with the Basin Plan, and is in the public interest.

THEREFORE, IT IS HEREBY ORDERED that Order No. R1-2004-0015 is rescinded, except for conditions that apply to individual projects on the December 2009 USFS

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Schedule of Proposed Actions (SOPA) with accompanying NEPA Decision Notice by June 1, 2010, provided they meet the eligibility criteria and remain in compliance with the conditions of that Order until completed. By June 30, 2010, the USFS shall report the names and status of all projects to be covered under Order R1-2004-0015 to the Regional Water Board; and

IT IS HEREBY ORDERED that the provisions of Water Code section 13260, subdivision (a) and (c), and Water Code section 13264, subdivision (a) are hereby waived for discharges from USFS land that result from emergency actions, as defined in California Code of Regulations, title 14, section 15269. For these discharges, no application procedures are required; however, the USFS shall post emergency incidents on its website to meet the notification requirements under Water Code section 13269, subdivision (c), and maintain records for Regional Water Board staff review, as appropriate; and

IT IS HEREBY ORDERED that pursuant to Water Code sections 13263, subdivision (a), 13267, and 13269, the Regional Water Board waives the requirement to submit a report of waste discharge and the requirement to establish waste discharge requirements for discharges of wastes resulting from activities on USFS lands described in finding 4. The following conditions shall apply:

1. USFS shall manage and maintain designated riparian zones (as defined in finding 9, see footnote below [3]) to ensure retention of adequate vegetative cover that results in natural shade conditions within 300 feet slope distance on each side of fish-bearing streams, 150 feet slope distance on each side of perennial streams, and 100 feet slope distance on each side of ephemeral / intermittent streams, or the site potential tree height distance on each side of the stream, whichever is greatest (per NWFP ASC Strategy Objective No. 4). Timely implementation is necessary for sediment and temperature TMDL compliance. Natural shade conditions are defined as the shade on a watercourse that results from the site potential naturally occurring vegetative community and topographic configuration.

   Exceptions to this condition will be considered. In order for Regional Water Board staff to determine the adequacy of the justification for an exception, the justification must identify the proposed canopy reduction and expected recovery time, provide an estimate of the pre- and post-project shade or solar impacts, and explain how such an exception will result in a net long-term benefit to water quality and stream temperatures.

2. The USFS shall actively address legacy or pre-existing discharges and/or threats to water quality. Sediment delivery sites must be inventoried, prioritized, and scheduled for remediation. There is an expectation that each Forest will make reasonable progress towards completing inventories and remediating legacy nonpoint sites. Timely implementation is necessary for sediment and

[3] A "designated riparian zone" refers to the Riparian Reserve for those forests under the Northwest Forest Plan and to the Riparian Conservation Areas for that portion of the Modoc National Forest under the Sierra Nevada Forest Plan.

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temperature TMDL compliance. Requirements for addressing legacy or pre-existing discharges and/or threats to water quality include:

a. Within 6 months of adoption of this Waiver, each Forest shall provide to the Executive Officer for inclusion in Attachment A to this Waiver, a list of watersheds, including the watershed name and the date the watershed assessment and/or watershed restoration plan (including legacy site identification, prioritization, and scheduling) was completed or is scheduled for completion. This list shall be updated annually as necessary.
b. Regional Water Board staff will review the schedule provided from 2.a. above, and the annual updates, and confer with the USFS on the priority and progress of inventories and remediation of sites. Attachment A will be modified accordingly on an annual basis.
c. The USFS shall make legacy site inventories available to Regional Water Board staff for review and allow inspection of sites as needed to assist in prioritization.

3. The USFS shall assess watershed conditions and propose and implement restoration activities to address identified water quality concerns. Individual projects and activities under Category B must include treatments of existing legacy sediment sites as part of the proposed project activities when an inventory and prioritization of legacy sites has not been initiated in the vicinity of the activity as that area defined in the project description.

