

**California Regional Water Quality Control Board
North Coast Region**

Resolution No. R1- 2015-0004

Adopting Basin Plan Amendment

for the

Policy in Support of Restoration in the North Coast Region

WHEREAS, the California Water Quality Control Board, North Coast Region, (Regional Water Board) finds that:

1. The *Policy in Support of Restoration in the North Coast Region* - Resolution No. R1-2015-0001 is primarily a narrative expressing support for restoration and similar type projects. Resolution No. R1-2015-0001 describes in detail (1) the importance of restoration projects for the protection, enhancement and recovery of beneficial uses, (2) the obstacles that slow or preclude restoration actions, (3) the legal and procedural requirements for permitting restoration projects, (4) the ongoing Regional Water Board effort to provide support towards the implementation of restoration projects, and (5) direction to staff to continue to support restoration in the future. In addition, Resolution No. R1-2015-0001 includes Basin Plan narrative amendment language regarding the Restoration Policy that provides a similar expression of support for restoration but without specific details on current restoration efforts that will become dated over time. Resolution No. R1-2005-0001 and the accompanying Basin Plan narrative amendment are referred to in combination as the "Restoration Policy."
2. This Resolution, No. R1-2005-0004 - *Adopting Basin Plan Amendment for the Policy in Support of Restoration in the North Coast Region* (Adopting Resolution), serves as the adopting instrument for the Basin Plan narrative amendment language included in the Restoration Policy. The Adopting Resolution includes required findings relative to: CEQA, consistency with anti-degradation policies, and conformance with the "Necessity Standard" of the Administrative Procedures Act. The Basin Plan narrative amendment will be included in Chapter 4 (Implementation) of the Basin Plan, under nonpoint source measures.
3. While the Restoration Policy is primarily a narrative and description of existing law, the Regional Water Board will treat the Restoration Policy as a regulatory amendment out of an abundance of caution. It clarifies that the Action Plan for Logging, Construction, and Associated Activities prohibitions do not apply to restoration projects otherwise subject to an order by the State or Regional Water Board. The adoption of the proposed Basin Plan amendment is therefore subject to the requirements of the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21159.)

4. On March 13, 2014, the Regional Water Board adopted the Temperature Policy, which was subject to the requirements of the California Environmental Quality Act (CEQA) as a “certified regulatory program.” (Cal. Code Regs., tit. 14, § 15251, subd. (g); Cal. Code Regs., tit. 23, § 3782.) The Regional Water Board developed and certified a Substitute Environmental Document (SED) consistent with the requirements of section 21159, including the CEQA Environmental Checklist containing an analysis of environmental impacts, mitigation measures to reduce or avoid those impacts, and alternative means of compliance that would avoid or eliminate environmental impacts. (Pub. Resources Code, § 21159, subd. (a)(1)-(3); Cal. Code Regs., tit. 14, §§ 15187, subds. (b), (c)(1)-(3), 15189.) The SED analyzed and addressed potential impacts and mitigation measures of a full range of potential restoration projects that could be implemented to meet temperature objectives.
5. Various projects intended to comply with the Temperature Policy are similar if not identical to the various projects contemplated under the Restoration Policy. The SED includes a programmatic statement of overriding considerations if the State or Regional Water Board finds that a project’s potentially significant, unavoidable environmental impacts could be acceptable in light of the benefits of attainment and protection of beneficial uses. Decision-makers will have the benefit of project-level review of any large-scale restoration projects. Pursuant to California Code of Regulations, title 14, section 15164, the Regional Water Board prepared an addendum to the SED to analyze factors that would trigger the need to prepare subsequent CEQA analyses under California Code of Regulations, title 14, section 15162, subdivision (a). The addendum reports no anticipated new or worsened water quality impacts that are expected to result from the adoption of the Restoration Policy. Although there are some differences in the purpose of each Policy, these will not result in any new significant effects, or substantially more severe significant effects than previously examined. The Regional Water Board therefore finds that it is not required to prepare subsequent or supplemental CEQA documentation.
6. The proposed Basin Plan amendment is consistent with the provisions of the State Water Resources Control Board (State Water Board) Resolution No. 68-16, which is the *Statement of Policy with Respect to Maintaining High Quality Waters in California*. Resolution No. 68-16 incorporates the federal Antidegradation Policy. The intention of the Restoration Policy is to support the implementation of restorative actions designed to protect or recover instream beneficial uses and impaired aquatic ecosystems. The Restoration Policy does not promote or authorize the permanent degradation of high quality waters. The Restoration Policy provides direction regarding permitting and legal requirements that apply to restoration projects like any other nonpoint source activity. A full antidegradation analysis is appropriate during the review of an individual restoration project or program during development and adoption of permits for that specific action.

