

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (René Leclerc)  
MEETING DATE: NOVEMBER 8, 2017

**ITEM:** 5D

**SUBJECT:** **Conditional Waiver of Waste Discharge Requirements for  
Grazing Operations in the Napa River and Sonoma Creek Watersheds –  
Renewal of Conditional Waiver**

**CHRONOLOGY:** September 2011 – Board adopted Conditional Waiver  
September 2011 – Board adopted Mitigated Negative Declaration

**DISCUSSION:** The Revised Tentative Resolution (Appendix A) would renew the Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Napa River and Sonoma Creek watersheds for a second five-year term. The Conditional Waiver implements the Basin Plan, specifically TMDLs for pathogens and sediment in the Napa River and Sonoma Creek watersheds.

The TMDLs identify grazing operations as sources of pollutants in the Napa River and Sonoma Creek watersheds requiring additional control. They also require implementation measures to minimize and control discharges of animal waste and sediment runoff including evaluation of operating practices, identification of comprehensive site-specific pathogen and sediment control measures, development of a schedule for the implementation of management actions, and annual reporting on actions taken.

*Coverage under Conditional Waiver:* To date, 29 property owners have submitted a Notice of Intent to obtain coverage under the 2011 Conditional Waiver for their grazing parcels. The total acreage of these properties is approximately 22,000 acres. Under the Revised Tentative Resolution, these property owners would not need to reapply for coverage. Instead, they would need to maintain their Ranch Water Quality Plans and continue to implement, adapt, and maintain grazing management actions, as well as inspect their facilities, and report to the Board annually. Those grazing operations in the Napa River and Sonoma Creek watersheds that are not yet enrolled would be required to do so under the Revised Tentative Resolution. This is consistent with the other grazing waivers the Board has adopted.

*Public Comments:* During the public comment period, Board staff mailed notification letters to all current enrollees and notified additional interested parties using our electronic subscription email lists, Lyris, of the draft resolution. We received two sets of comments (Appendix B): UC Cooperative Extension suggested two refinements to the Annual Certification in Attachment E, and the second commenter was a rancher enrolled in the 2011 Conditional Waiver who was supportive of the Conditional Waiver. We responded to the

comments (Appendix C) by making the changes suggested by UC Cooperative Extension. We also made minor edits to the resolution and its attachments. We expect this item to remain uncontested.

**RECOMEN-  
DATION:**

Adoption of the Revised Tentative Resolution

**APPENDICES:**

A - Revised Tentative Resolution

B - Comments Received

C - Response to Comments

## **APPENDIX A**

### **REVISED TENTATIVE RESOLUTION**

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**REVISED TENTATIVE RESOLUTION NO. R2-2017-00XX**

**RENEWAL OF CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR GRAZING OPERATIONS  
IN THE NAPA RIVER AND SONOMA CREEK WATERSHEDS**

