

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION  
MEETING OF MAY 10-11, 2017  
SOUTH LAKE TAHOE**

**ITEM 7**

**DEVELOPMENT OF A NONPOINT SOURCE PERMIT FOR FEDERAL LANDS**

**CHRONOLOGY**

This is a new item before the Water Board.

**BACKGROUND**

Federal law requires states to identify areas with substantial water quality control problems and to designate a management agency to develop an area-wide plan for addressing water pollution. It is pursuant to this authority that in 1981, the State Water Board took the following actions to address nonpoint source (NPS) pollution on United States Forest Service (USFS) lands: (1) certified a plan entitled "Water Quality Management for National Forest System Lands in California"; (2) designated the USFS as a Water Quality Management Agency (WQMA) for specified activities on National Forest System lands in California, including timber management, vegetation manipulation, fuels management, road construction, and watershed management; and (3) executed a Management Agency Agreement (MAA) with the USFS for the purpose of implementing the certified plan and WQMA designation.

Federal law also requires the states to develop and implement plans for addressing nonpoint source pollution. Pursuant to this federal mandate, in 2004 the State Water Board adopted the Policy for Implementation and Enforcement of the Nonpoint Source Control Program (NPS Policy). Changes within the 2004 NPS Policy required that nonpoint source discharges of waste be regulated by Waste Discharge Requirements (WDRs), Waivers of WDRs, or prohibitions to ensure compliance with applicable water quality control plans. Based on these changes, the MAA designating the USFS as a WQMA was no longer sufficient to comply with the newly adopted NPS Policy.

In 2009, the State Board adopted Resolution 2009-0064 that, among other things, directed staff to develop and propose a statewide approach to address activities on national forest system lands, including timber harvesting, grazing, off-road vehicle recreation, and fire suppression. State Water Board staff developed a draft "Waiver of Waste Discharge Requirements for Certain NPS Activities on Federal Lands in California" but that Waiver was not adopted at a State Water Board meeting in December 2011. The State Board did not adopt the Waiver for multiple reasons including: potential increases in workload for the Regional Boards, additional revisions required for best management practices within the permit, and concerns from numerous stakeholder groups. Grazing permittees, off-highway vehicle user groups, utility companies, and environmental groups all raised concerns over the Waiver.

In 2014, the State and Regional Water Boards began discussions with stakeholders regarding a statewide approach to regulating water quality impacts from grazing in California. In 2015, the State Board adopted Resolution 2015-0062 (Enclosure 1) discontinuing the process at a statewide level. This resolution directed the Regional Water Boards to consider taking regulatory and non-regulatory actions to address livestock grazing operations based on the unique hydrology, topography, climate, and land use of the region.

## **DISCUSSION**

Recognizing the need to adhere to state water pollution control laws with respect to nonpoint source activities on federal lands, in 2016, Lahontan Water Board staff began working with the staff from the Central Valley Water Board, USFS and Bureau of Land Management (BLM) to develop WDRs for certain NPS activities. The USFS and BLM collectively manage about 45% of the land within the Lahontan region, and USFS and BLM district boundaries overlap the Lahontan and Central Valley Water Board jurisdictions (Enclosure 2). Water Board staff in both regions recognized that a collaborative permitting effort would likely lead to better success and compliance than developing individual permits for entities that cross regional boundaries. While each Water Board will adopt its own permit (to account for regional differences in pollution and water quality standards), the permitting approach—including the goals, milestones, and outcomes—will be similar. The collaborative effort will include joint public outreach and stakeholder meetings in 2017 and preparation of a joint environmental document in 2018, with anticipated permit adoption in 2019.

At the March 2017 Water Board meeting, staff updated the Board on past and future accomplishments and priorities in all programs, including the NPS program that encompasses grazing activities. The development of this federal NPS permit was included in the “2017 Workshop and Program Update Schedule” that was part of the staff presentation. The Water Board members acknowledged the NPS permit is a high priority and were supportive of staff proceeding in crafting an NPS permit on federal lands.

The draft NPS permit is being planned to regulate certain nonpoint source activities such as range management, vegetation management, native surface road management, recreation, wildfire suppression and remediation, and ecosystem restoration activities. The draft NPS permit will not cover point source discharges (such as mining and oil and gas production), activities already regulated through existing permits (NPDES), special use permit issuance, and land use planning activities.

