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## Lahontan Regional Water Quality Control Board

December 28, 2018

TO ALL INTERESTED PERSONS AND PARTIES:

### **Request for Comments and Notice of Public Hearing, Tentative Board Order R6T-2019-TENT, Renewal of Board Order R6T-2014-0030, Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region**

Please see the enclosed tentative Board Order, renewing Order No. R6T-2014-0030 (“Renewal of 2014 Timber Waiver”). The California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) will consider adopting this Order at its regular meeting in March 2019.

#### **Background**

The Lahontan Water Board’s current timber harvest regulatory document (2014 Timber Waiver) is a conditional waiver of waste discharge requirements to regulate waste discharges resulting from timber harvest and vegetation management projects. The 2014 Timber Waiver expires in April 2019.<sup>1</sup>

In response to the increased severity of wildfires in California, the Governor and Legislature have mandated statewide policy and regulatory changes to allow a more streamlined approach to forest management. In developing an updated timber harvest regulatory document, Lahontan Water Board staff is contemplating ways to respond to new legislation focused on increasing the pace and scale of projects to improve forest resilience and mitigating wildfire risk, while fulfilling the agencies mandate to protect and maintain water quality.

#### **Early Stakeholder Input**

Following a solicitation notice for public input in Fall 2018 (October 1 – November 15), Lahontan Water Board staff received a number of comments intended to inform staff on what elements of the 2014 Timber Waiver should be considered for modification in a

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<sup>1</sup> In California, all conditional waivers may not exceed five years in duration. (Cal.Wat.Code § 13269(a)(2)).

revised or new regulatory permit. Comments were received from large industrial landowners (Sierra Pacific Industries), timberland managers (W.M. Beaty and Associates), public agencies (California Tahoe Conservancy (CTC), US Forest Service Lake Tahoe Basin Management Unit, and the Los Angeles Department of Water and Power), and multi-agency coordinating groups (Tahoe Fire and Fuels Team (TFFT)).

Below is a summary of common issues brought up by stakeholders that were received in writing during the solicitation period:

1. Extend the 2014 Timber Waiver's expiration date to allow for the development of additional specific recommendations, public outreach coordination and meetings, and inclusion of regulatory changes associated with Senate Bill (SB) 901 and changing federal permit requirements;
2. Consider the regulatory implications and permanency of converting the conditional waiver of waste discharge requirements to a general order of waste discharge requirements;
3. [The permit should] facilitate large, landscape level and multi-agency projects;
4. [The permit should] minimize redundancy and streamline permit coordination with CalFire on private and commercial projects, as well as other regulatory and planning efforts such as the CTC's and TFFT's upcoming Programmatic Timberland Environmental Impact Report;
5. Develop a simplified permitting process for vegetation management activities along public utility corridors; and
6. Modify monitoring requirements and report deadlines based on "lessons learned" from previous monitoring efforts.

### **Proposed Action**

To best account for the expiration deadline (April 2019) of the 2014 Timber Waiver and the comments received to date from interested parties, the enclosed tentative Board Order proposes to renew the 2014 Timber Waiver and its associated monitoring and reporting program with no changes. This renewal action will provide Lahontan Water Board staff additional time to develop a revised timber harvest and vegetation management regulatory strategy and conduct broad stakeholder outreach. Lahontan Water Board staff will gather information on upcoming changes to statewide requirements, and work together with the regulated community and other stakeholders, to develop an updated regulatory document that aligns with and helps to facilitate new statewide regulations and mandates to increase the pace and scale of forest restoration project. The renewal action will provide time to work on an updated conditional waiver or general order of waste discharge requirements that can be brought to the Lahontan Water Board for consideration.

### **Comments Requested and Notice of Public Hearing**

Please review the enclosed document and provide us with your written comments no later than 5 pm on **January 31, 2019**, to facilitate the Water Board's consideration of adopting a proposed Board Order during a public hearing held at its regular meeting on

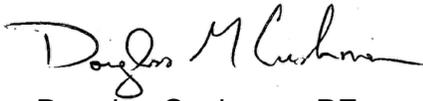
March 13-14, 2019. The public hearing will be held at the Lahontan Water Board Annex Hearing Room, located at 971 Silver Dollar Avenue, South Lake Tahoe, CA 96150.