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

**Background and Scope of Coverage**

1. Improperly managed grazing by livestock can adversely affect water quality and impair beneficial uses through the erosion, transport, and discharge of sediment into surface waters and the discharge into surface water of nutrients and pathogens from animal wastes. This Order implements the Basin Plan, specifically the Napa River and Sonoma Creek pathogens and sediment total maximum daily loads (TMDLs), which identify improperly managed grazing as contributing to the pathogen and sediment impairments of the Napa River and Sonoma Creek.
2. This Resolution No. R2-2017-00XX (Conditional Waiver or Order) renews Resolution No. R2-2011-0060, "Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Napa River and Sonoma Creek Watersheds", adopted on September 14, 2011 (2011 Waiver). Renewal is appropriate because the Water Board expects continued compliance by the majority of the enrollees, the Order is protective of beneficial uses, and the Order is in the public interest. The Water Board retains the right to issue individual waste discharge requirements (WDRs) on an as-determined basis to owners/operators of grazing lands should they be unable to comply with the requirements of the Order.
3. This Conditional Waiver will continue to apply to approximately 37,000 acres of rangeland within the watersheds. To date, 29 enrollees, representing approximately 22,000 acres, have enrolled in the 2011 Waiver, and 2 property owners, representing an additional 1,200 acres, have submitted a Notice of Non-Applicability (NNA).
4. This Conditional Waiver covers the discharges of sediment, nutrients, and pathogens from Grazing Lands, defined below, and specifies measures to address erosion and to protect riparian areas. This Conditional Waiver does not apply to discharges of process wastewater, fertilizers, pesticides, or manure and wastewater discharges to land, including spray irrigation.
5. In accordance with the requirements of the 2011 Waiver, enrollees have engaged in adaptive water protection strategies through implementation of management practices (MPs). These include, but are not limited to, rotating herds to lessen terracing and manage forage production, retaining appropriate levels of vegetation on rangeland to filter nutrients, pathogens, and sediment; and protecting riparian areas through the use of exclusion fencing, off-stream water sources, hardened cattle-crossings, attractants, and by managing cattle access to creeks.
6. Since adoption of the TMDLs, the State Water Resources Control Board (State Water Board) has directed significant grant resources to assist in their implementation. These financial

resources have been matched by contributions made by enrollees as well as local, State, and federal agencies and have resulted in the implementation of MPs to help enrollees achieve the requirements of the Order.

7. Differences between this Order and the 2011 Waiver include the addition of:
  - a) Permit Reopening, Revision, Revocation, and Severability provisions (Condition 9).
  - b) Attachment A: A map of the Napa River and Sonoma Creek watersheds.
  - c) Attachment B - CEQA Addendum: This addendum explains that the renewed Conditional Waiver does not extend or expand coverage and accordingly will not have any significant effects on the environment other than those identified in the 2011 Mitigated Negative Declaration.
  - d) Attachment D - Notice of Non-Applicability: This form adds a process by which ineligible landowners and operators may avoid coverage by submitting a notice of non-applicability to the Water Board.
  - e) Attachment E - Compliance and Monitoring Annual Certification Template: This form streamlines the compliance process and makes it easier for operators to demonstrate that they are in compliance and for the Water Board to process their reports.
  - f) Attachment G - Notice of Termination: This form explains the process for terminating coverage under the Order, simplifying the process for both the enrollee and the Water Board.

These differences do not change the substance of the requirements of the 2011 Waiver. However, they clarify the circumstances under which the Conditional Waiver may be revised, and they provide a formal means for ineligible entities to avoid or terminate coverage.

### **Eligibility**

8. This Conditional Waiver applies to landowners or operators conducting Grazing Operations on Grazing Lands in the Napa River or Sonoma Creek watersheds that are in existence as of the date of adoption of this Order, or start or resume operations within the life of this Order, and either:
  - a) Encompass an area of 100 acres or more, or
  - b) Encompass an area smaller than 100 acres and are identified by Water Board staff as posing a threat to water quality.
9. Landowners who are already covered under the Conditional Waiver of Waste Discharge Requirements for Existing Dairies within the San Francisco Bay Region (Resolution No. R2-2015-0031) or under the General Waste Discharge Requirements for Confined Animal Facilities within the San Francisco Bay Region (Order No. R2-2016-0031) do not need to seek coverage under this Conditional Waiver. Those orders also require dischargers to implement MPs to minimize discharges of sediment, pathogens, and nutrients from their grazing operations, and they impose similar monitoring and reporting requirements.
10. Landowners already enrolled under the 2011 Waiver do not need to reapply for coverage under this renewed Conditional Waiver to remain in compliance.

