

Response to Written Comments
on
Draft Order No. R1-2024-0012 and Associated Draft Environmental Impact Report

General Waste Discharge Requirements
for
Nonpoint Source Discharges Related to Certain Land Management Activities
on
Federal Lands
in the
North Coast Region

Prepared by:
North Coast Regional Water Quality Control Board Staff
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I. Background

North Coast Regional Water Quality Control Board staff (Staff) prepared draft Order No. R1-2024-0012, *General Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Land Management Activities on Federal Lands in the North Coast Region* (Federal Lands Permit or Order) and the associated Draft Environmental Impact Report for the Order. On March 22, 2024, Staff issued a Notice of Public Comment Period and Board Workshop to notify interested persons of the opportunity to comment on the draft Federal Lands Permit and draft Environmental Impact Report during the public review period and solicit participation in the workshop¹. The public comment period closed on May 7, 2024. Staff appreciate the thoughtful and directed comments on the Federal Lands Permit and have contemplated how the feedback could be utilized to make modifications or clarifications to improve the Order. Numerous modifications were made to the Federal Lands Permit based on public input and have been noted throughout this Response to Written Comments document. Additionally, there are several staff-initiated changes to the draft Federal Lands Permit, which are described in Section II, Staff-Initiated Changes.

II. Staff-Initiated Changes

Staff made several changes to the draft Federal Lands Permit that were informed by staff professional judgment or which corrected errors mistakenly included in the draft circulated for public review. These changes include the following:

1. Activity 6 in Attachment A, Category A Activities, was revised as follows. ~~Hazard tree removal of individual or small clusters of trees along roads, in designated camp sites, and in other areas.~~ Roadside hazard tree removal along less than 500 linear feet of cumulative road length. This change was made to be consistent

¹ To receive updates on the Federal Lands Permit and Forest Activities on Federal Lands Program, please subscribe to the “Forest Activities on Federal Lands” email list at this web address: https://public.govdelivery.com/accounts/CAWRCB/subscriber/new?qsp=ca_swrcb.

with its moderate risk to water quality counterpart, Activity 2 in Attachment B, Category B Activities, which states “Roadside hazard tree removal along more than 500 linear feet of cumulative road length.”

2. Condition B.2.b. in Section VII of Attachment C, the Monitoring and Reporting Program (MRP) was updated to include the following language: If issues are identified and not addressed through modifications to Annual Operating Instructions or through the implementation of management measures, the National Forest shall describe those conditions in the Annual Report. Staff added this language to ensure that USFS National Forests report any issues identified through National Best Management Practice Effectiveness evaluations that were not addressed through AOI modifications.
3. Condition B.2.c in Section VII of Attachment C, the MRP, was removed: ~~Each National Forest must include a description of any discrete stream side features (see section VII.B.1.b above) observed during monitoring and report on the conditions at those locations every three to five years until the site is no longer contributing sediment to a watercourse.~~ The requirement to report streambank erosion on grazing allotments that threaten to cause or contribute to an exceedance of a water quality standards or permit violations was incorporated into Condition 1.a. of Section II, Discharge Notifications, of the MRP: Each Administrative Unit must file a Discharge Notification (~~see Section II, C~~) if a discharge of earthen material, petrochemicals, or other waste from an anthropogenic source (such as a road-related failure or streambank erosion on grazing allotments) threatens to cause or contribute to an exceedance of a water quality standard or violation of any applicable water quality requirement from this Order.
4. Section IV of Attachment F, the Watershed Assessment and Recovery Program (WARP), was modified to acknowledge other potential credit-generating activities that are not currently identified in the WARP that may be assessed and approved on a case-by-case basis. The following language was added: Other CSDS treatment activities that are not described in the WARP may also qualify for credits on a case-by-case basis. Administrative Units should contact North Coast Water Board staff with any proposed credit generating activities that are not currently detailed in the WARP for review and concurrence by North Coast Water Board Executive Officer.
5. Table 1 of Attachment F1, WARP Technical Analysis, was modified to reflect refined boundaries of the 303(d) input layer. The 303(d) listed acreage reflected in the Etna Creek example calculation in Section A of Attachment F1 was also updated accordingly. These revisions did not change the annual WARP credit obligations for any Administrative Unit.
6. The treatment credit value for livestock grazing effectiveness monitoring in Table 4 in Attachment F, the WARP, was increased from 0.5 to 1.0 to better incentivize additional livestock grazing effectiveness monitoring and associated adaptive management.

7. Section VIII of Attachment F, WARP, was modified to require federal agencies to report any changes to CSDS treatment status, land uses, or 303(d) listings/delistings that may impact the annual credit obligations that may have occurred during the given reporting year. Attachment C2, the WARP Tracking Form, was also updated to include a new data entry section for federal agencies to report these changes that occurred during that reporting year.
8. Minor, non-substantive editorial and typographical changes.

III. Comments

During the public comment period, Staff received 296 written comments contained within 30 letters. Staff organized these comments into the categories identified in Table 1. The organizations and individuals who submitted comments are listed in Table 2. Generally, Staff received some comments in support of components of the draft Federal Lands Permit and some expressing concern about general permit concepts and specific requirements. This document includes the direct quotes of comments received and Staff’s response to those comments. To avoid repetition of responses, staff reference prior responses to similar comments, where appropriate. Where a comment response does not identify proposed changes, Staff recommend continuing with the language in the Proposed Federal Lands Permit.

Table 1. Table of Contents.

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Table 2. Organizations and individuals who submitted comments on the draft Federal Lands Permit and corresponding response categories.

Commenter	Responses Categories
American Whitewater	A, J, K, N
Bureau of Land Management (BLM) California State Office	A, C, G, J, M, N
Central Sierra Environmental Resource Center (CSERC)	B, C, E
Conservation Congress	B, E, L, N
Environmental Protection and Information Center (EPIC)	A, C, D, I, M, N
Karuk Tribe	B, F, K, N
Klamath Forest Alliance (KFA)	A, C, D, I, M, N
Salmon River Restoration Council (SRRC)	A, B, C, J
Quartz Valley Indian Reservation	B, F, K, N
Klamath National Forest	A, B, C, E, H, M, N
Mendocino National Forest	A, B, C, E, F, H, K, N
Modoc National Forest	A, B, C, K
Rogue River-Siskiyou National Forest	A, J, K, M
Shasta-Trinity National Forest	A, C, F, G, H, N
Six Rivers National Forest	A, C, D, E, J, K, N
Carol Fall	N
Allison Cordera, Angela D'Accardo, Barbara Soto, Barbie Noell, Benjamin Nystrom, Dylan Carr, Gail Coonen, Heather Hulbert, Jay Forbes, Jolisa Eslinger, Marie Garabedian, Patricia Seaton, Stephen Luther, and Steven Smalley	A, L

A. Watershed Assessment and Recovery Program (WARP)

1. **Comment:** *The [US] Forest Service should not receive WARP credit for activities that are themselves a likely source of sediment pollution, like fuels reduction logging projects. (Allison Cordera, Angela D'Accardo, Barbara Soto, Barbie Noell, Dylan Carr, Jay Forbes, Jolisa Eslinger, Marie Garabedian, Stephen Luther)*

Staff Response: The Federal Lands Permit requires federal agencies to submit contracts or best management practice implementation and effectiveness checklists for all Category B projects, which include most fuels reduction projects. The contracts and checklists detail site-specific, on-the-ground prescriptions and are designed to ensure nonpoint source pollution from project implementation is prevented and minimized. Staff will review these contracts and best management practice checklists to ensure that the proposed measures will protect water quality. Contract and checklist submission will provide Staff with routine opportunities to conduct inspections to verify that the best management practices are implemented and are effective and timely.

Additionally, the intent of the alternative credit generating activities contained in the WARP, including fuels reduction activities, is to incentivize and facilitate the implementation of activities that support beneficial uses, reduce the potential for high-severity wildfires that can result in significant impacts to waters of the state,

and improve overall watershed health. Staff agree that there may be some fuels reduction activities conducted by federal agencies that do not meet the intent of fuels reduction alternative credit generating activities, such as salvage harvest within late successional reserves². As such, Attachment F of the proposed Federal Lands Permit, the Watershed Assessment and Restoration Program, was updated to clarify that salvage harvest activities in designated late-Successional Reserves will NOT qualify for treatment credits. This change is intended to further ensure that WARP credits are awarded to activities that meet the intent of the alternative credit generating activities as described above.

Proposed Revisions: Staff revised the description of the fuels reduction activities in Table 4 of Attachment F, WARP, accordingly: Fuels treatments must be implemented for the purpose of meeting an Administrative Unit's goals and/or agency standards to achieve a "resilient" landscape condition. Fuels treatments Salvage harvest in designated late successional reserves will do NOT qualify for WARP credit. Additionally, the term "Late Successional Reserves" has been added to Attachment H, Glossary of Terms and Acronyms.

2. **Comment:** *The Mendocino (National Forest) will have some difficulty currently to meet the average annual credits of 32. The Mendocino is already struggling to get road issues fixed identified for the Central Valley Water Board general order. The main issue is the Mendocino does not have a dedicated road crew with the appropriate equipment and/or funds to work on road surface treatments, watercourse crossing treatments, and other treatments for roads as identified in table 3 of attachment F. Roads is the best mechanism for the Mendocino to meet the 32 annual credits since it has the most credit multiplier value. It will take planning, time, funds, and partners to eventually meet the annual average of 32 credits for the WARP reporting. But the Mendocino may not be able to obtain the average credits over the first 5 years. (Mendocino National Forest)*

Staff Response: The WARP includes a variety of activities that can generate treatment credits, including some of which may be done through certain Burned Area Emergency Response activities and related fuel reduction activities. The use of a five-year rolling average to meet the requirements of the WARP is intended to provide compliance flexibility to federal agencies to meet WARP requirements. Additionally, North Coast Water Board staff will work with Administrative Unit staff throughout WARP implementation to explore potential funding opportunities and effective and efficient ways to accrue treatment credits.

² A late successional forest is a forest community that is approaching ecological maturity or old-growth status. The Northwest Forest Plan states that the objective of Late-Successional Reserves is to protect and enhance conditions of Late-Successional and old-growth forest ecosystems, which serve as habitat for late-successional and old-growth related species including the northern spotted owl, through identifying and implementing protections for these areas.

3. **Comment:** *For watercourse crossing upgrades it's unclear what the small to large crossing cubic yards is referring to. Is it referring to the road fill that is currently at the site and would be prevented from entering the stream channel by upgrading the watercourse crossing? (Mendocino National Forest)*

Staff Response: The fill volume ranges that accompany the small, medium, and large watercourse crossing descriptions in Table 3 of Attachment F refer to the total fill volume (cubic yards) of a given watercourse crossing. The fill volume ranges are used as a metric to determine relative size and potential benefit to water quality by upgrading the watercourse crossing.

4. **Comment:** *Our organizations are opposed to the inclusion of fuels treatments, grazing monitoring and other activities including, aquatic restoration, forest resilience projects and planning strategies as Alternative Credit Generating Activities in the WARP. These activities are either risks to water quality, and therefore inappropriate in a permitting system that attempts to control anthropogenic sources of pollution, and/or should be required as conditions of the WDR. (EPIC and KFA)*

Staff Response: Except for aquatic habitat restoration, which is permitted by other Water Boards permits, the Federal Lands Permit regulates discharges from and includes conditions for fuels reduction, grazing, forest resilience, and other activities. Depending on the project, these activities are designated by the Federal Lands Permit as either low or moderate risk to water quality, and as such, contain requirements to ensure that any potential risks to water quality are prevented and minimized. For example, the Federal Lands Permit requires federal agencies to submit contracts or best management practice implementation and effectiveness checklists for all Category B (moderate risk to water quality) projects. The contracts and checklists detail site-specific, on-the-ground prescriptions and are designed to ensure nonpoint source pollution from project implementation is prevented and minimized. Staff will review these contracts and best management practice checklists to ensure that the proposed measures will protect water quality. Contract and checklist submission will provide Staff with routine opportunities to conduct inspections to verify that the best management practices are implemented and are effective and timely.

Additionally, the intent of the alternative credit generating activities contained in the WARP is to incentivize and facilitate the implementation of activities that support beneficial uses³, reduce the potential for high-severity wildfires that can result in significant impacts to waters of the state, and improve overall watershed health. Staff agree that there may be some fuels reduction activities conducted

³ Fuels reduction and forest resilience activities support beneficial uses in part by reducing potential wildfire severity, riparian shade and soil cover removal, terrestrial and aquatic species habitat destruction, erosion, and soil structure changes (e.g., porosity and hydrophobicity). Aquatic habitat restoration activities support beneficial uses through stabilizing an eroding streambank, treating a stream diversion, or large wood augmentation which can help to sort and scour excess sediment loads that are already within the system, increasing the systems assimilative capacity and providing additional habitat complexity for aquatic species.

by federal agencies that do not meet the intent of fuels reduction alternative credit generating activities. As such, Attachment F of the proposed Federal Lands Permit, the Watershed Assessment and Restoration Program, was updated to clarify that fuels reduction activities in designated Late-Successional Reserves will NOT qualify for treatment credits. This change is intended to further ensure that WARP credits are awarded to activities that meet the intent of the alternative credit generating activities as described above.

Proposed Revision: See comment A.1.

5. **Comment:** *Monitoring, by itself, will not improve watershed conditions. Credits should only go towards activities that actually improve water quality, primarily where enrolled projects affect water quality.* (EPIC and KFA)

Staff Response: Staff agree that monitoring by itself does not improve watershed conditions. The inclusion of a small allocation of WARP credit for additional National BMP Effectiveness monitoring for Range Allotments is intended to both incentivize better understanding of conditions within grazed allotments, and to potentially identify problems within the monitored allotments - which North Coast Water Board staff can then work with USFS staff to address.

Proposed Revision: The WARP has been updated to clarify that Administrative Units must comply with the grazing reporting requirements in the MRP to receive WARP credit for additional National BMP Effectiveness monitoring for Range Allotments, accordingly:

1 monitoring event above those already required in MRP ~~the Monitoring and Reporting Program~~ Section VII.B.1.³

Footnote 3: Administrative Units must comply with the reporting requirements in MRP section VII.B.1 to receive this credit.

6. **Comment:** *Most of the aquatic restoration taking place is done by and paid for by partner organizations, not the Federal Agencies. These actions are already taking place and should not be used to allow Federal Agencies to degrade water quality in other watersheds.* (EPIC and KFA)

Staff Response: The aim of the alternative credit generating activities, including aquatic habitat restoration, whether conducted by the federal agency or in partnership with other organizations, is to incentivize and facilitate the implementation of activities that support beneficial uses and foster holistic watershed treatments that advance water quality in focused and prioritized ways.

7. **Comment:** *Recommendation: Remove fuels treatments, grazing monitoring, forest resilience and climate adaptation treatments and planning strategies from the list of alternative credit generating activities and reduce aquatic restoration to 5 percent of WARP credits. (EPIC and KFA)*

Staff Response: See responses to comments A1, A5, and A6.

8. **Comment:** *The WARP allows “compliance flexibility” to address CSDSs, but compliance flexibility is particularly concerning since the track record for federal agencies completing the treatment of legacy sediment sites has been inconsistent, leaving many watersheds impaired. (EPIC and KFA)*

Staff Response: Staff will determine the eligibility of WARP credits proposed by Administrative Units. For example, the Federal Lands Permit requires Administrative Units to submit a Notice of Intent (Attachment D) for Category B projects, which apply to most credit generating activities, for Staff review and North Coast Water Board Executive Officer approval. The Notice of Intent includes a section to identify proposed WARP credits generated by the project. Staff will review the proposed credits and determine whether they comply with the appropriate credit activity requirements and are of appropriate value.

North Coast Water Board staff intend to closely evaluate federal agency compliance with the WARP conditions, and federal agencies that are out of compliance with Order conditions may be subject to enforcement actions.

9. **Comment:** *Many people within our region have experienced degraded water systems due to historic logging projects, mining and grazing activities and historic impacts have yet to be remediated, which not only affects the waters, but also the aquatic wildlife that inhabit those waters. Allowing further degradation to these waterways in exchange for restoration activities outside of the watershed could have negative impacts to already marginalized communities. (EPIC and KFA)*

Staff Response: Our staff agree that historic impacts continue to affect water quality conditions, primarily related to excess sediment and elevated water temperatures, but also from other sources of pollution that can degrade water quality (e.g., nutrients, metals, and other chemical constituents). Treatment of sediment sources through the WARP is not mitigation for project activities. The sediment source treatment requirements in the WARP, and all North Coast Water Board nonpoint source permits, are focused on addressing 303(d) listed impairments in watersheds, and/or implementing TMDL action plans and sediment and temperature implementation policies contained in the *Water Quality Control Plan for the North Coast Region* (Basin Plan), and steadily treating controllable sediment discharge sources (CSDS) over time throughout all watersheds.

Additionally, the Federal Lands Permit is designed to prevent water quality impacts and degradation in all watersheds on federal lands in the North Coast Region. For example, the MRP requires federal agencies to submit contracts detailing the on-the-ground prescriptions for projects, which staff anticipate will provide them with more opportunity for project-level engagement and inspections to ensure BMPs are appropriate and functioning to protect beneficial uses and minimize impacts to marginalized communities. Furthermore, the WARP is intended to require and facilitate an increase in annual CSDS treatments, in focused and prioritized watersheds, to allow for more holistic water quality improvement, rather than the fragmented or isolated CSDS treatment plans required by the 2015 Federal Waiver.

10. **Comment:** *We encourage the NCRWQCB to embrace the Racial Equity Action Plan by applying a racial equity lens throughout the decision-making processes to ensure that we avoid new structures and practices that perpetuate inequalities. Recommendation: Incorporate racial equity analysis when prioritizing WARP credits. (EPIC and KFA)*

Staff Response: Staff agree that racial equity considerations should be included in North Coast Water Board programs and processes.

Proposed Revision: In response to your comment and ongoing internal discussions to seek opportunities to advance racial equity, the WARP was revised to include a new treatment credit multiplier for projects that advance racial equity and environmental justice efforts. The following language was added to Section V.I.B. of Attachment F.

The North Coast Water Board supports and encourages projects that seek to advance racial equity and/or reduce water quality impacts in Black, Indigenous, Latinx, Asian, and other communities of color and are aligned with the goals of the Racial Equity Resolution for the North Coast Region , Water Boards' Racial Equity Action Plan and Racial Equity Action Plan for the North Coast Region , and the North Coast Water Board's Racial Equity Initiative at large. As such, Administrative Units may qualify for a 2.0 credit multiplier for eligible credit or alternative credit generating activities that are prepared and/or implemented in partnership or collaboration with California Native American Tribes (Tribes), Black, Indigenous, Latinx, Asian, and other communities of color, or organizations that support efforts to advance racial equity and environmental justice. Examples of eligible projects include those that involve cultural burning, incorporate or leverage traditional ecological knowledge, contract with Tribes to implement treatments, or reduce potential nonpoint source pollution to communities of color). Partnership or collaboration with Tribes is intended to capture activities beyond government-to-government consultations with tribes required by federal statute, regulation, executive order, or policy. Tribal consultation, by itself, on eligible credit or alternative credit generating activities does not meet the intent of and will not qualify for the credit multiplier.

Projects must be developed in partnership or collaboration so that these communities, tribal governments, and organizations are involved in project development and decision making and agree with the proposed benefits to their communities. The degree of partnership (e.g., informal or formal) is discretionary and may be determined by the Administrative Unit and the Tribe or community of color. The intent of relying on a partnership approach is to not burden a Tribe or community of color with the responsibility of demonstrating the project's benefit to their community so that an Administrative Unit may receive the credit multiplier, but rather to ensure that the Tribe or community of color agrees that it will benefit them.

Federal Agencies must include a point of contact for the Tribe, community, or organization they are partnering with in the Annual WARP Tracking Form to receive the credit multiplier. North Coast Water Board staff will contact the listed point of contact if there are clarifying questions regarding the activity or partnership proposed for the credit multiplier.

11. **Comment:** *Please provide any evidence that the existing Federal Waiver inhibits agencies from carrying out projects. We are sympathetic to the difficulty of monitoring and documenting CSDSs on a project level. However, the WARP reporting process could be redirected to include project footprints and individual CSDS sites and would allow the agencies to report on an annual basis in affected watersheds. (EPIC and KFA)*

Staff Response: Staff received comments from federal agencies that the project-level CSDS requirements in the previous Waivers inhibited their ability to implement fuels reduction, community protection, and other forest resilience projects due to the large amount of CSDS treatment required within the footprint of those projects. Additionally, staff's experience with the 2015 Waiver's CSDS treatment requirements was that limiting treatments to a specific project area resulted in fragmented or incongruent water quality benefits, and that federal resources could be leveraged more effectively to protect water quality in more prioritized ways. Accordingly, staff disencumbered project-level CSDS treatment from the implementation of Category B projects in favor of treatment through the WARP, which is designed to allow federal agencies to apply their resources toward CSDS treatment in a more focused, intentional, and effective manner. Staff anticipate that the WARP will steadily advance annual treatment of CSDS and produce a more cohesive, watershed-wide strategy to water quality protection.

12. **Comment:** *We suggest that CSDS treatments be incentive-based, rather than promulgating targets that the BLM has little control over successfully achieving. (BLM California State Office)*

Staff Response: The North Coast Water Board is charged with protecting and improving the condition of waters in the region, especially in those watersheds that are 303(d) listed as impaired; and this charge requires us to place

requirements on landowners across the region to address existing and future sources of pollution. The WARP is designed to require, leverage, and support federal efforts to conduct needed sediment reduction work on federal lands. Staff developed the WARP in part considering how federal agencies complete work on the ground, namely through the combination of congressional allocations and grant funds. Additionally, the WARP was developed as an alternative to the sediment treatment obligations that were placed on Category B projects, and which staff heard from federal agencies was impeding their ability to do fuels treatment and community protection projects.

13. **Comment:** *How would watersheds where extensive past roads treatments have occurred be factored into a revised WARP number?* (BLM California State Office)

Staff Response: The WARP allows federal agencies to request an annual credit reduction for watersheds where at least 75 percent of the CSDS have been treated. Federal agencies must demonstrate that the given watershed has been at least 75 percent treated and submit the required information and data in the WARP to request a reduction to an Administrative Unit's annual credit obligation. Additionally, the WARP is designed to further reduce the annual treatment obligation of administrative units as they accomplish full treatment of CSDS and are successful in delisting watersheds from the 303(d) impaired waters list.

14. **Comment:** *We appreciate that the WARP recognizes many forms of land health treatments in this scheme such as in-stream restoration, fuels and forest health projects. However, vital projects to address the ongoing wildfire crisis in California are given very little credit.* (BLM California State Office)

Staff Response: The WARP is focused on the treatment of sediment sources and as such these are the primary credit generating activities. Staff acknowledge the nexus to sediment pollution reduction and water quality protection afforded by the alternative credit generating activities, such as fuels reduction treatments, and as such offers some treatment credit for them through the WARP.

15. **Comment:** *The BLM fails to see how the requirements of the WARP program would further incentivize these (CSDS treatment) efforts. Our projects are dictated by congressional funding, the availability of grants, and staff capacity to maintain adequate oversight of the projects.* (BLM California State Office)

Staff Response: The North Coast Water Board is charged with protecting and improving the condition of waters in the region, especially in those watersheds that are 303(d) listed as impaired; and this charge requires us to place requirements on landowners across the region to address existing and future sources of pollution. The WARP is designed to require, leverage, and support federal efforts to conduct needed sediment reduction work on federal lands.

Staff acknowledge that federal agencies may at times face challenges in meeting sediment reduction requirements and developed the WARP in part considering

how federal agencies complete work on the ground through the combination of congressional allocations and grant funds. However, the North Coast Water Board must also continue to serve its mission to preserve, enhance, and restore beneficial uses in the North Coast Region regardless of federal funding sources. Additionally, the State Water Board's Nonpoint Source Implementation and Enforcement Policy requires the Water Boards to address nonpoint source pollution sources through waste discharge requirements, waivers of waste discharge requirements, or prohibitions. Incentive-based programs alone are not sufficient to meet our policy and legal requirements.

16. **Comment:** *The BLM maintains that the additional requirements of the WARP program would not induce additional treatments. A more incentive-based system is required.* (BLM California State Office)

Staff Response: Please see response to Comments A.12 and A.15.

17. **Comment:** *The WARP's obligations and credit system is complex, and this may lead to challenges in federal agencies' compliance, the Water Board's enforcement, and the public's ability to understand and track effectiveness of the program. Such complexity might result in discrepancies in how credits are awarded and the actual environmental benefits achieved, thus diluting the program's overall impact. We believe an alternate means of reducing water pollution may be more effective and reliable.* (American Whitewater)

Staff Response: Staff will determine the eligibility of WARP credits proposed by Administrative Units and review proposed credits in the Annual WARP Tracking Form submitted by each Administrative Unit. The Federal Lands Permit requires Administrative Units to submit a Notice of Intent (Attachment D) for Category B projects, which apply to most credit generating activities, for Staff review and North Coast Water Board Executive Officer approval. The Notice of Intent includes a section to identify proposed WARP credits generated by the project. Staff will review the proposed credits and determine whether they comply with the appropriate credit activity requirements and are of appropriate value. For Category A projects which do not require submittal of a Notice of Intent, Administrative Units are expected to include their completed activities proposed for credit-generation onto the annual reporting form, which will allow Staff to audit for conformance with the WARP. Additionally, Staff will work closely with Administrative Unit staff to facilitate ease of WARP implementation, answer questions, and support them as needed. Annual WARP Tracking Forms will also be available for public review and may be requested by emailing RB1-Federal@waterboards.ca.gov.

18. **Comment:** *The program allows significant self-directed flexibility for land management agencies. Coupled with agencies' limited resources and budget constraints, agencies will likely use this flexibility to select WARP credit projects with the lowest cost rather than projects with the greatest benefit or optimized cost-benefit results. By providing land management agencies with a credit program designed to fit within their diminished capabilities and then allowing the agencies to self-select credit projects—likely based on the lowest cost—it is reasonably foreseeable that the WARP will deliver diminished results if not a net increase in water pollution compared to status quo. (American Whitewater)*

Staff Response: The WARP primarily focuses on the treatment of controllable sediment discharge sources. It was designed to promote the implementation of comprehensive treatments, like road stormproofing and decommissioning, which have a great benefit to water quality, while still accounting for routine infrastructure maintenance and supporting the range of different activities commonly implemented on federal lands. As referenced, the WARP includes an allowance for federal agencies to conduct alternative actions (e.g., aquatic habitat restoration, fuels management, etc.) to complete a portion of their credit obligation (up to 30% maximum). The different alternative credit generating activities are capped to better ensure that the process is focused primarily on the treatment of controllable sediment discharge sources during any given year, and over time. Staff believe that the WARP provides an appropriate obligation of controllable sediment discharge source treatments while also recognizing other beneficial actions routinely conducted on federal lands. Please see response A.17.

19. **Comment:** *Should WARP become part of the final permit, it should be evaluated annually due to its complexity and unfamiliarity to both the Water Board and permitted federal agencies. Waiting five years to fully evaluate the program could perpetuate suboptimal practices and hinder timely adaptive management strategies. Five years could be the entirety of the permit's lifespan. (American Whitewater)*

Staff Response: Staff agree, in part. North Coast Water Board staff will review all Annual WARP Tracking Forms for compliance. Staff will inform Administrative Units whether their annual credits were consistent with the WARP and whether they met their credit obligations for the year. If an Administrative Unit is unable to meet its credit obligations for the year, or over successive years, Staff will inform them of the deficiency and engage with the Administrative Unit to seek resolution. Staff will also notify the Administrative Unit of the potential for future regulatory enforcement actions they may be subjected to if they do not make up these credits in the remaining five-year WARP cycle.