Comments may be submitted via email to [lahontan@waterboards.ca.gov](mailto:lahontan@waterboards.ca.gov). Please include "2019 Timber Harvest Order" in the subject line. If you do not have access to the Internet, please submit your written comments to:

Lahontan Regional Water Quality Control Board  
Attention: Jim Carolan  
2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150.

You can review the Water Board's March 2019 meeting agenda 10 days before the meeting on our web site at: [www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan). Click on Regional Board, Agendas, for the March 13-14, 2019 meeting. If you need further information regarding this meeting, please contact our office at (530) 542-5400.

If you need further information regarding this tentative Board Order, please contact Jim Carolan, Engineering Geologist, at [jim.carolan@waterboards.ca.gov](mailto:jim.carolan@waterboards.ca.gov) or 530-542-5477.



Douglas Cushman, PE  
Senior Water Resource Control Engineer  
Chief, Nonpoint Source Pollution Control Unit

Enclosure (1): Tentative Board Order No. R6T-2019-TENT

cc: Electronic Mailing List and Timber Waiver and Related Regulations lyrics list

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**BOARD ORDER NO. R6T-2019-TENT**

**(RENEWAL OF BOARD ORDER NO. R6T-2014-0030)**

**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR  
WASTE DISCHARGES RESULTING FROM  
TIMBER HARVEST AND VEGETATION MANAGEMENT ACTIVITIES  
IN THE LAHONTAN REGION**

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

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

1. On April 10, 2014, the Water Board adopted Board Order No. R6T-2014-0030, *Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region* (2014 Timber Waiver). The 2014 Timber Waiver has categorical conditions and eligibility criteria to limit waste discharges from projects that range from homeowner defensible space operations; to local Fire Protection Districts' community protection plans; to large Wildland Urban Interface projects proposed by the California Department of Parks and Recreation, the Bureau of Land Management, and the US Forest Service (USFS). Commercial timber harvest conducted by small landowners, industrial timber companies, and federal land management agencies are all eligible for coverage under multiple 2014 Timber Waiver categories.
2. The 2014 Timber Waiver expires on April 10, 2019, unless rescinded, renewed, or superseded prior to expiration. In California, all conditional waivers of waste discharge requirements may not exceed five years in duration. (California Water Code [CWC] section 13269(a)(2)). If a waiver expires without Water Board action (i.e., renewal or replacement), projects subject to that waiver no longer have regulatory coverage unless project proponents submit a Report of Waste Discharge and are issued waste discharge requirements. As of fall 2018, there are 57 projects enrolled under the 2014 Timber Waiver.
3. In response to the increased incident of high severity wildfires in California, the Governor and Legislature have mandated statewide policy and regulatory changes to allow a more streamlined approach to forest management. More legislation is also

likely forthcoming. These changes may result in new requirements for projects which do not readily fit into the defined categories of the 2014 Timber Waiver. Water Board staff are contemplating ways to respond to these and other upcoming changes to facilitate increasing the pace and scale of projects to improve forest resilience and mitigate mounting wildfire risk worsened by climate change, while protecting and maintaining water quality.

