

Items 5 and 6
Public Hearing to Consider Adoption of Proposed

*Scott River TMDL Conditional Waiver of Waste
Discharge Requirements (R1-2018-0018)*

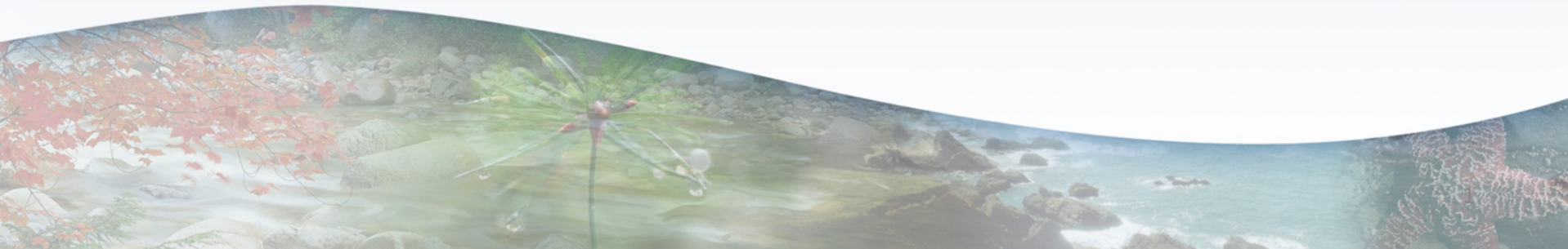
and

*Shasta River TMDL Conditional Waiver of Waste
Discharge Requirements (R1-2018-0019)*

North Coast Regional Water Quality Control Board

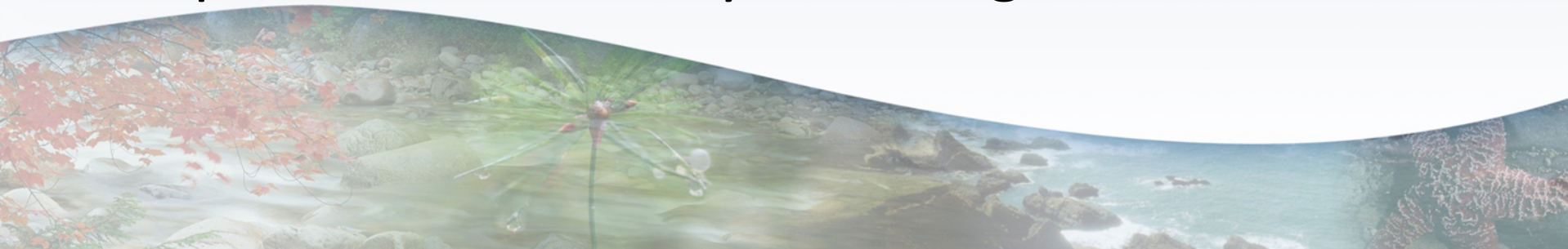
Eli Scott

April 19, 2018; Weed, CA



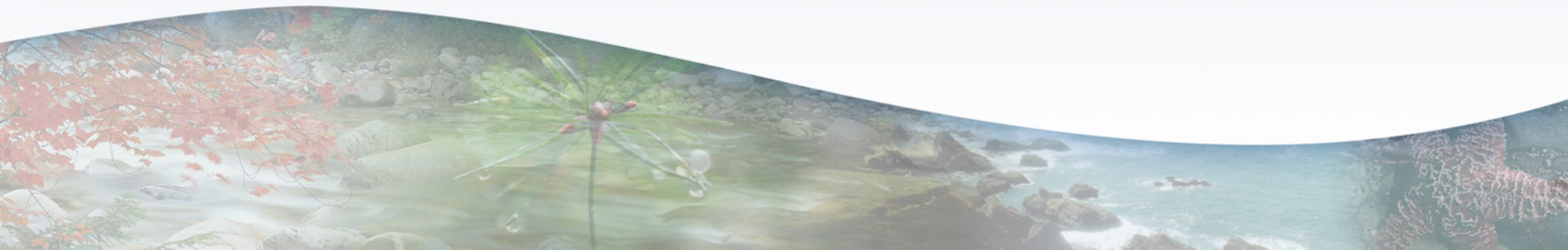
Adoption Timeline

- June 1, 2017: Public comment opened.
- June 17, 2017: Staff workshop, Yreka.
- June 29, 2017: Regional Water Board workshop, Santa Rosa.
- July 7, 2017: Public comment closed.
- October 19, 2017: Original hearing date
 - Postponed due to Napa and Sonoma wildfires.
- April 19, 2018: Today's hearing.