20. **Comment:** *Federal land management agencies may attempt to meet new WARP credit requirements by repurposing existing and routine projects rather than initiating new projects intended to reduce water pollution. This approach could significantly limit the introduction of innovative practices aimed at further reducing pollution. (American Whitewater)*

Staff Response: WARP credit and alternative credit generating activities are inclusive of new and novel techniques in sediment reduction and should not prevent or limit innovation. It aims to incentivize new projects through the annual credit obligations and credit multipliers for activities that are designed to help advance water quality in a focused and prioritized way, including watershed-wide planning and prioritization and projects that support and advance racial equity efforts.

21. **Comment:** *Additionally, allowing aquatic restoration projects to be used to satisfy WARP credit requirements is unlikely to result in a decrease in water pollution. Most aquatic restoration projects are not intended or designed to reduce water pollution but rather to improve habitat and stream function. While this is positive for beneficial uses, it does not necessarily represent a reduction in water pollution. In fact, the Water Board recognizes that most aquatic restoration projects will actually result in some amount of increased water pollution, particularly during their construction, and require these projects to receive water quality permits such as a General Construction Permit and to develop Stormwater Pollution Prevention Plans. It is incongruous to grant WARP credits for reducing water pollution through the implementation of a project that is recognized to increase water pollution, even if only in the short-term. The Federal Lands Permit should focus on ensuring that there is a net reduction in water pollution so that aquatic restoration projects receive higher quality water and can better function in their role of restoring the aquatic ecosystem. (American Whitewater)*

Staff Response: Staff do not disagree that some aquatic habitat restoration projects can result in temporary impacts during construction activities. There are circumstances, however, where an aquatic habitat restoration project does reduce pollution, such as in a bioengineering project to stabilize an eroding streambank or treatment of a stream diversion. Some projects such as large wood augmentation can help to sort and scour excess sediment loads that are already within the system, increasing the system's assimilative capacity and providing additional habitat complexity for aquatic species. The North Coast Water Board's *Policy in Support of Restoration in the North Coast Region* (Restoration Policy) specifically recognizes that "the structure, function and biodiversity of aquatic ecosystems are vulnerable to disruption by a variety of anthropogenic stressors (e.g., pollution, landscape and habitat modification, flow alterations, exotic species introduction) and natural stressors (e.g., floods, catastrophic wildfires, landslides, droughts). In many watersheds, the impacts of past land use activities or so-called 'legacy' problems may require decades or longer to recover from and to return to historic, natural, or functioning conditions. Some aquatic ecosystems have been so significantly altered that it is no longer

reasonable or feasible to achieve historic conditions; but rather, restoration efforts must focus on the rehabilitation of an existing site to its best achievable structure, function and biodiversity." The WARP is consistent with the objectives of the Restoration Policy and the approach it contemplates is anticipated to help facilitate protection and recovery of beneficial uses.

22. **Comment:** *Given the North Coast Regional Water Quality Control Board's historical challenges with adequate enforcement of state water quality requirements on federal public lands, there is a substantial risk that the WARP will not be adequately enforced. The program's compliance and enforcement relies too much on self-reporting by the permitted agencies. Without strong, proactive enforcement measures and rigorous on-the-ground inspections and enforcement by the Water Board, there is a high likelihood that WARP's goals will not be fully realized and a reduction in water quality may result. (American Whitewater)*

Staff Response: The Porter-Cologne Water Quality Control Act and the Water Quality Control Plan for the North Coast Region provide sufficient regulatory tools to allow for enforcement actions that are deemed necessary to protect waters of the state. North Coast Water Board staff routinely inspect federal agency projects, and we intend to inspect WARP implementation moving forward. As stated in the Order on page 14, finding 7 "Noncompliance with the WARP requirements may result in a notice of violation, site-specific cleanup and abatement order, time schedule order pursuant to Water Code section 13308, and/or additional progressive enforcement actions." Additionally, non-compliance with other aspects of the Order can also be subjected to enforcement actions as stated on page 4, finding 7 "To comply with this Order, its associated MRP, and sediment, temperature, dissolved oxygen, and nutrient Total Maximum Daily Loads (TMDLs), Federal Agencies, as well as grazing permittees and other third parties, must successfully implement management measures, adhere to Federal Guidance, and comply with the standards provided by the Water Quality Control Plan for the North Coast Region (Basin Plan). Failure to meet these requirements may result in notices of violation and/or additional progressive enforcement actions."

23. **Comment:** *Agencies' WARP credit reporting should include geospatial data and photographs for all claimed activities, and the Water Board should provide a public-facing map and database of all credited activities on all Administrative Units. This should be dove-tailed into the monitoring program so that the public can evaluate the effectiveness of WARP and the permit. (American Whitewater)*

Staff Response: Staff disagree that the creation of a data submission portal and associated GIS database is necessary. The reporting requirements of the WARP are sufficient for North Coast Water Board staff and the public to track the progress of agencies' completion of the WARP's objectives. The Order's annual and five-year retrospective reporting and mapping requirements provide sufficient information that can be shared with interested parties and the Board. Staff would

prefer that the significant resources that would be required to develop and then maintain such a system be steered to implement needed treatments.

24. **Comment:** *The RRSNF [Rogue River-Siskiyou National Forest] is concerned about the required pace and scale of the Sediment Source Treatment Plans (SSTPs). RRSNF manages all or parts of 19 6th field subwatersheds that are completely or partly in California (about 95,651.47 acres of which fall into California), which includes 227.59 miles of road. This is in addition to 508 additional subwatersheds that the RRSNF manages that are entirely encompassed in Oregon. The additional workload of monitoring to the extent requested by the NCRWQCB would be untenable based on current staffing and program of work directives. However, we are interested in continuing our ongoing work of upgrading and storm-proofing problematic road segments within designated priority watersheds, some of which exist in the upper reaches of the Rogue Basin, within the State of California. (Rogue River-Siskiyou National Forest)*

Staff Response: The Sediment Source Treatment Plan, or SSTP, was a CSDS treatment concept included in the Administrative Draft of the Federal Lands Permit released to federal agencies and tribes for review in April 2023. The SSTP concept was replaced by the WARP in the draft Federal Lands Permit and is no longer part of the proposed permit. Please review WARP findings and conditions in the Order, Monitoring and Reporting Program, and Attachments F and F1 for CSDS-related background and requirements.

25. **Comment:** *The SRNF [Six Rivers National Forest] has completed many “legacy sediment sites” now called “CSDS” projects and the Water Board is not acknowledging and/or “crediting” us for the work we have done to help restore our watersheds. We believe between the changes in management from the Northwest Forest Plan and the restoration work completed over the last two decades (and in many cases more) that our watersheds are recovering (as demonstrated by the AREMP program). The SRNF will continue to perform annual road maintenance and identified fire or storm damage “CSDS”, but the WARP credit system is setting the Forest up for failure. How will the SRNF meet the WARP credit system when the majority of CSDS have already been mitigated? The SRNF believes we are now in a place where we are maintaining watershed health and not necessarily in a recovering state (outside of the mainstem river impairment caused by the historical 64’ flood). Additionally, we do not believe that the majority of our watersheds are actually impaired for temperature and sediment/turbidity. We do not believe any additional CSDS treatments will turn the dial towards delisting impaired watersheds (think landscape scale). If you look specifically at the 12-digit HUC watersheds that SRNF manages you would find that elevated water temperatures are not a limiting factor for water quality nor is sediment. To force the agency into annual credit system for treating CSDS is not reasonable. (Six Rivers National Forest)*

Staff Response: Please see responses A.13 and A.15. The WARP allows federal agencies to request an annual credit reduction for watersheds where at least 75 percent of the CSDS have been treated. Administrative Units are encouraged to present information demonstrating their successful implementation of CSDS treatments. Staff will work with each Administrative Unit to take credit for its past activities and to adjust the WARP credit obligations, where appropriate. Additionally, Administrative Units are similarly encouraged to present water quality information to support listing or delisting of waterbody impairments in accordance with the State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List. Delisting waterbodies from the 303(d) list will reduce the WARP credit obligations that an Administrative Unit is assigned.

Administration of the Federal Lands Permit is the responsibility of the North Coast Water Board's Nonpoint Source and Surface Water Protection Division (NPS Division). Our Forest Activities Program staff do not administer the State's 303(d) listings, neither through the historic determinations that led to the current list of waterbodies, nor to future listing actions (additions or removals) under Section 303(d).

The North Coast Water Board's Planning and Watershed Stewardship Division (PAWS Division) is responsible for the administration and development of the "integrated report", which collects and reviews water quality information submitted to our office for waterbodies in the region for the purposes of waterbody listings. The PAWS Division works closely with the State Water Board to determine whether a waterbody should be added or removed from Section 303(d) of the Clean Water Act. The process under which that takes place is articulated in the State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List. Information regarding the process for delisting a waterbody can be found in the Policy.

26. **Comment:** *Can two decades worth of work be credited to North Zone Forests? The majority of legacy sediment sites have already been fixed on the SRNF. The majority of SRNF watersheds are recovering or should not be listed impaired.*
(Six Rivers National Forest)

Staff Response: Please see response A.13.

27. **Comment:** *Again, do we get any credit for the two decades worth of CSDS treatments? This continues to feel like the Water Board is ignoring all the work we have done in the past. In the Bluff Creek Watershed (a mainstem Klamath Tributary) the SRNF has already completed all of the identified CSDS treatments. If the WARP was developed before the Northwest Forest Plan or two decades ago then the program would make sense but at this time it seems unnecessary based on the two decades worth of watershed restoration work and the overall improvement of watershed health based on the management activity changes. (Six Rivers National Forest)*

Staff Response: Please see response A.13.

28. **Comment:** *Does this mean that if FS has active federally permitted livestock grazing within a wilderness area, we will be responsible for a CSDS treatment credit? What if we determine that our grazing is not causing a downstream impact to impaired watersheds? (Six Rivers National Forest)*

Staff Response: In inventoried roadless areas and designated wilderness areas, staff anticipate there to be few anthropogenic impacts. Livestock grazing has the potential for bank trampling, simplification of woody riparian species that contribute to stream shade, modifications to groundwater levels, and nutrient inputs to streams. Monitoring and reporting requirements in Attachment C, Section VI will provide the North Coast Water Board with numerical data to demonstrate whether downstream impacts are found. Additionally, if it can be demonstrated that livestock grazing is not impacting water quality, then staff refer you to condition D.3 on page 22 of the Order which allows for corrections to the WARP credit obligation as described: "Administrative Units must submit written requests for any modification to the WARP treatment credit obligations within Attachment F to the North Coast Water Board Executive Officer for review, comment, and approval. Requests for modification to the WARP treatment credit obligations included in Attachment F for an individual Administrative Unit must include sufficient detail and supporting information to support the request for revision."

29. **Comment:** *Additionally, if grazing permit is inactive then again why would be charged a CSDS treatment credit obligation if there no active management? (Six Rivers National Forest)*

Staff Response: Staff's understanding of the distinction between inactive and closed allotments is that, without the re-issuance of the grazing permit through NEPA, livestock could be re-introduced to an inactive allotment without any review from North Coast Water Board staff. Re-opening closed allotments on the other hand would require development of a new grazing permit through the NEPA process, which would provide additional information and opportunities for the North Coast Water Board to provide input on BMPs and on-the-ground prescriptions contained in that grazing permit. If an Administrative Unit has inactive grazing allotments that should be closed, then it is encouraged to refer to

Condition D.3 on page 22 of the Order which allows for corrections to the WARP credit obligation as described: “Administrative Units must submit written requests for any modification to the WARP treatment credit obligations within Attachment F to the North Coast Water Board Executive Officer for review, comment, and approval. Requests for modification to the WARP treatment credit obligations included in Attachment F for an individual Administrative Unit must include sufficient detail and supporting information to support the request for revision.”

30. **Comment:** *Page 13, A CSDS meets the following conditions: c. may feasibly and reasonably respond to prevention and minimization [of effects that may be caused by] management activities. This emphasizing the importance of prioritizing identified CSDS that can “feasibly” be implemented in a 5-year period while assuring the Forests continues to restore or maintain watersheds regarding the Aquatic Conservation Strategy (ACS) related to sediment. Partnership and collaboration are the most likely process to increase that feasibility. (Klamath National Forest)*

Staff Response: Staff agree that we need to work together with federal agencies to ensure that treatments are being conducted as the WARP is implemented. To clarify, the feasibility component of the CSDS definition is intended to apply to the feasibility of treatment of specific sites, such as whether re-construction of a section of road is feasible to access and address a failed crossing.

31. **Comment:** *Page 22 Part 4. At the onset of the fourth year of WARP...The Forests are reviewing their past 3-year legacy site implementations to see if the Water Boards WARP proposal is feasible. This review will not be able to be completed by the May 7th comment timeline. Also, the Forests need better explanations of how the WARP credits were derived. Neither the Forests or the Water Board can determine the feasibility of meeting the WARP implementation based on the information provided. (Klamath National Forest)*

Staff Response: Attachment F to the Order provides an overview of how the WARP credit obligations were developed and how it ties directly to water quality improvement goals. Staff developed the WARP to be primarily focused on the treatment of controllable sediment discharge sources, typically associated with roads and watercourse crossings, but the WARP is also inclusive of other activities that can provide a benefit to water quality protection that were not previously recognized as meeting treatment requirements under the Federal Waiver, such as aquatic habitat restoration or fuels management. The WARP credit values were generated based on best professional judgment and the need to see reasonable progress on the various Administrative Units to address controllable sources of sediment discharges over time. As an example, it is staff's understanding that the Klamath National Forest has approximately 4,000 miles of road across the entire national forest. Given the initial WARP obligation of 54 credits, it would take the Klamath National Forest approximately 111 years to "stormproof" its entire road network (if that were necessary). That is a very long time period but given the scale of the responsibility and the challenges

repeatedly cited by the National Forests to secure funding, the WARP process would ensure steady treatment over time.

32. **Comment:** *Enrollment of projects under previous waivers. Page 27, part 2: There needs to be more discussions on the transfer of legacy sites under the 2010 and 2015 waivers to the proposed Permit unless they are just placed and prioritized in new WARPS. (Klamath National Forest)*

Staff Response: CSDS sites that were identified in projects that were previously enrolled under the 2010 and 2015 Federal Waivers and have not been treated may be addressed over time through the implementation of the WARP. Staff anticipate that treatment of previously identified CSDS will continue to occur but are proposing to transition previously enrolled CSDS obligations into the WARP process out of efficiency and to maximize water quality benefits. Although some sites are expected to still be addressed through enrolled projects, we believe that tackling isolated sites is less efficient than coordinated planning projects which the WARP seeks to accomplish. The WARP is intended to promote intentional, large-scale CSDS treatments, as we believe it will better facilitate the acquisition and application of federally awarded or other available funds.

33. **Comment:** *IV.1a. page 9. Missing something in the sample calculation for storm proofing: 5 mi x 1.5 = 9.375? (attachment C2) (Klamath National Forest)*

Staff Response: In the example calculation in Attachment C2, the 5 miles of road stormproofing are multiplied by 1.5 for stormproofing, and then the result is multiplied again by 1.25 for being identified as part of a prioritized planning watershed, such as WCF, giving a result of 9.375.

34. **Comment:** *IV.2a. 5 year reporting – This looks like a work in process. There should be a transitional period to see if the WARP credits are realistic and feasible. Need the logic in how the credits were derived. (Klamath National Forest)*

Staff Response: Please see response A.31.

35. **Comment:** *Need a baseline as to the past implementation work to see how the “credits” would pencil out. Have all treatment types been identified? (Klamath National Forest)*

Staff Response: Please see response A.20. The WARP is intended to encompass many actions that federal agencies take on their lands to improve water quality, in addition to the sole focus on watercourse crossings that was contemplated in the Federal Waivers.

36. **Comment:** *Are the credits properly proportional? For example, fuel treatment values of 0.001. Are all fuel treatments the same? Are all storm repairs the same? Acres verse miles. I believe these concerns can be worked out, but it will take some time and trials. (Klamath National Forest)*

Staff Response: Staff used their best professional judgment to develop the WARP treatment credit values, reflecting the type of activity and the relative benefit of the activity to water quality, such as the 2.0 per mile credit for road decommissioning compared to the 1.5 per mile credit for stormproofing an existing road.

37. **Comment:** *This is mostly a repeat of previous statements about the WARP. In general, the Forest request additional information on how the performance-based credit system is tailored specifically to each Forest, how the credits were derived, and roughly how many projects within the sweet of projects is expected to be completed in a given year or 5-year period. Based on the Water Boards table of projects the Forests are working on estimating what projects have been implemented in the past three years to see if the required yearly credits are feasible. (Klamath National Forest)*

Staff Response: Please see response A.31.

38. **Comment:** *Is assigning a value of 0.15 for livestock assumes all livestock impacts are equal? Is the assignment of a coefficient of 0.25 for TMDL watersheds not cumulative with grazing and only additive? Or may be the equation in F1 compensates for that. I'd like to know. We'd like to understand how 75 percent treated watershed based on priority projects triggers a 0.5 value change to a treated watershed. These are just an example of the questions that have come up and the Water Board can probably answer. (Klamath National Forest)*

Staff Response: Please see response A.31. Regarding the various factors that were used to develop the WARP credit obligations, it is correct that these were additive in consideration of livestock grazing and the 303(d) listing. The livestock grazing factor is only applicable to areas identified as wilderness/roadless, because there are not other types of management activities occurring therein that are accounted for. Outside of wilderness/roadless areas, livestock grazing is accounted for under the "managed" category.

Additionally, answers to the question in this comment are as follows: The 0.15 assignment for livestock (in roadless/wilderness areas) reflects the small but present risk to water quality posed by wilderness livestock grazing activities. The 0.25 assignment is applied across any HUC12 watershed within a larger 303(d)-listed watershed. The intention of the 0.5 reduction for watersheds with 75 percent treatment is intended to acknowledge the current and future status of watersheds where sediment reduction efforts are largely complete, but the watershed is not yet 303(d) delisted.

39. **Comment:** *Pg. 6, point 2b. Issue- Transitioning to a programmatic approach makes logical sense but the Modoc is concerned that the approach is too aggressive and non-attainable. Using the large-scale Administrative Unit approach would create large, insurmountable backlogs of data and unattainable goals including implementation deadlines. (Modoc National Forest)*

Staff Response: Please see response A.24.

40. **Comment:** *Pg. 13 Sediment Source Treatment Plan 3. Issue- In creation of the SSTP, the requirement would be to create the plan for all sixth field watersheds within the Administrative Unit. This is a large effort which is not reasonable for the Modoc to implement with current staffing and budget. (Modoc National Forest)*

Staff Response: Please see response A.24.

41. **Comment:** *Pg. 13 Sediment Source Treatment Plan 3. Issue- In creation of the SSTP, the requirement would be to create the plan for all sixth field watersheds within the Administrative Unit. This is a large effort which is not reasonable for the Modoc to implement with current staffing and budget. (Modoc National Forest)*

Staff Response: Please see response A.24.

42. **Comment:** *Pg. 10 Sediment Source Treatment Plan. Issue-This seems redundant with the BMP practice monitoring for projects and increases the reporting and monitoring burden for the Forest. (Modoc National Forest)*

Staff Response: Please see response A.24.

43. **Comment:** *Add words that clearly include exactly how treatments for activities covered in previous orders 2010 and 2015 are treated withing the WARP Concept. (Klamath National Forest)*

Staff Response: Please see response A.32.

44. **Comment:** *Add a logical ties to TMDLs and load allocations and target reductions and associations with 303d listings and de-listing where applicable. (Klamath National Forest)*

Staff Response: One reason for the WARP is to build a framework to acknowledge the sediment remediation work that federal agencies have already done and are doing and then tie that directly to supporting federal agencies' future efforts to achieve 303(d) delistings. When coupled with in-channel monitoring data that meets state delisting requirements, completion of all CSDS

treatments in a HUC12 watershed (which is a primary goal of the WARP) is intended to provide strong lines of evidence for delisting.

45. **Comment:** *Change wording to: 7. This Order includes and rolls-over project-level treatments of CSDS with the Watershed Assessment and Recovery Program, which details how Administrative Units...* (Klamath National Forest)

Staff Response: Staff believe that the existing language adequately conveys how completed CSDS treatments can contribute to modifying WARP credit requirements. Therefore, staff is not proposing a revision in response to this comment.

46. **Comment:** *Impaired watersheds should receive the higher weight of 0.75 to determine the overall requirement and managed lands should receive a significantly lower score of 0.15 because BMPs are applied. And grazed lands would score 0.15. Wilderness lands without any use would be 0.* (Klamath National Forest)

Staff Response: In the context of the WARP, “managed lands” are those that have seen a history of land use activity that would likely have driven or continue to contribute to the status of an impairment. Managed lands often include extensive road networks, timber harvest, fuels management, livestock grazing, and other factors that may be resulting in historic and/or persistent impacts to water quality. Therefore, assigning a higher WARP credit obligation to those areas that are considered “managed” provides an incentive for thorough investigation and treatment of CSDS, where they are typically found and warrant treatment. Following treatment of 75% of the CSDS within a given area, the WARP credit obligation can be significantly reduced, as there is an expectation that these areas will be discharging less pollutants to waterbodies. Those expansive treatments are also important relative to lines-of-evidence to support future waterbody delisting from Section 303(d) of the Clean Water Act, should the waterbody qualify for such a revision. As such, staff are not proposing to modify the WARP credit obligation factors.

Regardless of whether a waterbody is listed as impaired, unimpaired, managed, wilderness, roadless, or grazed, the Federal Lands Permit requires federal agencies to implement BMPs appropriate for these lands to ensure that water quality is being protected.

47. **Comment:** *Change scores by multiplying by 10x in Table 3: Creditable CSDS Treatment Activities Table. Rows 3 Diversion Potential and Row 4 Watercourse Crossings Small, Medium and Large and complete barrier removal. Score Columns. Treating Diversion potentials and Watercourse crossings is very expensive and the KNF [Klamath National Forest] has limited funds from project timber sales or inhouse road maintenance during any given year to treat these. Therefore I propose a "Crawl, Walk, Run" approach to the WARP score. That is, we can later decrease the scoring for each once efficiencies are achieved. However, due to the high cost of these treatments, I suggest increasing these scores by a factor of 10. That is for each Watercourse Crossings, apply the following scores: Small is 1, Medium is 1.5, Large is 2 and complete barrier removal is a score of 5. Diversion Potential fix gets a score of 1. (Klamath National Forest)*

Staff Response: Staff recognize the expense of watercourse crossing replacements and have made minor adjustments to the culvert replacement calculations in the WARP. However, the commentor's proposed modification to the WARP credit scores for different activities would essentially render the process meaningless in the context of the setting. Considering the fact that the Klamath National Forest manages approximately 4,000 miles of road, the commentor's proposed values would significantly extend the time horizon for the National Forest to address their existing CSDS. The existing WARP credit obligation for the Klamath National Forest would likely take upwards of 100 years to get through its entire road network. Given the state of waterbody impairments, existing risks to beneficial uses, and obligations to address nonpoint source pollutants under Porter-Cologne and the Clean Water Act, Staff believe that the factors currently assigned to each Administrative Unit create a reasoned pace for steadily treating CSDS over time.

Proposed Revision: Staff increased the WARP credit values of medium and large culvert replacements to 0.2 and 0.3, respectively, in Attachment F. Additionally, Staff increased the multiplier for Priority Watershed Planning and Implementation Projects from 1.2 to 1.5 to better support work in strategically important waterbodies.

48. **Comment:** *WARP Technical Analysis. We will be looking closely at the WARP analysis, and we are beginning the analysis for the entire forest. We are hopeful it will prove to be useful for the Central Valley Water Board Region as well as the North Coast Region. (Shasta-Trinity National Forest)*

Staff Response: Staff look forward to reviewing Shasta Trinity National Forest's analysis of the WARP.

49. **Comment:** *Compliance for The Watershed Assessment and Recovery Program (WARP) should be assessed on a more frequent interval than every 5 years... We recommend that WARP compliance be assessed at a minimum every 2.5 years. This will allow for corrective action to be taken closer to real time and discourage Administrative Units from accumulating an extensive backlog of non-compliance as they've done in the past. (Salmon River Restoration Council)*

Staff Response: Please see responses J.3 and A.19.

50. **Comment:** *The method outlined for fulfilling treatment credit obligations seems unlikely to achieve significant reductions in harm to water quality...We are in favor of the goal (as stated in Attachment G, Item I(2)) of incentivizing Aquatic Habitat Restoration (AHR) (as well as fuels reduction and grazing monitoring), but the per/acre credit value for AHR projects seems too high to achieve either an incentive for doing more restoration, or a direct benefit to water quality. We therefore recommend reducing the per/acre credit value significantly. (Salmon River Restoration Council)*

Staff Response: Please see responses A.17, A.18, and A.21. The alternative credit generating activities for aquatic habitat restoration were designed to complement existing Water Board permitting pathways that are routinely administered by staff, including the General 401 Water Quality Certification for Small Habitat Restoration Projects and the Statewide Restoration General Order. The decision to provide 1 credit per 1 acre of aquatic habitat restoration was based on typical project types and size that our staff routinely interact with, many of which rely on the Small Habitat Restoration Permit that limits projects to less than 5 acres and 500 linear feet. As discussed in the North Coast Water Board's Restoration Policy, staff recognize the importance of remediating existing pollution sources (CSDS treatment) in combination with beneficial aquatic habitat projects, to protect and restore beneficial uses. Therefore, we capped the total amount of restoration activity that can be implemented for WARP conformance to 30% of the total credit obligation. Staff will work closely with the federal agencies to ensure that project activities are meeting the intent of the WARP and to ensure that priority aquatic habitat restoration that provide an environmental benefit are eligible credit accrual.

B. Grazing

1. **Comment:** *Managing livestock numbers, distribution, timing and season of use can reduce the potential for these impacts, but based upon our extensive experience in this area, that is rarely, if ever, the outcome due to inadequate range management by the Forest Service. (CSERC)*

Staff Response: Staff agree that greater attention to conditions on grazing allotments is warranted on federal lands. Staff have proposed significant revisions to the 2015 Federal Waiver provisions to better evaluate and engage with federal agencies on water quality issues that may occur on allotments.

Specific changes include expanding coverage to all grazing allotments (instead of the small number of allotments enrolled under Category B in prior Waivers), requirements for federal agencies to submit Annual Operating Instructions to staff, and a commitment to focus on the water quality conditions on allotments through North Coast Water Board staff inspections and observations made during federal BMP evaluations.

2. **Comment:** *Grazing management violations including over-utilization of forage, non-compliance with minimum stubble height, stream bank damage, trampling and destruction of fens and other fragile wetland features, trespass in protected Research Natural Areas (RNAs), habitat damage to rare and protected Yosemite toad occupied areas, and the often complete disregard for required maintenance of infrastructure (e.g. fences) necessary to protect fragile natural features such as stream banks, wetlands, springs, and seeps. (CSERC)*

Staff Response: Please see response B.1. Additionally, the Order requires livestock grazing to meet federal standards for water quality protection and includes several performance criteria to evaluate conformance. Staff will be prioritizing assessment and inspections of grazing allotments to verify that federal agencies are appropriately overseeing livestock grazing activities on federal lands. If Staff identify that grazing activities are not being sufficiently managed by the federal government, the North Coast Water Board will take appropriate actions with the federal agency to address impacts to water quality.

3. **Comment:** *Annual Operating Instructions are often not provided to permittees prior to cows going onto allotments or they are ignored completely by the permittees. (CSERC)*

Staff Response: Regional Water Board staff intend to review and use Annual Operating Instructions as a prioritization tool to regularly engage and inspect allotments on federal lands in the North Coast Region. Additionally, if Staff identify water quality impacts to a federal agency, the review of Annual Operating Instructions (AOIs) during the subsequent year will allow for Staff to evaluate the federal agency's adaptive management of the grazing allotment.