4. The USFS shall work jointly with the Regional Water Board to resolve any issues associated with prioritization of watersheds, especially with regard to addressing existing discharge sites and/or instream restoration activities aimed at improving beneficial uses.

5. The USFS shall notify Regional Water Board staff when the Schedule of Proposed Activities (SOPA, a public list of upcoming USFS projects) reports are posted on their web site to inform staff of upcoming activities. If possible, USFS should indicate which projects are likely to be enrolled in Category B.

6. All activities undertaken by the USFS or its contract operators pursuant to this Waiver shall comply with the USFS Guidance and the USFS BMP Manual for water quality protection, and any specific conditions set forth in this Waiver. This includes following the Wet Weather Operation Standards as developed for each Forest, and minimizing erosion and riparian disturbance from roads, watercourse crossings, road decommissioning, or other activities that have the potential to discharge sediment or affect natural shade conditions on watercourses. Reference to the USFS Guidance and USFS BMP Manual includes any modifications to those documents during the life of this Waiver, so long as the modifications are equally or more protective of water quality, as determined by the Executive Officer of the Regional Water Board.

7. The USFS shall comply with all mitigation measures identified in the accompanying mitigated negative declaration. CEQA mitigation measures shall constitute enforceable conditions under this Order.

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8. The USFS shall include within the environmental document prepared pursuant to NEPA, contracts, agreements, and other instruments used to direct the activities of contractors, USFS personnel, volunteers, or any other personnel operating under the USFS control, the specific on-the-ground prescriptions that are designed to meet the USFS BMPs. The intent is to provide clarity and transparency in how the BMPs will be met and to facilitate the monitoring of BMP implementation (per section B, part 1, Monitoring and Reporting Requirements).

9. In addition to providing specific on-the-ground prescriptions, the USFS shall provide copies of this Waiver to contractors and/or third parties and contract operators, and notify them of their responsibilities.

10. The USFS is responsible for Waiver compliance, regardless of whether the activities covered by this Waiver are conducted by its contract operators. In addition, contract operators must comply with applicable conditions of this Waiver and site-specific on-the-ground prescriptions identified in the USFS contract. Violations of this Waiver are subject to enforcement to the extent allowed by law.

11. Compliance with Waiver conditions will ensure that no significant environmental impact to water quality occurs from an activity covered by this Waiver. Activities that have potentially significant impacts to water quality that cannot be reduced to less than significant levels are not eligible for coverage under this Waiver and the USFS will need to submit a Report of Waste Discharge to the Regional Water Board and/or obtain authorization from the appropriate agency for a permit not issued by the Regional Water Board.

12. USFS shall comply with the Scott and Salmon River TMDL implementation MOUs, as described in finding 26.

13. Compliance with all of the conditions of this Waiver, including legacy site inventories and remediation, retention of natural shade within designated riparian zones, and application of on-the-ground prescriptions that meet USFS BMPs for new activities identified in finding 4 performed on USFS land constitutes compliance with sediment and temperature TMDL implementation.

14. Regional Water Board staff and staff from each Forest covered by this Waiver shall meet annually to discuss and rectify any issue with Waiver compliance, TMDL implementation, or any other issues associated with this Waiver.

15. USFS shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 2009-0009-DWQ) for non-timber construction projects on USFS land that disturb one or more acres of soil, or less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

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16. The USFS shall notify the Regional Water Board in writing at least 90 days prior to the proposed application of pesticides, unless Regional Water Board staff agrees in writing to a lesser notice. The notification shall include the type of pesticide, method and area of application, projected date of application, and measures that will be employed to assure compliance with the Basin Plan.

17. The USFS shall submit a copy to the Regional Water Board of any application to the State Water Board for a NPDES permit (Order 2004-0009-DWQ) for the use of aquatic pesticides.

18. The USFS may submit information on low risk uses or applications of pesticides (e.g. use around buildings/facilities, borax stump treatment for root disease) for consideration by Regional Water Board staff to develop a list of activities exempt from the notification in condition 16.