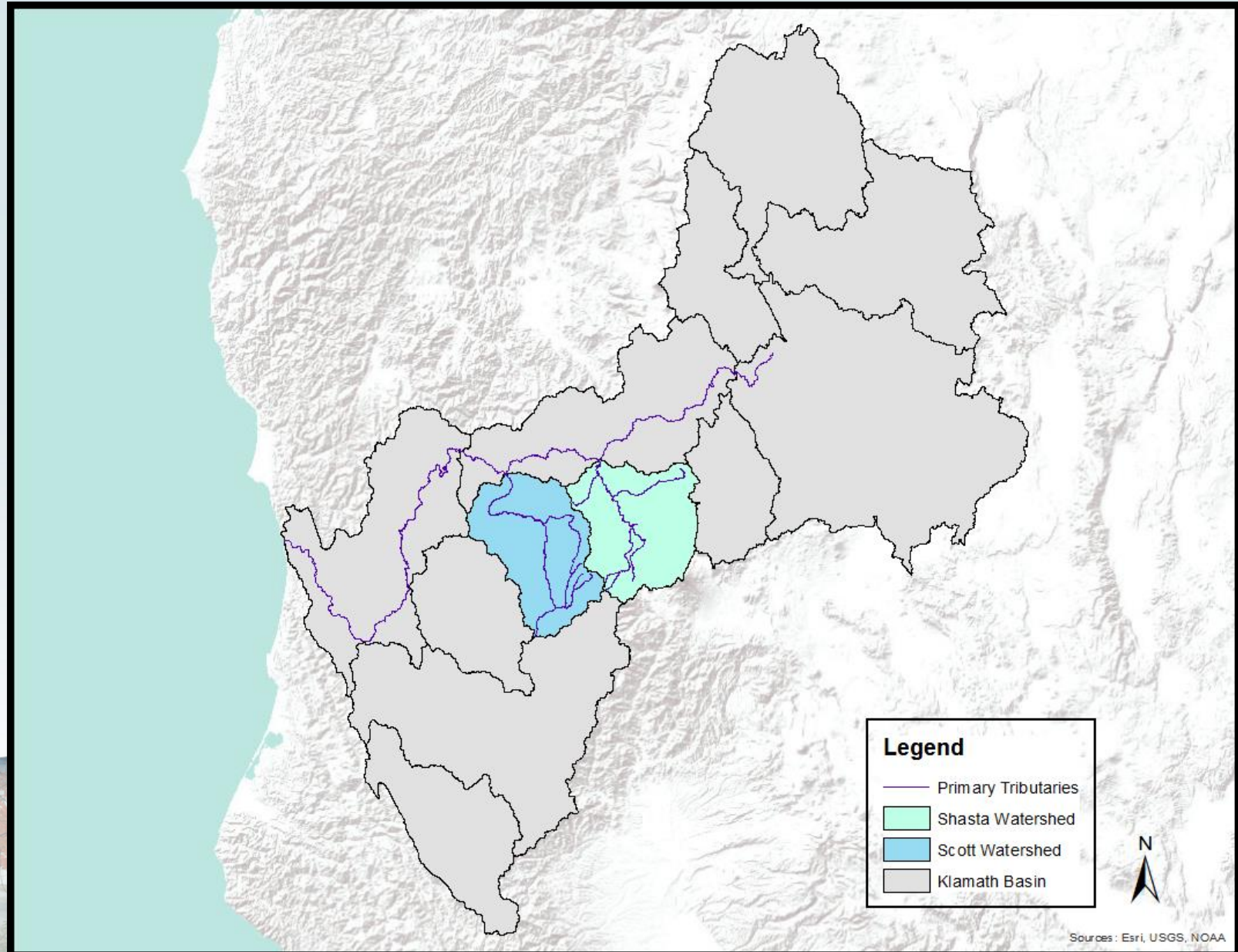


Topics

- Scott and Shasta TMDL implementation approach.
- Changes from the 2012 Waivers.
- Highlights of public comment and responses.
- Changes since the 2017 public review draft Waivers.

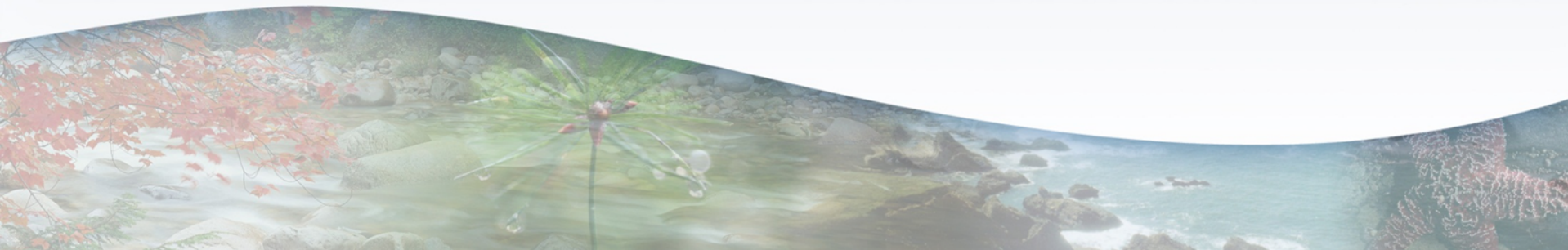


Regional Context – Klamath Basin



Unique Habitat

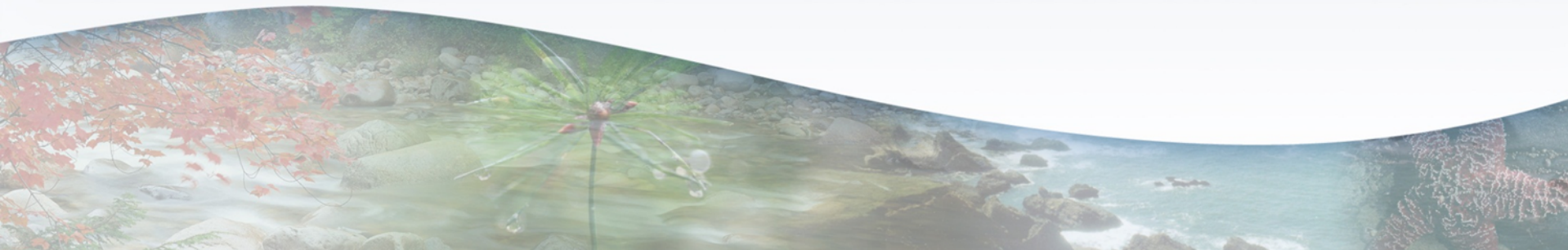
- Low-gradient.
- Substantial cold water influence.
 - Scott: Groundwater/surface water interactions.
 - Shasta: Cold snowmelt directed through volcanic geology (Pluto Caves Basalt) emerging ~11-15 C
- Historical riparian habitat.
- Result: source of much of the Klamath salmonids, potential for resilient salmonid rearing habitat as climate variability increases.
- Recognized as key to the survival of SONCC.



Scott and Shasta TMDL Implementation

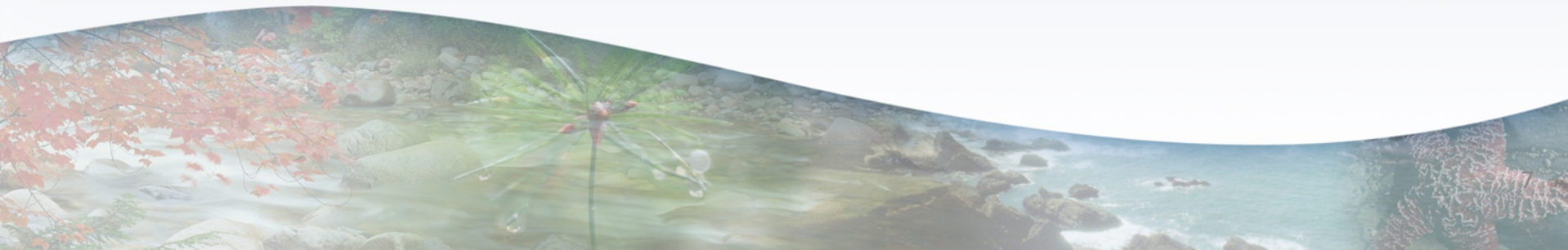
Approach

- Based on 303(d) listings and TMDL Action Plans.
- Multiple permitting programs build a coordinated approach towards comprehensive watershed restoration.
- Waivers are one component of comprehensive TMDL Action Plans.
- Waivers provide a mechanism where other permits do not exist to address agricultural non point sources.



