CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TENTATIVE RESOLUTION R2-2011-XXX

ADOPTING MITIGATED NEGATIVE DECLARATION FOR A CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR GRAZING ACTIVITIES IN THE NAPA RIVER AND SONOMA CREEK WATERSHEDS

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (Water Board), finds that:

1. Water Code section 13260(a) requires that any person discharging waste or proposing to discharge waste, other than to a community sewer system, that could affect the waters of the State, shall file a report of waste discharge (ROWD) with the appropriate Water Board.
2. Water Code section 13263(a) requires the Water Board to prescribe waste discharge requirements as to the nature of any proposed discharge, existing or materially changed discharge.

3. Water Code section 13269(a) provides that a Water Board may waive the requirement for filing a ROWD and issuance of waste discharge requirements for a specific type of discharge, if such a waiver is not against the public interest, and that waivers shall be conditional and may be terminated at any time by the Water Board.

4. The Napa River and Sonoma Creek watersheds are part of the San Pablo Basin Hydrologic Unit, within the boundaries of the San Francisco Bay Region.

5. Napa River and Sonoma Creek are listed as water quality impaired for pathogens, nutrients, and sediment, under Section 303 (d) of the federal Clean Water Act.

6. The Napa River pathogens Total Maximum Daily Load (TMDL) and Napa River sediment TMDL, adopted by the Water Board on November 13, 2006, and September 15, 2009, respectively, identify grazing lands as pollutant sources, and requires implementation measures for each of the sources.

7. The Sonoma Creek pathogens TMDL and Sonoma Creek sediment TMDL, adopted by the Water Board on June 14, 2006, and December 12, 2008, respectively, identify grazing lands as pollutant sources, and requires implementation measures for each of the sources.

8. If improperly managed, grazing activities can pose a threat to both surface and ground water quality, irrespective of herd size. Animal waste discharges, including

contaminated stormwater, may contribute pathogens, ammonia, salts, and excess sediment to nearby streams. The deleterious properties of animal wastes to aquatic organisms have been well documented, contributing to decreased in-stream dissolved oxygen levels, and causing acute and chronic toxicity due to un-ionized ammonia levels.

9. The discharge of nonpoint source pollution from grazing activities is considered to be a discharge that could affect the quality of waters of the State, as defined in Section 13260 of the California Water Code.

10. Potential water quality degradation from grazing activities in the Napa River and Sonoma Creek watersheds has previously not had regulatory oversight, but the State's 2004 Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Enforcement Policy), requires that nonpoint source pollution be regulated through waste discharge requirements (WDRs), through waivers of WDRs, or through prohibitions.

11. The proposed Waiver of Waste Discharge Requirements for Grazing Operations in the Napa River and Sonoma Creek Watersheds (Conditional Waiver of WDRs) contains required key elements under the NPS Enforcement Policy and Sections 13242 (b) and 13263 (c) of the California Water Code that are protective of water quality and beneficial uses of water, including:

    a. A requirement that landowners/operators explicitly state the purpose of the Ranch Water Quality Plan, such that nonpoint source pollution is addressed in a manner that ultimately achieves and maintains water quality objectives and beneficial uses, including any applicable anti-degradation requirements;
    b. A requirement that the Ranch Water Quality Plan include a narrative of the Management Practices (MPs) and other program elements that are expected to be implemented to ensure attainment of the Ranch Water Quality Plan's stated purpose(s), the process to be used to select or develop MPs, and the process to be used to ensure and verify proper MP implementation; and,
    c. A time schedule to achieve water quality objectives, and corresponding quantifiable milestones designed to measure progress toward reaching the specified objectives.

12. Water Board staff prepared a draft Mitigated Negative Declaration for the proposed Conditional Waiver of WDRs, pursuant to Section 15070 et seq. of the California Environmental Quality Act (CEQA) guidelines.

13. Water Board staff circulated the draft Mitigated Negative Declaration for public review through the State Clearinghouse, and through e-mail and direct mail to all known interested parties. The draft Mitigated Negative Declaration was also noticed in newspapers of general circulation within both watersheds.

14. The Water Board has received and considered comments on the draft Mitigated Negative Declaration and supporting documents.

15. The Water Board finds that on the basis of the whole record that there is no substantial evidence that the project will have a significant effect on the environment. The Mitigated Negative Declaration, all supporting documentation, and the record of proceedings are available at the Water Board's offices. The Mitigated Negative Declaration reflects the independent judgment of the Water Board.

16. The Water Board considered all testimony and evidence at a public hearing on September 14, 2011 and good cause was found to adopt the Mitigated Negative Declaration.

Therefore, Be It Resolved That:

1. The Mitigated Negative Declaration is hereby adopted.
2. Water Board staff shall file a Notice of Determination with the Office of Planning and Research in accordance with Section 15075 of the CEQA guidelines.

I, Bruce H. Wolfe, 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, San Francisco Bay Region, on September 14, 2011.

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Bruce H. Wolfe
Executive Officer