Currently, staff is adapting the framework from the Central Valley Water Board’s recently adopted Municipal Separate Storm Sewer System (MS4) permit to develop a more programmatic permit approach for the regulation of project activities conducted by federal agencies. The MS4 permit framework would move the NPS regulatory approach away from a project by project enrollment process to a process that requires the federal agencies to annually plan, assess, and develop work plans of projects to meet the NPS goals and objectives. The MS4 framework includes the following phases: assessment,

prioritization, development of a work plan (which will be brought to the Water Board for adoption), implementation of the work plan, effectiveness monitoring and assessment, and adaptive management.

**PUBLIC OUTREACH/INPUT**

Staff from the Lahontan and Central Valley Water Boards has been working directly with USFS and BLM staff, and plan to commence a more public process in May 2017. Staff has prepared a fact sheet (Enclosure 3) for the project and will send email notification to stakeholder groups and tribes. Staff created a lyrics list for the permit development project that members of the public can subscribe to and a webpage with project information ([www.waterboards.ca.gov/federalnpspermit](http://www.waterboards.ca.gov/federalnpspermit)).

Water Board staff plan to conduct public stakeholder outreach beginning later in 2017. Water Board staff anticipate that there will be many stakeholder groups (including off-highway vehicle groups and grazing allotment permittees) that are very interested in the development of this permit.

**RECOMMENDATION**

This is an information item only. The Water Board may provide direction to staff as appropriate.

| ENCLOSURE | ITEM  | BATES NUMBER |
|-----------|---|--------------|
| 1         | State Water Board Resolution No. 2015-0062          | 7-7          |
| 2A        | Informational Maps - Lahontan Region Land Ownership | 7-11         |
| 2B        | Affected USFS National Forests                      | 7-15         |
| 2C        | Affected BLM Districts                              | 7-19         |
| 3         | Project Fact Sheet                                  | 7-23         |
| 4         | Staff PowerPoint presentation                       | 7-27         |

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# **ENCLOSURE 1**

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**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2015-0062**

**DISCONTINUATION OF DISCUSSIONS REGARDING A STATEWIDE GRAZING  
APPROACH AND DIRECT REGIONAL WATER QUALITY CONTROL BOARDS  
TO DEVELOP REGIONAL APPROACHES**

**WHEREAS:**

1. California contains more than 40 million acres of rangeland covering approximately 38 percent of the state's surface area, with approximately half in public, and half in private ownership.
2. Well-managed livestock grazing operations can provide benefits to the economy, California consumers, and the environment. Conversely, poorly-managed livestock grazing operations can cause water pollution and nuisance and impair the beneficial uses of water.
3. The nine Regional Water Quality Control Boards have different regulatory requirements to minimize the water quality impacts from livestock grazing, based on the unique hydrology, topography, climate, and land use in each region.
4. In 2014, the State and Regional Water Boards held public meetings to assess whether there could be improvements in efficiency and consistency by developing statewide standards for livestock grazing management, while recognizing regional differences. A wide range of valuable comments were submitted by stakeholders.
5. Existing non-regulatory efforts for implementation of best management practices (BMPs) were recognized as benefiting water quality, but were also acknowledged to need updating based on current information and evaluation for effectiveness with the assistance of all stakeholders, and the Regional Water Boards.
6. As part of this process, many commenters suggested that any livestock grazing management or regulatory strategy should take into consideration the regional differences in hydrology, topography, climate, and land use.

**THEREFORE BE IT RESOLVED THAT:**

The State Water Board therefore directs the following:

1. Discussions regarding a statewide approach to addressing the water quality impacts from livestock grazing are discontinued.
2. The Regional Water Boards should work collaboratively with individual property owners, livestock grazing operators, and other interested stakeholders to determine which actions, including regulatory actions and effective non-regulatory efforts for BMP implementation, are best suited to protect water quality and the beneficial uses of waters from pollution.

# DRAFT

3. The Regional Water Boards should consider prioritizing actions to address livestock grazing operations that cause impairment, or have the likelihood to do so based on unique hydrology, topography, climate, and land use of that specific region.
4. After consideration of the unique hydrology, water quality impacts and cost of compliance, BMPs should be considered for use, where appropriate.
5. The Regional Water Boards should consider establishing monitoring requirements, including watershed-wide or regional monitoring programs, to assess the effectiveness of BMPs implemented under regulatory or non-regulatory actions.
6. The Regional Water Boards should take actions they determine to be necessary to protect water quality and the beneficial uses of waters from pollution consistent with state and federal laws. Actions may be regulatory or based on non-regulatory efforts for BMP implementation, or a combination of the two.

## CERTIFICATION


The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 16, 2015.