4. **Comment:** *Forest Service staff are unwilling or unable to strictly enforce their agency's own rules regarding range management. (CSERC)*

Staff Response: Please see response B.1 and B.2

5. **Comment:** *Political pressure from the livestock industry is often enough to cause federal staff to ignore violations and allow practices that damage biological, soil, and water resources. (CSERC)*

Staff Response: Please see response B.1 and B.2.

6. **Comment:** *Forest Service staffing is typically so low that often there is no staff available at all to monitor grazing activities and identify resource impacts. (CSERC)*

Staff Response: Please see response B.1 and B.2.

7. **Comment:** *Forest Service allotment Management Plans are inadequate to protect water quality. Often they are less than rigorous in considering potential impacts to biological, soil, and water resources. While they may contain token requirements and conditions necessary to protecting those resources, they do not contain accountability mechanisms that actually make a difference when resource damage occurs. (CSERC)*

Staff Response: Staff concur that documents alone are not enough to protect water quality - National or Statewide BMPs, Northwest Forest Plan Standards and Guides, Individual Forest Plans, Grazing Management Plans and other Grazing Permits, Annual Operating Instructions all contain management measures designed to inform protection of resources - and federal agency staff, their contractors, and grazing permittees must follow that guidance. North Coast Water Board staff intend to inspect and comment on conditions that we observe on grazing allotments, and we will work with federal agency staff to evaluate how changes are made over time in response. In contrast to the 2015 Federal Waiver, this new Order automatically enrolls the activity of grazing, requires federal agencies to ensure that the activity is meeting federal standards, and directs our Staff to prioritize the review and inspection of their management to ensure that the activity is protective of water quality.

8. **Comment:** *Consequences for not meeting required conditions such as reduced livestock numbers, reduced time spent by livestock in certain areas, or exclusion of livestock from at-risk areas should be spelled out in detail in these AMPs for any of the rules to be enforced, and this has repeatedly not been the case in our experience. (CSERC)*

Staff Response: Please see response B.7.

9. **Comment:** *While Best Management Practices look good on paper, they are commonly not carried out effectively, or at all, on the ground. For example, the National Best Management Practices for Water Quality Management on National Forest Lands (USDA 2012) instructs Forest Service staff to “establish annual endpoint indicators of use (e.g. forage utilization, stubble height, streambank alteration, woody browse use) related to the desired conditions and triggers (thresholds) for management actions, such as modifying intensity, frequency, duration, and timing or excluding livestock use”. Despite our having repeatedly provided substantial and irrefutable evidence of exceedance of the Forest Service’s established thresholds for forage utilization, stubble height, streambank alteration, and woody browse, seldom is any modification made to intensity, frequency, duration, and timing or exclusion of livestock. Instead, at most, a letter is sometimes sent to the permittee requesting them to reform their practices but with no consequences for failing to do so. This holds true for other indicators and thresholds for uplands, riparian areas, and aquatic ecosystems. (CSERC)*

Staff Response: Please see response B.7.

10. **Comment:** *Forest Service compliance with Best Management Practices is typically a desktop activity that often does not include any on-site monitoring for compliance or effectiveness. In many cases staff do not visit project areas to actually inspect whether or not BMPs have been applied or that they are functioning as desired. (CSERC)*

Staff Response: Please see response B.7.

11. **Comment:** *Another reason for the Water Board not to rely on Best Management Practices is that BMPs are not specific enough to actually protect resources such as water quality. (CSERC)*

Staff Response: Please see response B.7.

12. **Comment:** *The North Coast Regional Water Quality Control Board oversees a region that is small enough to allow the Board to be able to craft BMPs specific to the North Coast Region, and that would be much more effective (if implemented) than those vague and general BMPs in the National Best Management Practices, which are also open to biased interpretation and abuse. (CSERC)*

Staff Response: Staff incorporated a set of management measures pertaining to livestock grazing into the Order (see Order section II.F.3.a-g). These measures, in combination with other BMPs and requirements in federal guidance, as well as BMP effectiveness monitoring, are anticipated to protect water quality on grazed allotments if applied correctly and appropriately. As stated in the Order Condition 4, of page 24: “Observations of non-conformance with Federal Guidance standards, Condition F.3 above, and/or potential impacts to water quality may result in additional monitoring and reporting requirements issued by the Executive Officer pursuant to Water Code section 13267 and/or progressive

enforcement actions. Potential monitoring requirements may include but are not limited to bacteria or water chemistry sampling, evaluations of riparian vegetation composition, physical habitat assessments, biological community sampling, sediment discharge monitoring, and/or surface water temperature monitoring.”

13. **Comment:** *Effective compliance with BMPs depends upon whether they are closely monitored. Federal agencies are unlikely to accurately self-report grazing-related water quality violations to the North Coast Regional Water Quality Control Board when we’ve found that Forest Service staff often ignore such violations when we bring them to their attention. (CSERC)*

Staff Response: Please see response B.7.

14. **Comment:** *(from a 2010 USFS BMP effectiveness report) Other common problems were floodplain erosion and habitat disturbance and reduced flows in springs, fens, and ponds. These results all indicate a need to reduce cattle activity in riparian areas. (CSERC)*

Staff Response: Please see response B.7 and B.12.

15. **Comment:** *Evaluating one allotment per year will miss many violations and impacts and is therefore inadequate to ensure compliance. Possibly conducting tests to detect disease causing bacteria introduced by livestock grazing when evidence of violations in the general conditions is reported will likely result in no testing ever being conducted. (CSERC)*

Staff Response: Section VII.B of the MRP requires each National Forest to conduct National BMP Effectiveness monitoring on up to four allotments per year.

16. **Comment:** *In the DEIR, Federal agencies would be required to submit a copy of all approved Annual Operating Instructions (AOIs) issued on each allotment. Are these actually going to be evaluated by Water Board staff? If so, using what criteria and to what end? Merely requiring that these documents be submitted will do nothing to protect water quality from livestock grazing. (CSERC)*

Staff Response: See response B.3.

17. **Comment:** *The DEIR also states that each National Forest would be required to submit a certification to the Regional Water Board that all allotments meet Federal Guidance standards. Once again, collecting a document “certifying” that Federal Guidance standards for grazing have been met on all allotments provides no actual protection for water quality from livestock impacts. (CSERC)*

Staff Response: Please see response B.7.

18. **Comment:** *Condition E.2 and the Temperature Policy (Attachment G, Section H) discusses management and maintenance of designated riparian zones and related setback distances for the various categories of watercourses, and directs that activities undertaken by contractors or grazing permittees shall minimize erosion and riparian disturbance from activities that have potential to discharge sediment that affect natural shade conditions on watercourses. MCFB would like to remind the Regional Board that there are impacts to riparian areas from wildlife including trail crossings, graze/browse impacts to canopy as well as potential fecal pathogen presence. In certain situations, there are also impacts from human footpath trails or OHV use. These impacts are beyond the control of the contractor or permittee and should be accounted for in analyzing riparian zone conditions. (Mendocino County Farm Bureau)*

Staff Response: Staff agree that there are many potential sources for pollution across federal lands, and this is why the proposed federal lands program relies on federal BMPs and other Federal Guidance documents to establish standards for water quality protection. In the grazing context, USFS and BLM BMPs for livestock grazing address certain types of impacts on the landscape, and then prescribe management changes if evaluations suggest that the resources at question are impacted.

19. **Comment:** *In terms of the use of indicator bacteria as a reference for livestock impacts to water quality MCFB is concerned that the monitoring program as described will provide false indicators of livestock impacts to water sources. The timing of the sampling for indicator bacteria before, during and after livestock grazing is problematic. Most grazing permits have turn out dates for livestock that occur in early summer and last through early fall. This time frame typically corresponds with reduced water availability in tributaries and higher ambient temperatures. Since the pre-grazing and during grazing sampling locations shall be the same sampling site, within key grazing areas with flowing water in order to detect background conditions and potential impacts to water quality from livestock grazing, the quantity of water in the system will directly impact the concentration of pathogen indicator bacteria that are present. Low flows and higher temperatures will support a natural increase in bacteria presence, so this monitoring approach will automatically show an increase in e.coli indicator bacteria after livestock are turned out on the allotment than before. (Mendocino County Farm Bureau)*

Staff Response: The indicator bacteria monitoring requirements in the proposed MRP section VII.D are substantially different from the E.coli monitoring required in the 2015 Federal Waiver, as renewed in 2020. Unlike the annual monitoring prescribed in the existing permit (i.e. the 2015 Federal Waiver), indicator bacteria monitoring required in the proposed MRP is on a case-by-case basis when required by the Regional Water Board Executive Officer, and in those instances will be a focused study at a specific location of potential impacts to water quality from grazing and will only occur after North Coast Water Board staff inspections

or BMP effectiveness monitoring suggests that indicator bacteria sampling is necessary.

20. **Comment:** *The monitoring program also requires that water samples for pathogen indicator bacteria be taken during grazing operations when and where livestock are present. For consistency, the sample site locations need to be fixed and not moved around the allotment in order to sample where livestock may be present.* (Mendocino County Farm Bureau)

Staff Response: Please see response B.19.

21. **Comment:** *In terms of alternative monitoring strategies, MCFB would like to propose that the Regional Board consult with Dr. Ken Tate, Professor and Cooperative Extension Specialist at U.C. Davis, regarding alternative methodologies for assessing water quality conditions related to livestock grazing on National Forest Lands. Dr. Tate has performed recent research related to this topic including, Water Quality Conditions Associated with Cattle Grazing and Recreation on National Forest Lands (<http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0068127>) and would be a beneficial resource for the Regional Board on this topic.* (Mendocino County Farm Bureau)

Staff Response: North Coast Water Board staff have reviewed the referenced paper and met with Dr. Tate and others from the UC Davis Rangeland Lab during the development of this Proposed Order.

22. **Comment:** *The requirement of indicator bacteria monitoring may be the result of North Coast Water Board staff observations, complaints from communities of interest, or conflicting assessments regarding sufficient grazing management practices. This wide open standard is inappropriate and there should also be consistent standards in place to avoid bias.* (Mendocino Farm Bureau)

Staff Response: Please see response B.19. Further, the intention of the indicator bacteria monitoring is to follow Regional Water Board staff observations of impacts to water quality that are threatened to occur, and only in those specific locations.

23. **Comment:** *For the requirements of the grazing allotment inspections, MCFB feels that the Regional Board needs to consider their regulatory jurisdiction specifically with regard to land use and management practices. The Regional Board can only require a water quality objective, not the management practices by which that objective may be achieved. Processes are already in place for assessing grazing allotments and related livestock management practices. The Regional Board, through requesting information on grazing allotment inspections, should not attempt to expand jurisdictional authority over land use and management practices that belong with the USFS.* (Mendocino Farm Bureau)

Staff Response: The North Coast Water Board is tasked with protecting the beneficial uses of water and permitting discharges of waste to waters of the state - ensuring nonpoint source pollution is controlled is the goal of our Federal Lands program. The commenter is correct that the Board generally may not specify the particular manner of compliance with its orders. (Wat. Code, § 13360, subd. (a).) The Order is designed to leverage existing federal agency requirements to the maximum extent in order to accomplish this goal, and nothing in the Order requires agencies to proscribe specific land uses or management practices. The Federal Lands Permit's regulatory approach to grazing activities is directed in part due to the State Water Board's *Nonpoint Source Enforcement and Implementation Policy*, including the Policy's key elements 2 and 5 that direct activities to adhere to proper management practices and also requires a sufficient feedback mechanism to verify that activities are being protective of water quality. Water Code sections 13263 and 13267 provide the North Coast Water Board the authority to require reporting on management practice implementation.

24. **Comment:** *It is also egregious how the impacts of livestock grazing are virtually ignored on all four of these National Forests, particularly the Modoc NF which is managed more like a feed lot than a National Forest. An inventory of all livestock grazed lands will show decades of abuse. (Conservation Congress)*

Staff Response: Please see response B.1.

25. **Comment:** *Water quality pollution and damage to wetland and riparian areas are longstanding and pervasive issues in the National Forest cattle grazing allotments. We encourage the Water Board to be actively engaged in monitoring conditions in cattle grazing allotments, and to take enforcement actions when appropriate. (Karuk Tribe and Quartz Valley Indian Reservation)*

Staff Response: Please see response B.7.

26. **Comment:** *The Mendocino is actively looking for more efficient ways to conduct monitoring on the range allotments. From collecting information via tablets to looking for partnerships. Future annual reporting for Grazing Allotment Condition Evaluations will rely on the Multiple Indicator Monitoring (MIM), Aquatic and Riparian Effectiveness Monitoring Program (AREMP), other field surveys, and site visits to assure Annual Operating Instructions are sufficient and meeting our commitments. Where ever we can eliminate or reduce duplication of our reporting will be important and appreciated. (Mendocino National Forest)*

Staff Response: Staff fully support the goal of efficient data collection in the monitoring of grazing allotments.

27. **Comment:** *Section D. Order Structure page 7, #2: Please note, “browse” has been shown from the data to effect shade and thus temperature. Besides a few outliers, nutrients and DO has not been commonly documented.* (Klamath National Forest)

Staff Response: Comment noted. See response to comment B.28 below.

28. **Comment:** *Page 24 f. The limitation of any browse use would not meet the Forest Plan. Please clarify.* (Klamath National Forest)

Staff Response: Staff modified the Order based on this comment to avoid inconsistency with USFS Plans and Policies.

Proposed Revision: Staff removed draft Order II.F.3.f.

29. **Comment:** *Page 24 g. needs a little more clarification. For example, trail crossings would likely be considered discharge sites, lateral movement of the stream, may be considered discharge sites, 10 to 15 percent of unstable banks are considered to be within natural variation.* (Klamath National Forest)

Staff Response: Staff modified the Order based on this comment to avoid inconsistency with USFS Plans and Policies.

Proposed Revision: Staff removed draft Order II.F.3.g.

30. **Comment:** *Page 24 h. Usually permits allow 10-day leeway for the off date.* (Klamath National Forest)

Staff Response: Staff modified the draft Order II.F.3.h based on this comment to incorporate grazing permit requirements.

Proposed Revision: Staff modified draft Order II.F.3.h (now II.F.3.f) accordingly:

f. all livestock must be removed from the allotments by the off dates specified in the grazing permit and Annual Operating Instructions; and

31. **Comment:** *[Attachment A, #11] Needs rewording. Not sure what activities and what water sources are. Maybe talking about infrastructure. Spring boxes? Wells and groundwater?* (Klamath National Forest)

Staff Response: Category A, activity 11 refers to contained water sources (e.g., water troughs) that do not have the potential to discharge sediment or nutrients to surface waters.

32. **Comment:** #10. *[Attachment B, #10] Needs a little clarification: New waters source? Fencing?* (Klamath National Forest)

Staff Response: Livestock grazing activities where livestock have access to surface waters and potential to discharge sediment to surface waters would be considered a Category B activity.

33. **Comment:** VII. *GRAZING ALLOTMENT MONITORING A1c, page 13. stubble height is usually only measured within riparian areas adjacent to the stream.* (Klamath National Forest)

Staff Response: Measuring stubble height in riparian areas adjacent to stream would satisfy this requirement.

Proposed Revision: Staff added clarifying footnote to MRP section VII.A.1.c.

c. Forage utilization and residual greenline stubble height⁴ monitoring⁵ must be performed at the end of the grazing season, at a minimum, to ensure compliance with authorized grazing standards and other requirements included in the terms and conditions of the grazing permit.

34. **Comment:** B. *Grazing allotment Condition Evaluations. 1a. monitoring. The region does extensive MIM [Multiple Indicator Monitoring] effectiveness monitoring and will continue to do so. Please let us know why this effectiveness monitoring is not sufficient.* (Klamath National Forest)

Staff Response: The focus of section VII.B of the MRP is to inform both the USFS and the North Coast Water Board on the effectiveness of BMP implementation in grazing allotments. The approach toward grazing in the Order is heavily weighted toward ensuring that federal grazing permits and BMPs are effectively implemented. Past USFS BMP effectiveness monitoring reports, including both the older Pacific Southwest Region BMPEP program and the initial National BMP protocol evaluation identified that grazing BMPs are not always implemented fully, or effectively. MIM monitoring does not always provide directly actionable results, focusing more on trends over time. As an example, Woody Species Utilization data collected in MIM does not distinguish between presence and abundance of small woody plants that even when mature do not provide shade to streams and larger woody species like some willows, that do. National BMP Effectiveness evaluations and the California Rapid Assessment Method (CRAM) both give a more direct picture of bank stability, riparian zone composition, and more generally, BMP implementation in the riparian zones of grazed areas. This is the information that most assists the North Coast Water Board and federal agencies in making decisions about the management of the monitored areas and may also inform future revisions to BMPs in an area that has shown a need for improvement in USFS' own effectiveness evaluations.

⁴ BLM TR 1737 23, Multiple Indicator Monitoring,

⁵ Greenline stubble height monitoring adjacent to streams would satisfy this requirement.

35. **Comment:** [Attachment C, Section VII, C.1.b. Annual Operating Instructions Monitoring] *C1b. page 15 Monitoring. Assuming a change in management could reasonably reduce the water quality impact and the impact is associated with the grazing activity.* (Klamath National Forest)

Staff Response: Staff agree that changes in livestock grazing management would likely be driven by observed environmental or water quality impacts, and that such adaptive management actions can be reasonably expected to reduce water quality impacts. The intent is for evaluations of current conditions to support adaptive management by informing future management decisions, in line with BMPs and Federal Guidance documents such as the Northwest Forest Plan Standards and Guidelines.

36. **Comment:** *D, page 15. Indicator Bacteria Monitoring. This section could use a little bit of editing. I think what this section is attempting to say is if there is an observance that there is a clear water quality issue that may be associated with a federal land management activity and the present monitoring (waiver or permit) can not address the issue, the federal agency in cooperation with the Water Board would proceed in collecting E.coli water samples or other appropriate sampling using an approved sampling protocol such as the Blue Book. Parts 1-3 and E (page 16-17) seem a bit generic, not specific to the issue/event, and may not be timely.* (Klamath National Forest)

Staff Response: The intention of this section is to provide the North Coast Water Board with a tool for evaluating water quality conditions in allotments, but with the understanding that developing a monitoring plan for a specific grazing allotment is not necessarily feasible within that season of use; as a result, monitoring would be conducted during the following grazing season.

Proposed Revision: Revisions to the preamble to section VII.D of the MRP are as follows:

North Coast Water Board staff may require USFS/BLM Administrative Units to conduct the following suite of indicator bacteria monitoring in order to evaluate the potential for in-channel impacts resulting from grazing activities on federal lands. The requirement for indicator bacteria monitoring may be the result of North Coast Water Board staff observations of apparent water quality impacts ~~issues~~, supported by complaints from communities of interest, and/or conflicting assessments regarding sufficient grazing management practices. Indicator Bacteria Monitoring will be utilized in order to assist with the detection of potential or existing water quality impacts.

37. **Comment:** *Attachment C – Monitoring and Reporting Program – Federal Lands Permit, VII. GRAZING ALLOTMENT MONITORING 1. Monitoring (USFS) a. p.13 With 5 active allotments on the Shasta-Trinity NF in the North Coast Region, surveying one allotment would be 20% of the allotments. It is a significant amount of work to bring together an interdisciplinary team to evaluate a single allotment. We've never had a bad evaluation to see a rationale for increasing from 1 to 4 per year. We have added minor changes to the AOIs as a result to reduce risks. We propose that instead you ask for a list of Key Areas within these active allotments and randomly select from the key areas rather than assigning x percentage of the allotments. (Shasta-Trinity National Forest)*

Staff Response: Staff agree.

Proposed Revision: Staff modified the requirement for National BMP effectiveness monitoring or CRAM evaluation in MRP section VII.B as follows:

- a. Each National Forest must select ~~four~~ 20 percent of the active Category B grazing allotments (up to a maximum of 4 evaluations) annually and either:

38. **Comment:** *Remove USFS, specifically the Klamath National Forest (KNF) from the following: D. Indicator Bacteria Monitoring (USFS/BLM) North Coast Water Board staff may require USFS/BLM Administrative Units to conduct the following suite of indicator bacteria monitoring in order to evaluate the potential for in-channel impacts resulting from grazing activities on federal lands. KNF doesn't have the capability or capacity to monitor for bacteria due to the distance to laboratories and holding times for the samples. Furthermore, exceedance of this water quality parameter would be limited due to Grazing BMPs. Surrogate indicators exist that can be monitored and other interested parties to include the State of California would need to conduct additional bacteria monitoring that isn't mitigated through implementation of USFS BMPs or represented by surrogate indicators. (Klamath National Forest)*

Staff Response: Past USFS evaluations of both the older Pacific Southwest Region BMPs and the National BMPs found that the effectiveness of grazing BMPs lags behind other categories. (See response to comment B.34).

While staff understand that the logistics of indicator bacteria monitoring on federal lands can be challenging due to laboratory hold times and other factors, the 2015 Federal Waiver originally contained a requirement for KNF and the other National Forests in the North Coast Region to conduct annual E.coli monitoring on several allotments per year; KNF successfully met this requirement in most years that this requirement was in place.

One of the lessons learned from the 2015 Federal Waiver is that broad indicator bacteria monitoring requirements with low sample densities spread across federal lands is not an effective approach for evaluating effects of grazing operations on indicator bacteria conditions. That is why section VII.D of the MRP

contains a more intensive and targeted requirement, which is only triggered on a case-by-case basis where there are observed water quality impacts and where modifications to Annual Operating Instructions and other tools in the federal agency toolbox have not seemed to address the threat or presence of impacts to water quality.

39. **Comment:** *Grazing allotment management and monitoring on the Klamath National Forest has a history of very poor compliance and enforcement. Monitoring coverage needs to be increased and enforcement mechanisms need to be improved...We would like to see specific corrective actions required on an annual basis when violations are documented or reported by outside entities. These continued violations should no longer be allowed to persist over time.* (Salmon River Restoration Council)

Staff Response: Please see Responses B.1, B.2, and B.7. Staff look forward to working with any community of interest who raises concerns with water quality issues observed on federal lands. One of the major changes in the Federal Lands Permit is the transition to covering grazing as an activity, rather than at the grazing permit renewal phase; under the system first implemented in the 2010 USFS Waiver, and then continued in the 2015 Federal Waiver, currently less than five percent of the active grazing allotments in the North Coast Region are covered. This means that observations on the other 95 percent of federal grazing allotments were made outside the scope of the existing Waiver program. This is one of the principal reasons for the transition to covering the activity of grazing. As you referenced in the finding at Order Section I.E.24, if there are deficiencies of either federal guidance or the management measures contained in the Order are observed, North Coast Water Board staff will work with federal agencies to address those issues. Enforcement actions may be taken in situations where compliance with the Order and the Basin Plan are not or cannot be achieved.

C. Monitoring

1. **Comment:** *In order to truly protect water quality from impacts due to livestock grazing on National Forests in the Pacific Southwest Region, the North Coast Regional Water Quality Control Board should create its own rigorous monitoring program to directly observe grazing practices and water quality - regularly, often, and in a statistically robust sample size across the landscapes and watersheds of the grazing allotment areas of all National Forests within the North Coast Region. This monitoring program should be conducted by Water Board staff or contractors hired by the Water Board, NOT Federal staff. The monitoring program should include pre-season, in-season, and post season visits to all grazing allotments to inspect for water quality violations and should include water quality testing including temperature, dissolved oxygen, sediment load, and for water-borne-disease-causing bacteria. Specific standards and thresholds for these water quality parameters should be established and explicit consequences for violations should be determined ahead of time. Enforcement of these standards and thresholds should be conducted by the Water Board in partnership with the Forest Service using fines and binding grazing management modifications such as reductions in livestock numbers, grazing intensity,*

area, and season. (CSERC)

Staff Response: Staff agree that an effective monitoring and reporting program is an essential part of a functional Federal Lands program. Commensurate with staffing resources, staff will conduct inspections to evaluate activities implemented on federal lands, including grazed lands. The Regional Water Board does not have the staff resources to develop the type of monitoring program suggested. Staff will rely on our observations of federal BMP and management measure implementation and will follow up with agencies when deficiencies are identified. Order Condition F.4 and Section VII of the MRP also contain language that allows the North Coast Water Board to require additional monitoring if necessary.

2. **Comment:** *There are many elements in the Stream Condition Inventory Protocol (SCI) that are consistent with measurements in the States SWAMP program. Reentering data into another database is not an efficient way to share data. It would be more efficient for data sharing to be conducted at the state level and the USFS national level to share the data from the Forests of California. The types of data that are similar or consistent include pebble counts, bankfull and flood-prone stream widths, cross-sections, macroinvertebrate assessments. It is not clear why this data sharing is not an annual or biannual exchange. It certainly seems like it could be accomplished. (Mendocino National Forest)*

Staff Response: Staff agrees. Although the Stream Condition Inventory (SCI) protocol does include similar monitoring parameters to California's Surface Water Ambient Monitoring Program (SWAMP) program, the data itself is not compatible for incorporation into the State's California Environmental Data Exchange Network (CEDEN), and therefore has limitations as that relates to the State's procedures for impairment listing and delisting purposes. SCI can be utilized for these purposes if a Quality Assurance Project Plan (QAPP) is developed pursuant to the requirements of 40 CFR 31.45, as detailed in the State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List.

3. **Comment:** *Addressing issues of sediment pollution stemming from forest roads is difficult because the forest road network is overbuilt, putting considerable strain on Forest Service resources to adequately maintain. The Forest Service is required to identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of Forest Service lands. Yet, many National Forest management units have not completed or followed through with its minimum road system network. (EPIC and KFA)*

Staff Response: Although the Travel Management Rule is a federally generated requirement and not one created by our agency, Staff agree that the federal agencies should have an inventory of the administrative unit's road systems to determine the minimum road system necessary to meet land management objectives. The WARP provides flexibility for federal agencies to accomplish this objective and incentivizes the decommissioning of unnecessary roads with a

higher credit value. Decommissioning roads reduces the potential for water quality impacts and limits the responsibility and resources necessary for the federal agency to maintain unnecessary infrastructure.

4. **Comment:** *Recommendation: The Regional Board should require completion of the Travel Management Rule and assist the Forest Service in determining its minimum road system necessary. (EPIC and KFA)*

Staff Response: Please see response C.3 above.

5. **Comment:** *The proposed Federal Lands Permit requires the inclusion Best Management Practice (BMP) Implementation and Effectiveness monitoring which relies on the National BMP monitoring program. However, the implementation and effectiveness of BMPs has not been monitored or documented in nearly a decade. The draft of the National Best Management Practices for Water Quality Management on National Forest System Lands Volume 2: National Core BMP Monitoring Technical Guide, FS-990b has never been finalized nor has it completed the National Environmental Policy Act (NEPA) process. This is important because these proposed National BMP revisions were supposed to ensure the consistent use and monitoring of BMPs and provide appropriate analyses for evaluating BMP implementation and effectiveness on a regular basis. There does not appear to be any accessible BMP monitoring data or information available since 2015. In addition, individual national forests have not completed required annual monitoring reports in years. Further, National BMPs may not be an appropriate scale to assess water quality impacts from forest management on California's North Coast, where most of these steep and rugged watersheds are currently 303(d) listed impaired waterbodies. A reliance on Federal Guidance and National BMPs does not ensure water quality protection. The proposed Federal Lands Permit relies too heavily on Federal Agencies to regulate themselves despite the deplorable record and no current BMP effectiveness or monitoring data. (EPIC and KFA)*

Staff Response: The USFS BMP program in California has evolved over time and staff find the current state of USFS BMPs to be, in some ways, less protective than the original set of BMPs that were recognized in the Management Agency Agreement (MAA) signed between the State Water Board and the USFS Pacific Southwest Region in 1981. One important component of the 1981 MAA was the USFS commitment to "review annually and update the Forest Service documents as necessary to reflect changes in institutional direction, laws, and implementation accomplishment as described in Section IV of the Forest Service 208 Report". The referenced Forest Service 208 Report was the first edition of the Water Quality Management for National Forest System Lands in California, which for many years was the USFS Regional BMP Manual.