19. Activities conducted under this Waiver must be in compliance with the Basin Plan and amendments thereto.

20. This Waiver covers discharges of waste from activities described in finding 4. This Waiver does not cover discharges associated with activities not described in finding 4; for example it does not cover of discharges of mining waste, hazardous material, or human waste.

21. Discharges of waste not specifically regulated under this Waiver are prohibited except in compliance with the Water Code.

22. Pursuant to Water Code section 13269, this Waiver, and any enrollment under this Waiver: 1) is conditional; 2) may be terminated at anytime; 3) does not permit any illegal activity; 4) does not preclude the need for permits which may be required by other federal, state or local governmental agencies; and 5) does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the Water Code.

23. This Waiver, or individual activities enrolled under the Waiver, may be re-opened for modifications, revoked and reissued, or terminated. In the event that unforeseen circumstances resulting from the Waiver have the effect of unreasonably constraining USFS activities, the USFS may seek consideration for modifications to the Waiver by written request to the Executive Officer.

24. This Waiver, including enrollments under this Waiver, shall not create a vested right, and discharges of waste shall be considered a privilege, as provided for in Water Code Section 13263.

25. A waiver of WDRs for a type of discharge may be superceded if the State Water Board or Regional Water Board adopts specific WDRs or general WDRs for this type of discharge.

26. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in

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the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). USFS shall be responsible for meeting all requirements of the applicable Endangered Species Act. The USFS shall obtain as necessary, and comply with, all other applicable local, state, and federal regulations and/or required permits.

27. The USFS shall not cause a pollution, contamination, or nuisance as defined by Water Code section 13050.

28. Violations of Waiver conditions are subject to enforcement actions in the same manner as enforcement of waste discharge requirements.

29. This Waiver must not affect the right of any person to maintain at any time any appropriate action for relief against a federal agency or a private party conducting operations on federal lands managed by the federal agency.

30. The USFS shall comply with all Waiver conditions, including specific conditions for projects enrolled under Category B.

31. In situations where multiple activities are included as part of an application for coverage under the Waiver, USFS shall identify it as a Category B activity if any of the activities fall under that category.

A. Waiver Categories

Category A — Low Risk Activities

This category includes activities that as proposed have a low likelihood of impacts to water quality, and as such, require no additional conditions. Activities in this category include those listed below. The USFS may add additional types of activities to this classification, subject to approval by the Regional Water Board Executive Officer.

1. Christmas tree harvest under individual permits (does not include commercial Christmas tree cutting);
2. Cutting of firewood under individual permits (does not include commercial firewood cutting on federal lands);
3. Hazard tree removal in designated camp sites;
4. Hazard tree removal along roads;
5. Tree planting and revegetation of disturbed areas with no mechanical site preparation;
6. Routine road maintenance;
7. Hand Thinning without assistance from heavy equipment and no risk of discharge;
8. Minor activities in small areas that are conducted by hand crews;
9. Activities conducted in compliance with Road Use Permits; and
10. Dispersed camping, camping in developed recreation sites, use of non-motorized trails, fence building, and similar low-impact, dispersed activities.

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Application Procedures: No application is required for activities covered under Category A of this Waiver.

Monitoring: The USFS shall keep records of such activities, including any environmental assessments prior to, during, or after the activity, for Regional Water Board staff review, as deemed necessary.

Category B — Moderate Risk Activities

This category includes activities that require Regional Water Board review and additional mitigation. Application for coverage under this Waiver is required for such projects. Activities in this category include, but are not limited to:

1. Non-emergency fire restoration and rehabilitation of burned areas
2. Pre-Commercial thinning in designated riparian zones, or using heavy equipment, or with burning
3. Vegetation management, particularly prescribed burns, mechanical mastication, and the use of hand crews, adjacent to streams and drainages, or other situations or locations where likelihood of discharge exists
4. Range management activities
5. Understory or pile burning
6. Activities conducted by hand crews in designated riparian zones and that pose a risk of discharge
7. Road decommissioning
8. Construction of new roads (not subject to state-wide stormwater permit)
9. Motor vehicle trails and their use
10. Nonpoint source activities associated with mining (e.g., roads, pads, cleared areas as described in finding 5)
11. Timber harvest and fuel reduction activities, including forest restoration projects and research and demonstration projects on fuel reduction
12. Watershed projects, including instream restoration projects and legacy nonpoint source remediation

Certain factors increase the risk of potential water quality impacts and generally fall into three broad categories:

- the activity's proximity to water (e.g. inside a riparian reserve vs. outside a riparian reserve);
- the type and size of the activity;
- the on-the-ground conditions where the activity takes place (e.g. equipment on steep ground vs. flat ground).

The Category B conditions below address those factors.

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Category B Conditions

1. The USFS shall conduct a multi-disciplinary review of the proposed activity, including review by watershed specialists, and identify on-the-ground prescriptions needed to implement the USFS BMP Manual, and any additional necessary control measures for the proposed activity. The USFS shall clearly indicate within NEPA documents whether any of the following are included within a proposed project:

   a) activities within or which could affect:
      i. designated riparian zones[4]; or
      ii. wetlands; or
      iii. known landslides or unstable areas.

   b) type of activity:
      i. construction of new watercourse crossings or reconstruction/modification of existing watercourse crossings;
      ii. use or reconstruction of existing, or construction or use of new landings or skid trails within designated riparian zones;
      iii. equipment operations within designated riparian zones, except on existing permanent roads or crossings;
      iv. prescribed fire within designated riparian zones;
      v. pile burning within designated riparian zones;
      vi. maintenance of roads within a designated riparian zone;
      vii. road decommissioning within designated riparian zones;
      viii. instream restoration projects;
      ix. forest restoration, including timber harvest and fuel reduction projects involving thinning within outer edges of designated riparian zones which utilize endlining or heavy equipment; or
      x. heavy equipment use on slopes over 40%.

2. The USFS shall submit a complete application, as described below in the waiver application section.

3. For timber sale and grazing activities carried out by a contract operator, USFS shall include in its contract:

   a. specific on-the-ground prescriptions developed for the activity that implement the USFS BMP Manual, and any additional water quality measures identified in the NEPA document and other environmental documents supporting the project;
   b. a copy of this Waiver; and
   c. a provision stating that contract operator is subject to this Waiver, specifically conditions 6 and 19-30, and general conditions.

[4] A designated riparian zone refers to the Riparian Reserve for those forests under the Northwest Forest Plan and Riparian Conservation Areas for that portion of the Modoc NF under the Sierra Nevada Forest Plan.

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4. Where the proposed activity includes direct or indirect effects to water quality, the USFS shall conduct a cumulative watershed effects (CWE) analysis and include specific measures in the proposed activity needed to reduce the potential for CWEs in order to assure compliance with the Basin Plan. The scale and extent of CWE analyses will be commensurate with the scale and intensity of the projects seeking coverage under this waiver. CWEs analyses will follow guidance in the regional CWE policy, R-5 FSH 2509.22, Soil and Water Conservation Handbook, Amendment 1, and may range from qualitative reasoning to application and interpretation of quantitative models.

5. The USFS shall include the larger planning context (whether in a restoration plan or other document) for specific activities in any request for coverage under this Waiver (e.g., how a particular activity or project fits within the watershed priorities developed through the planning process). If the proposed activity is in a watershed for which a watershed restoration plan has not been prepared to conduct inventory, prioritization, and remediation of legacy sediment sites, the USFS shall include within the description of the proposed activity the remediation of any such sites that are within the project area.

6. The activity must be conducted in accordance with the project description in the accompanying USFS NEPA document, including any project modifications, and the specific on-the-ground prescriptions designed to implement the BMPs identified to avoid any adverse impact(s) to water quality.