AYE: Vice Chair Frances Spivy-Weber  
Board Member Tam M. Doduc  
Board Member Steven Moore

NAY: None

ABSENT: Chair Felicia Marcus  
Board Member Dorene D'Adamo

ABSTAIN: None

  
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Jeanine Townsend  
Clerk to the Board

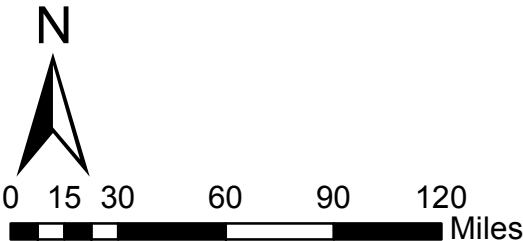
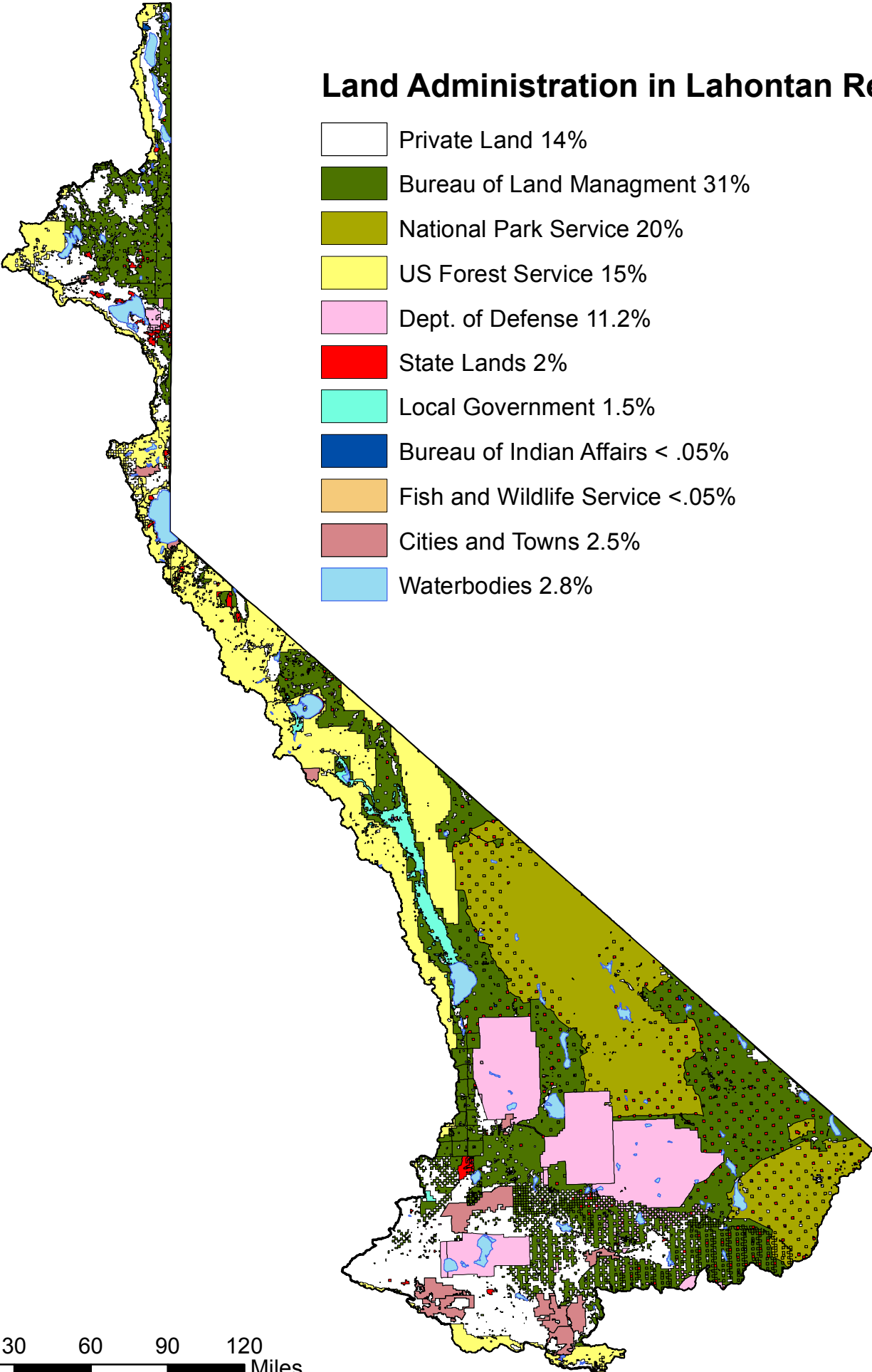


# **ENCLOSURE 2A**

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# Land Administration in Lahontan Region 6