The USFS Pacific Southwest Region BMP Evaluation Program, or BMPEP, was developed to improve the performance and effectiveness of the USFS BMPs and was in place from the 1980s through 2016. The regional BMPs were superseded by the National BMP program in 2012. The effectiveness monitoring component

of the National BMPs has not, to this date, been published as a final document. As a result, BMPEP was superseded and there was no finalized BMP effectiveness monitoring protocol to replace it. Additionally, the National BMPs were issued as USFS guidance rather than the more enforceable USFS handbook that contained the older regional BMPs and as a result the National BMPs are less enforceable. The Bureau of Land Management BMP manual was issued in 2022 without a BMP effectiveness program.

The Order is structured around federal agencies' implementation of their own BMPs. Staff use the term "Federal Guidance" in the order to refer to larger planning documents, such as the National BMPs, regional planning documents, such as the Northwest Forest Plan, as well as local land and resource management plans and makes these documents enforceable provisions of the Order. Section C.2 of the Order states: "All activities undertaken by Federal Agencies must comply with Federal Agency-specific Federal Guidance Documents, as defined in Attachment H, and applicable federal BMPs for water quality protection identified in Conditions C.3-5 below." In order for the Order to be effective, then, Staff designed the program to also rely on effectiveness measures within the federal agencies Federal Guidance, and then require that any subsequent water quality issues are then addressed.

One way the Order will address this issue is through the submission of sales contracts for federal projects – to allow Regional Water Board staff the opportunity to evaluate and track implementation of on-the-ground prescriptions, as they are articulated into sales contracts. Another method of evaluating BMP implementation and effectiveness is to focus on livestock grazing BMPs, which lag behind other BMP categories in past USFS BMP evaluations, both through BMPEP and in the one published National BMP effectiveness evaluation. The MRP contains requirements for USFS personnel to conduct National BMP and/or California Rapid Assessment Method evaluations in key grazing areas within active allotments, and to report on the effectiveness of BMP implementation in those areas. Staff may then evaluate those allotments and require USFS to correct water quality impacts that are observed.

6. **Comment:** *The Draft EIR contains a myriad of monitoring, reporting and prescriptive requirements that do not accomplish the objective of increasing the pace and scale of much needed landscape health treatments. (BLM California State Office)*

Staff Response: Please note that the Federal Lands Permit contains several monitoring and reporting requirements, while the Mitigation Monitoring and Reporting Program associated with the Environmental Impact Report contains one mitigation requirement related to biological resources. Staff developed the Federal Lands Permit based on lessons learned and feedback received from Federal Agencies, Tribes, and communities of interest since the first inception of the permit in 2004. Over that time, Federal Agencies informed us of the challenges they face, including how certain aspects of the permit were inhibiting their ability to conduct important fuels management and community protection

projects. The Federal Lands Permit was revised to disencumber controllable sediment discharge source treatments (CSDS) from routine Category B projects in order to better facilitate the design and implementation of the Federal Agencies' priority forest management projects. Additionally, Staff have also identified support for the ongoing implementation of existing in-channel water quality monitoring programs, like the Aquatic and Riparian Effectiveness Monitoring Program being conducted on USFS and BLM lands, as well as the National Rivers and Stream Assessment on the National Park Service lands. Staff believe that these intentional changes will gain efficiencies for the Federal Agencies in ways that were not previously incorporated into the past iterations of the permit.

7. **Comment:** *Discharge notifications are required for both anthropogenic and natural sources that "threatens to cause or contribute to an exceedance of a water quality standard." In a wet year the frequency of natural slides alone may present a large time commitment to document and record these features. Clarification is needed on the expectation for assessing natural sediment sources.* (BLM California State Office)

Staff Response: The Monitoring and Reporting Program has been modified.

Proposed Revision: Staff clarified MRP section II.1.a-b as follows:

- a. Each Administrative Unit must file a Discharge Notification (see Section II, C) if a discharge of earthen material, petrochemicals, or other waste from an anthropogenic source (such as a road-related failure) ~~or natural feature (such as a landslide)~~ threatens to cause or contribute to an exceedance of a water quality standard or violation of any applicable water quality requirement from this Order.
 - b. Administrative Units must submit a Discharge Notification to the North Coast Water Board following a naturally occurring discharge event⁶ (e.g., large hillslope or streamside landslides) that has significantly impacted or threatens to cause significant impacts to water quality.
8. **Comment:** *"Each Federal Agency must conduct contract reviews, inspections, and document conformance with contract provisions." The BLM is already required to do this as part of contract administration. For typical roads and forestry projects, for example, BLM staff will inspect the work multiple times over the course of the project. Where a site is particularly technical or sensitive, this may entail daily visits to ensure conformance.* (BLM California State Office)

⁶Although federal agencies may not be responsible for these naturally occurring discharges, the Discharge Notification will provide Federal Agency and North Coast Water Board staff with opportunity to contemplate timely and potential response actions, including notifying or coordinating with any impacted communities or other agencies.

Staff Response: Please see response C.10 below.

9. **Comment:** *The supplemental monitoring attachment describes the monitoring objectives: “The North Coast Regional Water Quality Control Board supports the implementation of in-channel monitoring activities designed to evaluate whether the physical, chemical, and biological conditions of a waterbody are supporting beneficial uses, and whether land use activities are sufficiently protective of water quality.” As provided in previous comments to Board staff (BLM 2023), the scattered pattern of BLM lands across the landscape precludes effective in-channel monitoring that would detect the efficacy of land use activities. The BLM would suggest that monitoring of its Best Management Practices (BM), both their implementation and effectiveness, is an immediate method to determine the effects of land use actions on sediment delivery to watercourses. These types of monitoring have the added benefit of having a direct feedback loop to identify deficiencies and inform future projects. **The BLM supports BMP monitoring.** (BLM California State Office)*

Staff Response: North Coast Water Board staff concur with BLM that BMP monitoring, both their implementation and effectiveness, is an important way to verify that a project activity is protective of water quality.

Proposed Revision: In regard to in-channel water quality monitoring, Attachment C and C1 have both been modified to state that the Aquatic Riparian Effectiveness Monitoring Plan (AREMP) activities being conducted by the USFS's Regional Ecosystem Officer (REO) out of Corvallis Oregon, for more than twenty-five years within the National Forests and Bureau of Land Management field offices covered by the Northwest Forest Plan, are suitable for compliance with the in-channel monitoring requirements of the Federal Lands Permit. Please see proposed revisions in response C.39.

10. **Comment:** *The BLM objects to the excessive monitoring and reporting requirements listed throughout the draft Order. Assuming average precipitation years and resulting erosional events, at least 15 individual reports are required over a five-year period. This does not include the reporting requirements proposed by the Central Valley and Lahontan Boards, which will overlap multiple BLM Field offices. (BLM California State Office)*

Staff Response: The MRP is designed to leverage existing federal agency protocols where feasible and aims to create streamlined and efficient requirements and processes for new requirements. The State Water Board's Nonpoint Source Implementation and Enforcement Policy requires an NPS control implementation program to include sufficient feedback mechanisms so that a regional water quality control board, dischargers, and the public can determine whether the program is achieving its stated purpose(s), or whether additional or different management practices or other actions are required. Staff are available and intend to work with federal agency staff to answer questions and provide guidance on meeting annual WARP credit obligations or MRP compliance.

11. **Comment:** *The RRSNF urges the Waterboard to review the AREMP reports and coordinate with the AREMP program on data trends. AREMP determines the status and trend of in-channel and upslope riparian watershed condition for sixth-field watersheds (HUC12) within the NWFP area. (Rogue-River Siskiyou National Forest)*

Staff Response: Please see response C.39 below for proposed revisions. Regional Water Board staff have been coordinating with the lead staff from the USFS's Regional Ecosystem Officer, have reviewed the 25-Year Report, and are familiar with the protocols. As Regional Water Board staff are continuing to engage with the Regional Ecosystem Officer about the AREMP and its standard operating procedures, staff have also been identifying how the data collected compliments and is compatible with California's water quality monitoring needs and have provided guidance back to the federal agencies regarding how the state manages its Clean Water Act listing and delisting requirements for impaired waterbodies. Although the AREMP provides compatible and complimentary monitoring information with the state's requirements, including those necessary for incorporation into the California Environmental Data Exchange Network (CEDEN), the process for listing or delisting waterbodies can be found in the State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List.

Proposed Revision: Attachments C and C1 have been modified to state that the AREMP monitoring conducted in support of the Northwest Forest Plan is suitable for compliance with in-channel monitoring requirements of the Federal Lands Permit. As such, the requirement to submit a plan detailing how federal agency in-channel monitoring programs will comply with the Federal Lands Permit was removed (see modifications to MRP section IX.A.9.a below). The MRP was also revised to state that any new or supplemental in-channel monitoring program should be developed to meet the goals and objectives identified in Attachment C1 in conjunction with North Coast Water Board staff and subject to review and approval by the North Coast Water Board Executive Officer (MRP section IX.A.2). See select revised MRP section IX.A, In-Channel Monitoring, language below. Please review MRP section IX.A. and Attachment C1, Supplemental MRP Findings, in entirety for all modifications supporting this change.

MRP section IX.A.1: The USFS, BLM, and NPS (either through Administrative Units or Regional Offices) must work with North Coast Water Board staff to identify how the Federal Agencies intend to conduct in-channel water quality monitoring on their lands over time are currently involved in ongoing in-channel monitoring activities that satisfy the requirements of the Federal Lands Permit as described in Attachment C1, Section II.A-C.

MRP section IX.A.9.a.: Within 18 months following permit adoption, The USFS, BLM, and NPS, and/or their contractors must initiate or continue to implement or

support activities associated with the approved existing in-channel monitoring programs described in Attachment C-1.

12. **Comment:** *Though I would agree that our staffing and funding deficiencies have presented some challenges for the SRNF I would disagree with the statement that it has inadvertently resulted in impacts to the environment and degradation of water quality. This statement has not been backed up with data or specific examples that demonstrated to be true. The AREMP program has demonstrated overall recovery to watershed conditions on national forest lands since the adoption of the Northwest Forest Plan. (Six Rivers National Forest)*

Staff Response: Based upon the information gathered through the USFS's AREMP 25-Year Report, certain aquatic habitat indicators and other surveyed metrics are exhibiting trends towards improved conditions. However, many watersheds within the North Coast Region remain impaired due to excess sediment and elevated temperatures, a portion of which can be attributed to a lack of resources and staffing to address the drivers of the impairments. For example, there are many road systems across federal land management areas that are not properly designed to minimize chronic and episodic discharges of sediment to waters of the state. Additionally, livestock grazing on federal lands has been shown to cause degradation of stream conditions and other aquatic resources when not properly managed. If information is available to support that federal land management areas are not contributing towards waterbody impairments, then the Administrative Unit is encouraged to present that for consideration of a delisting action.

13. **Comment:** *Under the Northwest Forest Plan>Aquatic Conservation Strategy> and the ensuing Riparian Reserves protections, we do not believe SRNF active/inactive management is impacting shade and water temperatures negatively. This has been demonstrated in the AREMP reports and our temperature monitoring data that has been provided to the Water Board. Grazing could potentially impact shade and water temperatures, but annual grazing monitoring has not detected negative impacts leading to decreased shade or increase water temperatures. (Six Rivers National Forest)*

Staff Response: Administrative Units are encouraged to work with the North Coast Water Board to provide information regarding water quality conditions throughout the lands they manage. The process under which waterbody listing and delisting takes place is articulated in the State Water Board's *Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List*. Information regarding the process for delisting a waterbody can be found in the Policy. Temperature impairments have been identified on several waterbodies that are largely managed as federal lands. If information is available to support that federal land management areas are not contributing towards temperature impairments, then the Administrative Unit is encouraged to present that for consideration of a delisting action.

14. **Comment:** *It is not clear what this [Proposed Order, Section I.E.12] means, but I believe this statement is already outdated based on my previous comments about the Water Board ignoring the two decades worth of watershed restoration and not crediting us for the work. Our management activities changed over the last two decades ago with the adoption of the Northwest Forest Plan. Our watershed conditions have improved as demonstrated by the AREMP program. At this time, we do not believe (outside of the continuous need of annual road maintenance/repair) that our management activities are not now, and will not in the future, lead to contributing to north coast watersheds impairments. (Six Rivers National Forest)*

Staff Response: Please see response C.12.

15. **Comment:** *The majority of SRNF streams are high-gradient transport reaches. You cannot develop long term trends in streams like this. Additionally, in-channel monitoring on large mainstem rivers (the only legitimate impaired waters managed by the SRNF as compared to the smaller mainstem tributaries that have not been demonstrated to be impaired), like the South Fork Trinity, has proven to be challenging and we have not been able to do so because of staffing capacity, mainstem river monitoring physical limitations, and being able to find historical benchmarks because of natural environment conditions (mostly vegetation cover). (Six Rivers National Forest)*

Staff Response: Agreed. Many SRNF streams are high-gradient transport reaches that are difficult to utilize for long-term trends. These transport reaches are not typically the location where stream impairments manifest, as opposed to low-gradient depositional reaches. The AREMP activities being conducted by the USFS's Regional Ecosystem Officer (REO) out of Corvallis Oregon, include screening criteria to select candidate monitoring reaches that are suitable for detecting changes over time and are located within low-gradient waterbodies.

16. **Comment:** *After reviewing [Attachment C], it is still unclear if the AREMP will be sufficient for SRNF in-channel monitoring requirements. If it is not, the SRNF would like to know if the Pacific Northwest Region Stream Inventory Handbook: Level 1 and Level 2 (2016 – Version 2.16) would suffice. (Six Rivers National Forest)*

Staff Response: Please see responses C.11, C.15 and C.39.

Proposed Revision: Attachment C and C1 have both been modified to state that the AREMP activities being conducted by the USFS's Regional Ecosystem Officer (REO) out of Corvallis Oregon, for more than twenty-five years within the National Forests and Bureau of Land Management field offices covered by the Northwest Forest Plan, are suitable for compliance with the Federal Lands Permit. Please see proposed revisions in response C.39.

17. **Comment:** *What type of in-channel sediment data for sediment impairments could be used for the removal of a waterbody from Section 303d list? As of now,*

the Order would require us to do in-channel monitoring, but the majority of in-channel monitoring protocols does not take sufficient measurements for sediment data (i.e. pebble counts should not determine if a waterbody is impaired or not nor should macroinvertebrate sampling). Additionally, most of SRNF HUC 12 watersheds are high gradient transport reaches and we do not consider them sediment impaired. The AREMP program has demonstrated riparian protections have improved overall. Will this apply to the possibility of a waterbody being delisted? Between the AREMP program and SRNF temperature monitoring (historical and ongoing) we do not believe the majority of our streams are temperature impaired. This data should be reviewed in the near term to determine if any SRNF waterbodies should be delisted (at least at the HUC 12 watershed). (Six Rivers National Forest)

Staff Response: Please see response C.11 above.

18. **Comment:** [Attachment C, II.2.a-b] *I'm assuming this means new sites or increased discharges or threats for previously identified sites. (Klamath National Forest)*

Staff Response: Attachment C, II.2.a-b requires each Administrative Unit to conduct periodic monitoring of its road and motor vehicle trail network. If any sites are found that are discharging or threatening to discharge sediment to waterbodies, administrative units are required to monitor and provide discharge notifications as stated in Attachment C, Section II.3 and 4. This requirement is intended to locate CSDS and/or increased discharges for previously identified CSDS.

19. **Comment:** [Attachment C. VIII] *VIII. Post fire monitoring minimize[s] immediate (first fall or at most spring storm events) threats to life and property. (Klamath National Forest)*

Staff Response: Comment noted.

20. **Comment:** *A2. Page 19. The AREMP program meets all those requirements identified in attachment C1. Has been occurring for over 25 years with qualified surveyors and analysts with a proven track performance of reporting. It addresses over 260 sites in over 40 sub-watersheds within the Northern California Forests. Most importantly it addresses the specific Aquatic Conservation Strategy (ACS) objectives of the Northwest Forest Plan (NWFP). Please include it in the Attachment C1 discussion. (Klamath National Forest)*

Staff Response: Please see responses C.11 and C.39. Finding 6 from Attachment C states that the AREMP will be sufficient to satisfy in-channel monitoring requirements for the Federal Lands Permit. Additionally, AREMP is compatible with the water quality data requirements described in the State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List. Staff have modified the Attachment C1 to better articulate the use and function of AREMP.

21. **Comment:** *B.2a, page 21. It would be useful to reference why the monitoring is required and what the objectives to monitoring are so the Forests can best meet the requirements and objectives as well as adapt if the objectives are not being met. (Klamath National Forest)*

Staff Response: Many watersheds in the North Coast Region are impaired due to elevated temperatures. The effects of riparian stand modifications, wildfire impacts, and changing environmental conditions, can all influence the temperature of a waterbody and impact its beneficial uses such as cold-water habitat for anadromous salmonids. The ongoing monitoring of instream temperatures supports our understanding of a waterbody's condition and will support listing and delisting actions over time. Additionally, this information provides North Coast Water Board staff, Administrative Units, and the public, with information that can help facilitate adaptive management over time. This feedback mechanism is embedded in the key elements described by the State Water Board's Nonpoint Source Implementation and Enforcement Policy.

22. **Comment:** *Item IA.2 p.1. Introduction. Please revise the last sentence that states that "excess sediment and elevated temperatures are degrading beneficial uses of water as a result of modern land use". This region is naturally incredibly complex without even considering the modern-day practices on federal lands. The Northwest Forest Plan 25-year Report on Status and Trend of Watershed Condition describes many positive trends and improved monitoring efficiencies that show which areas are responding to management direction in the Northwest Forest Plan (AREMP, 2023) (Shasta Trinity National Forest)*

Staff Response: Staff modified the Order in response to this comment.

Proposed Revision: Revisions to the Proposed Order, section I.A.2 are as follows:

Although these lands have sustained and benefited humans since time immemorial, the seemingly boundless resources they provide are at risk and have experienced significant stressors over the past century and a half. The effects of past and present land use activities, disruption of native plant and animal communities, changes to instream flows, effects of climate change, and catastrophic wildfires, threaten and degrade many aquatic ecosystems. Today, most of the watersheds of the North Coast Region are identified as impaired⁷ due to excess sediment and elevated temperatures. ~~as a results of modern land use practices degrading the beneficial uses of water~~

23. **Comment:** *Attachment C. Federal Land Permit Monitoring and Reporting Program. (MRP). The MRP has changed considerably and seems to be less*

⁷ List of waterbodies in the North Coast Region identified as impaired on Section 303(d) of the Clean Water Act can be found at the following webpage:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdl/303d/.

rigorous. There are reservations about completing data entry into multiple databases. It should be entered once, and the data should be shared at regional levels with national support to make this achievable. While the MRP findings indicated that the data collected through USFS Stream Condition Inventories (SCI's) is not on par with state data sets or that rigor and techniques of data collection may not be equivalent, this could be remedied in part perhaps through state training and or involvement in our surveys. Then let experts on both sides evaluate whether or not the approaches are consistent or if a change is necessary. (Shasta Trinity National Forest)

Staff Response: Please see response C.2. The Federal Agencies regulated by the Federal Lands Permit manage vastly different landscapes and land use activities which warrant unique monitoring objectives, procedures, and focused water quality targets. Together, these differences present a challenge to the creation of a one-size-fits-all monitoring strategy, and therefore warrant a tailored approach for different Federal Agencies and Administrative Units. As such, the requirements in the MRP are intended to leverage the Federal Agencies' existing protocols, management measures, monitoring resources, and infrastructure to comply with the objectives of the Federal Lands Permit.

24. Comment: *The MRP has changed considerably and seems to be less rigorous. There are reservations about completing data entry into multiple databases. It should be entered once, and the data should be shared at regional levels with national support to make this achievable. While the MRP findings indicated that the data collected through USFS Stream Condition Inventories (SCI's) is not on par with state data sets or that rigor and techniques of data collection may not be equivalent this could be remedied in part perhaps through state involvement in our surveys or training through the state with our experts evaluating whether or not the approaches are consistent. (Mendocino National Forest)*

Staff Response: Please see responses to C.2 and C.23.

25. Comment: *Attachment C1 -MRP Findings p.6. There are many elements in the Stream Condition Inventory Protocol (SCI) that are consistent with measurements in the States SWAMP program. Reentering data into another database is not an efficient way to share data. It would be more efficient for data sharing to be conducted at the state level and the USFS national level to share the data from the Forests of California. The types of data that are similar or consistent include pebble counts, bankfull and flood-prone stream widths, Cross-sections, macroinvertebrate assessments. It is not clear why this data sharing is not an annual or biannual exchange. It certainly seems like it could be accomplished. (Shasta Trinity National Forest)*

Staff Response: Please see response C.2.

26. Comment: *Attachment C1 p.8, MRP Findings. The list of water quality questions is good however it is too often assigned as a failure if current conditions are not meeting desired conditions. These questions need to also involve a benchmark*

from historic land use as well as a changing climate. We need to consider past land management decisions that completely reset the natural processes of our landscapes instead of targeting today's land management practices. We would like to be able to focus on where we can make improvements that are sustainable and that we can build upon. (Shasta Trinity National Forest)

Staff Response: North Coast Water Board staff agree with the statement in the context of the severe impacts that historic land practices have had on watersheds, and the significant risks our watersheds face as the climate changes. Given the persistent state of impairments in most of the watersheds in the North Coast Region and at-risk species and beneficial uses, it is necessary to continue to address existing controllable sources of pollution, implement priority aquatic habitat restoration actions where appropriate, and build resilience within the watersheds, especially as the climate is rapidly changing.

Proposed Revision: See response to C.11. The MRP has been revised to clarify the support for the existing monitoring activities being conducted on USFS, BLM and NPS lands.

27. **Comment:** *Pg. 13 Reporting point 2.a Issue- "Administrative Units must submit copies of contracts to the Regional Water Board within 30 days of contract award". What is the significance of this request? This is redundant and not as informative as the Notice of Intent, which is much more time specific. Please clarify the legal need for this.* (Modoc National Forest)

Staff Response: This requirement to submit copies of contracts is to ensure North Coast Water Board staff can review (and inspect as needed) site-specific management measures. Another reason for this requirement is to inform North Coast Water Board and federal agency staff of the status of BMPs in the inspected area in order to ensure all management measures are fully implemented and effective.

28. **Comment:** *Pg. 14 Implementation and Effectiveness Monitoring Checklist B.1 Issue- It states that checklists must be created for BMP monitoring, implementation, and effectiveness monitoring, what are the parameters for creating these checklists? Will these checklists or templates for the checklists be provided?* (Modoc National Forest)

Staff Response: The BMP implementation and effectiveness requirement is a requirement only of Category B projects, of which Modoc National Forest has had one since the adoption of the 2010 USFS Waiver. The BMP checklist requirement only applies to Category B projects that do not issue contracts, and are based on the BMPs, project design features and/or management measures that are needed for the type of project proposed. These BMPs must be included in the project Category B application in order to be enrolled. The North Coast Water Board staff are available to assist USFS staff with development of checklists.

29. **Comment:** *Pg. 17 Indicator Bacteria Monitoring Issue- What parameter thresholds will be used for bacteria monitoring? On the Modoc, there are other grazing inputs such as wild horses and big game which could be contributing to the bacteria load. Basic monitoring will not distinguish between these potential input sources. What is the direction and basis for allowable bacteria levels? Is there a plan to run DNA samples to identify the source of the contamination?* (Modoc National Forest)

Staff Response: Please see response B.19 above.

30. **Comment:** *Pg. 26 Temperature Monitoring, What are the parameters for determining locations for temperature monitoring stations? How is climate change factored into determining the locations? How is climate change accounted for in temperature monitoring data analysis?* (Modoc National Forest)

Staff Response: Temperature monitoring within an Administrative Unit's land management area is typically determined by the Administrative Unit as opposed to the North Coast Water Board. For the purposes of continuing to understand the conditions of waters within a given area, and for the purposes of identifying whether a waterbody is impaired due to excess temperature, staff support the continued implementation of this monitoring parameter. Another important use for temperature monitoring is to support delisting from the 303(d) impairs waters list for temperature impairments on federal lands. Climate change effects are expected to manifest in extreme weather events such as extended droughts, elevated air temperatures, and increased fire activity. All these things are expected to result in additional stresses on water quality conditions, including temperature. Staff area available to be consulted with regarding temperature monitoring locations, periods of implementation, or other temperature monitoring considerations.

31. **Comment:** *Pg. 27 Livestock Grazing 3-f, The statement "livestock will be moved when stubble height reaches standards established in the Admin Unit management plan", is redundant of our internal management guidance. As part of our standards and guidelines this measure is already in effect. Is there a way to use the monitoring data we already collect in lieu of the Administrative Unit management plan?* (Modoc National Forest)

Staff Response: Please see response B.28.

32. **Comment:** *Pg. 28 point C What is the relevance of having the permittee sign a certification form saying they have received a copy of the Order? If there is an issue with water, it should be handled directly with the Federal Agency.* (Modoc National Forest)

Staff Response: Administrative Units are required to certify that they have provided the Federal Lands Permit and MRP to grazing permittees. This is intended to provide permittees with information on grazing monitoring and requirements. This permit only regulates the Federal Agencies, not permittees.

33. **Comment:** *In addition, I am still concerned the magnitude of monitoring requirements will exceed capacity of US Forest Service staff, is overly redundant and unnecessary to effectively inform adaptive management. This will place additional constraints on our ability to implement ecosystem restoration projects, including the treatment of Controllable Sediment Discharge Sources (CSDS) within Priority watersheds because staff will be working towards meeting excessive monitoring requirements vs. implementing restoration projects. (Six Rivers National Forest)*

Staff Response: Please see response C.10.

34. **Comment:** *We respectfully ask that the North Coast Regional Water Quality Control Board (NCRWQCB) revisit this effort to better engage the agencies and find a process that better accomplishes our shared objectives without the undue monitoring and reporting requirements and treatment objectives for which we cannot legally commit to in the absence of funding. We support the attainment of water quality objectives. We have two decades-long (and in some case longer) legacy of watershed analyses, watershed restoration, road decommissioning, and road upgrading across many impaired watersheds of the north coast. It appears as if this Draft Order is being staged as the beginning of watershed restoration on the forest when we have been working towards this for decades. As mentioned before the AREMP has demonstrated watershed recovery since the adoption of the Northwest Forest Plan (NWFP). (Six Rivers National Forest)*

Staff Response: The proposed Order applies to a very large area across the North Coast Region, the requirements are not targeted at any specific Administrative Unit but are meant to apply across all of them. However, North Coast Water Board staff inspections over the course of many years have identified the presence of CSDS remaining on SRNF lands, and SRNF continues to conduct in-channel restoration actions in order to address legacy impacts. Staff appreciate Six Rivers NF's long history of watershed restoration and pollutant source remediation activities. As articulated in the WARP, Administrative Units can take credit for comprehensive CSDS treatments and can request modifications to their credit obligations after the majority of pollutant sources have been treated within a 6th Field Watershed.

35. **Comment:** *We are also disappointed there still has been no meeting between the specialists that will have to implement this Draft Order and the NCRWQCB. Coordination meetings could discuss reports like the 2018 Synthesis of Science (review of the NWFP), and the Northwest Forest Plan Aquatic and Riparian Effectiveness Monitoring Plan (AREMP) 20-year review of the NWFP. The information contained in these reports demonstrate that FS lands under the NWFP have been recovering under current management. Additionally, land management guidelines have helped correct "historic mismanaged land practices". It does not appear the NCRWQCB has used this information to help guide the development of the Draft Order and potential delisting of impaired watersheds. Importantly, we believe this information and other data provided to*

the NCRWQCB (temperature data and restoration actions report in the annual MRP) should be used to help guide the delisting of impaired watersheds and not create a new performance-based credit system that obligates treatment credit requirements for each Administrative Unit. (Six Rivers National Forest)

Staff Response: Please see response C.11 above and J.1 below. North Coast Water Board staff conducted multiple outreach efforts over the past five years, including but not limited to meetings with USFS Supervisors and technical staff from National Forests in the North Coast Region and the Pacific Southwest Regional Office, as well as Bureau of Land Management and National Park Service staff, CEQA scoping meetings, issuance of an administrative permit draft to federal agencies and others, a public informational workshop, and meetings with the USFS's AREMP technical monitoring staff.