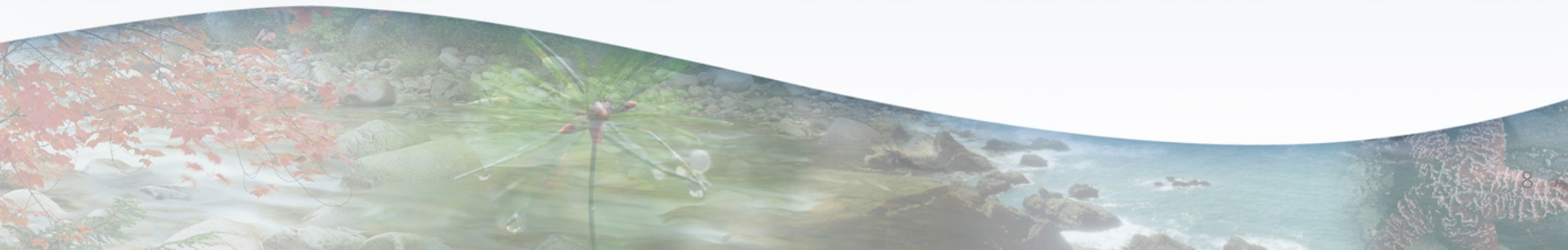
Scott River TMDL Action Plan

- Adopted by the Regional Board on December 7, 2005.
- Temperature and sediment TMDL analysis summary.
- Erosion control, riparian shade protection, groundwater management.
- Identifies: actions required by dischargers, monitoring and reporting requirements.



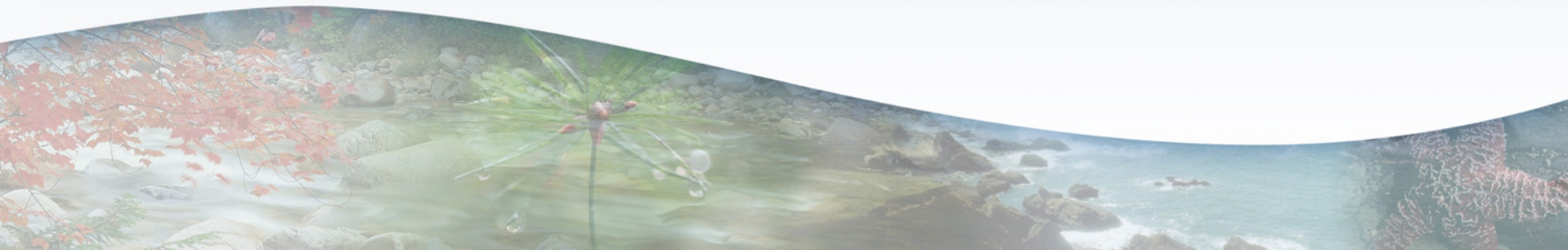
Shasta River TMDL Action Plan

- Adopted by the Regional Board on June 26, 2006.
- Temperature and dissolved oxygen TMDL analysis.
- Focuses on cold water flow, riparian shade protection, and tailwater impacts.
- Identifies: actions required by dischargers, monitoring and reporting requirements.



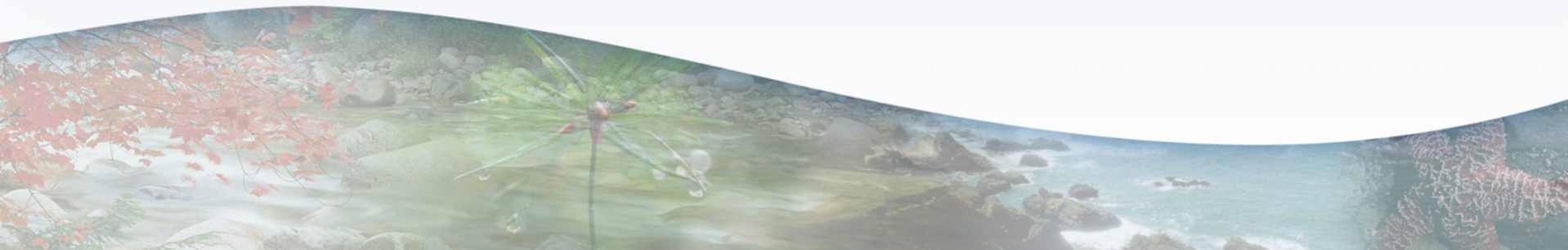
Waivers vs. TMDL Action Plans

- Scott and Shasta Waivers exist as one component of the TMDL Action Plans.
- Waivers regulate non-point sources, including agriculture.
- Waivers do not establish quantitative waste load allocations or effluent limits, unlike NPDES permits.
- Waivers are not considered a comprehensive pollution control program, rather an element.
- The Action Plans' implementation includes:
 - These Waivers.
 - Regulatory tools currently in place (401, timber permits, NPDES).
 - Self-directed, collaborative Stewardship practices.
 - Adaptive management.



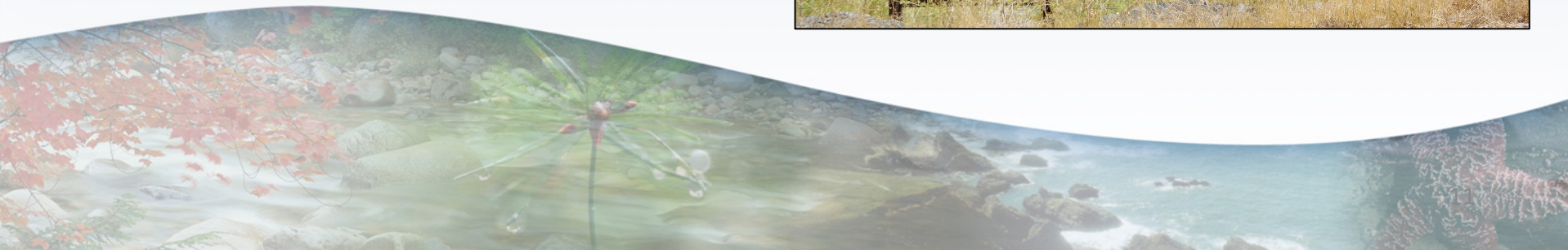
Shasta River Watershed Stewardship Report

- Provides historical, geologic, economic, and ecologic setting.
- Identifies water quality concerns, specifically TMDL impairments and salmonid populations.
- Catalogues work completed to mitigate impairments.
- Intends to be a keystone document for adaptive management.
- Includes status and trends monitoring plan and summarizes data collected to assess efficacy.
- Working towards a similar effort in the Scott.
- Download it here: <http://kbmp.net/stewardship/watershed-stewardship-adaptive-management>



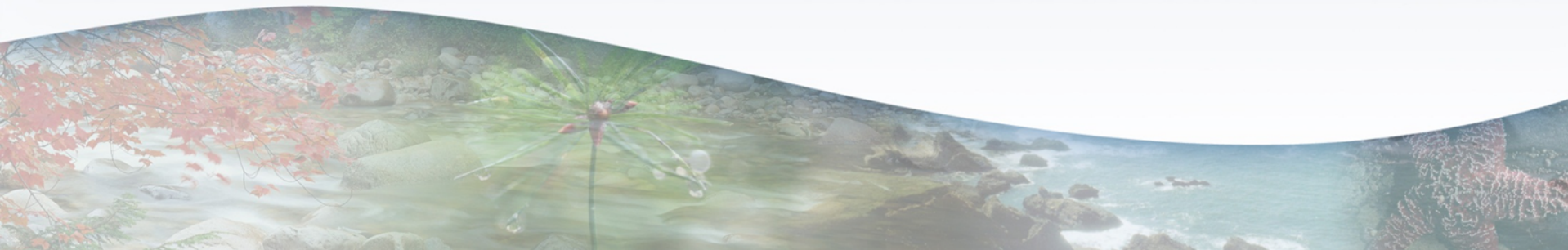
2012 Scott River and Shasta River TMDL Conditional Waivers (Order R1-2012-0083 and Order R1-2012-0084) Expired in October 2017

- Employ land stewardship practices that “minimize, control and preferably prevent the discharge of pollutants”.
- Allow RWB staff reasonable access to property to evaluate compliance.
- Submit plans and monitoring results if requested by Executive Officer.