- Private Land 14%
- Bureau of Land Management 31%
- National Park Service 20%
- US Forest Service 15%
- Dept. of Defense 11.2%
- State Lands 2%
- Local Government 1.5%
- Bureau of Indian Affairs < .05%
- Fish and Wildlife Service <.05%
- Cities and Towns 2.5%
- Waterbodies 2.8%

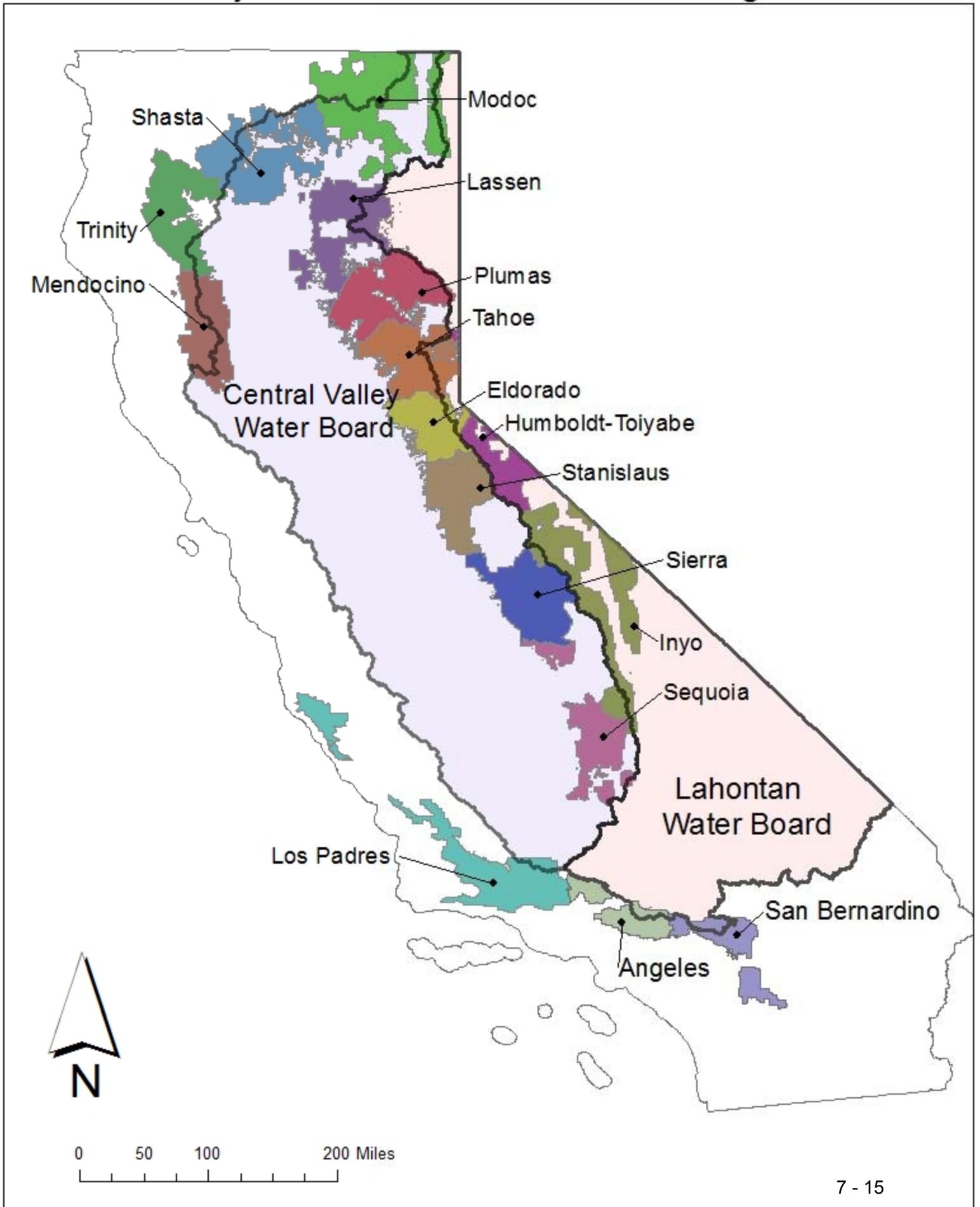


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# **ENCLOSURE 2B**

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# National Forests Within The Central Valley and Lahontan Water Board Regions