36. **Comment:** *The SRNF continues to urge the Water Board to review the AREMP reports and coordinate with the AREMP program on data trends. AREMP determines the status and trend of in-channel and upslope riparian watershed condition for 12-digit watersheds within the NWFP area. Upslope and riparian condition are based on mapped data (e.g., road density, vegetation) for all watersheds with ≥5percent federal ownership. In-channel condition is based on stream data (e.g., substrate, large woody debris, pools, temperature, and macroinvertebrates) collected yearly under a sampling program that visits watersheds with 25percent or more federal ownership in repeating eight- year rotations. This information should have been used in guiding the Draft Order and could potentially help with the delisting of impaired watersheds. We appreciate that AREMP was discussed in this revised Draft Order, but we believe there needs to be more discussion on how AREMP can demonstrate that the majority of SRNF watershed are not impaired. The Draft Order does not acknowledge that AREMP can demonstrate that some SRNF watersheds are not impaired, and we urge you revisit the reports and data. (Six Rivers National Forest)*

Staff Response: Please see response C.11 above.

37. **Comment:** *There are still concerns on the long-term instream monitoring requirements. The majority of SRNF streams are high-gradient transport reaches and long-term monitoring will not sufficiently detect stream response land management actions. Response reaches on the SRNF are typically on mainstem rivers and would not sufficiently detect impacts from upstream/tributaries. (Six Rivers National Forest)*

Staff Response: Please see response C.15 above.

38. **Comment:** *I would like the opportunity to further discuss these comments. I fully support the intent of the Draft Order to provide a process for sustained implementation and reporting of the treatment of CSDS's, particularly in TMDL listed watersheds. I also support the intent of the Draft Order to provide a process for sustained and consistent implementation and reporting of adaptive management monitoring. I believe we can achieve this intent, while also ensuring*

the Draft Order requirements don't inadvertently restrict our overall ability to protect and enhance watershed condition and water quality. (Six Rivers National Forest)

Staff Response: Staff look forward to future engagement with federal agencies on the conditions of the Proposed Order.

39. **Comment:** *Keep the word 'May' with regards to USFS using Stream Condition Index (SCI) or remove mention of SCI entirely. (Klamath National Forest)*

Staff Response: Please see MRP Section IX.A.5.

Proposed Revision: MRP Section IX.A.5 now states: Monitoring protocols such as the U.S. EPA's National Rivers and Stream Assessment⁸, California's Surface Water Ambient Monitoring Program (SWAMP)⁹, or the U.S. Forest Service's Aquatic and Riparian Effectiveness Monitoring Plan (AREMP)¹⁰, are compatible with the state's California Environmental Data Exchange Network (CEDEN) and are prioritized protocols for Clean Water Act Section 303d listing and delisting purposes. Other monitoring protocols can also be conducted to provide supporting lines of evidence for 303(d) List decision making but are not data compatible with CEDEN. Examples of non-compatible monitoring data includes that generated through the California Rapid Assessment Method (CRAM), U.S. Forest Service's Aquatic and Riparian Effectiveness Monitoring Plan (AREMP), or monitoring protocols of a similar design and function as Stream Condition Index (SCI), must be used to assess watershed conditions on the National Forest or individual monitoring programs developed through a Quality Assurance Project Plan pursuant to the requirements of 40 CFR 31.45.

40. **Comment:** *Remove reference to other agencies databases: d. Each federal agency must routinely submit their data for each 5 year reporting interval. to a publicly accessible database such as the California Environmental Data Exchange (CEDN) or the EPA's Water Quality eXchange (WQX). (Klamath National Forest)*

Staff Response: In order for data collected by federal agencies to be transferrable to the state for purposes such as 303(d) listing/delisting determinations, those data must be submitted into one of these databases. Administrative Units can discuss opportunities to submit data to these databases with North Coast Water Board staff.

⁸ USEPA, National Rivers and Streams Assessment: <https://www.epa.gov/national-aquatic-resource-surveys/nrsa>.

⁹ Surface Water Ambient Monitoring program (SWAMP) https://www.waterboards.ca.gov/water_issues/programs/swamp/bioassessment/.

¹⁰ Aquatic and Riparian Effectiveness Monitoring Plan (AREMP) <https://www.fs.usda.gov/r6/reo/monitoring/watersheds.php>.

41. **Comment:** *Add words about the d85: 4. Are median particle size diameter (d50) or particles less than d85 showing an increasing trends over time?d85 is an important water quality parameter that needs to also be considered in the instream monitoring programs. (Klamath National Forest)*

Staff Response: Although staff are not identifying all the specific monitoring approaches that staff believe should be prioritized, staff agree that D85 is a valuable parameter that can assist in showing improving trend is sediment water quality conditions over time.

42. **Comment:** *If National Forests no longer have to conduct in-channel monitoring in accordance with specific conditions of the 2015 Federal Waiver, we find it likely that Klamath National Forest will discontinue monitoring associated with important long-term stream temperature and sediment datasets that were required by TMDL's on the Salmon, Scott and Mid-Klamath rivers... [Salmon River Restoration Council recommends to] Continue to require that Klamath National Forest implement its required TMDL monitoring as laid out in the Klamath National Forest Sediment and Temperature Monitoring Plan. If, as stated, the "current in-channel monitoring work that is being conducted varies across the different National Forests, does not provide sufficient spatial and temporal data to evaluate aquatic conditions across many watersheds, or is not currently compatible with the California Water Board's data management and analysis requirements," please require that the process for a new in-channel monitoring plan include local and regional partners who have a vested interest in maintaining these long term data sets. (Salmon River Restoration Council)*

Staff Response: The 2009 Klamath National Forest monitoring plan and QAPP were developed to comply with the monitoring requirements of the 2004 and 2010 USFS Waivers, and the Klamath National Forest monitoring plan was continued into the 2015 Federal Waiver. While the results of the sediment monitoring collected under the 2009 KNF plan was successful in supporting delisting of several reference watersheds for sediment, current state requirements for listing and delisting decisions require additional monitoring that is not covered in that 2009 plan. The State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) provides information relative to waterbody listing and delisting procedures. The Policy specifies various requirements regarding monitoring protocols, data compatibility, and lines of evidence that are required to support listing and delisting actions. The USFS and BLM have maintained a network of water quality monitoring parameters based on the Aquatic and Riparian Effectiveness Monitoring Program (AREMP) for 25 years, which provide compatible information relative to aquatic habitat conditions on specific federal landscapes that are compatible with the Policy. Similarly, the National Parks Service is conducting in-channel monitoring based on the National Rivers and Stream Assessment methods, which are also complimentary and compatible with state requirements. North Coast Water Board staff do not believe that it is practical or efficient to require separate and potentially duplicative in-channel monitoring requirements considering the AREMP and NRSA efforts that are underway (see revisions to MRP section IX.A,

In-Channel Monitoring, described in response C.11). However, Staff agree that retention of temperature monitoring networks on federal lands is important and Attachment C.IX.B requires agencies to continue existing temperature monitoring efforts.

D. Reporting

1. **Comment:** *With advances in technology we recommend creating a GIS capable database with Hydrologic Unit Codes, locations of CSDSs and other pertinent water quality information, in order to streamline reporting and provide spatial context. It could include multiple layers such as, 303(d) waterbodies, USGS post-fire analysis, TMDL monitoring updates etc. Having all the reporting data stored and kept in one place would provide multiple benefits. The database could help with public transparency, multiple years and history of monitoring and reporting information would be recorded, tracking would be simplified and easily accessible. (EPIC and KFA)*

Staff Response: Staff do not disagree that a geo-referenced database for the purpose of tracking activities associated with the Order could provide benefits to the North Coast Water Board, federal agencies, and the public. However, based on our experiences developing databases of this nature, the process would require a significant and continual allocation of resources to maintain its utility and function. Staff believe that the various elements of the Order and MRP rely on existing processes that the federal land agencies administer, therefore seeking to gain efficiencies and limit additional information technology obligations.

2. **Comment:** *Recommendation: Create a GIS tracking database to be updated and reviewed annually for enrolled projects to include CSDSs, reporting degradation, implementation and effectiveness monitoring and WARP credits in all Administrative Units. (EPIC and KFA)*

Staff Response: Please see response A.23.

3. **Comment:** *Included in the proposed Federal Lands Permit, “This Order and its associated MRP largely rely upon existing Federal Agency strategies for project and activity level monitoring and/or in-channel monitoring.” However, as shown below, “existing” monitoring is near nonexistent. The proposed Federal Lands Permit does not include a solid reporting or documenting structure during or after project implementation that holds the agencies accountable for taking corrective actions in a timely manner. (EPIC and KFA)*

Staff Response: The MRP requires monitoring and reporting for all Category B projects. Contract submission and/or implementation and effectiveness checklists are required to be submitted for all projects. The intention of contract submission is to better evaluate on-the-ground prescriptions and BMPs proposed to be implemented and evaluated during termination of the project.

4. **Comment:** *Recommendation: Require that agencies provide the NCWB [North Coast Water Board] with timely on-the-ground monitoring and reporting information on an annual basis and report any degradation when it occurs. (EPIC and KFA)*

Staff Response: Please see response D.3 above.

5. **Comment:** *Recommendation: Require the agencies to actually provide timely and regular National BMP Monitoring and Effectiveness data to the NCWB. As explained this does not appear to exist. (EPIC and KFA)*

Staff Response: The MRP states "Each National Forest must submit a summary of all BMP effectiveness evaluations conducted during the previous reporting period, including both National BMP evaluations and region-specific BMP evaluations". Please see section V.1.3 and 4 of Attachment C. Additionally the MRP requires five-year reporting on the year, BMP category, condition, and any follow-up on all BMP Effectiveness evaluations conducted.

6. **Comment:** *The proposed permit, Appendix A at page 17 states, "The MRP requires evaluation of implementation and effectiveness of on-the-ground prescriptions at the contract or timber sale-level." Again the MRP, as shown in Appendix C, checklist includes a column for listing mitigation measures not a column for supplying any post-implementation monitoring. Therefore, this condition of the permit does not actually require or ensure adherence to on-the-ground prescriptions or evaluate their effectiveness. (EPIC and KFA)*

Staff Response: Please see response D.3 above. Additionally, Condition C.4 on page 22 of the Order states: "Federal Agencies must conduct activities in accordance with the project description in the project's accompanying NEPA document, including any project modifications and the specific on-the-ground prescriptions designed to implement the management measures identified to avoid any adverse impact(s) to water quality. Project-specific management measures constitute Federal Guidance within those project areas. This includes both smaller project NEPA and larger NEPA documents that cover all or part of an Administrative Unit."

7. **Comment:** *Recommendation: Include federal project BMPs and PDFs [Project Design Features] at each CSDS onto monitoring report checklist and include a post implementation column. Require agencies to complete prior to closing a contract or on a regular timely basis. (EPIC and KFA)*

Staff Response: Please see response D.3 above.

8. **Comment:** *Recommendation: Reinstate the requirement for project level reporting through the WARP process and improving the Monitoring Effectiveness Checklist to include post implementation monitoring for each CSDS site. (EPIC and KFA)*

Staff Response: Prior to each enrollment of a Category B project, North Coast Water Board staff review proposed project on the ground prescriptions, project design features, and BMPs. Staff intend to continue to inspect and review on the ground prescriptions and BMPs through Category B project applications to evaluate BMP performance through the life of a project and prior to termination of enrolled projects.

9. **Comment:** [Attachment C, Section III. A.2-4] *Capacity issues will limit our ability to do this. Storm patrol reports are done through Collector 123 and it is a national protocol. Is this new?* (Six Rivers National Forest)

Staff Response: This requirement is not new and was included in previous iterations of the existing Federal Waiver. The intent of this requirement (Attachment C, Section III. A.4.a.) is to use existing Federal Agency protocols where appropriate. Administrative Units can submit their agencies' protocols to satisfy this requirement

10. **Comment:** [Attachment C, Section VI.A.2] *Is this a new stipulation? What are the benefits of submitting this? Will the Water Board review and approve or disapprove items we submit? This seems unnecessary considering that the Forest Service must abide by the BMPs in our signed NEPA decisions, which have to be carried forward to into our contracts. This is another workload for staff that seems unnecessary.* (Six Rivers National Forest)

Staff Response: The intent of this requirement to submit contract information (Attachment C, Section VI.A.2) is to eliminate an additional step for a Category B application and to improve ongoing project evaluation for North Coast Water Board staff. Instead of submitting a checklist, Administrative Units must submit the contracts that they are already generating in order to provide more detailed contract-level information for BMPs and specific on-the-ground prescriptions than was previously available in a checklist.

E. Best Management Practices

1. **Comment:** *Trusting the Forest Service and other agencies to self-report compliance with Best Management Practices, Standards and Guidelines, and allotment evaluations is not sufficient to ensure that water quality standards are met.* (CSERC)

Staff Response: Please see responses B.7 and E.3 below.

2. **Comment:** *Each National Forest is required to develop grazing allotment monitoring plans to assess effects of livestock grazing in relation to BMP effectiveness and BMP implementation. MCFB [Mendocino County Farm Bureau] would like to request clarity on what defines non conformance with BMP effectiveness and what jurisdiction does this fall under. The USFS should be the primary agency with oversight of the livestock allotments and permittees.* (Mendocino County Farm Bureau)

Staff Response: North Coast Water Board jurisdiction extends to proposed and existing impacts to beneficial uses of water that are contained in its Basin Plan. Staff relies on federal agency BMP implementation as one component of compliance with the Order and failure to fully implement federal BMPs, or to not correct BMPs when effectiveness evaluations are completed, would constitute nonconformance. Staff agree that the USFS is the landowner and primary agency for permitting and overseeing grazing activities on National Forest System lands and is responsible for implementing its BMPs and other federal guidance standards on allotments.

3. **Comment:** *There is no assurance that BMPs are being applied in a timely manner, or at all.* (Conservation Congress)

Staff Response: The existing Federal Waiver requires federal agencies to develop implementation and effectiveness checklists for Category B activities to verify that best management practices are implemented as planned and effective at preventing and minimizing discharges to surface waters. The proposed Federal Lands Permit improves this requirement by requiring federal agencies to submit contracts or BMP implementation and effectiveness checklists for Category B activities, which detail site-specific on-the-ground prescriptions. Staff will review these contracts or BMP implementation and effectiveness checklists to ensure that the proposed measures will protect water quality. Additionally, contract or BMP implementation and effectiveness checklist submission will provide Staff with routine opportunities to conduct inspections to verify that the best management practices are implemented and are effective and timely. Furthermore, the USFS utilizes a nationwide BMP program to assess BMP implementation and effectiveness. BMP monitoring is performed on activities conducted by the USFS, including Category A and Category B activities. The Federal Lands Permit requires each National Forest to submit a summary of all BMP effectiveness evaluations conducted during the previous reporting period, including both National BMP evaluations and region-specific BMP evaluations.

4. **Comment:** *The BMPs implemented on SRNF have been historically accepted common practices that have proven to prevent, minimize, and mitigate waste discharges and other controllable water quality factors. The SRNF has been fully transparent on the BMPs selected for each project submit to the Water Board and we do not believe additional BMP monitoring requirements are needed outside of what our national BMP program direction instructs us to do. (Six Rivers National Forest)*

Staff Response: Staff agree that many USFS BMPs performed well in past BMP effectiveness monitoring efforts, and staff appreciate that USFS projects include the BMPs and Project Design Features that are selected for use in those projects. However, there are some categories of BMPs, including livestock grazing BMPs, that do not perform at a high level of effectiveness in either the old Pacific Southwest Region BMP Effectiveness Program or the National BMP Effectiveness monitoring (which has only had a single published effectiveness evaluation for BMPs conducted since its introduction in 2012). As a result, the North Coast Water Board continues to require additional monitoring where required, and staff see a need to better understand the effectiveness of BMPs conducted in livestock grazing allotments, based on past observations, citizen complaints, and the results of the USFS' own BMP effectiveness evaluations.

5. **Comment:** *Order, Section B, Part 6, page 4. Implies there is a concern. Further discussion is needed for clarification and improvement describing the concern (BMP implementation and reporting). (Klamath National Forest)*

Staff Response: The Federal Lands Permit states the need for transparency regarding which on-the-ground prescriptions are selected to implement BMPs and documentation of BMP implementation and effectiveness in part due to the State Water Board's *Nonpoint Source Enforcement and Implementation Policy*, including the Policy's key elements 2 and 4. Key elements 2 and 4 direct activities to adhere to proper management practices and requires a sufficient feedback mechanism to verify that activities are being protective of water quality, respectively. Staff are available to meet with USFS staff to further discuss these and other aspects of the proposed Order.

6. **Comment:** *Include mention of the USFS new BMP SharePoint used to evaluate BMPs. (Klamath National Forest)*

Staff Response: Staff were not aware of a new BMP evaluation method and are interested in learning more about this program.

F. Category A and B Activities

1. **Comment:** *Suppression of indigenous cultural burning and lightning fires over the past 100 years has resulted in unhealthy forests that are now prone to large high-severity fires. We urge the Water Board to do whatever it can to promote the return of beneficial fire to the landscape. Given the magnitude of the fire deficit,*

reducing the regulatory burden of prescribed and cultural fire is of the utmost importance. Thus, we request that "Cultural burning, understory burning, or pile burning in designated riparian zones" be removed from Category B (i.e., activities with a moderate risk to water quality) and instead be placed in Category A (i.e., activities with low risk to water quality). (Karuk Tribe and Quartz Valley Indian Reservation)

Staff Response: Staff agrees with your comment.

Proposed Revision: Staff have removed cultural burning as a Category B activity and updated Attachment A (Category A Activities) as follows: "Cultural burning, understory burning, or pile burning ~~outside of designated riparian zones.~~"

- Comment:** Attachment B- After review categories A and B, I did not see any where it address continue maintenance of a project. For example, if you have a project that is enrolled, and you plan on doing periodic maintenance on the landscape via prescribed underburns and/or mastication for the next 30 years. Does that project need to be enrolled for that long or perhaps just until the first initial treatment is done? (Mendocino National Forest)

Staff Response: Staff agree that ongoing maintenance of project areas is important and that maintenance activities may fall into a different category than other project activities described in the NEPA document. If all maintenance activities are Category A, then assuming that all Category B activities are completed in a given project, the ongoing maintenance phase of the project should be category A.

Proposed Revision: Staff included additional language about continued maintenance in the NOI and NOT forms, respectively, as follows:

Attachment D, NOI:

<p><u>If post-project maintenance is part of this project, will any maintenance activities be Category B activities?</u></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p><u>Describe any Category A or B activities proposed during the maintenance period after primary project activities are complete.</u></p>	<p>Click here to enter text.</p>

Attachment E, NOT:

1. PROJECT INFORMATION

<p>Project Title:</p>	<p>Click here to enter text.</p>
-----------------------	----------------------------------

Project Completion Date:	Click here to enter text.
Project Sixth-Field Watershed:	Click here to enter text.
<u>Continued Maintenance</u>	

3. **Comment:** *Road storage and deactivation is commonly a non-management decision from non-use in many areas where oversight would prevent enrollment. Installing a barricade on a road with no stream crossings is a common practice that controls wet weather traffic or other misuse. Perhaps revise this [Attachment B, Item 7] to include “Enrollment required for road closure or decommissioning where stream crossings and drainage structures exist. This includes roads with ephemeral streams commonly susceptible to debris flows. All closed roads should have adequate road drainage and outsloping, all stream crossings should be properly storm proofed to prevent adverse effects after closure.”* (Mendocino National Forest)

Staff Response: Comment noted. Please see the proposed revision below.

Proposed Revision: Please see revised Attachment A.13.c for updated language as follows:

13. Road and trail maintenance, such as:
- installing and maintaining signs;
 - brushing for sight distance and road clearance;
 - creating closure devices blocking roads to vehicle travel that contain no perennial, intermittent, or ephemeral watercourse crossings;
 - installing and maintaining culvert appurtenances (inlet sections, riprap, over-side drains, drop inlets, risers, etc.); and
 - repairing, upgrading, or replacing paved surfaces.
4. **Comment:** *[Attachment B, Item 1] It doesn’t make sense that if a project has a commercial or a noncommercial component. At times the USFS pays a contractor to remove the material (timber, biomass, etc.) off Forest Service land and at times we pay a contractor bring the material to landings where there is no commercial component, but the effects are the same as a project that was done by traditional commercial needs. At times fuels reduction projects are completed by Forest Service personnel and/or partners which does not have a commercial component. That point is that this category should eliminate the commercial component language.* (Mendocino National Forest)

Staff Response: Staff uses the definition of commercial vs. non-commercial in the Category A and B lists more as a metric of increased industrial activity and

associated increases to potential impacts to other resources rather than to distinguish individual activities.

5. **Comment:** *Attachment B, Item 4. Please describe the specific rehabilitation work of concern. There are many tasks associated with fire restoration that do not warrant enrollment into Category B such as upgrading stream crossings to accommodate increases in flow associated with wildfire, removal of noxious weeds or other invasive species, planting, storm patrol monitoring. Perhaps revise to... "Fire salvage activities, other than emergency removal of threats/hazards", or something similar. (Mendocino National Forest)*

Staff Response: The proposed Order automatically authorizes necessary emergency response actions taken during or immediately after a wildfire, such as post-fire rehabilitation and Burned Area Emergency Response (BAER) activities; though, projects following BAER that are conducted through the NEPA process or with a NEPA categorical exclusion require coverage under the proposed Order. The categories of activities under the proposed Order are grouped according to level of potential impact to water quality, with Category A projects presenting a low risk to water quality and Category B projects presenting a moderate risk to water quality. Upgrading stream crossings to accommodate increases in flows following a wildfire is a Category B activity. Fire salvage activities that may be considered Category A projects could be replanting, manual treatments, and burning outside of designated riparian zones.

6. **Comment:** *[Attachment B, Item 8] Upgrading, stormproofing, and new construction on roads and motor vehicle trails should be a category A project. These activities will be already tracked under the WARP Annual Reporting spreadsheet. Requiring these activities as a category B project will increase the number of needed enrollments. Both agencies already don't have the capacity and just causes more paperwork. (Mendocino National Forest)*

Staff response: Upgrading, stormproofing, and new construction of roads are activities that are identified as a moderate risk to water quality and require Category B enrollment. The current Federal Waiver and the proposed Order both identify these activities as posing a moderate risk, as improper or nonexistent BMP implementation can lead to significant risks to water quality. The WARP requires steady treatment of sediment sources across federal lands, but by itself does not provide any mechanism for ensuring the implementation or effectiveness of BMPs and on-the-ground prescriptions. North Coast Water Board federal permits continue to cover federal work at the NEPA/project scale, and thus most of our enrollments cover many miles of proposed road work.

7. **Comment:** *Attachment B Item #4. Please describe the specific rehabilitation work of concern. There are many tasks associated with fire restoration that do not warrant enrollment into Category B such as upgrading stream crossings to accommodate increases in flow associated with wildfire, removal of noxious weeks or other invasive species, planting, storm patrol monitoring. Perhaps revise to...".Fire salvage activities, other than emergency removal of*

threats/hazards”, or describe why we specifically need to enroll specific types of treatments. We could discuss it and help to refine and establish meaningful enrollments. (Shasta Trinity National Forest)

Staff Response: Please see response F.5 above.

8. **Comment:** *Attachment B Item #7. Road storage and deactivation is commonly a non-management decision from non-use in many areas where oversight would prevent enrollment. Installing a barricade on a road with no stream crossings is a common practice that controls wet weather traffic or other misuse. Perhaps revise this to include “Enrollment required for road closure or decommissioning where stream crossings and drainage structures exist. This includes roads with ephemeral streams commonly susceptible to debris flows. All closed roads should have adequate road drainage and outsloting, all stream crossings should be properly storm proofed to prevent adverse effects after closure.” (Shasta Trinity National Forest)*

Staff Response: Please see response F.3 above.

9. **Comment:** *Attachment B Item #8. Upgrading roads, stormproofing and repair of CSDS should be category A projects. Removing fill from a ditch due to a collapsed cutbank or plugged pipes should never require a separate enrollment. However if this is a common failure point it would be best to add it as a required monitoring point to report upon. We concur that new construction that includes any water course crossings should be enrolled as category B. (Shasta Trinity National Forest)*

Staff Response: Please see response F.6 above.

G. Draft Environmental Impact Report

1. **Comment:** *[Draft EIR, Page E-7, Alternatives Considered]. The Draft EIR should consider an additional Alternative: Implementation of a consistent, statewide nonpoint source permitting (NPS) process. (BLM California State Office)*

Staff Response: Given the unique waterbody attributes, varied beneficial uses, and water quality impairments found across different regional water board boundaries, North Coast Water Board staff believe that continuing its independent regulatory program for federal lands remains the best course of action as opposed to a statewide permit. Staff continue to seek administrative and compliance efficiencies and have incorporated many improved attributes into the proposed Federal Lands Permit to increase the pace and scale of important fuels management project, pollution treatments, and aquatic habitat restoration. In 2004, the North Coast Water Board developed its first iteration of a federal lands regulatory permit, specifically for the U.S. Forest Service. The North Coast Water Board renewed the Federal Waiver in 2010 and expanded to include the Bureau of Land Management. In 2015, the Federal Waiver was renewed, and in 2020 it was renewed again to allow staff to develop the current, 4th iteration of a Federal Lands Permit.

In 2009, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2009-0064, directing staff to develop a new statewide approach addressing forest activities on National Forest lands. After several years of development, the Division of Water Quality (DWQ) proposed for adoption a new Statewide Conditional Waiver of Waste Discharge Requirements and an accompanying CEQA mitigated negative declaration to the State Water Board for consideration of adoption during a December 2011 public meeting¹¹. At that time, the State Water Board decided to not move forward with a Statewide Conditional Waiver and instead supported continuation of region-specific regulatory approaches led by the regional water quality control boards. Therefore, the North Coast Water Board—as well as several other regional water quality control boards—continued to develop, renew, and implement federal lands regulatory programs to address nonpoint sources of pollution within its regional boundaries.

Development of a statewide permit is not a feasible alternative given that development of a statewide permit would not be within the jurisdiction of the North Coast Board. Under CEQA Guidelines section 15126.6, the lead agency need only consider a reasonable range of potentially feasible alternatives. The North Coast Water Board developing a statewide permit would not be a feasible alternative.

2. **Comment:** *[Draft EIR, Chapter 3, Page 3.4-16]. The Draft EIR requires the BLM to implement biological measures as a requirement of CEQA. However, the Draft EIR states: "Most species with protection in California (e.g., pursuant to CESA, CFGC, CNPPA, or CEQA) are also designated as sensitive species by the USFS, BLM, and NPS (BLM 2019, 2023). As such, these California special-status species would be afforded the same consideration as federally-listed species, and the potential impacts to these species associated with management measure construction/installation would be avoided or minimized."* (BLM California State Office)

Staff Response: Section 3.4 of the Draft EIR on page 3.1-16 also includes the following language: *"Nevertheless, as the criteria and underlying authorities are different, there exists the possibility that a California-protected species not also listed under the federal ESA and/or considered a USFS, BLM, and NPS sensitive species could be impacted by Proposed Project activities."* Accordingly, to ensure protection to the extent feasible, mitigation measure BIO-1 is intended to complement existing practices and close any potential gap in species coverage for California-protected species.