In its environmental analyses, the Regional Water Board did find that some restoration projects could result in potentially significant individual and cumulative water quality impacts. For example, dam removal activities may result in temporary stream channel alterations from erosion and siltation and result in increased turbidity, suspended sediment load, and reduction of dissolved oxygen, which will likely exceed Basin Plan water quality objectives. Available mitigation measures in some instances may not reduce impacts enough to prevent pollution or prevent degradation, but specific overriding economic, legal, social, technological, or other benefits outweigh any adverse environmental impacts that may be caused by certain restoration projects. With respect to exceedances of water quality objectives, short-term impacts may be acceptable in cases where long-term benefits to beneficial uses outweigh short-term impacts, based on detailed, site-specific information and findings. Thus, each site-specific activity must be evaluated on a project level to balance the short-term and long-term impacts and benefits. Site- or activity-specific projects that will cause degradation to existing high quality waters will undergo additional analysis to determine whether the change in water quality is consistent with maximum benefit to the people of the State, and will not unreasonably affect present and anticipated beneficial uses of such water and will not result in water quality less than that prescribed in the Basin Plan and other policies.

7. The proposed Basin Plan amendment meets the “Necessity” standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b). Restoration is a necessary and effective tool for the protection, enhancement, and recovery of beneficial uses. The Policy imposes no new regulatory requirements and does not involve changes to water quality standards. It does include clarification of implementation provisions; specifically language regarding the non-applicability of the Action Plan for Logging, Construction and Associated Activities to otherwise permitted restoration projects. The clarification furthers the purpose of the Policy, which is to encourage and promote restoration consistent with the Clean Water Act and the Porter-Cologne Water Quality Control Act.
8. The Regional Water Board finds that the Restoration Policy will have no impact on any of the factors set forth in Water Code section 13241.
9. The Regional Water Board finds that the Restoration Policy does not have scientific elements requiring independent, external scientific peer review in accordance with Health and Safety Code section 57004.
10. Regional Water Board staff has informed interested stakeholders through publication in three major newspapers, posting on the Regional Water Board’s website, and email distribution to approximately 1,000 individuals via an interested parties list. A 45-day Public Notice of the proposed Restoration Policy was published on November 17, 2014. Regional Water Board staff conducted a public workshop in Santa Rosa, on November 20, 2014 to receive public comment. Regional Water

Board staff revised the proposed Basin Plan amendment as a result of public comments as appropriate, and responded in writing.

11. On January 29, 2015, the Regional Water Board held a public hearing and received oral comments and testimony on the proposed Restoration Policy. All comments were considered.
12. The Basin Plan amendment must be reviewed and approved by the State Water Board, the Office of Administrative Law (OAL), and the USEPA. Once the State Water Board and OAL have acted on this matter, the State Water Board will forward the approved amendment to the USEPA for review.

NOW, THEREFORE, BE IT RESOLVED THAT, after considering the entire record, including oral testimony at the hearing,

1. Pursuant to section 13240 and 13242 of the Water Code, the Regional Water Board hereby adopts the Restoration Policy Basin Plan Amendment to the Water Quality Control Plan for the North Coast Region as set forth in the attached documents.
2. The Executive Officer is directed to forward copies of the Basin Plan Amendment to the State Water Board in accordance with the requirements of Water Code section 13245.
3. The Regional Water Board requests that the State Water Board approve the Basin Plan Amendment in accordance with Water Code sections 13245 and 13246 and forward the Basin Plan Amendment to OAL and the USEPA.
6. If, during the approval process, the State Water Board or OAL determines that minor, non- substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Regional Water Board of any such changes.

Certification

I, Matthias St. John, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, North Coast Region, on January 29, 2015.

Original signed by

Matthias St. John
Executive Officer