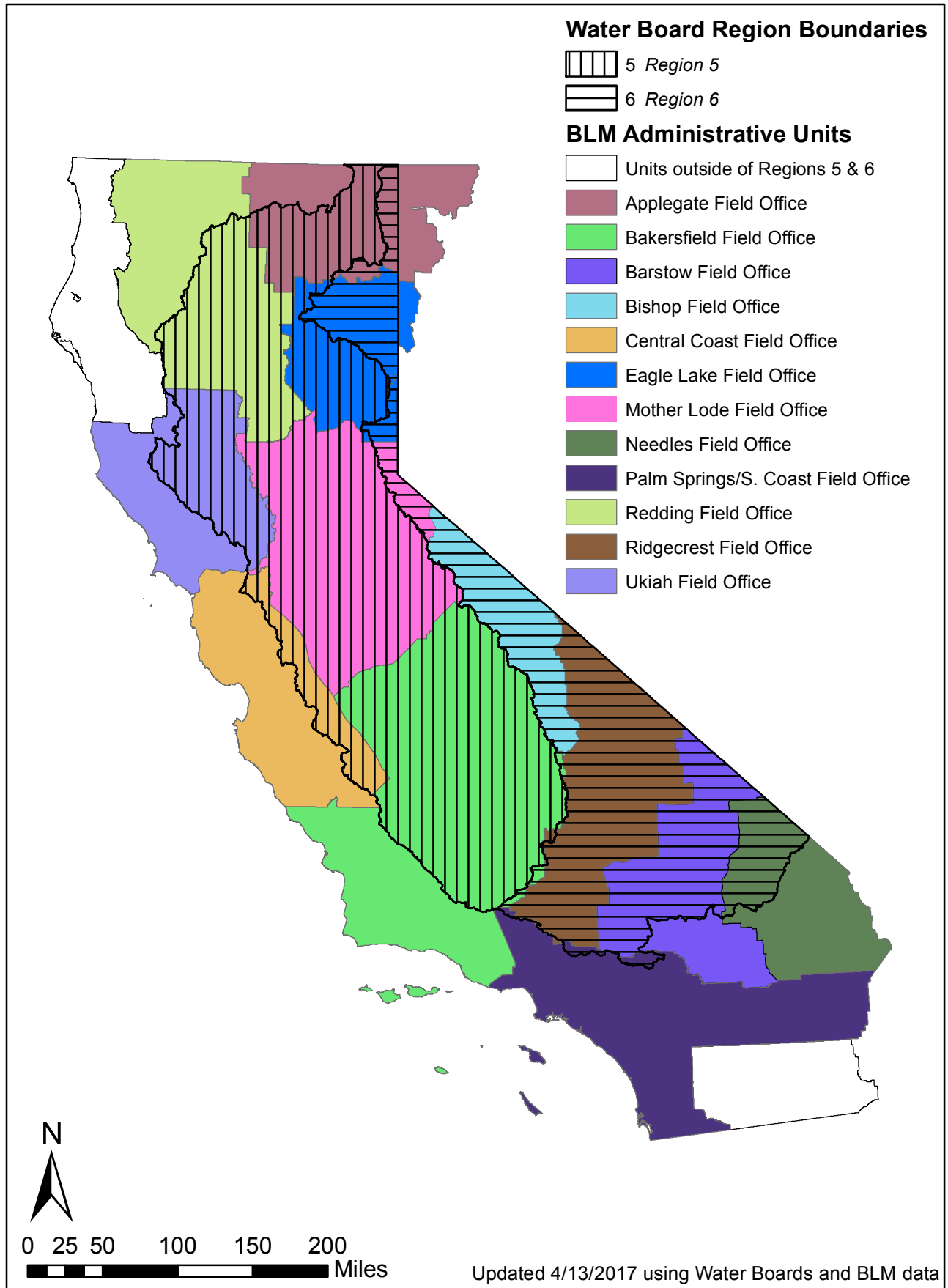
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# **ENCLOSURE 2C**

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# BLM Administrative Units within Water Boards Regions 5 & 6



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# **ENCLOSURE 3**

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## Development of Nonpoint Source Permit for Discharges Related to Certain Federal Land Management Activities

The Central Valley Regional Water Quality Control Board ([Central Valley Water Board](#)) and Lahontan Regional Water Quality Control Board ([Lahontan Water Board](#)), in collaboration with the U.S. Forest Service ([USFS](#)) and Bureau of Land Management ([BLM](#)), are pursuing the development of nonpoint source (NPS) permits to ensure regulatory compliance and water quality protection on USFS and BLM managed lands.