## **Definition of Terms**

### 11. For purposes of the Order:

- a) Landowners and operators conducting Grazing Operations on Grazing Lands are hereinafter referred to as Discharger(s) as they discharge or propose to discharge waste that could affect the quality of waters of the State.
- b) 'Grazing Operations' refer to those facilities where animals are fed or maintained on irrigated vegetation or rangeland, forage for a total of 45 days or more in any 12-month period, and vegetation forage growth is sustained over the lot or facility during the normal growing season. A Grazing Operation includes auxiliary appurtenances such as roads, reservoirs, etc.
- c) 'Grazing Lands' are lands grazed by livestock or where livestock have access, including ranchlands, riparian areas, and pasturelands.
- d) The Napa River and Sonoma Creek watersheds are the total of all catchment areas draining to the Napa River and Sonoma Creek, which are tributary to San Pablo Bay, and is the geographic area identified in Attachment A, which is unchanged from the 2011 Waiver.

## **Regulatory Framework**

12. California Water Code (Water Code or CWC) section 13260, subdivision (a), requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, file with the appropriate Water Board a report of waste discharge (ROWD) containing such information and data as may be required by the Water Board, unless the requirement is waived pursuant to CWC section 13269.
13. The Water Board may waive WDRs when it finds, pursuant to CWC section 13269, that a waiver of submission of ROWDs and/or issuance of WDRs is in the public interest. CWC section 13269 authorizes the Water Board to waive WDRs for a specific discharge or type of discharges if the waiver is consistent with the Basin Plan and is in the public interest. Relevant factors in determining whether a waiver is in the public interest include the following: whether the discharger is implementing reasonable practices to minimize the deleterious effects of the discharge; whether a feasible treatment method or set of management practices exist to control the pollutants in the discharge; and whether waiving ROWDs and/or WDRs will adequately protect beneficial uses while allowing the Water Board to focus its limited resources to conduct field oversight, public outreach, and, where necessary, enforcement.
14. Pursuant to Water Code section 13263(i), the Water Board may prescribe general WDRs and/or waivers of WDRs for a category of discharges if the discharges are produced by the same or similar operations, involve the same or similar types of waste, require the same or similar treatment standards, and are more appropriately regulated under general WDRs or waivers than individual WDRs.
15. Water Code section 13269 provides that waivers of WDRs shall be conditional, may not exceed five years but may be renewed, and may be terminated at any time by the Water Board.

16. The Water Board may include as a condition of a waiver of WDRs the payment of an annual fee established by the State Water Board. (Wat. Code § 13269, subd. (a)(4)(A).)
17. The Water Board, in compliance with Water Code sections 13269 and 13263, has reviewed the 2011 Waiver and determined that it should be replaced by a new conditional waiver. Renewal is appropriate because the Water Board expects continued compliance by the majority of the current enrollees, and the Conditional Waiver is protective of beneficial uses, implements the Basin Plan, and serves the public interest.

The adoption of this Order is in the public interest because it:

- a) Includes conditions that are intended to reduce and prevent pollution and nuisance and protect beneficial uses of the waters of the State;
  - b) Contains more specific conditions for the protection of water quality compared to other regulatory options;
  - c) Provides a more efficient and more timely mechanism of complying with water quality objectives than other regulatory options;
  - d) Provides for an efficient and effective use of limited Water Board resources;
  - e) Provides flexibility for Dischargers by providing an option of complying through a third-party entity; and,
  - f) Enhances beneficial uses of water and enhances sustainability of Grazing Operations.
18. Water Code section 13269 includes the following provisions:
    - a) Waivers of WDRs shall include the performance of individual, group, or watershed-based monitoring, unless the Water Board determines that the discharges do not pose a significant threat to water quality.
    - b) Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions.

The Conditional Waiver requires Discharger compliance with monitoring conditions consistent with Water Code section 13269. Dischargers will implement a Monitoring and Reporting Program (Condition 7). The Monitoring and Reporting Program is necessary to ensure compliance with the terms and conditions of the Conditional Waiver. The Goal of the Monitoring and Reporting Program is to prevent or reduce uncontrolled waste discharges and to protect water quality; it requires regular compliance monitoring inspections and identification of further MPs needed to improve water quality (Attachment E).