7. The activity shall be monitored, pursuant to section B, Monitoring and Reporting, to assure that all on-the-ground prescriptions are implemented and effective in avoiding any adverse impact(s) to water quality. Should such monitoring indicate that on-the-ground prescriptions were not implemented or that unacceptable impacts occurred, corrective measures to remediate the impact and implement the on-the-ground prescription shall be taken as soon as feasible.

8. Areas where soil has been disturbed by project activities, excluding grazing, within designated riparian zones must be stabilized prior to the beginning of the winter period, prior to sunset if the National Weather Service forecast is a “chance” (30% or more) of rain within the next 24 hours, or at the conclusion of operations, whichever is sooner.

9. The USFS shall report, within 10 days of discovery, to the Regional Water Board, areas within designated riparian zones that are disturbed by grazing that may result in a significant discharge, and any measures taken to prevent, minimize, or mitigate the potential to discharge.

10. Where management activities and individual projects within designated riparian zones have resulted in burned areas, the USFS must prevent, minimize, and mitigate discharges to waters of the state by following the appropriate USFS BMPs and standard erosion control techniques.

11. Each Forest must ensure that grazing activities are consistent with ACS goals, the USFS BMP Manual, and the review of allotments according to the USFS

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rescission schedule (Attachment B). USFS shall seek enrollment under this Waiver for any new grazing allotments or the renewal of grazing allotments.

12. The Regional Water Board will consider nutrient discharges associated with grazing activities as the allotments come up for renewal according to the schedule in Attachment B. Grazing operations need not apply for Waiver coverage until the allotment renewal. The USFS may involve Regional Water Board staff in early review of an allotment permit (prior to the scheduled review of a 10-year allotment permit in Attachment B), and may request that the Regional Water Board enroll such allotment in the Waiver ahead of the schedule in Attachment B.
13. Information from inspections and monitoring of conditions on grazing allotments shall be made available to Regional Water Board staff upon request. In addition, once an allotment is covered under this Waiver, the USFS must contact the Regional Water Board Executive Officer prior to any grazing allotment analysis and review to provide an opportunity for Regional Water Board staff to participate.

14. The USFS shall implement the riparian reserve program and prevent, minimize, and mitigate sediment discharges by following the appropriate BMPs and standard erosion control techniques for activities adjacent to streams and drainages, or other locations or situations where likelihood of discharge exists.

15. The USFS will collaborate with the Regional Water Board staff to evaluate research and demonstration activities on fuels reduction projects to ensure plans for those projects include appropriate design features to prevent or limit impacts to water quality and may require:

    a. additional monitoring as appropriate, such as quantitative monitoring of impacts to soils (compaction, infiltration rate, etc.), ground cover inventories, vegetation recovery, or water quality analysis; and
    b. specific environmental triggers or thresholds that must not be exceeded during implementation.

16. Minimize new road construction in watersheds designated by USFS as “Key Watersheds” and in high risk watersheds.[5]

17. USFS shall conduct, as identified by Regional Water Board staff, any additional assessments and environmental documentation for new roads associated with timber harvesting activities.

18. The USFS shall submit a Notice of Completion upon project completion, certifying that all the conditions and monitoring and reporting required by this Waiver have been met. The enrollment under this Waiver will be terminated upon receipt of a Termination of Coverage letter from the Executive Officer, or 30 days after the Notice of Completion has been sent, whichever occurs first.

[5] High risk watersheds are those watersheds that are at or above thresholds of concern for cumulative watershed effects, as determined by the Equivalent Roaded Area model, or in watersheds with 303(d) listed impaired waters.

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Waiver Application for Category B Activities

1. USFS shall submit a written Notice of Intent (NOI) (Attachment C, under development) and Application to the Regional Water Board. The NOI certifies USFS' intent to comply with conditions of this Waiver.

2. The NOI shall be signed by a USFS line officer or their authorized representative.

3. The NOI and Application shall be filed after project approval by USFS, and at least 30 days prior to anticipated commencement of on-the-ground activities. Certified mail may be used to confirm the delivery date of the NOI and the initiation of the 30-day review period.