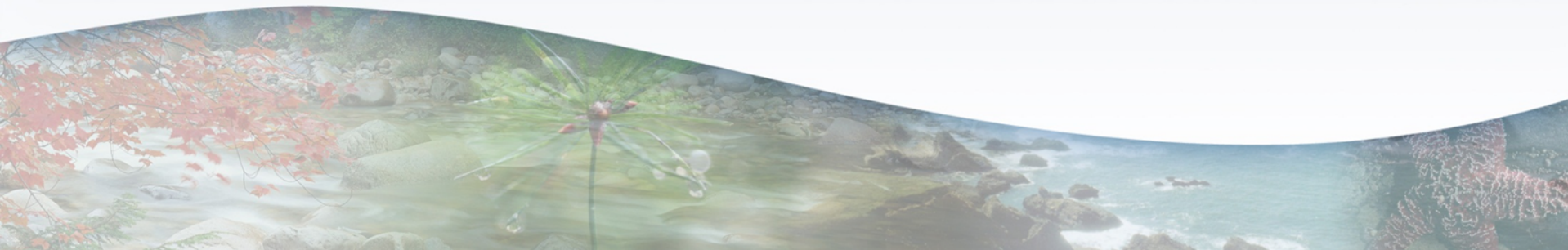
Progress In the Shasta

- In concert with grant programs, Waivers and stewardship partners:
 - 24 stock water systems installed.
 - 8 irrigation efficiency projects.
 - 6 tailwater diversion projects.
 - 3,750 linear feet of riparian plantings.
 - 23 Ranch assessments completed.
 - 133 miles of riparian fencing.
 - 61% of the entire Shasta River system fenced.



Progress in the Scott

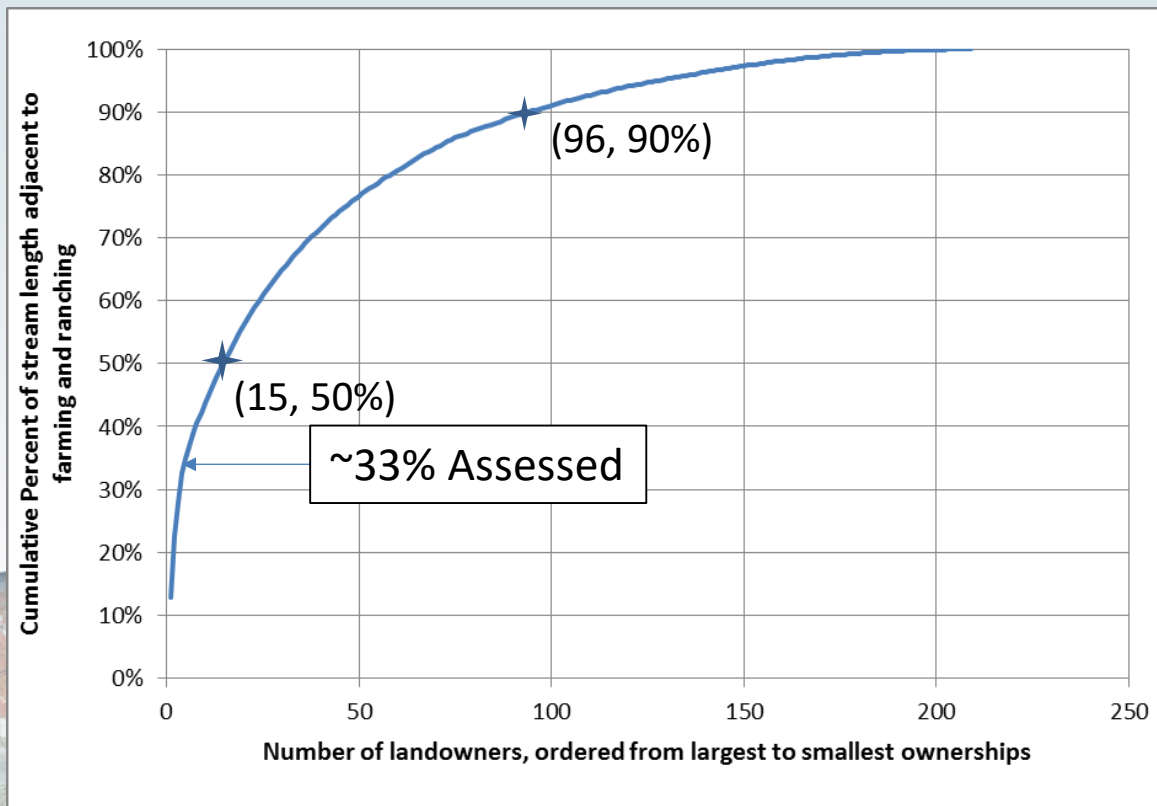
- In concert with grant programs, Waivers and stewardship partners:
 - 11 acres of Riparian plantings.
 - 6 Beaver Dam Analogues installed.
 - 4 major bank stabilization projects.
 - 16 ranches assessed.
 - 33% of the total stream frontage.
 - UC Davis developed comprehensive groundwater model to test scenarios that increase summer instream flow.
 - Coverage of 19,180 acres of timber land through Regional Water Board's timber program.



Prioritization in the Scott

An analysis of properties with farming and/or ranching activities adjacent to streams indicates:

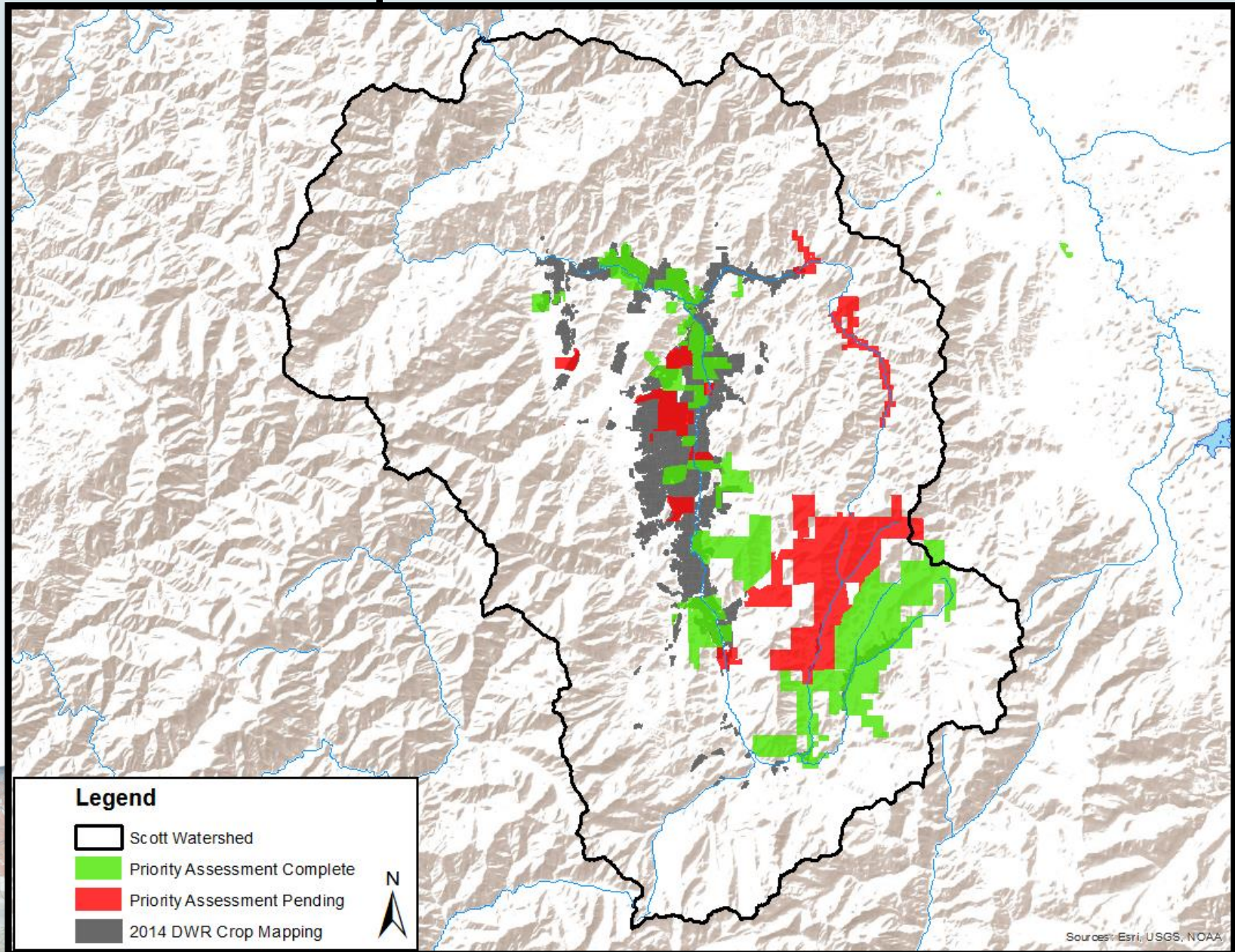
- Half the stream length in this category is owned by 15 landowners.
- 90% of the stream length is owned by 96 landowners.
- One third of managed lands adjacent to Scott Valley streams have been assessed.



Information sources:

- County assessor's parcel data.
- DWR land and water use assessment data.
- Hydrography.

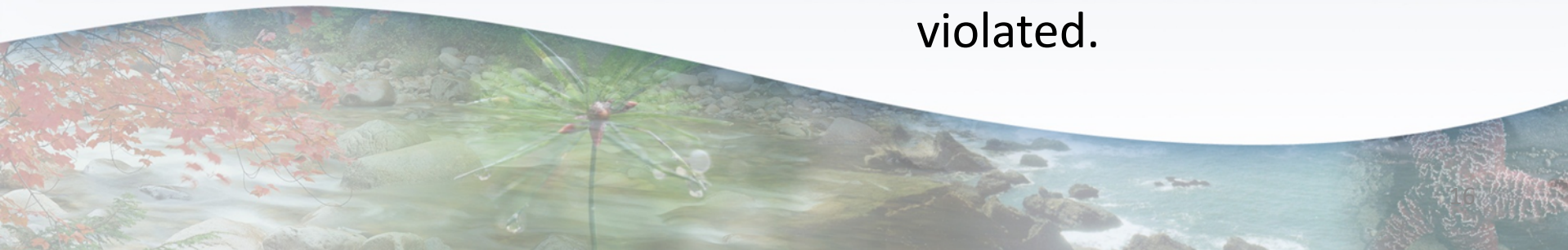
Waiver Implementation In the Scott



2018 Scott River and Shasta River TMDL Conditional Waivers (Order R1-2018-0018 and Order R1-2018-0019) Changes between 2012 and 2018 Waivers



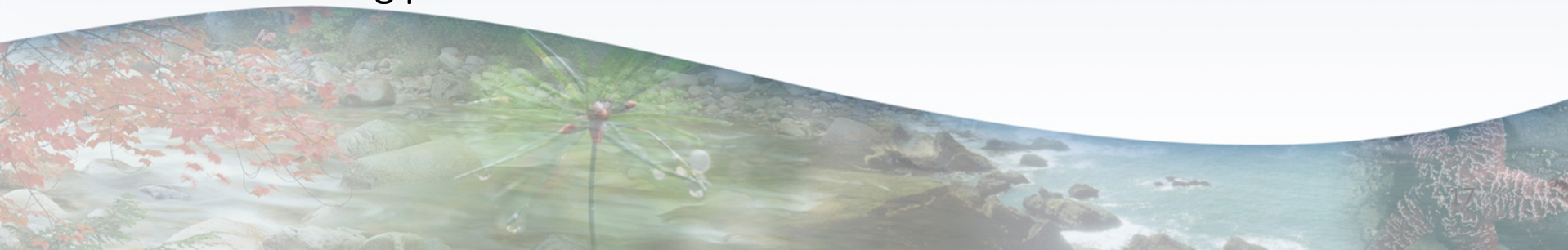
- Waivers have been aligned structurally to aid implementation and reduce confusion.
- Clarifies management measures that are conditions of compliance.
- Provides clear, enforceable language if conditions are violated.



2018 Scott River and Shasta River TMDL Conditional Waivers (Order R1-2018-0018 and Order R1-2018-0019)

Changes Between 2012 and 2018 Waivers

- Specific requirements for **Management Measures** to minimize, control, or prevent the discharge of substances that increase risk to water quality.
 - Guidance in 2012, requirements in 2018.
- **Best Management Practices** addressing chemical fertilizers, pesticides, fuels, oils and other potentially hazardous substances.
- Alternative measures that provide equal or better protection may be acceptable if developed in consultation with Regional Water Board staff.
- Clarify requirements related to:
 - Management plans.
 - Monitoring plans.