Activities that may be regulated under the proposed permit:

- Road building and reconstruction
- Timber harvesting and vegetation manipulation
- Motorized and non-motorized recreation
- Range management
- Fire suppression and repair

*Note: Special use permits, land use planning, and activities that may result in point source discharges (such as mining activities) are not currently being considered for inclusion in this permit.*



### Why is a State Agency Developing a Permit for Federal Agencies?

Land management activities carried out by the USFS and BLM have the potential to generate nonpoint source water pollution. Section 319 of the federal Clean Water Act requires states to develop nonpoint source management plans to address nonpoint source water pollution. California met this requirement in 2004 with its Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program ([NPS Policy](#)). That policy requires the Water Boards to address nonpoint source pollution through Waste Discharge Requirements (WDRs), a waiver of WDRs, or basin plan prohibitions. In addition to complying with the NPS Policy, this permit (WDRs) will implement the California Porter-Cologne Water Quality Control Act by protecting beneficial uses identified within respective Basin Plans.

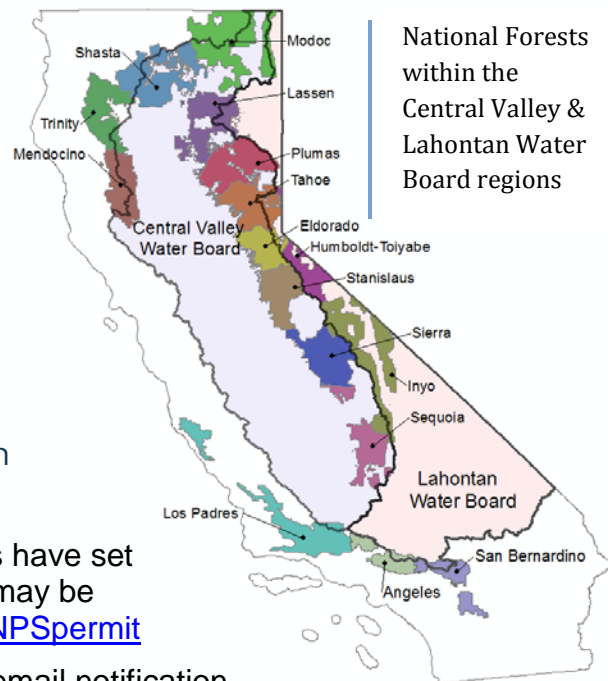
### What is the Timeline for Permit Development and When Will There be Opportunities for Public Involvement?

It is anticipated that the permit will be brought before the Central Valley and Lahontan Water Boards for consideration for adoption in 2019. Throughout permit development there will be many opportunities for public involvement and comment, including, but not limited to, focused stakeholder surveys and meetings during 2017, California Environmental Quality Act (CEQA) scoping and document preparation in 2018, and again prior to board adoption hearings.

BLM Field Office's within Central Valley & Lahontan Water Board regions

## What Federal Lands Will be Subject to Permit Compliance?

The scope of the permit will include projects and other NPS activities on BLM and USFS managed lands within the Central Valley and Lahontan Water Board regions. This includes the Applegate (Alturas), Redding, Eagle Lake, Ukiah, Mother Lode, Central Coast, Bakersfield, Bishop, Ridgecrest, Barstow and Needles BLM Field Offices (see map left). National Forests that will be subject to this permit include the Mendocino, Shasta-Trinity, Modoc, Lassen, Plumas, Tahoe, Eldorado, Humboldt-Toiyabe, Stanislaus, Sierra, Inyo, Sequoia, San Bernardino, Angeles and Los Padres (see map below right).



## How Can the Public Stay Up-to-date on Permit Development Activities?

The Central Valley and Lahontan Water Boards have set up a combined webpage for this project which may be accessed at [www.waterboards.ca.gov/FederalNPSpermit](http://www.waterboards.ca.gov/FederalNPSpermit)

Additionally, the Water Boards have set up an email notification service (see above webpage for link) that stakeholders may sign up for to receive periodic updates on the progress of permit development, including opportunities for public involvement. For additional information about this project, please visit our webpage and sign up for our email notification service.



## Contact Info: For questions regarding the NPS Federal Permit, you may contact:

- (CVWB) Cori Hansen, Environmental Scientist, at 530.224.4849 or [Cori.Hansen@waterboards.ca.gov](mailto:Cori.Hansen@waterboards.ca.gov)
- (CVWB) Ben Letton, Senior Engineering Geologist, at 530.224.4129 or [Ben.Letton@waterboards.ca.gov](mailto:Ben.Letton@waterboards.ca.gov)
- (LWB) Laurie Scribe, Environmental Scientist, at 530.542.5465 or [Laurie.Scribe@waterboards.ca.gov](mailto:Laurie.Scribe@waterboards.ca.gov)
- (LWB) Doug Cushman, Senior Water Resource Control Engineer, at 530.542.5417 or [Douglas.Cushman@waterboards.ca.gov](mailto:Douglas.Cushman@waterboards.ca.gov)