4. Subject to Category B condition 3, if the Application is complete, the Regional Water Board shall accept or deny in writing within 30 days from its receipt of the NOI.

5. The Executive Officer has the discretion to adjust timeframes at the written request of the USFS.

6. To be complete, the Waiver Application must contain the following information:

    a. A brief description of the proposed activity. Reference to more detailed explanations in supporting documents is sufficient.[6]
    b. Activity start and end dates; reference to more specific timelines in supporting documents is sufficient.[6]
    c. The name(s) and contact information for primary project management personnel.
    d. A description of compliance with the Waiver conditions in general terms, with on-the-ground prescriptions set out in the supporting documents being sufficient.[6]
    e. The proposed project's relation to the watershed restoration plan or other planning document, if one has been prepared, or a description of how the project fits within the basic strategy for watershed improvements if a watershed restoration plan or other such planning document does not exist.
    f. Identification and proposed treatments of existing legacy nonpoint sediment sites if an inventory and prioritization of legacy sites has not been initiated in the project area, as described in the project description, (per condition 5) or reference to the legacy site inventory for watersheds with a watershed restoration plan.
    g. Copies of relevant portions of all environmental documents that set out the details of a project, especially on-the-ground prescriptions, including supporting documents that describe in detail the activities and management practices that will be taken to reduce potential water quality impacts to less than significant levels (e.g., NEPA documents, technical reports, design criteria, assessments, watershed restoration plans).

[6] Citation to a website or an electronic version of a document is acceptable.

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The USFS shall clearly indicate within NEPA documents, and provide an index of, the specific on-the-ground prescriptions designed to meet the BMPs to avoid any adverse impact(s) to water quality. Specific on-the-ground prescriptions shall be included in all contracts.

B. Monitoring and Reporting Requirements (pursuant to Water Code section 13267)

The current USFS Best Management Practices Evaluation Program (BMPEP) satisfies some Waiver monitoring elements, however additional monitoring is needed: focused administrative effectiveness monitoring for moderate risk activities, Category B (see section 1.A.1., below), road patrols after major storms (1.A.2b., below), and in-channel long-term monitoring (1.C., below). For watersheds in which the in-channel long-term monitoring is not conducted, Category B projects will trigger in-channel monitoring at the lowest end of the watershed (2.A. , below), non-random BMP effectiveness monitoring for the project (2.B. , below), and retrospective monitoring of a subsample of BMPs five years post-implementation (2.C. , below).

The Klamath National Forest sediment and water temperature monitoring plan, *Klamath National Forest Sediment and Temperature Monitoring Plan and Quality Assurance Plan,* will be used to address the monitoring needs for this Waiver, as appropriate, and TMDLs for the portions of the Klamath National Forest in the Scott, Shasta, Salmon, and Klamath watersheds.

The following monitoring program relies on existing well-documented monitoring methods. Monitoring for management activities will use BMPEP protocols. (USFS 2001[7]). In-channel monitoring will follow Stream Condition Inventory (SCI) protocols. (USFS 2002[8])

Certain criteria and methods for decisions about sample site location, numbers of sites, selection of BMPs for effectiveness monitoring, and sample pool selection for retrospective monitoring will be developed, in collaboration with Regional Board staff, prior to initiation of the monitoring program. The USFS shall develop the monitoring plan with Regional Board staff collaboration prior to initiating monitoring, or by November 30, 2010 at the latest.

1. USFS-Wide Monitoring

This is the default monitoring, with sample site selection and monitoring for all USFS ownership in the North Coast Region.

A. Monitoring of current management activities and corrective actions

1. Administrative Implementation Monitoring

[7] USDA Forest Service, 2001. Investigating Water Quality in the Pacific Southwest Region, Best Management Practices Evaluation Program: A User's Guide. USDA Forest Service, Pacific Southwest Region, Vallejo, CA.
[8] USDA Forest Service, 2002. Stream Condition Inventory Protocol. USDA Forest Service, Pacific Southwest Region, Vallejo, CA.