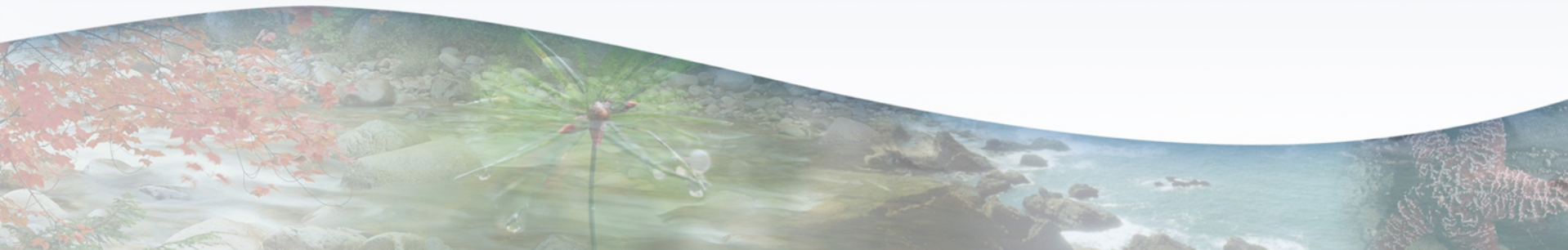
2018 Scott River and Shasta River TMDL Conditional Waivers (Order R1-2018-0018 and Order R1-2018-0019) Monitoring Requirements

Within Waiver Authority

- Site-specific.
- Receiving water.
- Implementation.
- Verification/Compliance.

Beyond Waiver Authority

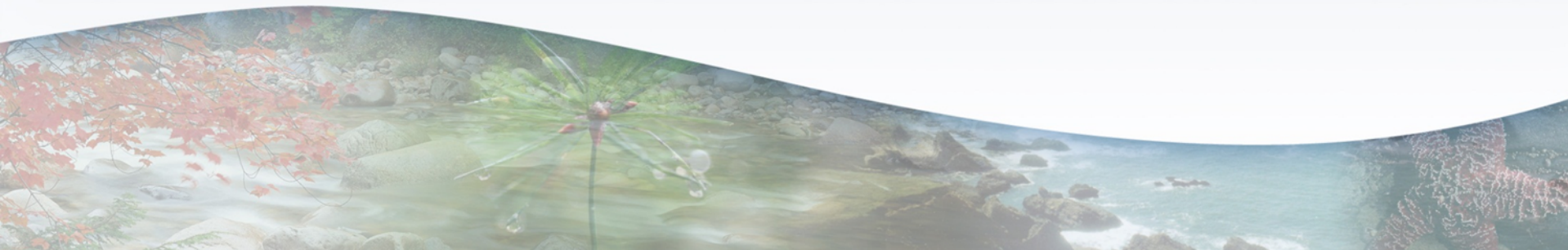
- Watershed-wide status and trends.
 - Falls within stewardship efforts and require additional funding.
 - Implemented a program in the Shasta.



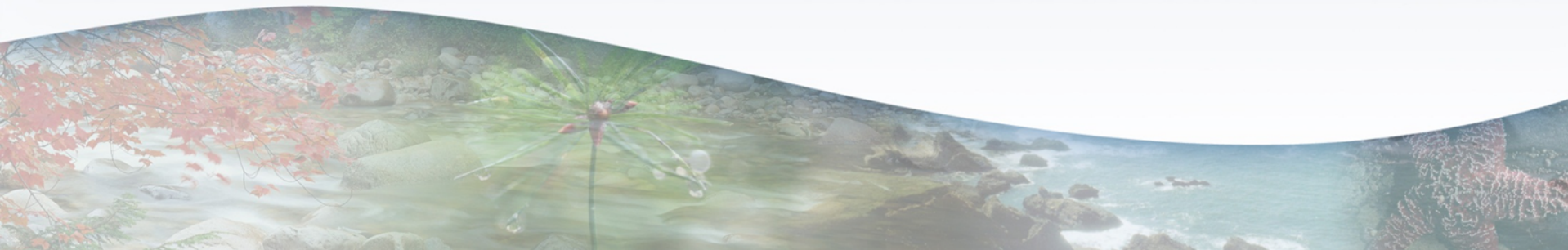
2018 Scott River and Shasta River TMDL Conditional Waivers (Order R1-2018-0018 and Order R1-2018-0019)

Proposed Conditions

- Finding 18: Acknowledge *potential* changes to next waiver renewal (2023):
 - Enrollment.
 - Tiered permit requirements based on threat to water quality.
 - Fees.
 - Operations already in compliance with this waiver may face a de minimis “stewardship” level tier.
- These changes may be considered for the next renewal in 2023, and would be subject to a separate public comment process

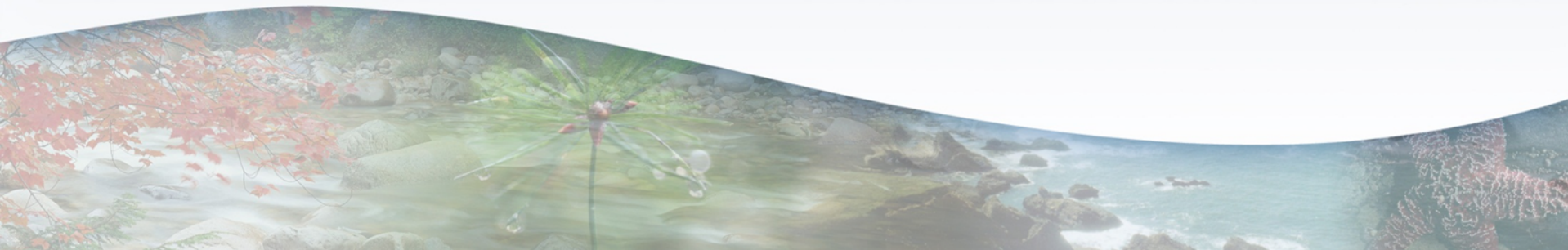


Summary of Public Comment



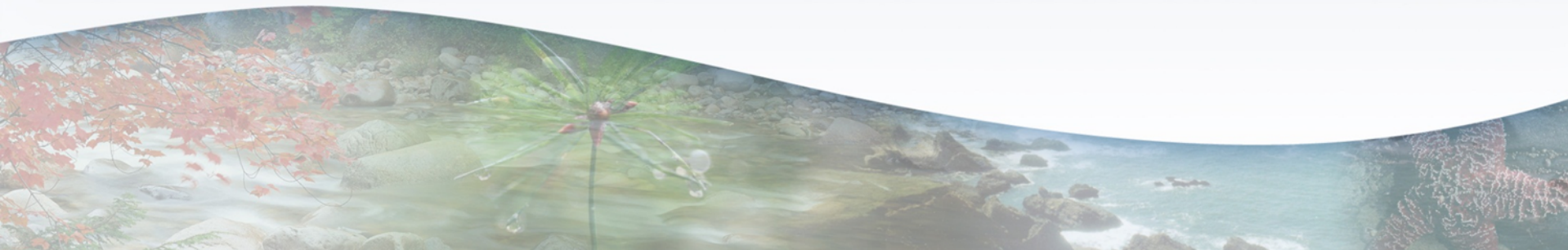
Entities Submitting Public Comment

- Environmental Protection Information Center (EPIC) and Klamath-Siskiyou Wildlands Center (KS Wild), submitted jointly.
- Karuk Tribe.
- Individual.
- North Group-Redwood Chapter-Sierra Club (NGRCSC).
- Pacific Coast Federation of Fishermen's Associations (PCFFA), Institute for Fisheries Resources (IFR), and Save the Klamath Trinity Salmon (SKTS), submitted jointly.
- Quartz Valley Indian Reservation.
- Shasta Valley Resource Conservation District.
- Siskiyou County.