# **ENCLOSURE 4**

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## Agenda Item No. 7

# Development of a Nonpoint Source Permit For Federal Land Management Activities

Laurie Scribe, Environmental Scientist

Lahontan Water Board Meeting of 10/11 May 2017

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## Introduction

- Authority
- Background
- Federal Permit Development
- Project-by-Project Approach
- Programmatic Approach
- Timeline



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## Authority

- Porter-Cologne Water Quality Control Act
- Federal Clean Water Act
  - Section 319: Nonpoint Source (NPS) Policy
  - Section 208: Management Agency Agreement (MAA); Water Quality Handbook (208 report)
- 2004 NPS Policy
  - Waste Discharge Requirements
  - Waiver of WDR
  - Basin Plan Prohibitions

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## Background

- 2009 - State Water Board Resolution
  - Revise the Water Quality Handbook
  - The 1981 MAA determined inadequate to meet 2004 NPS Policy
  - Work on a statewide regulatory approach
- 2010 - Region I adopted USFS Waiver
- 2011 - State Board did NOT adopt a statewide USFS Waiver
- 2015 - State Board directed Regions to take lead on grazing

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## Region 5 and 6 Federal Permit Development



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## Federal Permit Development

- 2014 - Region 5 staff began meeting with USFS staff.
- 2015 - BLM representative attended meetings with Region 5 and USFS
- 2016 - Lahontan Water Board staff joined Region 5 process
- 2017 - Ongoing meetings and federal lands field tours to evaluate BMPs and discuss water quality concerns

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## BLM Administrative Units

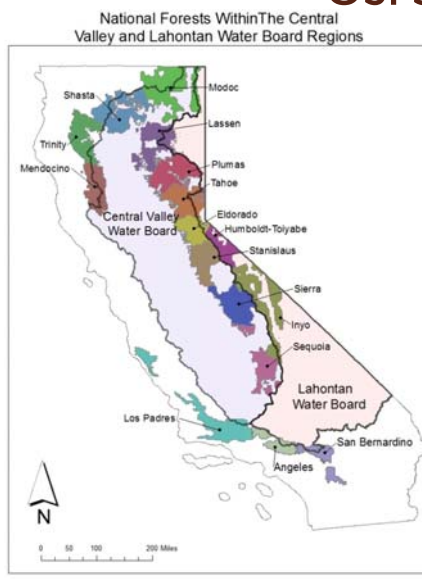


- Redding
- Applegate (Alturas)
- Eagle Lake
- Ukiah
- Mother Lode
- Bishop
- Central Coast
- Bakersfield
- Ridgecrest
- Barstow
- Needles

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## USFS National Forests in Regions 5 and 6



- National Forest that overlap both regions:
  - Modoc NF
  - Lassen NF
  - Plumas NF
  - Tahoe NF
  - Inyo NF

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# Proposed Project Types to Cover Under This Permit



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# Timber Harvesting Projects



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## Vegetation Manipulation



## Road Maintenance



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## Road Abandonment



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## Road Upgrades



Adding Rolling Dips

Adding Rock to Roads



Seasonal Closure

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# Post-Fire Logging



Salvage  
Roadside Hazard Trees

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# Post-Fire Stabilization/Recovery



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## Watercourse Crossings



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## Watershed and Meadow Restoration



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# Off-Highway Vehicle Use



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# Grazing



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## Additional Activities Potentially Covered

- Small scale minerals extraction and exploration
- Dispersed Recreation
- Illicit Marijuana Grows
- Utility Line Corridors



## Activities Not Covered

- Minerals extraction regulated under existing laws and permits
- Oil and Gas production, Fracking
- Special Use Permit Issuance
- Facility Management
- Land Use Planning
- Research and Development
- Heritage Resource Management





# Approaches to Permit Implementation

## Project-by-Project Enrollment Or Programmatic Approach



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## Project-by-Project Enrollment

- Project Development
- Project Enrollment
- Project Implementation
- Monitoring and Reporting
- Project Termination



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## Project-by Project Enrollment

- Water Board staff involved from planning through termination
  - Permittee must individually enroll projects
  - Water Board staff inspects project site
  - Permittee submits monitoring reports and terminates individual projects
- Lahontan Timber Waiver uses this approach



## Programmatic Approach

- Paradigm Shift
- Water Quality Outcomes
- Strategic Prioritization of Water Quality Issues
- Accountability: Measurable goals and dates for achievement



## Programmatic Approach Steps:

- Assessment
- Prioritization
- Development
- Implementation
- Effectiveness Assessment & Reporting
- Adaptive Management

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## Programmatic Approach

- **Assessment**
  - Do proposed activities have potential to negatively affect water quality?
    - Basin Plans, 303d List, TMDL's, special studies, etc.
    - Planning documents, monitoring data, etc.

