
North Coast Regional Water Quality Control Board

Regional Water Quality Control Board North Coast Region Staff Summary Report May 7-8, 2025

ITEM: 4

SUBJECT: Public Hearing on Proposed Order No. R1-2025-0011 to Renew Order No. R1-2018-0018 Scott River TMDL Conditional Waiver of Waste Discharge Requirements And Order No. R1-2018-0019 Shasta River TMDL Conditional Waiver of Waste Discharge Requirements (Eli Scott)

BOARD ACTION: Consider adoption of proposed Order No. R1-2025-0011.

BACKGROUND: The Action Plan for the Scott River Sediment and Temperature Total Maximum Daily Loads (Scott River Action Plan) was adopted by the North Coast Water Board on December 7, 2005, and amended into the *Water Quality Control Plan for the North Coast Region* (Basin Plan) on September 8, 2006, following approval by the United States Environmental Protection Agency. The Action Plan for the Shasta River Temperature and Dissolved Oxygen Total Maximum Daily Loads (Shasta River Action Plan) was adopted by the North Coast Water Board on June 29, 2006, and amended into the Basin Plan on January 26, 2007. The Action Plans for the Scott River total maximum daily loads (TMDLs) and the Shasta River TMDLs include, in part, their respective TMDLs, and a description of the implementation actions necessary to achieve the TMDLs and attain water quality standards in the Scott and Shasta River watersheds.

On August 9, 2006, the North Coast Water Board adopted Order No. R1-2006-0081, Conditional Waiver for Discharges Related to Specific Land Management Activities in the Scott River Watershed (2006 Scott Order), conditionally waiving the requirement to file a Report of Waste Discharge (ROWD) and obtain Waste Discharge Requirements (WDRs), pursuant to Water Code section 13269, for agricultural producers that choose to participate in on-going collaborative programs and implement applicable management measures outlined in Table 4-14 of the Scott River Action Plan. The Shasta River Action Plan itself contains a provision conditionally waiving the requirement to file a ROWD and obtain WDRs for agricultural producers also participating in on-going collaborative programs outlined in the Shasta River Action Plan. The North Coast Water Board subsequently revised these conditional waivers in 2012 .

On April 23, 2018, the North Coast Water Board adopted Order Nos. R1-2018-0018 and R1-2018-0019 as the Scott River Waiver and Shasta River Waiver, respectively. These orders substantively revised and updated what had previously been management measure guidance to become required conditions of compliance. Based on the best professional judgement of North Coast Water Board staff through implementation of the Scott River Waiver and Shasta River Waiver on specific properties, these management measures had shown good progress towards ameliorating water quality impacts and increasing waste assimilative capacity when applied on farming operations. Other substantive revisions included clarified monitoring and reporting requirements and a finding (Finding 18 in both of the 2018 Waivers) that outlines the intent of the North Coast Water Board to address water quality concerns associated with agriculture in the Scott and Shasta watersheds through a future permitting program more consistent with approaches implemented in other parts of the state. Finding 18 states that this could include a tiered permitting structure based on past compliance and current threat to water quality.

To be eligible for coverage under the Shasta River Waiver, responsible parties are required to employ land stewardship practices and activities that minimize, control, and prevent discharges of fine sediment, nutrients (including animal waste), other oxygen consuming materials, and elevated solar radiation loads (including loss of riparian vegetation and tailwater discharges) from affecting waters of the Shasta River and tributaries. Similarly, to be eligible for coverage under the Scott River Waiver, dischargers are required to employ land stewardship practices and activities that minimize, control, and prevent discharges of fine sediment and elevated solar radiation loads (including loss of riparian vegetation and tailwater discharges) from affecting waters of the Scott River and tributaries.

WAIVER IMPLEMENTATION: Staff has been implementing the Scott River and Shasta River Waivers in their current forms according to staff's ongoing prioritization approach for each watershed. In the Shasta River Watershed this includes focusing on properties with high habitat value, specifically focusing on areas that provide critical spawning and cold-water rearing habitat for Chinook and Southern Oregon Northern California Coastal (SONCC) Coho Salmon. In the Scott River Watershed this includes assessing the top 15 landowners in the watershed based on stream frontage within their holdings. Implementation of the Waivers includes an on-the-ground staff assessment of properties according to priority, preparation of a staff assessment report that catalogues observed water quality concerns, and, if deemed necessary, a request for a plan to address any water quality concerns. These requests also include effectiveness monitoring requirements. These plans are known as Ranch Management and Monitoring Plans in the Shasta River watershed and Grazing and Riparian Management and Monitoring Plans in the Scott River watershed.

To date, Staff has assessed all properties adjacent to the Shasta River mainstem between Dwinnell Dam and Highway A-12, as well as all properties on Parks Creek and Big Springs Creek. This area represents critical habitat for juvenile SONCC Coho

Salmon and Chinook Salmon and encompasses an area covered by a recently approved Federal Safe Harbor Agreement. The Federal Safe Harbor Agreement is a voluntary agreement between landowners and the National Oceanographic and Atmospheric Administration where incidental take of listed species is allowed if landowners implement specific beneficial management actions that are expected to provide improved conditions for the listed species identified in the Safe Harbor Agreement Site Plan. The North Coast Water Board was not party to the negotiation or finalization of these agreements. However, North Coast Water Board staff has reviewed each Site Plan for consistency with the Shasta Waiver.

Virtually all of the known cold-water spring sources of the Shasta River and its tributaries outside of the Little Shasta River lie within properties that staff have assessed pursuant to the Shasta River Waiver and have active Ranch Management and Monitoring Plans in place. This includes 8 landowners within, and 1 landowner outside of, the Federal Safe Harbor Agreement area. In most cases, landowners within the Federal Safe Harbor Agreement coverage area satisfy their Shasta River Waiver Ranch Management and Monitoring Plan requirements via their Federal Safe Harbor Agreement Site Plans. However, there are several cases where staff determined the Site Plans to be insufficient for coverage and required these landowners to conduct additional monitoring and be subject to additional provisions based on staff assessment of their properties.