### **Water Quality Control Plan for the San Francisco Bay Basin**

19. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. The Basin Plan was duly adopted by the Water Board and approved by the State Water Board, Office of



Administrative Law, and U.S. EPA, where required. The Basin Plan includes TMDLs and Implementation Plans for pathogens and sediment for the Napa River Watershed and the Sonoma Creek Watershed.

**A. Receiving Water Beneficial Uses**

20. Pursuant to the Basin Plan and State Water Board plans and policies, including State Water Board Resolution No. 88-63 entitled *Sources of Drinking Water*, the existing and potential beneficial uses of San Pablo Bay and its tributary creeks, Napa River, and Sonoma Creek, are found in Table 1 below:

**Table 1: Receiving Water Beneficial Uses**

Beneficial Use	San Pablo Bay	Napa River	Sonoma Creek
Agricultural Supply (AGR)		X	
Cold Freshwater Habitat (COLD)		X	X
Ocean, Commercial, and Sport Fishing (COMM)	X		
Estuarine Habitat (EST)	X		
Industrial Service Supply (IND)	X		
Fish Migration (MIGR)	X	X	X
Municipal and Domestic Supply (MUN)		X	
Navigation ( NAV)	X	X	
Preservation of Rare and Endangered Species (RARE)	X	X	X
Water Contact Recreation (REC-1)	X	X	X
Non-contact Recreation (REC-2)	X	X	X
Shellfish Harvesting (SHELL)	X		
Fish Spawning (SPWN)	X	X	X
Warm Freshwater Habitat (WARM)		X	X
Wildlife Habitat (WILD)	X	X	X

Compliance with this Order will protect the beneficial uses listed above.

**B. Total Maximum Daily Loads and Associated Implementation Plans**

21. The Napa River was identified as impaired for pathogens and nutrients in 1988 and for sediment in 1990. Similarly, Sonoma Creek was listed as impaired by nutrients, pathogens, and sediment in 1998. Both water bodies have been placed on the State’s Clean Water Act 303(d) list of impaired waters.

The Water Board has adopted TMDLs for pathogens and sediment for the Napa River Watershed and the Sonoma Creek Watershed. The TMDLs address pathogen levels exceeding numeric standards for recreational activities and exceedances of water quality objectives for sediment, settleable material, and population and community ecology due to excessive erosion and sedimentation. Discharges from grazing are identified as contributing to both pathogen and sediment impairments. Both TMDLs contain an Implementation Plan that specifies the actions necessary to protect and restore beneficial uses.

22. Grazing lands in the Napa River and Sonoma Creek watersheds are identified in their respective TMDLs as categorical pollutant sources. The TMDL Implementation Plans specify required implementation measures for each categorical pollutant source. The required implementation measures for grazing operations include evaluating operating practices; developing comprehensive site-specific pathogen and sediment control measures; developing an implementation schedule for such management measures; and, submitting progress reports documenting actions undertaken.
23. This Conditional Waiver is consistent with the TMDL Implementation Plans because it requires each Discharger to (1) submit a Notice of Intent (NOI) that describes the facility, identifies site-specific grazing management measures to reduce animal waste and sediment runoff, and sets forth a schedule to implement identified management measures; and (2) report progress on implementation of grazing management measures that reduce or eliminate animal waste runoff.

### **Nonpoint Source Implementation and Enforcement Policy**

24. This Conditional Waiver satisfies the State Water Board's 2004 Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Policy (Nonpoint Source Enforcement Policy), which requires that all nonpoint source pollution, including discharges from grazing lands, be regulated through WDRs, waivers of WDRs, or discharge prohibitions. Consistent with the Nonpoint Source Enforcement Policy, this Order requires development of, and compliance with, a nonpoint source pollution control implementation program in the form of a Ranch Water Quality Plan.
25. The Nonpoint Source Enforcement Policy encourages the Water Boards to "be as creative and efficient as possible in devising approaches to prevent or control nonpoint source pollution." This includes development of third-party programs to assist dischargers in complying with requirements of waivers of WDRs and assure the Water Board and the public that actions are being taken to reduce nonpoint source pollution. The third-party role is restricted to entities that are not actual dischargers under State Water Board/Regional Water Board permitting and enforcement jurisdiction.