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All projects in Waiver Category B will have administrative implementation monitoring using a "checklist" approach. All on-the-ground prescriptions for the project will be included in the checklist so that the monitoring constitutes 100% implementation monitoring. This monitoring will be conducted by USFS project staff (timber, range, recreation, etc.) and will be coordinated and reviewed by the Forest Hydrologists. Administrative implementation monitoring will be the primary systematic means for early detection of potential water-quality problems, and will be completed early enough to allow corrective actions to be taken, if needed, prior to the onset of the first winter after project implementation.

2. Best Management Practice Evaluation Program (BMPEP) Monitoring

   a. The BMPEP, with random site selection, will continue to be the primary means of assessing the effectiveness of water-quality protection for current projects on USFS lands at the hillslope scale. Corrective actions will be taken in response to recommendations made the previous year to address water-quality protection, and these actions will be documented in annual BMPEP reports. Follow-up monitoring for sites that were not rated as fully implemented or effective the previous year will be conducted, and results will be presented in annual BMPEP reports.

   b. National forests will conduct road patrols to the extent allowed by weather, safety, and road conditions during and after major storms to detect and correct road drainage problems that could affect water quality.

B. Representative in-channel beneficial use monitoring

The purpose of in-channel monitoring of beneficial uses is to determine whether BMPs collectively are effective in protecting water quality at the watershed scale. Effectiveness will be assessed by monitoring trends in channel characteristics that affect beneficial uses and by comparing channel characteristics of streams downstream of intensively managed areas with those in pristine watersheds (the paired watershed approach).

Because USFS resources are limited, monitoring will be restricted to a relatively small number of watersheds and sites. Therefore, monitoring sites will need to be carefully selected to represent large landscapes within the national forest system. Detecting downstream channel changes related to upstream activities is problematic (MacDonald and Coe 2006[9]), so monitoring sites will be located on smaller headwaters stream watersheds. Paired monitoring sites (intensively managed and pristine) will be selected to have similar valley segment and stream reach characteristics (Bisson et al 2006[10]).

[9] MacDonald, L.H., and Coe, D., 2006. Influence of headwater streams on downstream reaches in forested areas. USDA, Forest Science, 53(2): 148-168.
[10] Bisson, P.A., Buffington, J.M., and Montgomery, D.R., 2006. Valley segments, stream reaches, and channel units: Chapter 2, in Methods in Stream Ecology, Elsevier Publishing: 23-49.

1. Fixed long-term locations for SCI surveys will be selected by the forest hydrologists and Regional Office in cooperation with the Regional Board staff to represent areas of similar landform, geology, climate, and vegetation.

2. SCI sites will be selected to minimize variability in channel type.

3. SCI sites will be stratified based on watershed condition class (I, II, III), with approximately one-third of the selected watersheds in each condition class.

4. SCI surveys will be made near the mouth of each selected headwater stream watershed at least once every 5 years and as soon as possible following major (RI>10 year) floods. Roughly 20% of the watersheds will be surveyed each year, on average.

5. If SCI results indicate adverse impacts to channels from management activities in watersheds in condition class II or III, restoration plans will be developed and implemented. Adverse impacts will be inferred by comparison with SCI results for watersheds in condition class I.
6. Non-random "nested" BMPEP evaluations for all current management activities will be conducted within the selected watersheds. Implementation and effectiveness results will be compared to SCI results.

7. SCI water-temperature monitoring will be conducted in watersheds that are 303(d) listed for water temperature for at least one full snow-free season. In addition, effective shade will be monitored using Solar Pathfinders.

8. Sites will be removed from or added to the sample pool as needed by agreement with the Regional Office, the Forest, and the Regional Board staff.