¹¹ https://www.waterboards.ca.gov/board_info/minutes/2011/dec/mins125_611.pdf.

3. **Comment:** *[Draft EIR, Chapter 4, Page 6.] The North Coast Water Board adopted its first permit to regulate nonpoint source discharges on federal lands in 2004 in part because its staff determined that managed lands did not adequately protect water quality". Please provide a reference to this determination and how the prior permit did not protect water quality. (BLM California State Office)*

Staff Response: In 2004, the North Coast Water Board adopted the first nonpoint source waiver for timber harvest activities on USFS lands, in part due to the recent passage of the State Water Board's Nonpoint Source Enforcement and Implementation Policy, but also due to the number of watersheds that were identified as impaired due to excess sediment and elevated temperatures on Section 303d of the Clean Water Act. There was no nonpoint source permit prior to this permit. Prior to this time, state nonpoint source regulation of USFS was previously covered by a 1981 Management Agency Agreement between the State Water Board and the USFS Pacific Southwest Region.

4. **Comment:** *Draft EIR, Chapter 4, Page 9. "The increased level of management measure implementation and the ongoing identification and timely treatment of CSDSs, including unstable soils and slopes, under the Proposed Project would be more effective in reducing erosion and loss of topsoil (as well as stabilizing slopes and reduced potential for landslide risks) over the long term compared to the No Project Alternative." This statement assumes implementation of the Proposed Action will increase the pace and scale of sediment treatments. The BLM disagrees with this statement. (BLM California State Office)*

Staff Response: Comment noted. The WARP is designed to steadily and systematically advance the treatment of CSDS over time, as compared to the existing Federal Waiver, which required project-level CSDS treatment, and the No Project Alternative. No changes have been made in response to this comment.

5. **Comment:** *Draft EIR, Chapter 4, Page 10. "Additionally, there could be fewer watershed restoration projects on the federal lands under the No Project Alternative due to the lack of incentives in the Proposed Project's Watershed Assessment and Recovery Program (WARP) for watershed restoration." The BLM would disagree that the credits allocated to watershed restoration projects would incentivize more work. (BLM California State Office)*

Staff Response: Comment noted. The WARP provides compliance flexibility by allowing implementation of some alternative actions that protect water quality, including restoration projects. No changes have been made in response to this comment.

6. **Comment:** *Draft EIR, Appendix C. The WARP reporting form is not included in the Draft Order package - only in the EIR document. (BLM California State Office)*

Staff Response: Draft Attachment C2, the WARP Reporting Form, was circulated with the other Draft Order documents and Draft EIR for public comment. In addition to other distribution methods, the full package was posted on the Forest Activities on Federal Lands webpage and April North Coast Water Board meeting agenda webpage from March 22 through May 7, 2024.

7. **Comment:** *The BLM notes that restoration of landscapes is a BLM policy requirement across many levels from annual funding directives to individual staff performance plans. (BLM California State Office)*

Staff Response: Comment noted. No changes have been made in response to this comment.

8. **Comment:** *DEIS 3.0.3 Environmental Baseline.p.3.0-2. The use of the Environmental Baseline should not just consider all past activities but include the inherent natural sensitivities of the landscape geology and geomorphology, it should also consider the irreversible baselines that were related to aquatic species and their habitats that takes into the adverse impacts from early European settlers, miners and dams and diversions. The present conditions exist because of those baseline activities that began in the 1800s and were present long before 2022 when the NOP was issued. We need to keep our focus on maintaining and restoring to the extent feasible. (Shasta-Trinity National Forest)*

Staff Response: As stated in EIR section 3.0.3 and consistent with CEQA Guidelines section 15125, the baseline is the physical environmental conditions that existed at the time the Notice of Preparation (NOP) was published. Lead agencies may use historical or future baselines, but this must be justified by substantial evidence in the record demonstrating that deviating from existing conditions will better inform of the likely impacts. As described in the EIR, the activities proposed to be covered by the permit are on-going and considered part of existing conditions. The EIR's impact analysis focuses on the increment of change that would result from implementation of the proposed Federal Lands Permit, considering both ongoing and new compliance activities (e.g., implementation of management measures associated with the WARP and additional monitoring activities). Accordingly, as supported by the analysis within the EIR, the use of existing conditions as the baseline by which to measure impacts is appropriate.

9. **Comment:** *DEIS 3.7 Geology and Soils p.3.7-11. Recreation Facilities Management. These areas are also often damaged or denuded by fisherman trails or other foot traffic as well as non-system roads and non-designated parking areas. (Shasta-Trinity National Forest)*

Staff Response: Comment noted. This section notes generally that recreational facilities management activities may include ground disturbing activities that have potential to result in impacts on geology and soils. No changes have been made in response to this comment.

10. **Comment:** *DEIR Comments Background and Need for Proposed Project p.1.1 – The following section is a judgement statement that is not based on facts; “While these agreements stipulate implementation of best management practices (BMPs) for water quality protection, sole reliance on the agreements has not led to sufficient protection of water quality. In particular, the federal agencies under the current regulatory framework lack a robust monitoring and reporting component to ensure that management measures are implemented properly and effectively.” The USFS follows State orders to the extent feasible. We also issue legal binding contracts to manage projects, as well as certified contract administrators and inspectors that oversee the operations on federal land. They are all trained to require, enforce and inspect efficacy of erosion control measures. We work as a team with hydrologists, soil scientists and geologists to prescribe, implement and monitor effective erosion control and monitoring as part of our National BMP monitoring program. It is easy to find evidence of sediment transport; it is a natural process! Especially on federal road systems many of which were adopted after early settlers developed the sensitive geologic landscapes of the North Coast Region. Staffing, equipment and budgets restrict our capacity to maintain and improve. Other than roads, the Northwest Forest Plan monitoring group is documenting improvements in riparian and aquatic resource habitats (AREMP, 2023). Aquatic habitats are at risk primarily from climate change and diversions that reduce available flow by over 50% in the Trinity River Watershed; not due to implementation and monitoring practices of the USFS or BLM. In the most recent decade that hasn’t been a single violation issued to the forest for a failure to implement the Basin Plan. Project monitoring data has never indicated a violation for failure to meet the needs of the beneficial uses of water tied to federal management activities. Please strike or revise this language. (Shasta-Trinity National Forest)*

Staff Response: Staff agree that many USFS BMPs performed well in past BMP effectiveness monitoring efforts, and staff appreciate that USFS projects include the BMPs and Project Design Features that are selected for use in those projects. However, there are some categories of BMPs, including livestock grazing BMPs, that do not perform at a high level of effectiveness in neither the old Pacific Southwest Region BMP Effectiveness Program nor the National BMP Effectiveness monitoring (which has only had a single published effectiveness evaluation for BMPs conducted since its introduction in 2012). As a result, the North Coast Water Board continues to require additional monitoring where required, and specifically staff see a need to better understand the effectiveness of BMPs conducted in livestock grazing allotments, based on past observations, citizen complaints, and the results of the USFS' own BMP effectiveness evaluations.

11. **Comment:** *DEIS 3.7 Geology and Soils p.3.7-15. Landslides. This is one of those natural disturbances that could be initiated by a significant storm event and that could result in conditions that would not meet basin plan requirements for sediment, turbidity and potential loss of habitat in some areas. Land management activities in these types of areas should be prohibited, occasionally a site could be triggered from a connected action such as inadvertent surface runoff from a road. Estimating the size and extent of damage is not plausible, but in some cases the effects could result in substantial modification of aquatic habitats. (Shasta-Trinity National Forest)*

Staff Response: Comment noted. Please note that the Discharge Notifications requirements in the Monitoring and Reporting Program (Attachment C) have been updated to reflect the reporting requirements for naturally derived (e.g., landslide unassociated with roads or other anthropogenic activities) discharges to surface waters.

12. **Comment:** *DEIS 3.8 Greenhouse Gas Emissions. P 3.8-1. The USFS Regional Office has a carbon White paper that describes carbon conditions on all of the forests in California. In addition each forest has a Carbon White paper that describes and tracks that forests' particular carbon footprint over time. It would be good to incorporate or at least reference these documents in this section. (Shasta-Trinity National Forest)*

Staff Response: Comment noted, and revisions made.

Proposed Revision: EIR Section 3.8 has been updated by adding the following paragraph to the end of Section 3.8.2. Federal Laws, Ordinances, Regulations, and Standards. United States Forest Service:

Additionally, in 2015, the USFS Pacific Southwest Region Baseline developed the "Estimates of Carbon Stocks in Forests and Harvested Wood Products for National Forest System Units." This report was "produced for each of the national forests to help [the USFS] better understand the carbon resource [the USFS] manages and to inform decision making and partnership efforts with baseline data about the condition and trend of carbon component of the resource base." The numbers referenced in the report are intended to be updated periodically.

13. **Comment:** *DEIS 3.9 Pesticides and Pest Control. 3.9-6. It seems appropriate to mention that illegal use of non-approved illegal pesticides are in use in this area and is a target for state and federal agencies to cooperatively work to prevent and clean up damage. Could also refer to section 3.9-4 Significance criteria. (Shasta-Trinity National Forest)*

Staff Response: Comment noted. Staff believe Section 3.9.2, specific to Pesticide and Pest Control Operations, adequately summarizes state pesticide regulatory authority. No changes have been made in response to this comment.

14. **Comment:** *DEIS 3.7 Geology and Soils p.3.7-3. This section refers to Appendix B as the updated USFS Water Quality Handbook, which is not complete, or attached. Instead however Appendix B is actually “Category B Activities”. This section will need some updates and perhaps should refer to a new draft handbook? See USFS Regional Office clarification on the topic. (Shasta-Trinity National Forest)*

Staff Response: Staff agree and have revised the document as noted below.

Proposed Revision: The erroneous references to Appendix B have been removed from DEIR section 3.7.

15. **Comment:** *DEIS USFS Regulations, Rules & Policies p.3.10-5 Pertaining to Forest Service Manual 2500-Watershed and air Management it would be good to get the dates of the drafts that are missing from this section. Get an update on whether or not a plan is still in place to complete updates -perhaps an ETA? (Shasta-Trinity National Forest)*

Staff Response: The erroneous references to the “USFS No Date” literature have been removed.

16. **Comment:** *DEIS 3.14 Transportation Management Rule. It appears it should be 3.14-1. (The entire section needs pages to be renumbered from 3.14-1 to 3.14-9). (Shasta-Trinity National Forest)*

Staff Response: Staff agree and have revised the document as noted below.

Proposed Revision: The page numbers in Section 3.14 of the EIR have been updated accordingly.

17. **Comment:** *[DEIR 3.14 Transportation Management Rule] A portion of the USFS road system was downgraded from Level 3 to Level 2 roads with lower maintenance standards to reduce costs; many of these routes were already need of maintenance. The Emergency Restoration of Federally Owned Roads (ERFO) funding is not typically available for repairing the lower maintenance level 2 roads; exceptions are often made with justifications to extend funding to address the repairs for the needs of the public. Travel management also resulted in road decommissioning of routes that access many USFS plantations which are now problematic to tend without direct access. The need still exists for many of the roads that were decommissioned. Travel Management was a success on paper with a reduction of costs and maintenance needs, but the environmental consequences of this action did not promote water quality benefits or ecosystem health. (Shasta-Trinity National Forest)*

Staff Response: Comment noted. No changes have been made in response to this comment.

18. **Comment:** *DEIS 3.14 Transportation-Local Laws, Plans, Policies, and Regulations. (3.14-5) The statement is made... "By definition, lands managed by USFS, NPS, and BLM are under federal jurisdiction and are not subject to local land use laws or regulations." However it should be made clear that Federal agencies must comply with other Federal Laws Plans, Policies and Regulations as described in but not limited to Attachment G. Executive Order 12088 of October 13, 1978: "This order requires Federal agencies to comply with environmental laws to be consistent with requirements that apply to a private person. Compliance will be in line with authorities and responsibilities of other Federal agencies, State, interstate, and local authorities as specified and granted in each of the various environmental laws." General Provision: § 179.7. As to any matter involving the United States, its departments or agencies, which is within the scope of the power and duties of the board, the board may represent the interest of the state or any county, city, state agency or public district upon their request, and to that end may correspond, confer and cooperate with the United States, its departments or agencies, and where necessary the board members, or authorized representatives, may travel either within or without the state. (Added by Stats. 1967, Ch. 284.) While technically accurate, management of federal lands takes into account input by local stakeholders, thus is often in line with county laws, regulations and policies. "Likewise, although USFS, NPS, and BLM managed lands occur within California county boundaries, the federal lands are not subject to county laws, regulations, policies, or plans". Federal agencies are asked to cooperate regularly with local city, State and County Governments especially during emergencies to aid in safety and community protection. Remediation or repairs are frequently completed to restore areas damaged during emergency treatments. (Shasta-Trinity National Forest)*

Staff Response: Comment noted, and revisions made.

Proposed Revision: EIR Section 3.14-5 has been updated to include the following language: "Federal agencies must comply with other Federal Laws Plans, Policies and Regulations as described in but not limited to Attachment G of the Federal Lands Permit."

19. **Comment:** *DEIS 3.14 Transportation-Local Laws, Plans, Policies, and Regulations. (3.14-7) It seems that the criteria for analyzing Transportation effects is not typical for how one might expect to have impacts described for the transportation system. How is it that this document does not identify road erosion as an issue? This should be addressing all federal roads in the North Coast Waterboard region, right? It is very surprising that there is no existing condition of roads described or baseline of potential effects from roads to water quality. It is no secret that the initial federal road system was adopted from early settlers and that most roads were developed during booms of public development and resource extraction. The existing road system was constructed in difficult geologic terrain that was new to the pioneers and the concept of erosion control in this region was certainly not yet understood. The old roads remained and have been upgraded to the extent feasible and sections have been reconstructed where necessary and the use continues. Most roads went in during times of settlement, mining and logging. Most roads on federal lands have old road structures that do not meet today's design standards. Non-point source pollution is the primary reason for this order it seems it should be included/ added to this section. Along with a Transportation impact analysis in Section 3.14.4. It appears perhaps this section would be appropriate for describing the transportation system that is managed by federal agencies since there is no description of one of the most serious impacts contributing to nonpoint source pollution. (Shasta Trinity National Forest)*

Staff Response: Based on Attachment G of the CEQA Guidelines, staff evaluated impacts of the Proposed Project on transportation using the following criteria: A. Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities; B. Conflict or be inconsistent with CEQA Guidelines section 15604.3, subdivision (b); C. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment); or D. Result in inadequate emergency access. Staff determined that implementing the requirements of the Federal Lands Permit, including the Watershed Assessment and Recovery Program and monitoring requirements, would result in less than significant impacts to each of the criteria listed above. Additionally, potential impacts from permit requirements related to erosion from road-related activities are discussed in section 3.10, Hydrology and Water Quality, section 3.7 (Geology), and others.

20. **Comment:** *DEIS 3.16.3 Solid Waste Disposal. (p. 3.16-4) The end of the 1st sentence appears to have an incomplete sentence or label missing. (Shasta-Trinity National Forest)*

Staff Response: Staff agrees and has made revisions accordingly.

Proposed Revision: The typographical error was addressed and EIR Section 3.16.3 has been updated as follows:

There are hundreds of solid waste disposal facilities in the North Coast Region, many of which are located in proximity to lands managed by USFS, NPS and BLM. ~~Electricity and Natural Gas~~

21. **Comment:** *DEIS 3.4.4 Impact Analysis -Biological Resources (3.4-17) Please clear up the intentions of the following incomplete sentences...1)“ USFS, BLM, NPS a desktop analysis all such areas where management measures will be implemented prior to implementation of any management measures(s)”.* 2)*“Where construction/installation of management measures could result impact to such species and habitat.”* 3)*“ USFS, BLM, and NPS must consult a qualified biologist and use the least impactful effective management measure (based on the recommendation of the biologist) to avoid or minimize impacts to.”* (Shasta-Trinity National Forest)

Staff Response: Staff have revised the language in Section 3.4-17 to include text that was inadvertently omitted. The complete mitigation measure language that was included within Appendix C to the Draft EIR remains unchanged.

Proposed Revision: Section 3.4-17 of the EIR has been updated as follows: “To address potential impacts to special-status species, as defined and listed in Section 0, and sensitive vegetation communities within riparian habitat, waterways, or wetlands, the USFS, BLM, and NPS must complete a desktop analysis of all such areas where management measures will be implemented prior to implementation of any management measure(s). Where construction/installation of management measures could result in impacts to such species and habitat, the USFS, BLM, and NPS must consult a qualified biologist and use the least impactful effective management measure (based on the recommendation of the biologist), to avoid or minimize impacts. Where implementation of management measures cannot be achieved without incurring potentially significant effects to such species and habitat, the USFS, BLM, and NPS must implement the following measures to reduce those effects to levels that are less than significant.”

22. **Comment:** *DEIS 4.4.1 No Project Alternative p.4.5 Compliance through the No Project alternative would still be met through contract oversight and BMP implementation and monitoring. The federal agencies will implement the BMP program with or without this general order as the USFS has done since the early 1980s and now more recently the BLM has adopted similar protection measures which they will continue to utilize as well. Regulation by waterboards is not equivalent to resource protection measures on the ground that do reduce the potential for non-point source pollution.* (Shasta-Trinity National Forest)

Staff Response: Staff agrees that implementation of BMPs is an important tool utilized for water quality protection by the USFS on National Forest System lands and have relied and continue to rely on federal agency BMPs as one component of our federal lands permitting program. However, implementation of BMPs alone, as was the case under the Management Agency Agreement (MAA) signed

between the State Water Board and the USFS Pacific Southwest Region in 1981, is not sufficient to demonstrate agency compliance with California state water quality laws and regulations on federal lands.

As described in detail within the proposed Order and attachments, there are a number of Statewide and Regional laws and policies that require the Regional Water Board to permit discharges of waste. The statewide Nonpoint Source Implementation and Enforcement Policy specifically requires that "all current and proposed nonpoint source discharges must be regulated under waste discharge requirements (like the proposed Order), waivers of waste discharge requirements, or a basin plan prohibition."

Relying solely on the MAA framework to regulate NPS pollution does not satisfy the Water Boards' obligations under the NPS Policy. The MAA predates the NPS Policy by over two decades and does not relieve the Water Boards of their obligation to use one of the above-specified regulatory tools to address NPS discharges. The framework also does not cover BLM managed lands. Additionally, there are water quality issues that have not been addressed in current BMP guidance documents, and persistent resource limitations have prevented effective implementation of the MAA.

23. **Comment:** *DEIS 4.4.1 No Project Alternative Geology and Soils p.4.9 We concur that erosion and sedimentation would be greater without the Boards emphasis in improving roads. (Shasta-Trinity National Forest)*

Staff Response: Comment Noted.

24. **Comment:** *DEIS 4.4.1 No Project Alternative-Hydrology and Water Quality p.4.10. Federal agencies implement management measures to protect water quality pursuant to their internal guidance documents, but the North Coast Water Board has determined that their management measures inadequately protect water quality. Where is the evidence to support this claim. The degraded conditions in the North Coast region are from a legacy of many irreversible impacts that will not be changed by the land management activities conducted by the federal agencies. Five new watersheds have been designated as priority watersheds for future restoration on the Shasta-Trinity NF as well as many more watersheds throughout the state. Confirm this with the Regional Office. New Federal funding has increased our potential for restoration within the next few years, with or without this new order. (Shasta-Trinity National Forest)*

Staff Response: Please see response to response G.22.

25. **Comment:** *DEIS 4.4.1 No Project Alternative Transportation p.4.12. The discussion refers to transportation as a process and not as a feature on the ground that is contributing erosion and sedimentation to waters of the state. The transportation system is known as the single largest source of pollution on federal lands. (Shasta-Trinity National Forest)*

Staff Response: Please see response G.19.

26. **Comment:** *DEIS 4.4.1 No Project Alternative -Wildfire p.4.13. Please review this statement...," Under the No Project Alternative, there would be no potential for significant wildfire impacts related to wildfire to occur." With or without this order there is a risk of catastrophic wildfire to continue. (Shasta-Trinity National Forest)*

Staff Response: This analysis ties to anticipated impacts resulting from the No Project Alternative, not environmental events more broadly. Similarly, Staff anticipate that significant impacts to wildfire will not occur as a result of the implementation of the Proposed Project, i.e., the Federal Lands Permit. No changes have been made in response to this comment.

27. **Comment:** *DEIS 4.4.2 Renewal of Existing Permit p.4.13-4.22. Conditions on the ground would remain similar under the selection of this alternative. Even though the existing order has not been considered to be sufficiently effective in reducing discharges (primarily sediment) that have affected waters in the North Coast Region. It is likely that existing conditions are unlikely to change without returning the stream power back into the system. This coupled with continued restoration of physical habitat and reduction of sediment throughout the Trinity River Watershed on the Shasta-Trinity NF. (Shasta-Trinity National Forest)*

Staff Response: Staff anticipate that the Federal Land Permit's Watershed Assessment and Recovery Program will be an improvement over the existing Federal Waiver's controllable sediment discharge source treatment strategy and will steadily advance the treatment over time in Administrative Units.

28. **Comment:** *DEIS 4.4.2 Environmentally Superior Alternative p.4.24 (last paragraph) It seems quite odd that an order of this magnitude is necessary if there is only one significant impact associated with federal projects considered in this order that can be reduced to less than significant with the implementation of Mitigation Measure Bio-1. (Shasta-Trinity National Forest)*

Staff Response: The purpose of the Proposed Order is to address discharges of waste to waters of the state from certain activities on federal lands to ensure conformance with applicable water quality laws. The EIR evaluates the potential significant impacts resulting from the implementation of the Proposed Order—namely, the increment of change that would result from implementation of the Proposed Order over the existing baseline, and not from current and historic federal agency land management activities themselves.

29. **Comment:** *Appendix B – Resource Sections Dismissed. P.1. Reviewed this section. It seems appropriate to have a recreation section in the report, if the orders include effects and specific requirements for recreation facilities. The analysis provided could certainly be stronger.* (Shasta-Trinity National Forest)

Staff Response: Please see response G.28 above. No changes have been made in response to this comment.

30. **Comment:** *Appendix B – Resource Sections Dismissed. P.1. The discussion about forests surrounding communities was confusing. There are a great number of communities within the national forest system boundaries. There are a significant number of recent land management decisions to protect the land and vegetative conditions that are threats to those communities including their escape routes in the event of any future emergencies.* (Shasta-Trinity National Forest)

Staff Response: Comment noted. This language was included in error and the document has edited accordingly.

Proposed Revision: This EIR section has been updated to remove “Additionally, there are no existing communities within the federal lands.”

H. Editorial

1. **Comment:** *Attachment A number 11. Rewording is necessary, consider the following... “Establish or construct water sources for grazing use outside of riparian zones.” To implement as written in the draft order would require fencing of all riparian zones, which is infeasible.* (Mendocino National Forest)

Staff Response: This low-risk activity is intended to apply to allotments with no designated riparian zones.

2. **Comment:** *Attachment B Item # 3, Please consider revising to. “Fuels reduction and vegetation management activities that use heavy equipment in designated riparian zones”. Whether or not this activity is commercial or noncommercial is irrelevant.* (Mendocino National Forest)

Staff Response: Please see response F.4 above.

3. **Comment:** *It seems unlikely that any forest would specifically enroll “Vegetation management activities conducted by manual treatment in designated riparian zones that pose a risk of discharge.” This type of activity is typically connected to a timber sale or fuel reduction project and would best be addressed in activity/item 1 if the “commercial component” effect somehow makes this treatment different.* (Mendocino National Forest)

Staff Response: Please see response F.4 above

4. **Comment:** *The due date of June 30, 2024, for the storm patrol documentation for the first annual report is too soon and not feasible. (Mendocino National Forest)*

Staff Response and Proposed Revision: Staff agree. This reporting requirement should have been stated as June 30, 2025, as the deadline. The Monitoring and Reporting Program has been updated accordingly.

5. **Comment:** *Proposed Order, Section A. Introduction part 1, 2, 5, 6, pages 1-2. This is a style concern and is not critical to the implementation of the order. These parts read more like an editorial page than a technical document. (Klamath National Forest)*

Staff Response: These are introductory findings to provide support for Proposed Order requirements.

6. **Comment:** *Proposed Order, Page 11 Project Activity Categories 7b: please define or reference "designated". 8 and 9. Please describe or define low and moderate risks. For example: with proper BMPs, low risk activities that do not exposed soil, activities that do not measurably increase solar radiation, etc. Or describe possible effects from activities that may lead to a moderate risk. (Klamath National Forest)*

Staff Response: Designated riparian zones refer to the area or zone surrounding the feature requiring protection (e.g. watercourse, unstable area, etc.). Protection measures are based on Federal Agency guidance measures. Low risk activities occur outside of the riparian zones and have little to no potential for discharge. Moderate risk activities that have the potential to discharge within riparian zones require Category B enrollment. Please see Attachments A and B for examples of low and moderate risk activities, respectively, that are eligible for Federal Lands Permit coverage.

7. **Comment:** *Proposed Order, Page 13, 6d disjointed project objectives: This is not the case. All projects must meet the ACS as discussed above. The Forest and the public would like to complete as many vegetation treatments as possible regarding the wildlife crises. However, the project must also be feasible in the same way as CSDS projects. (Klamath National Forest)*

Staff Response: Comment noted.

8. **Comment:** *Proposed Order, Page 23 Part 3 and 5. IF not provided in the NEPA document. (Klamath National Forest)*

Staff Response: The NOI for Category B applications requires justification and explanation if project activities do not reflect federal agencies guidance standards. Information included in the federal agency's environmental documents can be referenced in the Category B application if feasible.

9. **Comment:** *Proposed Order, Page 24 e. Please identify what objectives that the Order wishes to achieve. (Klamath National Forest)*

Staff Response: Please refer to findings I.E. 22 and 23 in the Proposed Order.

10. **Comment:** *Attachment A, #1. Please use mechanical instead of non-commercial (Klamath National Forest)*

Staff Response: Please see response F.4 above

11. **Comment:** *#1. Please use mechanical instead of commercial. (Klamath National Forest)*

Staff Response: Please see response F.4 above

12. **Comment:** *Attachment B, #3. Please explain why a commercial component cannot occur. What components of a commercial activity distinguish effects from heavy equipment? (Klamath National Forest)*

Staff Response: Please see response F.4 above

13. **Comment:** *Attachment B, #9. Is there a difference between designated riparian areas and designated riparian zones? (Klamath National Forest)*

Staff Response: There is no difference between designated riparian zones and designated riparian areas. Attachment H – Glossary of Terms and Acronyms defines “Riparian Zone and Riparian Area.”

14. **Comment:** *Attachment C, II.3 reporting, page 6. Needs to be where possible. Dependent on number of sites in a given season, available hydros and engineers for a few of the reporting requirements, details such as weather condition, maps, etc. (Klamath National Forest)*

Staff Response: Administrative Units can request an extension of reporting requirements from the Regional Water Board on a case-by-case basis (MRP Section I.A).

15. **Comment:** *Attachment C, General conditions 1.iv.page 7 [Storm Patrol for Roads and Trails requirements]. It seems like the order has identified this. Please clarify. Note: the theme should not be duplicative reports if the federal reporting is very similar to the Water Board needs. (Klamath National Forest)*

Staff Response: Staff encourage Administrative Units to provide reports similar to those described in the Storm Patrol for Roads and Trails section to North Coast Water Board staff, and if staff agree that the reports are duplicative, the Executive Officer can modify the MRP requirements.

16. **Comment:** Proposed Order, Item IA.2, p. 1. *Please acknowledge climate change and the associated warming and drying that is affecting aquatic resources. Historic land disturbance regimes, dams and water diversions, wildfires, and more have led to conditions that federal land managers and State Water Boards are facing with diligence to promote recovery to the extent feasible.* (Shasta Trinity National Forest)

Staff Response: Order section I.A.2 acknowledges that climate change is a factor affecting aquatic ecosystems.