### **Antidegradation**

26. State Water Board Resolution 68-16, Statement of Policy with Respect to Maintenance of High Quality Waters in California, finds "whenever the existing quality of the water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with the maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies. Any activity which produces or may produce a waste and which discharges or proposes to discharge to existing high quality waters will be required to meet WDRs which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained."
27. This Order is consistent with Resolution 68-16 because it does not authorize degradation of existing water quality. It requires MPs to be implemented in an iterative manner to arrive at the

best practicable treatment or control of the discharge to protect beneficial uses, to prevent pollution or nuisance, and to address water quality impairments in the Napa River and Sonoma Creek watersheds.

### **California Environmental Quality Act**

28. The Water Board is the lead agency for this project under the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.*) (CEQA). This Conditional Waiver involves the renewal of the 2011 Waiver for existing Grazing Operations and sets forth requirements for the “operation, repair, maintenance, permitting, licensing, or minor alteration of existing facilities.” It does not authorize expansion of use beyond the scope of the 2011 Waiver. To the extent this Conditional Waiver applies to Grazing Operations and Grazing Lands covered by the 2011 Waiver, the Conditional Waiver is exempt from CEQA pursuant to section 15301 of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15301), which provides an exemption for existing facilities.

Two other CEQA exemptions may also be applicable:

- a) CEQA Guidelines Exemption 2 for Replacement of Existing Structures (Cal. Code Regs., tit.14, § 15302) exempts “replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” Consistent with the categorical exemption for Replacement of Existing Structures, covered facilities may replace or reconstruct fencing or crossings on the facility to ensure proper function in compliance with this Conditional Waiver.
- b) CEQA Guidelines Exemption 4 for Minor Alterations (Cal. Code Regs., tit.14, § 15304) exempts “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes...” Consistent with the categorical exemption for Minor Alterations, covered facilities may make improvements, such as planting of vegetation or restoration of eroded areas.

The Water Board adopted a Mitigated Negative Declaration (MND) for the 2011 Waiver on September 14, 2011. This renewed Conditional Waiver does not expand or restrict the scope of coverage, nor does it authorize expansion of Grazing Operations or the geographic area covered by this Order.

Concurrent with this Order, the Water Board is adopting an addendum to the 2011 MND pursuant to Title 14 of the California Code of Regulations, section 15164. The addendum, included in Attachment B, concludes that, in accordance with Cal. Code Regs., tit. 14, §§ 15162, 15164, a subsequent MND is not necessary for the Order for the following reasons:

- a) This Order renewal makes only minor technical changes and additions to the 2011 Waiver;
- b) There have been no changes in the scope or applicability of the Conditional Waiver or its requirements that would result in new significant environmental effects or increases in the severity of previously identified less-than-significant effects;
- c) There have been no known physical changes on Grazing Lands or at Grazing Operations

that have caused significant new environmental effects or increased the severity of previously identified less-than-significant environmental effects, such as would require major revisions of the previous MND; and,

- d) No new information of substantial importance has emerged since the MND was adopted that would affect the conclusions of the MND.

For these reasons, the Water Board relies on the 2011 MND and the current addendum and finds that the conditions of this Order will avoid any significant environmental effects or mitigate the effects to a point where clearly no significant effects would occur. There is no substantial evidence, in light of the whole record before the Water Board, that the Order, as conditioned, may have a significant effect on the environment.

### **Human Right to Water**

- 29. It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Wat. Code § 106.3.) This Conditional Waiver promotes that policy by requiring management practices designed to protect beneficial uses relevant to human health, including MUN and REC-1.