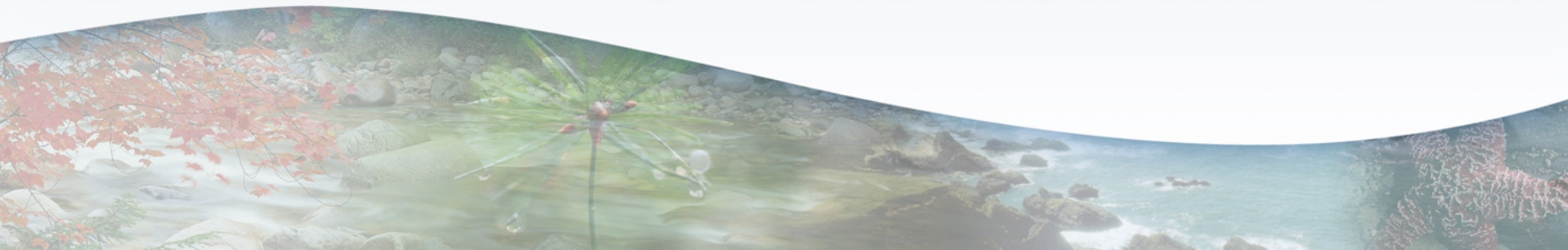
Public Comments – Primary Topics

- Waivers' alignment with:
 - Non-Point Source Pollution Control Program.
 - Requirements for Waivers of Waste Discharge.
 - TMDL Action Plans.
 - Anti-Degradation Policy.
- Need for enforcement actions against high-risk Dischargers.
- Tiered implementation approach that includes fees for Dischargers.



Public Comments – Primary Topics

- Shasta River TMDL Action Plan's requirement for compliance with all water quality objectives and TMDL allocations for the following by January 26, 2017:
 - Discharges associated with riparian land use activities.
 - All tailwater return flows.

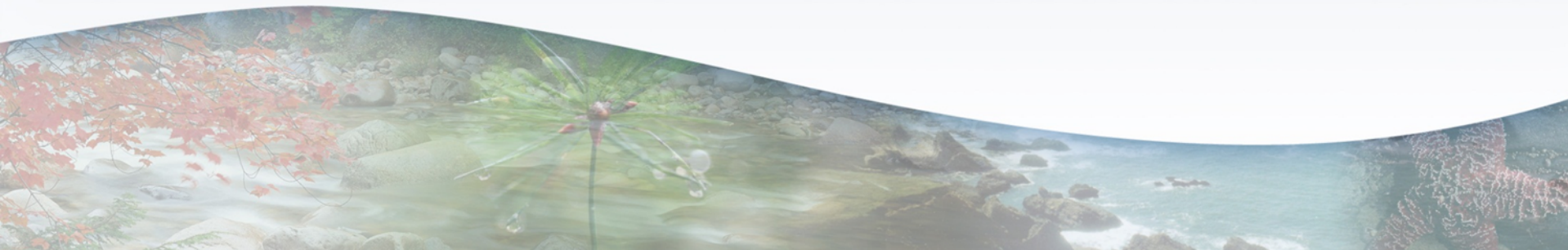


Public Comments – Primary Topics

Comment: Waivers not in alignment with Non-Point Source Pollution Policy, requirements for Waivers of Waste Discharge, and the Basin Plan.

Response

- Scott and Shasta Waivers are an element of a larger non-point source pollution control program that implement the TMDLs.
- Required Monitoring are intended to support waivers, as required by CWC 13269.
- Waivers address a subset of dischargers and are not intended to implement all elements of the Action Plans.
- To achieve WQOs, a broad approach is needed that includes both regulatory and non-regulatory (stewardship) actions.

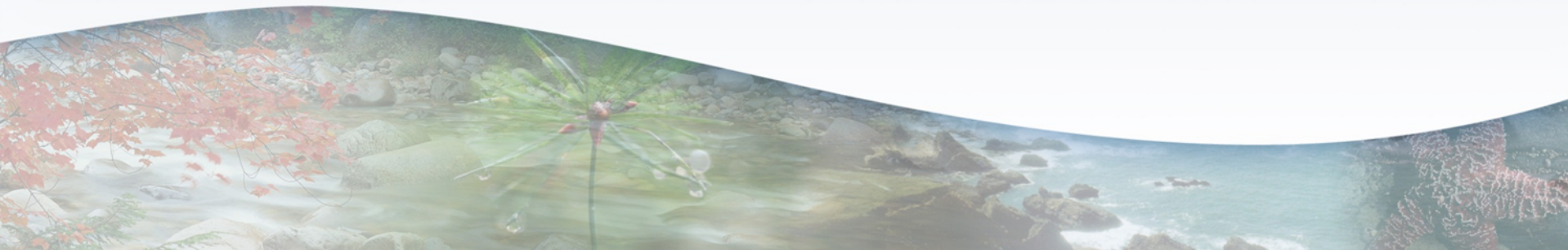


Public Comments – Primary Topics

Comment: Waivers are not in alignment with the State's anti-degradation policy.

Response:

- No requirements on how an anti-degradation determination is made.
- Waivers are designed to minimize, control, and prevent discharges to improve water quality over current conditions.
- Waivers require dischargers to use management measures with best practicable treatment and control.
- Management practices to improve water quality are enforceable and effectiveness will be verified through monitoring and reporting, as appropriate.

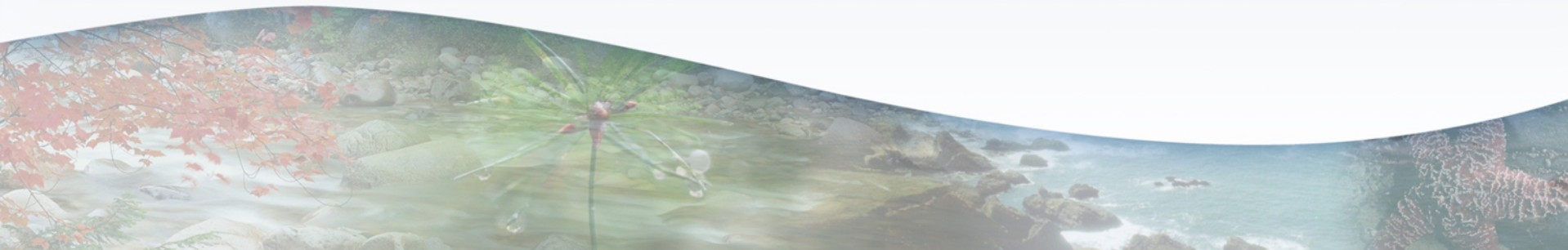


Public Comments – Primary Topics

Comment: Enforcement actions needed against high-risk dischargers.