2. Project-triggered Monitoring

For projects in watersheds at the 6th field scale (as defined in NRCS 2007[11]) that lack the In-channel Beneficial Use Monitoring (Item 1.B., above), the following monitoring will apply:

A. In-channel Beneficial Use Monitoring

Conduct this monitoring per Item 2, above, at a sampling site selected at or near the lowest end of the project watershed (6th field scale). Another watershed scale may be proposed as appropriate and must be jointly agreed upon by the USFS and Regional Board Executive Officer.

B. Non-random BMP Effectiveness Monitoring

Conduct BMP effectiveness monitoring of all BMPs associated with roads, stream crossings, grazing, and activities in riparian reserves in the project area per the Best Management Practice Evaluation Program (USFS 2001) protocols.

[11] Natural Resource Conservation Service, 2007. Watersheds, Hydrologic Units, Hydrologic Unit Codes, Watershed Approach, and Rapid Watershed Assessments. June 2007: 2pp. http://www.nrcs.usda.gov/programs /rwa/Watershed_HU_HUC_WatershedApproach_defined_6-18-07.pdf

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C. Retrospective Hillslope Monitoring of Past Management Activities
Develop sample pools for timber, engineering, and grazing projects completed in the past 5 years in the project watershed (6th field scale) that were rated as effective as part of the random BMPEP monitoring. Projects will be selected randomly for retrospective BMPEP effectiveness evaluations. Retrospective monitoring results will be compared to original BMPEP effectiveness scores to determine if BMPs remained effective over a period of years.

3. Reporting

Each Forest shall prepare an annual report summarizing and discussing the monitoring results of 1.A.1, 1.A.2.a., 1.B., and 2.A.-C., above. These reports shall be submitted to the Regional Board by March 15 each year following the monitoring. Regional Board staff will review the reports and provide each Forest with comments. The comments will be discussed with each Forest, and any agreed to changes incorporated into the next year's monitoring.

4. Quality Assurance and Quality Control Project Plan (QAPP)

a. Within one year or before any monitoring component is initiated, whichever comes first, the USFS shall develop a comprehensive QAPP for the monitoring and reporting activities to be implemented. The QAPP shall address all aspects of the monitoring program and shall contain, at a minimum, but not be limited to:
   - Standard procedures for the establishment of repeatable sampling locations;
   - Standard operating procedures for each field method and piece of equipment used;
   - Standard operating procedures for each laboratory method and piece of equipment used;
   - Standard reporting procedures;
   - Measures for quality assurance associated with monitoring and reporting procedures;
   - Measures for quality control associated with monitoring and reporting procedures;
   - A training program for personnel conducting monitoring activities; and,
   - Measures for adapting the QAPP, when necessary. The USFS may propose to use an existing QAPP for these measurements as long as it addresses the above list of elements.

b. Following implementation of the approved QAPP, the USFS may propose changes to the procedures and control measures specified in the QAPP as necessary, and submit the changes to the Regional Water Board Executive Officer for approval. Following approval of changes to the QAPP, the USFS shall document such changes and implement the new procedures and control measures immediately.

5. Request for Extensions
Requests for extensions to required time lines specified within the above monitoring section shall be submitted, in writing, at least 10 working days prior to the due date.

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Requests for extension must provide a reason or reasons for the request. Approval of any request for an extension of time to comply with required deadlines is subject to the approval of the Regional Water Board's Executive Officer. If written approval is not received, it should not be assumed that the due dates are extended indefinitely or have been approved. USFS shall be accountable for all due dates set out in this Plan in the absence of written approval from the Executive Officer.

This Waiver shall become effective on June 10, 2010 and shall expire on June 10, 2015, unless renewed by the Regional Water Board.

Certification:

I, Catherine Kuhlman, 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,
North Coast Region, on June 10, 2010.

_____
Catherine Kuhlman
Executive Officer

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Attachments:
A. List of Watershed Assessments and Watershed Restoration Plans
B. Summary of USFS guidelines and rescission schedule for grazing allotments
C. Sample Notice of Intent (NOI)

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