Assessment . Prioritization . Development . Implementation . Effectiveness . Adaptive  
Assessment . Management

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## Programmatic Approach

- **Prioritization**

- Prioritize locations, watersheds or pollutants to mitigate water quality impacts



Assessment · **Prioritization** · Development · Implementation · Effectiveness · Adaptive Assessment Management

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## Programmatic Approach

- **Development of Water Quality Management Plan (WQMP)**

- Identify water quality improvement milestones
- Identify strategies/activities to achieve milestones
- Monitoring approach & effectiveness assessment
- Reasonable Assurance Analysis (RAA)

- **WQMP- Requires Water Board approval**

Assessment · Prioritization · **Development** · Implementation · Effectiveness · Adaptive Assessment Management

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## Programmatic Approach

- Implementation of WQMP



Assessment · Prioritization · Development · **Implementation** · Effectiveness Assessment · Adaptive Management

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## Programmatic Approach

- Effectiveness Assessment & Reporting

- Tracks Progress of WQMP
  - Short and long term effectiveness of WQMP in meeting milestones
  - Data assessment and collection methods
  - Progress reports to Water Board

Assessment · Prioritization · Development · Implementation · **Effectiveness Assessment** · Adaptive Management

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## Programmatic Approach

- **Adaptive Management**

- Modify WQMP or Work Plan so approach is effective over long term
- Should assess:
  - Progress toward improved water quality
  - Achievement of milestones
  - Availability of new information
  - Re-evaluation of water quality priorities



Assessment · Prioritization · Development · Implementation · Effectiveness · Assessment

Adaptive Management



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## Programmatic Approach Benefits

- Reduced workload for all
- Strategic focus on WQ impacts
- Long-term plan
- Builds on existing policy framework and monitoring protocols



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## Permit Development Timeline

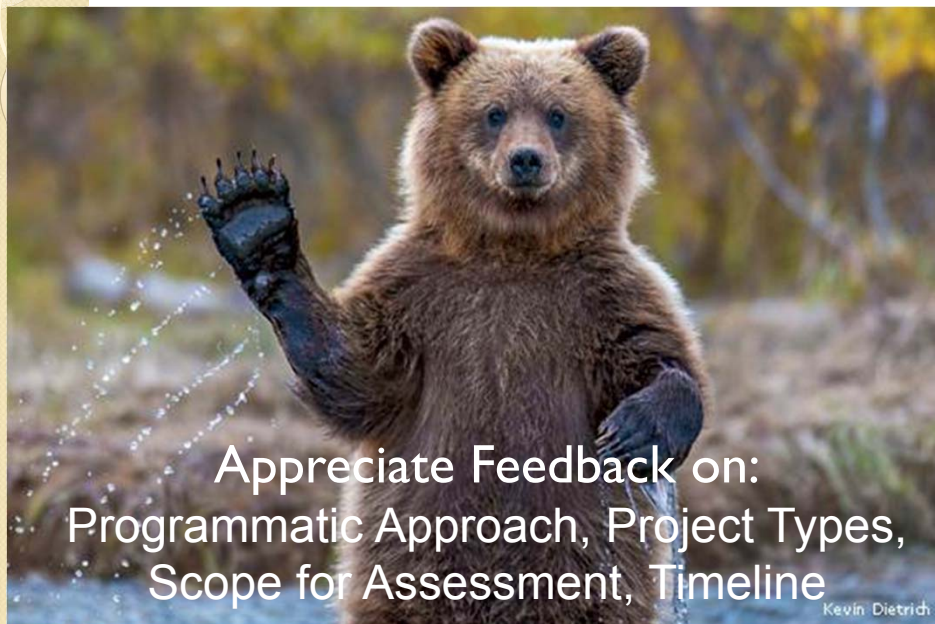
- 2017 Draft Permit Language
  - Ongoing working group meetings
  - Public outreach and stakeholder meetings
  - Write draft permit
- 2018 Environmental Impact Report (EIR)
  - Public scoping
  - Stakeholder involvement
- 2019 Permit Adoption



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## Questions?



Appreciate Feedback on:  
Programmatic Approach, Project Types,  
Scope for Assessment, Timeline

Kevin Dietrich

Lahontan Water Board Meeting of 10/11 May 2017

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