Response:

- Waivers have been revised from 2012 versions to better facilitate progressive enforcement.
- Waiver conditions are enforceable.
- Waivers do NOT limit or restrict the Regional Water Board's ability to address water quality concerns:
 - NOV, CAO, Cease and Desist, ACL.
- Prioritization of complaints based on risk.

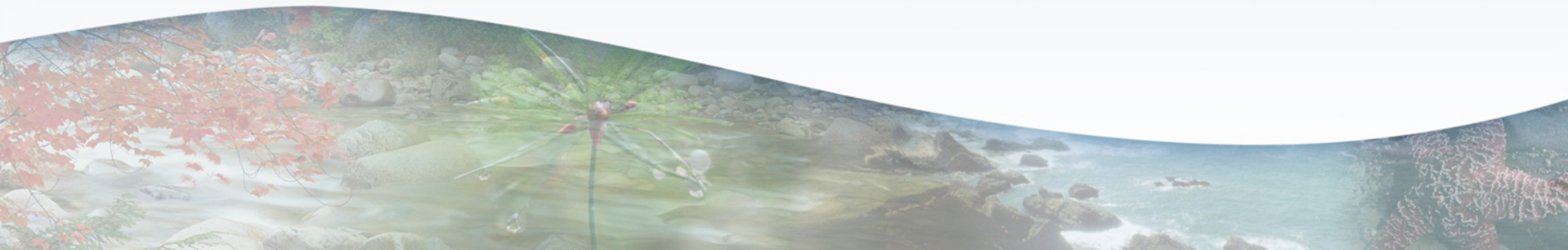


Public Comments – Primary Topics

Comment: Tiered implementation approach that includes fees.

Response:

- The requirement for fees is dependent on the State Water Board.
- The intention is to acknowledge a distinct possibility and incentivize early compliance, decision to include fees would be subject to its own public review process.
- Comments were received both in support and in opposition to a fee-based approach.



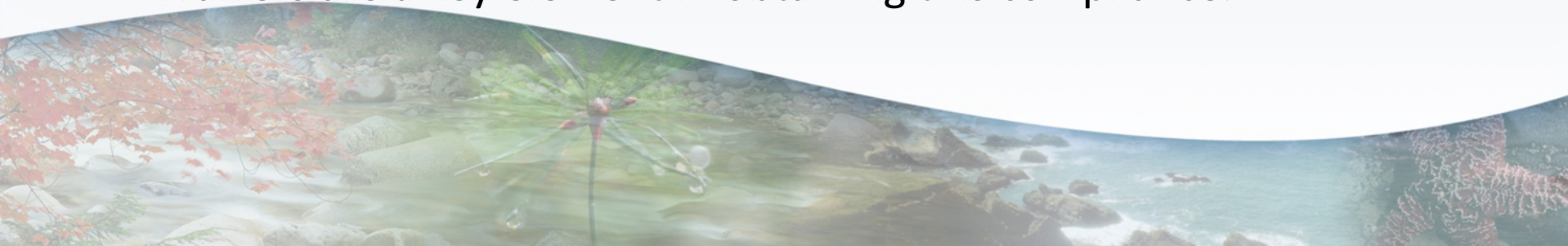
Public Comments – Primary Topics

Comment: Shasta River TMDL Action Plan requires compliance by January 26, 2017 for:

- Riparian land use practices
- Tailwater flows

Response:

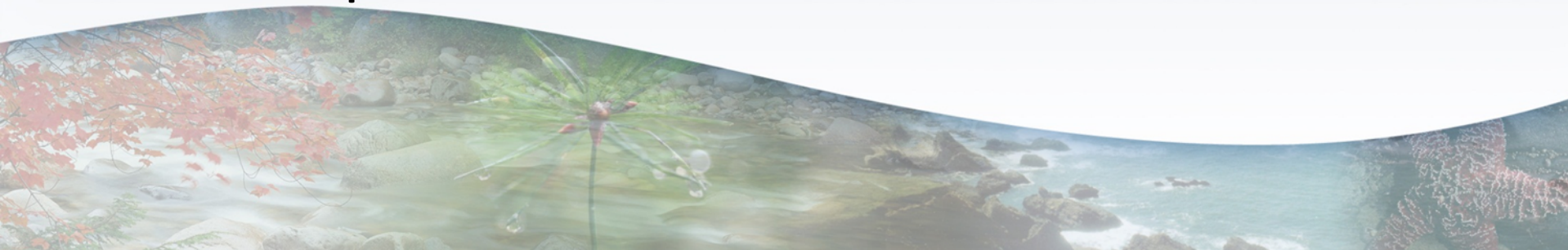
- The Regional Water Board recognizes that compliance with water quality standards has not been achieved consistently in the watershed.
- Waiver Conditions Address:
 - Management Measures to ensure compliance with Basin Plan.
 - Site-specific monitoring and reporting, implementation effectiveness, and verification monitoring as needed.
 - Tailwater flow sampling.
- Waivers are a key element in obtaining this compliance.



Changes from Public Review Draft

Global Changes:

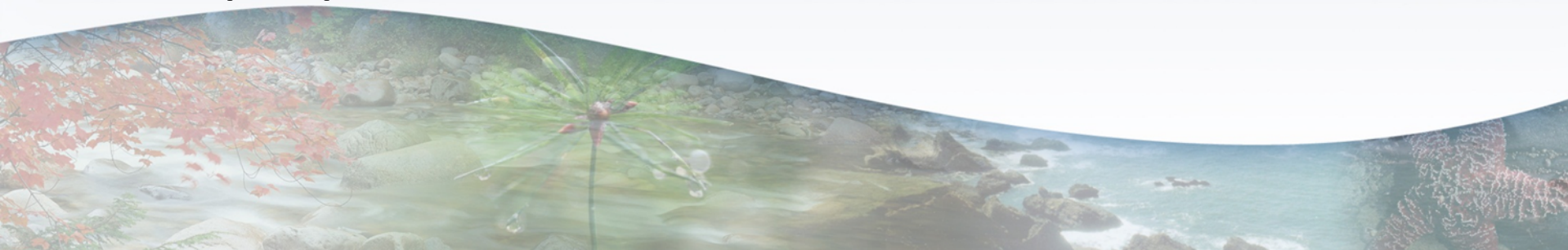
- Various consistency edits.
- Incorporation of public comment.
- Clarification of monitoring and reporting requirements.
- Clarification of anti-degradation compliance.



Changes from Public Review Draft

Scott River Additional Change

- Condition 12 – indicate explicitly that the order does not preclude the need for additional permits required by current regulation.
- Strike-through/Underline copies reflect changes from the public review draft to proposed orders.



Staff Recommendation

- Adopt the Orders R1-2018-0018 and R1-2018-0019 as proposed.



Questions?