17. **Comment:** [*Proposed Order*], Item IA.6 p.5. *Introduction. The Inflation Reduction Act is continuing today, we are still receiving funding 2024 and our forest recently designated 5 new priority Watersheds and plans for restoration. We are hopeful the extended budget will continue, as planned. Please also revise the last two sentences as suggested ...”Although These funds will support federal land agencies in addressing some of the backlog of pollution control projects and aquatic habitat restoration projects needs in the North Coast Region, varying congressional appropriations of funds and staffing will continue to present a conundrum for Federal Agencies once these funds are expended.” The statement crossed out is not needed and could be contrived as political...* (Shasta Trinity National Forest)

Staff Response: Comment noted. See revisions below.

Proposed Revision: Proposed Order Section I.A.6 has been modified as follows: ~~*Although these funds will support federal land agencies in addressing some of the backlog of pollution control projects and aquatic habitat restoration projects needs in the North Coast Region, varying congressional appropriations of funds and staffing will continue to present a conundrum for Federal Agencies once these funds are expended.*~~ However, varying congressional appropriations of funds and staffing may continue to present a conundrum for Federal Agencies.

18. **Comment:** *Proposed Order, Item I.B.6 p.4. Federal Land Management in North Coast. Please consider revising sentence 2 as follows...” Planning documents must clearly articulate which BMPs apply to specific on-the-ground activities. Refer to the MRP for implementation and monitoring requirements of prescribed BMPs”.* (Shasta Trinity National Forest)

Staff Response: Please see response E.5. Additionally, the language in the Findings section of the Order provides background and context intended to support the requirements (conditions) of the permit, and as such, the findings do not contain requirements themselves.

19. **Comment:** *Proposed Order, Item I.B.7 p.5. Federal Land Management in North Coast. Please revise “management measures” (which could mean just about anything we do to “BMPs or “resource protection measures”. Could also refer to our won agency guidance for resource protection measures. After all each federal agency is legally bound to follow.* (Shasta Trinity National Forest)

Staff Response: Comment noted. Please refer to Attachment H – Glossary of Terms and Acronyms for the definition of “Management Measure.”

20. **Comment:** *Proposed Order, Item I.C.2.d p.9 Regulatory Background Please described the water quality protection measure you would like for us to choose from when planning fuel management activities. We utilize our BMPs, but it sounds like you are looking for something different. Can this be addressed with a meeting that includes prescribe burn professionals? (Shasta Trinity National Forest)*

Staff Response: Comment noted. See below revisions.

Proposed Revision: Staff have revised section I.C.2 of the Order as follows:

Many lessons have been learned as the various iterations of the Waivers have been implemented. This Order contains significant modifications from the most recent 2015 Waiver. A rapidly changing climate, increasing annual fire regime, lessons regarding regulatory efficacies, new state and federal policies, and other factors have informed the changes from the 2015 Waiver and are included in this Order. These modifications were developed considering North Coast Water Board staff’s experience implementing the Waiver as well as input received from North Coast Water Board members, Federal Agencies, tribal governments, and other communities of interest. The most substantive modifications include the following:

- a. converting from a Waiver of Waste Discharge Requirements to a Waste Discharge Requirements (WDR) permit;
- b. removing project-level legacy sediment site treatment to facilitate ease of implementation of fuels reduction activities;
- c. ~~and~~ requiring agencies to transition comply with the a programmatic Administrative Unit-wide Watershed Assessment and Recovery Program (WARP) for to steadily advance the treatment of controllable sediment discharge sources and incentivize fuels reduction, aquatic habitat restoration, and other activities;
- d. specifying a set of general conditions that apply to livestock grazing activities on federal lands rather than relying on federal grazing permit renewals; and
- e. ~~updating water quality protection measures for fuels management; and~~
- e. integrating and referencing Federal Guidance and monitoring and reporting requirements from the three largest Federal Agencies with the greatest percentage of federal land ownership in the North Coast Region (USFS, BLM and NPS).

21. **Comment:** *Proposed Order, Item I.C.2.e p.9 Regulatory Background Perhaps revise to..."integrating and referencing Federal Guidance, monitoring and*

reporting requirements from each Federal Agency (USFS, BLM and NPS).
(Shasta Trinity National Forest)

Staff Response: Please see Response H.20.

22. **Comment:** *Proposed Order, Item I.D.2. p.10 Activities Covered. The last sentence "Livestock grazing can affect dissolved oxygen and nutrient concentrations in water" should be moved to the grazing section (I.D.3.e), it is out of place.* (Shasta Trinity National Forest)

Staff Response: Comment noted. Finding 1.D.2. is intended to summarize the range of water quality impacts addressed by the Proposed Permit, which include impacts from grazing.

23. **Comment:** *[Attachment A] #11. Rewording is necessary, consider the following..." Establish or construct water sources for grazing use outside of riparian zones." To implement as written in the draft order would require fencing of all riparian zones, which is infeasible.* (Shasta Trinity National Forest)

Staff Response: Please see response H.1 above.

24. **Comment:** *Attachment B Item #1. It has never seemed to make sense that if a project has a commercial or a noncommercial component, the risks are different?* (Shasta Trinity National Forest)

Staff Response: Please see response F.4 above.

25. **Comment:** *Attachment B Item #3. Please consider revising to .."Fuels reduction and vegetation management activities that use heavy equipment in designated riparian zones". Whether or not this activity is commercial or noncommercial is irrelevant.* (Shasta Trinity National Forest)

Staff Response: Please see response F.4 above.

26. **Comment:** *Attachment B Item #6. It seems unlikely that any forest would specifically enroll "Vegetation management activities conducted by manual treatment in designated riparian zones that pose a risk of discharge." This type of activity is typically connected to a timber sale or fuel reduction project and would best be addressed in category 1 as long as the "commercial component" effect somehow makes this treatment different.* (Shasta Trinity National Forest)

Staff Response: Please see response F.4 above.

27. **Comment:** *[Proposed Order], Item I.D.3.a&b p.10 a) Timber Harvest and b) Fuel Management. Strike the 1st sentence "Timber harvested from federal lands." since this is the federal waiver and there will be no authorized treatments on any land except federal lands. This section describes vegetation management activities through harvest and other fuel treatments. It does not describe any*

deleterious effects as the other covered activities. It is common to have some areas burn hotter than others and these may require mitigation such as scattering ground cover on steep areas, or sensitive soils, or barren areas connected / connected to streams. Sideboards to potentially justify fuel treatments as Category A could include limiting treatments in riparian areas to restorative activities such as changing fuel distributions by limbing/breaking up fuel ladders and dispersing or reducing continuity of continuous surfaces with heavy fuels hand piling and/or backing fires of fuels with no active lighting within riparian reserves. BMPs for burns are commonly best implemented during monitoring of burning activity. Reviewing a few burn plan examples might promote an understanding of the variables considered to safely and effectively burn. A few of the cuff examples include Burning activities must be conducted during proper weather conditions. Fall burns can cause excessive fuel removal that can destroy protective ground cover and leave ground bare over the winter season. (Shasta Trinity National Forest)

Staff Response: This Order covers portions of the NPS Redwoods Rising project, which technically occurs on both federal and state lands within the larger Redwood State and National Park as described in an MOU between the NPS and State Parks. Some fuels treatments have elevated risks to water quality, such as the use of heavy equipment in riparian areas, and so those activities will continue to be identified as Category B activities. Additionally, staff now propose that all burning activities are Category A activities. Please also see response F.1.

28. **Comment:** *[Proposed Order] Item I.D.5.d. p13. Activities Not Covered. Hazardous or Human Waste: Please remove or replace the wording that says, "the handling, disposal and treatment of hazardous materials are not authorized". We must take action to treat or dispose of hazardous materials that are frequently dumped on federal lands. Is there another specific permit that we should seek for this type of cleanup? The board does not have to cover it under this permit, but we have to address it for health and human public safety. (Shasta Trinity National Forest)*

Staff Response: Handling, disposal, and treatment of hazardous materials are not authorized by this non-point source order. Please contact the North Coast Water Boards Cleanups staff for assistance with permitting cleanup of hazardous materials as stated in Proposed Order Section I.D.5.d.

29. **Comment:** *[Proposed Order] Item II.A.3.d & e. p21. Project Planning. Timber harvest and fuel treatments with prescribed burning are both vegetative management treatments. To provide clarity there is a need to change from d. vegetation management to "timber harvest". (Shasta Trinity National Forest)*

Staff Response: Comment noted, and revisions were made to the Proposed Order.

1. **Proposed Revision:** Please see Proposed Order, Item II.A.3.d for additional language as follows:

3. To be considered as adequate for Federal Lands Permit enrollment, Federal Agencies must identify within NEPA documents whether proposed activities include:

- a. management in designated riparian zones;
- b. road, landing, and watercourse crossing construction and reconstruction;
- c. heavy equipment use;
- d. vegetation management, including timber harvest;
- e. prescribed fire; and/or
- f. forest restoration activities.

30. **Comment:** *Include concept of SMEAC used to organize and format military orders. Situation - Findings and any historical information; Mission - Conditions and Compliance with Laws that govern the various agencies; Mission - This section has the "Meat of the Order" and Taskings for each agency (military orders follow a Mission Statement format with the Commander's Intent for legal reasons); Administration - any logistical information or technical guidelines such as the WARP Tech information and Monitoring and Reporting Program Guidelines; Command and Control includes authorities and any roles and responsibilities that need to be written into the order. (Klamath National Forest)*

Staff Response: Comment noted.

31. **Comment:** *[Attachment C, XI.A.5] Change 'must' to 'may' or include a qualifying statement about types of protocols that would be preferred for use when evaluating watershed conditions. (Klamath National Forest)*

Staff Response: Comment noted, and revisions were made.

Proposed Response: Please see MRP Section IX.A.5. for revised language as follows: "Monitoring protocols such as the U.S. EPA's National Rivers and Stream Assessment¹², California's Surface Water Ambient Monitoring Program (SWAMP)¹³, or the U.S. Forest Service's Aquatic and Riparian Effectiveness Monitoring Plan (AREMP)¹⁴, are compatible with the state's California Environmental Data Exchange Network (CEDEN) and are prioritized protocols for Clean Water Act Section 303d listing and delisting purposes. Other monitoring protocols can also be conducted to provide supporting lines of evidence for 303(d) List decision making but are not data compatible with CEDEN. Examples

¹² USEPA, National Rivers and Streams Assessment:

<https://www.epa.gov/national-aquatic-resource-surveys/nrsa>.

¹³ Surface Water Ambient Monitoring program (SWAMP)

https://www.waterboards.ca.gov/water_issues/programs/swamp/bioassessment/.

¹⁴ Aquatic and Riparian Effectiveness Monitoring Plan (AREMP)

<https://www.fs.usda.gov/r6/reo/monitoring/watersheds.php>.

of non-compatible monitoring data includes that generated through the California Rapid Assessment Method (CRAM), Stream Condition Index (SCI), or individual monitoring programs developed through a Quality Assurance Project Plan pursuant to the requirements of 40 CFR 31.45.

32. **Comment:** *Change to read as follows to include roll-over of previously permitted activities: 1. Projects currently enrolled under R1-2004-0015, R1-2010-0029, R1-2015- 0021, and R1-2020-0021 (previous Waivers) may proceed under the conditions of those previous Waivers until August 24, 2025, after which time coverage will roll-over to coverage under the WARP and this order Federal Lands Permit – Order No. R1-2024-0012. 2. Projects that will operate past August 24, 2025, and that meet the eligibility requirements for Category B under this Order will be covered under this order. By February 24, 2025, each Administrative Unit must provide the North Coast Water Board Executive Officer the following:*
- A. *a list of all existing Category B enrollments to rolled over under this order and*
 - B. *a list of all existing Category B enrollments to be terminated under the previous Waivers.*
- (Klamath National Forest)

Staff Response: The existing Federal Waiver would be superseded by the Federal Lands Permit, which is a General Waste Discharge Requirements permit and no longer a Waiver; this triggers a requirement for re-enrollment. We have developed an expedited enrollment process for these projects, as described in the referenced Order section.

I. Emergencies

1. **Comment:** *The WDR articulates that emergency activities would not be regulated by this WDR. However, many emergency activities, such as fire suppression, are impactful and, in some sense, predictable. Our organizations urge the Regional Board to consider the ways it may work with the Forest Service and others to set up systems and best management practices to reduce the impact from certain kinds of emergency activities.* (EPIC and KFA)

Staff Response: North Coast Water Board staff periodically engage with Federal Agency staff to investigate activities taken during an emergency, once the imminent risks have subsided. Staff also review Burned Area Emergency Response (BAER) reports to better determine areas within a wildfire perimeter that may threaten water quality. These investigations allow our staff to calibrate with the Federal Agencies on actions taken during an emergency and to adaptively manage our regulatory requirements. In some circumstances, our office might take additional steps to ensure that actions taken during an emergency that pose a risk to water quality are addressed in advance of future precipitation events, like fire-line suppression repair, watercourse crossing reconstruction, or soil stabilization measures. See Comment F.5 for additional information on post-fire project coverage under this Order.

2. **Comment:** *The Regional Board must take a firm stand and require that all post-fire management activities be regulated by this WDR. (EPIC and KFA)*

Staff Response: Please see response I.1 above.

3. **Comment:** *Recommendation: More clearly articulate which post-fire activities qualify as “emergencies” for the purposes of the WDR. (EPIC and KFA)*

Staff Response: Please see Order section I.D.3.f, which contains a list of activities considered as ‘Emergency Activities’, and the Comment F.5 response for more information.

4. **Comment:** *DEIR Comments p.ES-6 Emergency Activities. Landslides are another common emergency situation in the landslide prone terrain riddled across the North Coast Region. This type of emergency often leads to sedimentation and is not limited to streams or stream crossings. This type of emergency typically affects traffic flow and could be categorized as a moderate potential impact however as an emergency enrolling landslide cleanup would not be timely. It should be added to emergency activities. (EPIC and KFA)*

Staff Response: The North Coast Water Board agrees that landslides can be an activity that requires immediate remediation. Proposed Order Section II.G.1 states "that the responsible Federal Agency official is authorized to take actions necessary to control the immediate impacts of the emergency and to mitigate harm to life, property, or important natural or cultural resources. When taking such actions, the responsible official must consider the probable environmental consequences of the emergency action and mitigate foreseeable adverse environmental effects to the extent practical".

J. Engagement and Outreach

1. **Comment:** *We are also disappointed that there were no more meetings as promised by the NCRWQCB after the Federal Lands Permit meeting on March 21, 2022. In this meeting, the Six Rivers National Forest (SRF) shared with the NCRWQCB the 2018 Synthesis of Science (review of the NWFP), and the Northwest Forest Plan Aquatic and Riparian Effectiveness Monitoring Plan (AREMP) 20-year review of the NWFP. The information was shared to demonstrate FS lands under the NWFP has been recovering under current management. (Rogue River-Siskiyou National Forest)*
2. **Staff Response:** As a result of discussions with USFS representatives, staff incorporated AREMP into the draft Monitoring and Reporting Program as the primary option for the USFS and BLM to comply with in-channel monitoring requirements. Regional Water Board staff have conducted two additional meetings in 2024 with the USFS staff that conduct the AREMP protocols on behalf of the national forests within the North Coast Region. Regional Water Board staff and USFS staff scheduled an additional meeting and field visit to

observe the implementation of the AREMP monitoring protocols firsthand in July 2024.

Additional meetings were also conducted by Regional Water Board staff regarding the draft Federal Lands Permit since March 2022, including several CEQA scoping meetings in October 2022, a meeting with USFS Supervisors in July 2023, a meeting with USFS technical staff in August 2023, a meeting with staff from the Bureau of Land Management in September 2023. Regional Water Board staff also issued an administrative draft of the permit to federal agencies in 2023 and held a workshop in front of the Board in 2024 to solicit further input on the draft permit.

3. **Comment:** *Further development of this Draft Order should be paused to better engage the Federal Agencies.* (BLM California State Office)

Staff Response: The Federal Lands Permit was informed by thorough numerous outreach and engagement opportunities with federal agencies that began in 2019, including, but not limited to, nine meetings with federal agency staff and management across Administrative Units, five updates on permit development through Executive Officer Reports, two informational items in front of the North Coast Water Board, an Administrative Draft of the permit in 2023, and numerous informal, staff-level conversations between federal agency and North Coast Water Board staff.

4. **Comment:** *The Federal Lands Permit [WARP] should be revised to improve transparency in reporting and actively engage public stakeholders in monitoring and evaluation processes to enhance accountability.* (American Whitewater)

Staff Response: North Coast Water Board staff will make the Annual WARP Tracking Forms available for public review upon request. Additionally, as stated in the Proposed Order, Coast Water Board staff will provide an update on WARP compliance to the North Coast Water Board every five years following Order adoption. The update will include a description of the performance of Administrative Units' implementation of the WARP and Order and MRP compliance.

5. **Comment:** *We feel that a process with this much import should have included more time and opportunity for public input. We did not know about the Workshop on April 4th until after the fact and have not had adequate time to do a thorough review of the draft EIR so our comments here will be limited to the draft permit and general thoughts. It would have been nice to have more than one workshop prior to comments being due.* (Salmon River Restoration Council)

Staff Response: Staff appreciate you providing comments on the Order and are available to discuss any other comments you may have. Staff broadly circulated notice of the Draft Order, Draft EIR, and Workshop on March 22 for a 45-day public comment period, in part, utilizing the existing mailing list for the Federal Lands Permit. Please note that you may sign up for our federal lands mailing list

at this web address: to ensure you receive updates on the Federal Lands Permit development and adoption process. A recording of the Workshop was available for viewing on the Water Boards' website, and staff appreciate that you took the time to view this recording before providing comments. An opportunity for oral comments will be provided at the August adoption hearing.

K. Federal Agency Resource Limitations

1. **Comment:** *For the development of the forest wide monitoring programs, there are a number of requirements that the Regional Board is requesting that will create a significant financial burden on USFS, BLM, and NPS to implement. The impacts will incrementally increase based on the size of the federal property, current uses of the property, staffing availability and annual budget. If components of the initial monitoring program are not feasible for a federal property to implement based on staffing and finances, there should be a process for a modified monitoring program to be established with the Regional Board. These entities are already in compliance with the Clean Water Act and Porter-Cologne regulations via existing Forest Plans and project-specific terms and conditions. Therefore each provision of a proposed waiver should be assessed for its cost. (Mendocino County Farm Bureau)*

Staff Response: Staff understand that federal agencies have limited resources - and indeed, have worked hard in this Proposed Order to further leverage existing federal monitoring and reporting programs. One example is livestock grazing, where in 2015 staff required allotment-specific monitoring of ecological conditions along with required **annual** indicator bacteria monitoring. The Proposed MRP no longer requires either of those things, and instead relies on submission of Annual Operating Instructions and Federal BMP monitoring - both federal standards that are required by the agency to produce. Through implementation of the Proposed Order, the North Coast Water Board and its staff will continue to work with the Federal Agencies to ensure conformance with California's water quality laws and regulations and the applicable federal requirements. The Executive Officer has the authority to modify the MRP if deemed necessary and appropriate.

2. **Comment:** *There are still several areas within the current draft that we are concerned with and will constrain the ability of the agency to effectively implement our ecosystem restoration programs, including the critical work needed to reduce the risk of large-scale high intensity fire. As evidenced over the past few years, the impacts of large-scale high intensity fire have the potential to affect water quality at a scale order of magnitude greater than sources of existing water quality impairment on National Forest lands. (Rogue River-Siskiyou National Forest)*

Staff Response: Staff agree that effective fuels management activities are vital. The alternative credit generating activities in the WARP are designed to provide federal agencies with some compliance flexibility while encouraging activities that

contribute to overall watershed health and minimize the potential for catastrophic impacts to water quality from natural disasters, such as wildfires. As such, federal agencies may receive WARP treatment credits for fuels reduction activities.

3. **Comment:** *In addition, I am concerned the overall magnitude of the monitoring requirements will exceed the capacity of the RRSNF staff, is overly redundant, and unnecessary to effectively inform adaptive management. Due to capacity limitations, this will place additional constraints on our ability to implement ecosystem restoration projects, including the treatment of Controllable Sediment Discharge Sources (CSDS) within Priority watersheds. (Rogue River-Siskiyou National Forest)*

Staff Response: The MRP is designed to leverage existing federal agency protocols where feasible and aims to create streamlined and efficient requirements and processes. The State Water Board's Nonpoint Source Implementation and Enforcement Policy requires the regional water boards to include a feedback mechanism into any nonpoint source pollution control program to ensure that land management activities are being protective of water quality. Staff are available to work with federal agency staff to answer questions and provide suggestions on meeting annual WARP credit obligations or MRP compliance.

4. **Comment:** *We respectfully ask that the North Coast Regional Water Quality Control Board (NCRWQCB) revisit this effort to better engage the agencies and find a process that better accomplishes our shared objectives without the undue monitoring and reporting requirements and treatment objectives for which we cannot legally commit to in the absence of funding. We support the attainment of water quality objectives. (Rogue River-Siskiyou National Forest)*

Staff Response: Please see responses C.34 and J.2.

5. **Comment:** *Lack of funding is likely to limit the effectiveness of the new Watershed Assessment and Recovery Program (WARP). We are concerned that the WARP program does not include any specific mechanisms for Tribes and local organizations to provide meaningful input into prioritizing which CSDS sites are addressed. We think the Draft Waiver should be revised to actively discourage the re-opening of roads that have a high risk of failure and major sediment delivery. (Karuk Tribe and Quartz Valley Indian Reservation)*

Staff Response: Please see Proposed Revision A.10 and modifications to Attachment F, Section VI.B. The WARP was revised to create a new credit multiplier of 2.0 to for projects planned and/or conducted in partnership with tribes and/or other organizations that support the goals of the Racial Equity Resolution, Water Boards' Racial Equity Action Plan, and forthcoming North Coast Racial Equity Action Plan (e.g., projects that involve cultural burning, incorporate or leverage traditional ecological knowledge, contract with Tribes to implement treatments, or reduce potential nonpoint source pollution to

communities of color). This change is intended to incentivize federal agencies to work with tribes and communities of color to address their priorities and shared goals. Additionally, Staff intend to work with federal agency staff to identify funding opportunities within the Water Boards that may facilitate WARP implementation.

6. **Comment:** *The Draft Federal Lands Permit acknowledges significant resource limitations and budget constraints faced by federal land management agencies. While this is a real and vexing problem for the federal agencies, the Water Board is nonetheless still required to fully implement the provisions of Porter-Cologne and the Clean Water Act in an effective manner that is protective of water quality and the state's anti-degradation standard. However, the WARP appears tailored to fit within the diminished capabilities of federal agencies in such a way that it could hinder the effective implementation of necessary water pollution control improvements and actually reduce the program's efficacy.* (American Whitewater)

Staff Response: The Federal Lands Permit is designed to continue to prevent and minimize sediment pollution from land management activities on federal lands. It leverages and incorporates lessons learned through implementing three prior iterations of the permit regulating nonpoint source activities on federal lands. It aims to increase the pace and effectiveness of controllable sediment discharge sources and incentivizes other activities that promote overall watershed health through the WARP. Staff believe these improvements, in addition to others, will continue to prevent and minimize sediment pollution and advance water quality protection and rehabilitation on federal lands.

7. **Comment:** *We appreciate the added flexibility for a portion of the CSDS treatment credit obligations but if implemented as currently written, the SRNF will need to hire additional staff just to coordinate annual WARP credits. The amount of time that will go into planning for annual CSDS treatment credit obligations will impact our ability to implement critical forest (and national) fuel reduction priority projects.* (Six Rivers National Forest)

Staff Response: Staff intend to work closely with Administrative Unit staff to facilitate the ease of WARP implementation. Staff will review and determine the eligibility and appropriateness of proposed WARP credits proposed in the Notice of Intent for each project containing WARP-eligible activities. Administrative Unit staff are encouraged to engage with Staff early and often on potential WARP credits for efficiency. For example, Staff and Administrative Unit staff could meet annually to discuss estimated projects and associated potential WARP credits.

8. **Comment:** *National Forest land managers adopted an old transportation system that was developed primarily by early settlers that had no idea of the sensitivity and complexity of soils and geologic processes in this region. Natural processes including active vertical faulting that leads to landsliding and debris flows without any additional land use activities. Another example of complexity in this region is that there are at least 8 of the 11 geologic complexes in California within the North Coast Region. Top this off with the unique mediterranean climate that has hot dry summers and cool wet winters that exist nowhere else in the United States. (Shasta-Trinity National Forest)*

Staff Response: Staff acknowledge the land management challenges that federal agencies face that are presented in part by the natural stressors and legacy impacts from anthropogenic activities on federal lands.

9. **Comment:** *Proposed Order, Pg. 2, point 5. Issue- This bullet point suggests that mismanagement in monitoring by federal agencies has led to environmental consequences and degradation of water quality. Please provide evidence that shows how you came to this conclusion. Staffing shortages on FS lands is an issue, but the extent of damage to the waterway is concerning. We would like to understand better how our monitoring techniques and adaptive management could be improved to reduce this impact. (Modoc National Forest)*

Staff Response: The intention of finding 5 on page 2 of the Order is to state that resource limitations, and the insufficient resources that federal agencies commonly cite to the North Coast Water Board when unable to meet past Waiver requirements and/or deadlines, are a key issue for federal agencies. One example of this is that as of 2021 some National Forests had completed less than 60% of the sediment sites they had committed to treating in past Waiver enrollments—treatments that were required and intended to address legacy impacts to water quality from existing or threatened discharges of waste to waters of the state.

10. **Comment:** *The overall concern for the Modoc is the suggested increase in effort for monitoring and reporting, particularly when there is redundancy. Thank you for consideration of our comments. (Modoc National Forest)*

Staff Response: The MRP is designed to leverage existing federal agency protocols where feasible and aims to create streamlined and efficient requirements and processes. The State Water Board's Nonpoint Source Implementation and Enforcement Policy requires the regional water boards to incorporate feedback mechanisms for any nonpoint source pollution control program, such as those incorporated into the Federal Lands Permit. The Executive Officer has the authority to revise the monitoring and reporting program requirements based on need. The Modoc National Forest is encouraged to bring duplicative reporting requirements that overlap with federal reporting to our attention, and staff may be able to integrate those efforts into our MRP

requirements over time. Staff are available to work with federal agency staff to answer questions and provide suggestions on meeting annual MRP compliance.

11. **Comment:** *There are still several areas within the current draft that we are concerned with and will constrain the ability of the agency to effectively implement our ecosystem restoration programs, including the critical work needed to reduce the risk of large-scale high intensity fire. As evidenced over the past few years, the impacts of large-scale high intensity fire have the potential to affect water quality at a scale order of magnitude greater than sources of existing water quality impairment on National Forest lands. (Rogue River-Siskiyou National Forest)*

Staff Response: Staff agree that effective fuels management activities are vital. The alternative credit generating activities in the WARP are designed to provide federal agencies with some compliance flexibility while encouraging activities that contribute to overall watershed health and minimize the potential for catastrophic impacts to water quality from natural disasters such as wildfires. As such, federal agencies may receive WARP treatment credits for fuels reduction activities. Additionally, cultural or prescribed burning, understory burning, and pile burning were transitioned from Category B to Category A activities, facilitating easier implementation of these fuels reduction activities.

L. General Nonpoint Source Pollution Concerns

1. **Comment:** *Sediment pollution in our coastal waters is a significant concern for our native fisheries. It is important that the North Coast Regional Water Quality Control Board works toward watershed protection and restoration. (Allison Cordera, Angela D'Accardo, Barbara Soto, Barbie Noell, Dylan Carr, Jay Forbes, Jolisa Eslinger, Marie Garabedian, Stephen Luther)*

Staff Response: Staff agree that sediment pollution from nonpoint source activities impacts native fisheries, endangered species, and beneficial uses throughout North Coast watersheds and on federal lands. The Federal Lands Permit is intended to continue to prevent and minimize sediment pollution from these activities on federal lands in the North Coast Region and address sediment sources that have the potential to impact surface waters. It aims to improve the pace and effectiveness of controllable sediment discharge source treatments and incentivize aquatic habitat restoration, fuels reduction, and forest resilience activities. Staff anticipate that the Federal Lands Permit will continue to prevent and minimize sediment pollution and facilitate watershed protection on federal lands.