4. From October 1, 2018 to November 15, 2018, Water Board staff solicited comments from stakeholders on potential revisions to the 2014 Timber Waiver. An overarching concern is that new mandates such as those described above will result in significant changes to key rules and regulations, including possible changes to California's Forest Practice Rules. In light of potential significant changes to statewide requirements, stakeholders have expressed a desire to extend the 2014 Timber Waiver "as is" to help ensure that future updates or renewals are well-crafted, and take into consideration, and are consistent with, new statewide policies and regulations.
5. This renewal of the 2014 Timber Waiver will provide Water Board staff additional time to develop a revised draft timber harvest and vegetation management regulatory strategy and conduct additional stakeholder outreach. Water Board staff will gather information on upcoming changes to statewide requirements, and work together with the regulated community and other stakeholders to develop either an updated conditional waiver or a General Order of waste discharge requirements which helps to facilitate new statewide regulations and mandates to increase the pace and scale of forest restoration project.
6. This renewal of the 2014 Timber Waiver retains all provisions of the 2014 Timber Waiver, which include terms and conditions to protect water quality. Renewal of the 2014 Timber Waiver requires compliance with applicable water quality objectives, prohibits the creation of pollution or nuisance, and sets forth conditions to protect beneficial uses of waters of the state and maintain the highest water quality consistent with the maximum benefit to the people of the state. The Water Board retains all its authorities to address discharges of waste from projects, including, but not limited to, enforcement actions, requesting reports of waste discharge for individual projects or sites, and authority to deny or terminate coverage under the renewed 2014 Timber Waiver, as appropriate.
7. Consistent with CWC sections 13267 and 13269, the renewal of the 2014 Timber Waiver requires compliance with the 2014 Timber Waiver monitoring and reporting programs, which apply to certain categories of activities based on the level of potential threat to water quality. The requirements of the monitoring and reporting programs include: 1) visual inspections of best management practice implementation and effectiveness, 2) winter-period, photo-point, and post-rain event monitoring where required, and 3) monitoring report submittal. The monitoring and reporting requirements included in the renewed 2014 Timber Waiver are necessary to determine compliance with the conditions of the renewed 2014 Timber Waiver and

to assess any impacts due to discharges authorized under the waiver. As such, the burden, including costs of monitoring and reporting, bears a reasonable relationship to the need for the information, and the benefits obtained from that information.

8. For the reasons described in Findings 6 and 7, renewal of the 2014 Timber Waiver is in the public interest and consistent with the Water Quality Control Plan for the Lahontan Region. The renewal is necessary and appropriate to maintain and extend regulatory coverage for existing and new timber harvest and vegetation management projects meeting the conditions and eligibility criteria of the 2014 Timber Waiver.
9. State Water Board Resolution No. 68-16 (“Statement of Policy with Respect to Maintenance of High Quality Waters in California”) requires that the Water Board regulate discharges of waste to waters of the state to achieve the highest water quality consistent with maximum benefit to the people of the state. It further requires that dischargers meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state will be maintained. Renewal of the 2014 Timber Waiver is consistent with State Water Board Resolution No. 68-16 because it requires compliance with applicable water quality control plans, including applicable water quality objectives, prohibits the creation of pollution or nuisance, and set for conditions that require the implementation of additional management practices (in addition to those required in the California Forest Practice Rules [California Code of Regulations, title 14, section 895.1 et seq] and U.S. Forest Service Best Management Practices guidance manuals) to assure protection of beneficial uses of waters of the state and maintenance of the highest water quality consistent with maximum benefit to the people of the state.
10. In accordance with the California Environmental Quality Act (Public Resources Code section 21000 et seq.) (CEQA), the renewal of the 2014 Timber Waiver is a “project” and the Water Board is the lead agency responsible for approving that project. A project is exempt from CEQA if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” (Cal. Code Regs., tit. 14, §15061(b)(3).) The renewal of the 2014 Timber Waiver will not have any effect on the environment because the environmental baseline, against which the Water Board considers the environmental impacts of a project, includes the protections provided by the 2014 Timber Waiver. There is no possibility that the project will have a significant effect on the environment, and it is, therefore, exempt from CEQA under Section 15601(b)(3).
11. The Water Board has notified interested parties of its intent to provide a renewal of Board Order No. R6T-2014-0030 until adoption of a revised waiver or General Order of waste discharge requirements. The Water Board, in a public meeting on March 13, 2019, heard and considered all comments pertaining to this renewal.

**IT IS HEREBY ORDERED**, that Board Order No. R6T-2014-0030, *Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region* and the associated monitoring and reporting program is renewed. The term of the renewed Conditional Waiver is for five years. This renewed Conditional Waiver expires on March 13, 2024, unless it is rescinded, renewed, or superseded before the expiration date.

I, Patty Kouyoumdjian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on March 13, 2019.

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Patty Kouyoumdjian  
Executive Officer

TENTATIVE