In the Scott River Watershed, to date, staff has assessed a total of 24 ranches, accounting for 32 percent of the stream frontage miles in the Scott River that are adjacent to agricultural activities. A total of 9 Grazing and Riparian Management Plans have been submitted and approved in the Scott River Watershed with annual monitoring reports submitted as deemed necessary.

Taking the results of implementation into account as described above, the Scott River Waiver and Shasta River Waiver have proven to be important regulatory tools for driving key changes in both watersheds. However, in consideration of Finding 18 described below, including precedential requirements that have resulted from the development and adoption of the East San Joaquin Order (State Water Resources Control Board Order WQ 2018-0002), and requirements of the State Wide Irrigated Lands Regulatory Program, the North Coast Water Board has elected to develop General Waste Discharge Requirements for Agricultural Operations in the Scott and Shasta Watersheds to supersede these orders.

This short-term renewal considered in the item allows continued regulatory coverage over agricultural discharges while these General Waste Discharge Requirements are being developed.

EMERGENCY DROUGHT RESPONSE: As noted in the Scott River Temperature TMDL, the Shasta River Temperature TMDL, and the Shasta River Dissolved Oxygen

TMDL, adequate flow is critical to achieving TMDL compliance and improving water quality.

Throughout 2021 and 2022, the Scott and Shasta Watershed Steward supported emergency regulation implementation by providing technical assistance, regional context, and water-quality and TMDL-focused expertise. The Scott and Shasta Watershed Steward continues to support this effort with their staff time in close collaboration with the Division of Water Rights and California Department of Fish and Wildlife.

FINDING 18 OF 2018 WAIVERS: Finding 18 in the Shasta Waiver states:

“Following the expiration or replacement of this 2018 Order, the Regional Water Board intends to address water quality concerns associated with agriculture in the Shasta River watershed through a permitting program (i.e. order) more consistent with approaches implemented in other parts of the state. The future order is anticipated to follow the same general approach as this 2018 Order, requiring the Dischargers to proactively implement land stewardship practices and activities that minimize, control, and prevent discharges of fine sediment, nutrients, oxygen consuming materials, and elevated solar radiation loads to the Shasta River and tributaries. The future order would continue to involve on-site water quality assessments with Regional Water Board staff. However, the future order may differ from this Order by incorporating a tiered structure, employing multiple levels of permitting rigor commensurate with the level of discharge or threat of discharge, and may require active enrollment procedures and payment of fees. It is likely that the lowest risk tier would be for those properties that have already been assessed by Regional Water Board staff and successfully implemented practices that minimize, control, and prevent discharges of fine sediment, nutrients, oxygen consuming materials, and elevated solar radiation loads to the Shasta River and tributaries. Higher tiers with increased monitoring and reporting requirements would likely apply to those properties that have not developed plans or taken actions to comply with the conditions of this Order. Any future order would be subject to noticing and public comment before consideration of adoption by the Regional Water Board.”

Similarly, Finding 18 in the Scott Waiver States:

“Following the expiration or replacement of this 2018 Order, the Regional Water Board intends to address water quality concerns associated with agriculture in the Scott River watershed through a permitting program (i.e. order) more consistent with approaches implemented in other parts of the state. The future order is anticipated to follow the same general approach as this 2018 Order, requiring Dischargers to proactively implement land stewardship practices and activities that minimize, control, and prevent discharges of sediment and solar radiation loads to the Scott River and tributaries. The future order would continue

to involve on-site water quality assessments with Regional Water Board staff. However, the future order may differ from this Order by incorporating a tiered structure, employing multiple levels of permitting rigor commensurate with the level of discharge or threat of discharge, and may require active enrollment procedures and payment of fees. It is likely that the lowest risk tier would be for those properties that have already been assessed by Regional Water Board staff and successfully implemented practices that minimize, control, and prevent discharges of sediment and solar radiation loads to the Scott River and tributaries. Higher tiers with increased monitoring and reporting requirements would likely apply to those properties that have not developed plans or taken actions to comply with the conditions of this 2018 Order. Any future order would be subject to noticing and public comment before consideration of adoption by the Regional Water Board."

Upon re-focusing to develop the next iteration of water quality permitting in the Scott and Shasta watersheds, Staff determined that to develop a permit that satisfies current requirements of the State's Irrigated Lands Regulatory Program, the permit would need to take the form of General Waste Discharge Requirements and require full environmental analysis under the California Environmental Quality Act (CEQA). This necessarily increased the scope of work related to developing a new permit, requiring the preparation of additional documents, expanded public engagement, and an extended timeline. Therefore, a short-term renewal of the Waivers is necessary. Staff intend to develop the General Waste Discharge Requirements for Commercial Agricultural Operations in the Scott and Shasta River Watersheds in the shortest time practicable.

A separate item at this meeting will discuss the development of the Waste Discharge Requirements.

PUBLIC COMMENT PERIOD: Public notice for this order was posted on the North Coast Water Board's webpage on March 5, 2025, and distributed through the North Coast Water Board's interested parties contact list. The written comment period for this order was open until April 4, 2025. Comments received during this comment period will be discussed in the staff presentation.

SUPPORTING DOCUMENTS:

1. Draft Order No. R1-2025-0011
2. Order No. R1-2018-0018 *Scott River TMDL Conditional Waiver of Waste Discharge Requirements*
3. Order No. R1-2018-0019 *Shasta River TMDL Conditional Waiver of Waste Discharge Requirements*
4. Notice of Public Hearing