2. **Comment:** *In our opinion all four of these national Forests are out of compliance with water quality standards, and riparian areas in particular lack shade. TES fish species are suffering due to lack of shade and warm water temps due to logging. (Conservation Congress)*

Staff Response: North Coast Water Board staff on-the-ground observations of the implementation of Riparian Reserves under the Northwest Forest Program have led us to, in general, find that the USFS and BLM riparian retention standards meet the objectives of the North Coast Water Board *Policy for the Implementation of the Water Quality Objectives For Temperature* (Temperature Policy). Staff continue to review projects during NEPA development and in the field. Staff also evaluate federal BMPs, project design features, and on-the-ground prescriptions in projects to evaluate the ongoing performance of federal agency guidance to meet the Temperature Policy.

3. **Comment:** *National Forests continue to build more roads and trails without ever closing any.* (Conservation Congress)

Staff Response: The North Coast Water Board is tasked with assuring that road and trail construction prevents and minimizes surface water impacts but does not have the authority to regulate whether Federal Agencies develop new roads and trails.

4. **Comment:** *There is a real sediment problem on the Shasta-Trinity.* (Conservation Congress)

Staff Response: See response L.1.

5. **Comment:** *The STNF has also been very heavy-handed with its fire suppression activities, bulldozing roads into areas that fires have never come close to. They remain open wounds on the landscape.* (Conservation Congress)

Staff Response: Staff acknowledge that fire suppression activities may generate sediment and impact designated riparian zones during and after the firefighting process. Each Federal Agency has conditions and processes in its Federal Guidance to address fire suppression activities and the Proposed Order relies on implementation of that guidance.

6. **Comment:** *Our National Forests are suffering and being degraded by timber harvest, fuel treatments, road and trail construction, livestock grazing, and other activities.* (Conservation Congress)

Staff Response: The North Coast Water Board's staff developed the proposed Federal Lands Permit to incorporate water quality protections and monitoring and reporting requirements for the range of activities cited in the comment. The Order includes a process to ensure that controllable sediment discharge sources are steadily treated over time, while supporting the Federal Agencies in their process of tackling fuels treatment obligations.

7. **Comment:** *Climate change is completely ignored by the National Forests despite a warming climate impacting species and their habitat. (Conservation Congress)*

Staff Response: Regional Board staff acknowledge that climate change is a factor affecting aquatic habitat and that should inform management actions on federal lands. See responses C.30 and H.17.

8. **Comment:** *The STNF in particular has had numerous rivers on the 303D list for decades that never show any improvement. (Conservation Congress)*

Staff Response: Comment noted.

M. Support

1. **Comment:** *The Bureau of Land Management (BLM) recognizes the work Board staff have put into the development of this Draft EIR and Draft Order. (BLM California State Office)*

Staff Response: Staff appreciate the time BLM staff have spent engaging on the development of the Federal Lands Permit.

2. **Comment:** *We appreciate that the Federal Lands Permit does not require an application to provide coverage of emergency actions. The consistency incorporated into this order with the States General 401 Certification is also appreciated. (Rogue River-Siskiyou National Forest)*

Staff Response: Comment noted.

3. **Comment:** *We believe that the WDR is an improvement of the existing Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on National Forest System Lands in the North Coast Region, Order No. R1-2015-0021 ("waiver"). In particular, we believe that the new WARP program will materially improve watershed conditions by driving watershed restoration efforts. (EPIC and KFA)*

Staff Response: Comment noted.

4. **Comment:** *I fully support the intent of the Draft Order to provide a process for sustained implementation and reporting of the treatment of CSDS's, particularly in TMDL listed watersheds and our designated priority watersheds with existing Watershed Restoration Action Plans (WRAPs). I also support the intent of the Draft Order to provide a process for sustained and consistent implementation and reporting of adaptive management monitoring. I believe we can achieve this intent, while also ensuring the Draft Order requirements don't inadvertently restrict our overall ability to protect and enhance watershed condition and water quality. (Rogue River-Siskiyou National Forest)*

Staff Response: Comment noted.

5. **Comment:** *We appreciate the changes that your team has proposed after listening to our comments on the first draft. I appreciate the continued dialogue to find a workable and effective permit.* (Klamath National Forest)

Staff Response: Comment noted.

6. **Comment:** *The fresh approach of the Watershed Assessment and Recovery Program (WARP) seems very promising. This is a major step toward potential delisting and documenting improved site conditions with active restoration. The flexibility you are allowing for the timing of the NOI submittal will be very helpful at improving efficiency of our actions.* (Shasta-Trinity National Forest)

Staff Response: Comment noted.

7. **Comment:** *Attachment C2 WARP Reporting – Thank you for this new addition to the MRP. It is refreshing to see a new approach to account for valuable restoration activities in what also appears to be a straightforward and relatively simple process.* (Shasta-Trinity National Forest)

Staff Response: Comment noted.

N. Water Board Authority

1. **Comment:** *We fully support the Water Board having enforcement authority to regulate all of [the eligible permit] activities on federal lands.* (Conservation Congress)

Staff Response: Order Finding E.24 states the following: "Failure by an Administrative Unit to comply with Federal Guidance, comply with Conditions F.1-9 of this Order, or manage a grazing allotment in a manner that impacts or threatens to impact water quality may result in progressive enforcement actions by the North Coast Water Board. Enforcement actions by the North Coast Water Board against an Administrative Unit may include any of the following: notice of violation, request for technical documents order, cleanup and abatement order, or a time schedule order."

2. **Comment:** *There should be an enforcement authority, in the form of the Water Board, that can deny permits for activities causing additional discharges of pollutants to surface waters.* (Conservation Congress)

Staff Response: The North Coast Water Board maintains its authority to not enroll projects under the Federal Lands Permit. Page 20, Section II.B.7 states the following: "North Coast Water Board staff will review NOIs for completeness and eligibility. The North Coast Water Board Executive Officer will accept, return, or

deny the NOI in writing within 30 days from NOI submittal. The North Coast Water Board Executive Officer has the discretion to adjust timeframes at the written request of a Federal Agency or as otherwise needed."

3. **Comment:** *The Shasta-Trinity NF has publicly stated it does not and in some cases, will not adhere to the USFWS recommendations for TES species. This rogue forest has the attitude that no other agency can inform their decision-making if it is something that gets in the way of their timber harvest program. This is unlawful and the Forest Service must be held accountable for harming the natural environment. They need an authority with oversight and the ability to enforce. (Conservation Congress)*

Staff Response: Comment noted.

4. **Comment:** *Some post-fire activities conducted by the U.S. Forest Service and their contractors have exacerbated detrimental fire effects. The most egregious that we are aware of in recent years is a complete clearcutting of all riparian trees in a 1500-foot-long reach of McKinney Creek during timber salvage following the 2022 McKinney Fire. There should be consequences when serious violations are committed. (Karuk Tribe and QVIR)*

Staff Response: Staff are aware of this situation, and staff conducted aerial reconnaissance and on-the-ground evaluations of this area. Staff will continue to evaluate activities conducted by private landowners and federal agencies to determine conformance with permit and Basin Plan requirements.

5. **Comment:** *Surprisingly little information is provided regarding implementation of the previous 2010 and 2015 waivers of waste discharge requirements. Without that information and data (successes, failures, limitations, violations, etc.) we have little basis or mechanism for evaluating the adequacy of the modifications that were made and incorporated into the new Draft Permit. Future five-year updates to the Permit should present such information. (Karuk Tribe and QVIR)*

Staff Response: Many lessons have been learned as the various iterations of the Waivers have been implemented. The Federal Lands Permit contains significant modifications from the most recent 2015 Waiver. A rapidly changing climate, increasing annual fire regime, lessons regarding regulatory efficacies, new state and federal policies, and other factors have informed the changes from the 2015 Waiver that are included in the Federal Lands Permit. These modifications were developed considering North Coast Water Board staff's experience implementing the Waiver as well as input received from North Coast Water Board members, Federal Agencies, tribal governments, and other communities of interest. The rationale for these modifications is discussed in Section I.C, *Regulatory Background*, of the Order. Staff intend to provide periodic updates to the North Coast Water Board on the status of compliance and implementation of the Federal Lands Permit.

6. **Comment:** *I am writing to request that a Category A activity be added which would allow the placement of a graveled parking area below the water line at the Minersville Boat ramp in Trinity Lake as part of your proposed Federal Lands Permit. (Carol Fall)*

Staff Response: The North Coast Water Board's Surface Water Protection Program oversees the issuance of Clean Water Act Section 401 water quality certification and is engaged in the review of this project. Finding I.D.4 in the Order identifies 401 certification projects as not eligible for coverage under this Order. As this boat ramp construction is an activity that requires a US Army Corps of Engineers Clean Water Act section 404 Permit, and thus a Clean Water Act section 401 Certification from the North Coast Water Board, this is not an activity that is eligible for coverage under the Federal Lands Permit.

7. **Comment:** *The "General Wast Discharge Requirements (WDRs) for Nonpoint Source Discharges Related to Certain Land Management Activities on Federal Lands in the North Coast Region" would regulate activities conducted by the Shasta-Trinity National Forest, including "recreation facilities" such as boat ramps. The Minersville Boat Ramp in Trinity Lake is operated by the Shasta-Trinity National Recreation Area. (Carol Fall)*

Staff Response: Please see response N.6 above.

8. **Comment:** *USFS is currently drafting plans to improve the current boat ramp. In 2008 the WQCB sent a letter to the USFS denying water quality certification for a USFS proposal to place a 2 acre asphalt parking lot and ½ acre aggregate base overflow parking area below the high water elevation of the lake due to potential leaks and spills from vehicles. The current USFS proposal locates the asphalt parking lot above the high water level. However, they are not proposing an aggregate base parking lot below the high water level due to concern that that will not be able to obtain approval from the WQCB. (Carol Fall)*

Staff Response: Please see response N.6 above.

9. **Comment:** *Placement of an aggregate base parking lot below the high water level of Trinity Lake will not substantially degrade surface water quality and should be considered Less Than Significant (LS). Vehicles are already parking on the lake bottom during low water levels. Realistically, even if the new design doesn't include an official low water parking lot, people will continue to park on the lake bottom. (Carol Fall)*

Staff Response: Please see response N.6 above.

10. **Comment:** *Trinity Lake is a reservoir created by the Central Valley Project and operated by the Bureau of Reclamation. It is not used for drinking water. Placement of an aggregate parking lot below the high water level will not affect its designated beneficial use. Other reservoirs created by the Central Valley Project, such as Lake Shasta and New Melones have numerous official aggregate parking lots below water level. Why not Trinity Lake?* (Carol Fall)

Staff Response: Please see response N.6 above.

11. **Comment:** *Trinity Lake is used by recreational boaters (fishing, jet skis, older houseboats, etc.), many of whom still have older 2 stroke engines. According to the CA Department of Boating and Waterways, up to 30% of the fuel and oil in a carbureted 2-stroke engine goes directly into the water. Yet the WQCB is not proposing to eliminate boat and jet ski use or require upgrades to 4 stroke engines.* (Carol Fall)

Staff Response: Please see response N.6 above.

12. **Comment:** *The economy of northern Trinity County is based on recreation, largely focused on Trinity Lake. When lake levels are low the only access for boaters is at Minersville Boat Ramp. I realize that any improvements are required to meet water quality regulations. However, placement of a graveled parking lot where people currently park will truly have an insignificant effect on water quality.* (Carol Fall)

Staff Response: Please see response N.6 above.

13. **Comment:** *It is not clear what the point is of this specific mining requirement to not involve use or handling of mining wastes. It is very common for people to look for gold in old tailing piles as a recreational activity. Is this intended to make people leave tailing piles untouched? Reconfiguring arrangement of tailing piles would be a benefit in locations where streams are impinged by these materials. Mining was not eliminated from coverage under this order, right? Is the Water Board saying that the act of using or handling mining wastes requires a stand alone permit? Would the Forest Service have to enroll the project on behalf of the miner? Normally the miner gets all the necessary state agencies permits before the miner is granted approval of the plan of operation. Plan of operations typically have bonds where they miner don't get their money back unless the site is put back to satisfactory stands. In this case the miner would be getting his bond back unless the road and/or pads a put to a satisfactory level (i.e. decommissioned, road storage/road deactivation).* (Mendocino National Forest)

Staff Response: D.5.b of the Proposed Order states: "Where prospecting- or mining-related actions discharge or have the potential to discharge waste(s) into waters of the state, the operator is required by state law to file a report of waste discharge with the North Coast Water Board and/or seek enrollment under the

Industrial Storm Water General Permit¹⁵ as necessary”. Handling, disposal, and treatment of hazardous materials, including mining wastes, are not authorized by this Order. Please contact the North Coast Water Board Industrial Storm Water staff with questions about permitting mining related activities.

14. **Comment:** *It is imperative that any new permitting regime tackle the fundamental stressors that have polluted and continue to pollute our state’s waters. (EPIC and KFA)*

Staff Response: North Coast Water Board staff developed the Federal Lands Permit in order to address the primary sources of existing water quality impairments—sediment and temperature—while also promoting the implementation of forest resilience and aquatic habitat restoration projects.

15. **Comment:** *Too often, the Forest Service violated the waiver, further impairing already degraded water quality. And, too often, there was no consequence for these violations. (EPIC and KFA)*

Staff Response: The Federal Lands Permit is designed to provide improved clarity regarding water quality protections, expectations regarding adherence to and implementation of federal guidance and standards, greater oversight and information regarding proposed project standards, improved regulatory standards and monitoring of livestock grazing, and steady implementation of CSDS treatment through the WARP.

16. **Comment:** *It is important to retain discretionary enrollment, particularly in this new age of Forest Service projects. Large, especially complex projects that evade ordinary NEPA review are likely to increase in the coming years as the number and kinds of NEPA-exempt or categorically excluded project types increase. (EPIC and KFA)*

Staff Response: Staff agree that discretionary enrollment is important. The North Coast Water Board retains its authority to not enroll projects that it deems to be of high-risk, or better regulated through a separate permitting process.

17. **Comment:** *Recommendation: The WDR should explicitly retain Regional Board jurisdiction over enrollment. (EPIC and KFA)*

Staff Response: Please see responses N.2 and N.16.

¹⁵ Information regarding the statewide Industrial Storm Water program and the current permit may be accessed at the following webpage:

https://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.html.

18. **Comment:** *We are concerned that the new WDR could authorize significant new sediment discharges into high-quality receiving waters without triggering any mitigation measures. (EPIC and KFA)*

Staff Response: The Federal Lands Permit is designed to provide sufficient mechanisms to allow North Coast Water Board staff to review, comment, condition, and inspect project activities that are deemed a risk to water quality. Antidegradation Findings on page 10 of Attachment G of the proposed Order notes that the Order contains conditions requiring federal agencies to implement BMPs and on-the-ground prescriptions for new activities, provide riparian shade protections and enhancements, and address CSDS. Effective implementation of BMPs with monitoring of effectiveness will result in best practicable treatment or control required by antidegradation policy, assure that pollution or nuisance will not occur, and that highest quality consistent with maximum benefit to the people is maintained.

19. **Comment:** *Many watersheds in the region are already out of compliance with water quality objectives. This is particularly true following large disturbance events, like fires, which produce large amounts of sediment pollution. The WDR contains "General Conditions" designed to protect water quality, among them General Condition #4: "Federal Agencies must not cause or contribute to an exceedance in the receiving waters of any applicable Basin Plan water quality objective (whether numeric or narrative), or any other applicable Basin Plan or policy provision." After a large disturbance event, federal agencies routinely propose new projects, such as "salvage" logging, that serve to layer a new anthropogenic disturbance on top of the new baseline and exacerbate sediment pollution issues through the creation of new roads, new landings, and other new ground disturbance. It is unclear how these projects will be able to be enrolled under the WDR. Pre-project, post-disturbance conditions are defined as the "baseline" against which project impacts should be measured (and not pre-disturbance conditions). (EPIC and KFA)*

Staff Response: The Basin Plan for the North Coast Region contains water quality objectives, implementation plans for meeting those water quality objectives, and other policies, including State Board and federal policies, that are applicable to nonpoint source discharges. Specific to logging, construction, and associated activities, the implementation plan contains certain discharge prohibitions and specifies eight water quality objectives, including for turbidity and sediment, of particular importance in protecting beneficial uses from these activities. "Controllable water quality factors shall conform to the water quality objectives contained herein. When other factors result in the degradation of water quality beyond the levels or limits established herein as water quality objectives, then controllable factors shall not cause further degradation of water quality." (Section 3.1.1.) Excess sedimentation and turbidity can result from uncontrollable, non-anthropogenic factors, such as flooding or wildfires, and fluctuate widely over time. The Proposed Permit is designed to continue to prevent and minimize sediment pollution from controllable land management activities on federal lands. Operational standards and management practices

implemented as part of permit compliance for projects occurring in the post-wildfire environment would help avoid and minimize potential discharges to waters of the state, ensure regulated activities are meeting water quality objectives, and avoid further degradation. It is also important to note that while some post-fire activities have the potential to result in short-term, temporary impacts, implementation may ultimately result in long-term protection of beneficial uses. Examples include the removal of dead standing timber from a high-severity fire or actions to address impacted roads and watercourse crossings in advance of future storm events. As stated in the Proposed Permit, fire recovery operations are activities that can be covered under the permit; however, enrollment of any project is discretionary and through a combination of size and intensity, some fire recovery operations may pose greater than a moderate risk to water quality and may require individual permitting.

20. **Comment:** *Recommendation: Use pre-project post-disturbance baselines for determining project effects.* (EPIC and KFA)

Staff Response: Please see response N.19 above.

21. **Comment:** *The Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters in the North Coast Region (Resolution R1-2004-0087) and the Policy for the Implementation of the Water Quality Objective for Temperature (Resolution R1-2014-0006), state that the Regional Water Board shall address sediment waste discharges on a watershed specific basis and direct staff to use authorities to control sediment waste discharges and enforce TMDL policies. Recommendation: Develop degradation thresholds that trigger enforcement actions.* (EPIC and KFA)

Staff Response: Thank you for the comment. Staff developed the Federal Lands Permit to regulate incidental discharges of waste resulting from land management activities in a manner that conforms with water quality standards. The Porter-Cologne Water Quality Control Act and the Water Quality Control Plan for the North Coast Region which include the referenced policies provide sufficient authorities to trigger enforcement actions that are deemed necessary to protect waters of the state.

22. **Comment:** *The BLM insists that a consistent and streamlined state-wide approach is needed across California.* (BLM California State Office)

Staff Response: Please see response G.1.

23. **Comment:** *The BLM suggests that the three Regional Water Quality Control Boards proposing nonpoint source permits for Federal agencies develop a simplified and coordinated monitoring approach across the state.* (BLM California State Office)

Staff Response: Please see response G.1.

24. **Comment:** *Neither the draft EIR nor draft permit acknowledge any of the numerous state Wild and Scenic Rivers within the permitted administrative units nor indicate whether or how the permit is protective of the unique sets of extraordinary values that are found on each of these rivers. Therefore, it is unclear if the Water Board is meeting its obligations under the California Wild and Scenic Rivers Act. (American Whitewater)*

Staff Response: The Wild and Scenic Rivers Act (WSRA) generally restricts construction of any dam, reservoir, diversion, or other water impoundment facility on any designated river or segment thereof. (Pub. Res. Code, § 5093.55) Additionally, state agencies cannot assist or cooperate, by loan, grant, license, or otherwise, with any other agency in the planning or construction of a dam, reservoir, diversion, or other water impoundment that could have an adverse effect on the free-flowing condition and natural character of designated rivers and segments thereof. (Pub. Res. Code, § 5093.56.) The Act directs agencies to exercise their existing powers to protect the free-flowing state of designated rivers and their extraordinary values. (Pub. Res. Code, § 5093.61) The Act obligates the California Natural Resources Agency (CNRA) to coordinate the activities of state agencies whose activities affect the rivers in the WSRA system with those of other agencies with jurisdiction over matters which may affect the rivers. (Pub. Res. Code, § 5093.60.)

The Proposed Order does not authorize the planning or construction of any dam, reservoir, diversion, or other water impoundment facility, and land management activities covered by the Proposed Permit are not anticipated to have an adverse effect on the free-flowing character of any designated river. Section 3.1 of the EIR (aesthetics) discusses WSRA and specific river segments affected. As described in the EIR, any discharge impacts from construction activities under the Proposed Permit would be temporary and would result in long-term improvement to resources. Further, as detailed in Proposed Order findings, the Board is exercising its water quality control authority over discharge activities, which includes protection of beneficial uses of affected waterways, compliance with water quality objectives, and consistency with the State and Federal Antidegradation Policies.

25. **Comment:** *Additionally, the Act specifically tasks the California Natural Resources Agency with coordinating the activities of state agencies whose activities affect these rivers with those of other state, local, and federal agencies with jurisdiction over matters which may affect the rivers (PRC 5093.60). It does not appear that the Water Board has engaged with the Natural Resources Agency with regard to the agency's specific Wild and Scenic obligations nor that the agency is otherwise coordinating activities of state agencies as required by the Act. This suggests that the specific requirements of the Act are not being fulfilled. (American Whitewater)*

Staff Response: Please see response N.24 above.

26. **Comment:** *We request that the EIR and permit address compliance with the Act and specify how the Water Board's final permit complies with the statutory requirements outlined above. (American Whitewater)*

27. **Staff Response:** Please see response N.24 above.

28. **Comment:** *Since 2004 when the Water Board began offering federal land management agencies a waiver of waste discharge requirements, the agencies have frequently failed to meet their obligations to treat legacy sites at the scope and scale required under the waivers. Nonetheless, the Water Board continued to renew the waiver program as if agencies were in full compliance. With no repercussions for failing to adhere to waiver requirements, there is no reason to believe that agencies will begin to adhere to the requirements of the new Federal Lands Permit either. If anything, WARP's complexity and the resulting difficulty in maintaining public accountability and transparency will provide agencies with a greater opportunity to avoid compliance without repercussions. (American Whitewater)*

Staff Response: The North Coast Water Board and its staff have been working with Federal Agencies, California Native American Tribes, and communities of interest to develop a permit that maximizes efficiency and effectiveness at addressing controllable sediment discharge sources (CSDS). Past iterations of the Federal Waiver required Federal Agencies to inventory and treat CSDS as part of other Category B project activities, even when those were for an entirely different objective than CSDS treatments. The new Order disencumbers CSDS treatment obligations from routine Category B activities and instead introduces the Watershed Assessment and Recovery Program (WARP) to improve the process for pollution treatments, and to gain efficiencies for conducting fuels management and community protection projects. Additionally, federal agencies' obligations under the WARP are enforceable under the authorities of the North Coast Water Board.

29. **Comment:** *As mentioned before (and highlighted over the years by SRNF) we do not believe most of our watersheds are impaired, except for mainstem rivers that our management can not have a meaningful impact on. (Six Rivers National Forest)*

Staff Response: North Coast Water Board staff are fully supportive of actions necessary to remediate and restore impaired waterbodies and the removal of waterbodies as appropriate from the CWA Section 303(d) list. The process under which waterbody listing and delisting takes place is articulated in the State Water Board's *Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List*¹⁶ (Listing Policy). Information regarding the process for delisting a waterbody can be found in the Listing Policy.

¹⁶ [Water Quality Control Policy for Developing California's Clean Water Act Section 303\(d\) List.](#)

30. **Comment:** *Additionally, we think that the Mad River watershed was listed improperly without ever reviewing historical SRNF data that was shared with the Water Board (data was ignored because the Water Board said there was not enough time to review) that would potentially demonstrate that at least the Upper Mad River Watershed is not impaired. (Six Rivers National Forest)*

Staff Response: The process for listing and delisting waterbodies is outside of the scope of the Federal Lands Permit, but instead is described through the State Water Board Listing Policy. Background information regarding the original listing decisions has previously been provided to the Six River National Forest and staff encourage and support actions to provide data that can be used to facilitate listing and delisting decisions. Please see response N.29 for reference to the State Water Board Policy regarding the 303(d) list.

31. **Comment:** *Importantly, we do not believe that any individual or cumulative CSDS treatments can have enough of a positive impact to recover mainstem rivers that are impaired (in other words the SRNF management will never be able to recover the mainstem Klamath River for example). (Six Rivers National Forest)*

Staff Response: Comment noted.

32. **Comment:** *We would like to know how this monitoring data has been used in the past since it was ignored during the initial listing of our impaired watersheds. SRNF believes most of our streams should not be listed for temperature (again outside of mainstem rivers) and our data would reflect this. Has the Water Board reviewed our data to verify that most SRNF streams are temperature impaired? It has been mentioned in meetings in the past that the waterboard staff has not reviewed our temperature data over the years. (Six Rivers National Forest)*

Staff Response: Please see response N.30 above.

33. **Comment:** *A better explanation of what HUC 12 watersheds is listed as “impaired” is needed. Watersheds that are listed within the management boundaries of the SRNF are listed at the HUC 10 watershed, but I was told that the “tributaries rule” means that the HUC 12 watershed tributaries to listed HUC 10’s would also be considered impaired. If there are currently HUC 12 watersheds not listed as impaired, then why would be “punished” and charged a CSDS treatment credit obligation? (Six Rivers National Forest)*

Staff Response: The Watershed Assessment and Recovery Program (WARP) utilizes existing data sets articulating waterbody impairments in the North Coast Region to develop the credit obligations. Information about current waterbody impairments can be found on the North Coast Water Board's homepage, including the status of watershed impairments and any associated Total Maximum Daily Loads (TMDLs).

34. **Comment:** *Attachment B Item #11. It is not clear why this specific mining requirement “to not involve use or handling of mining wastes” is established. It is very common for people to look for gold in old tailing piles as a recreational activity. When a commercial venture is requested by a potential permittee, there are internal USFS permitting requirements established with mineral experts and we would ask to have the project enrolled. Is the intention to leave tailing piles untouched? Reconfiguring arrangement of tailing piles would be a benefit in locations where streams are impinged by these materials. (Shasta Trinity National Forest)*

Staff Response: Please see response N.13.

35. **Comment:** *Klamath National Forest has not reliably met the terms/deliverables of previous Federal Lands Waivers. We are concerned about lack of enforcement mechanisms in this process...The SRRC recommends that if federal agencies do not meet the terms of this permit on an annual basis their ability to utilize the waiver system for projects should be revoked and they should have to apply for individual water quality permits for each project. Notice of Intents for new projects should not be accepted if the agency is out of compliance with. Without such a disincentive for inaction, we feel that compliance will continue to be poor and water quality standards will not be met. (Salmon River Restoration Council)*

Staff Response: Please see response A.22, N.1, and N.2. Enforcement actions by the North Coast Water Board against an Administrative Unit may include any of the following: notice of violation, request for technical documents order, cleanup and abatement order, or a time schedule order. The Federal Lands Permit is proposed as a General Waste Discharge Requirements permit, rather than a Waiver. Unlike Waivers, Waste Discharge Requirements permits do not expire every five years; otherwise, the two types of permits function the same and provide the same level of water quality protection. The North Coast Water Board has the authority to deny or withdraw coverage for projects that do not meet the requirements of the Order. Development of WDRs for individual projects would be a significant additional administrative burden on both the North Coast Water Board and staff (which would have to develop a new permit for adoption for each project) and for federal agencies and would take years to develop. Staff find that the Order has sufficient requirements and enforcement authorities to determine and enforce protection of water quality on federal projects.