

**13 DECEMBER 2024 BOARD MEETING
CONTESTED AGENDA ITEM**

AGENDA ITEM: 9

SUBJECT:

Following is a proposed Waste Discharge Requirements Order that addresses discharge of waste to surface waters from certain activities conducted by, or on behalf of the United States Forest Service and Bureau of Land Management, along with the associated Environmental Impact Report (EIR).

BOARD ACTION:

Consideration of Certification of Resolution R5-2024-XXXX Certifying Final Environmental Impact Report for Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Activities Conducted by the United States Forest Service and the Bureau of Land Management, and consideration of proposed Waste Discharge Requirements Order R5-2024-XXXX for Nonpoint Source Discharges Related to Certain Activities Conducted by the United States Forest Service and the Bureau of Land Management on Federal Lands.

BACKGROUND:

The United States Forest Service (USFS) and Bureau of Land Management (BLM) (collectively "Permittees") manage approximately 10.9 million acres, roughly 24%, of land within the Central Valley Region. The State Water Board entered into a Management Agency Agreement with the USFS in 1981, that specified how the USFS would use its existing authorities to address water quality pollution on USFS lands in California. The MAA also contemplated that the State and Regional Water Quality Control Boards (Water Boards) would waive issuance of waste discharge requirements for USFS timber harvest activities, provided that that USFS designed and implemented its projects to fully comply with state water quality standards. The State Water Board entered into a Memorandum of Understanding (MOU) with the BLM in 1993, which similar to the MAA with the USFS, formalized a process for addressing nonpoint source pollution through application of best management practices (to be developed).

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) has previously regulated timber harvest activities conducted by the USFS through waivers of waste discharge requirements and currently through a waste discharge requirements general order.

The Proposed Order would regulate certain activities that have the potential to produce nonpoint source discharges conducted by the USFS and BLM. The Proposed Order would require the Permittees to implement best management practices to ensure adequate protection of water quality when conducting projects and activities that meet the criteria and conditions under Category A (low risk) and Category B (moderate risk) and Emergency Response Actions. The Proposed Order would also require

implementation of the Controllable Sediment Source Reduction Program and associated Watershed Treatment Plans to abate ongoing discharges or threatened discharges of sediment to waters of the state in a systematic manner over time. Finally, the Proposed Order would require compliance with the Monitoring and Reporting Program.

Central Valley Water Board staff have worked extensively with both the USFS and BLM during development of the Proposed Order. However, both the USFS and BLM maintain objections to several requirements of the Proposed Order, and have cited concerns related to the cost of compliance, including a lack of resources to comply with Proposed Order requirements, and have questioned the Regional Board's authority to regulate their activities through the Proposed Order.

ISSUES:

The draft Order and draft EIR were issued for a 45-day public comment period on 9 May 2024 with comments due by 23 June 2024. Comments were received from the following parties and interested persons:

- U.S. Forest Service (USFS), Pacific Southwest Region, and Bureau of Land Management (BLM), State Office, Joint Letter
- BLM, State Office
- USFS, Bill Wall
- USFS, Eldorado National Forest
- USFS, Lassen National Forest
- USFS, Mendocino National Forest
- USFS, Sierra National Forest
- USFS, Tahoe National Forest
- California Department of Fish and Wildlife
- Central Sierra Environmental Resource Center
- Center for Biological Diversity
- Sacramento and American Rivers Source Watershed Protection Program
- California Off-Road Vehicle Association

A Response to Comments document is included in the agenda package that summarizes the written comments followed by responses by Central Valley Water Board staff. Complete copies of the comments have been provided to the Board members and are available upon request.

RECOMMENDATION:

1. Staff recommends certification of the Environmental Impact Report.
2. Staff recommends adoption of the Proposed Order.

REVIEWS:

Management Review:	
Legal Review:	BTD

BOARD MEETING LOCATION:

Central Valley Regional Water Quality Control Board
11020 Sun Center Dr. #200
Rancho Cordova, CA 95670

AND VIA VIDEO AND TELECONFERENCE