### **Endangered Species**

- 30. This Conditional Waiver does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Wildlife Code §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). Dischargers shall be responsible for meeting all requirements of the applicable endangered species act. A discharge that is deleterious to fish, plant life, mammals, or bird life, or is otherwise in violation of California Fish and Wildlife Code section 5650 is not a discharge that is authorized nor in compliance with the terms and conditions of this Conditional Waiver. The Discharger shall obtain permits as necessary and comply with permit conditions and all other applicable federal, State, county, and local laws and regulations.

### **Public Meeting**

- 31. The Water Board has notified the Dischargers and all known interested agencies and persons of its intent to renew the Conditional Waiver. The Water Board circulated the Conditional Waiver for 30 days of public comment, starting on August 30, 2017. The Water Board conducted a public hearing in Oakland and considered all testimony and evidence concerning this matter.

**THEREFORE BE IT RESOLVED** that, pursuant to Water Code section 13269, subdivision (a), WDRs are waived for Grazing Operations on Grazing Lands in the Napa River and Sonoma Creek watersheds provided the conditions listed below are met.

**BE IT FURTHER RESOLVED** that this waiver of WDRs is for a period of five years unless terminated sooner.

### **Eligibility for Coverage**

Grazing Operations on Grazing Lands that meet the following conditions are eligible for coverage under this Order:

- a) Must be a landowner or operator conducting Grazing Operations on Grazing Lands in the Napa River or Sonoma Creek watersheds that are in existence as of the date of adoption of this Order, or start or resume operations within the life of this Order, and either:
- b) Encompass an area of 100 acres or more, or
- c) Encompass an area smaller than 100 acres, and are identified by Water Board staff as posing a threat to water quality.

A Discharger conducting Grazing Operations on Grazing Lands meeting the above conditions shall submit a completed Notice of Intent (NOI, Attachment C) as well as documentation that demonstrates how the Discharger is satisfying, or intends to satisfy, all the conditions of this Order. If a Discharger submitted a completed NOI in compliance with the 2011 Waiver, and there have been no changes in the Grazing Operations, the Grazing Lands identified in the NOI, or ownership or operation of the Grazing Lands or Grazing Operations, this requirement is deemed satisfied.

These submittals shall be sent to the Water Board no later than **March 15, 2018**, to the following address or email:

San Francisco Bay Regional Water Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
ATTN: Grazing Operations Waiver Program

Email: [R2GrazingWaiver@waterboards.ca.gov](mailto:R2GrazingWaiver@waterboards.ca.gov)

### **Exclusions from Coverage**

A Discharger conducting Grazing Operations on Grazing Lands that meet any of the following conditions may be excluded for coverage under the Conditional Waiver by completing a Notice of Non-Applicability (NNA, Attachment D):

- a) The property is not used for grazing.
- b) Encompass an area smaller than 100 acres and do not pose a threat to water quality. These Grazing Operations are still expected to follow best management practices for their facilities and may be required to obtain WDRs on a case-by-case basis if the potential for water quality impacts are found.
- c) Operates a confined animal facility already covered under existing General WDRs for Confined Animal Facilities or a dairy already covered under a Conditional Waiver of WDRs for Existing

Dairies, Resolution Nos. R2-2016-0031 and R2-2015-0031, respectively.

A Discharger who meets any of the conditions above and who has not previously filed an NNA shall submit such notice by March 15, 2018.

### **Conditions**

In order to receive the benefit of the Conditional Waiver in lieu of individual regulation, an eligible Discharger shall comply with the terms and conditions specified herein:

#### **1) Ranch Water Quality Plan (RWQP)**

The Ranch Water Quality Plan (RWQP) shall be kept on site and available for review by Water Board staff at all times. Elements of the RWQP shall include:

- a) A ranch map, or aerial photo on a 1:12,000 scale, that includes the location of pastures, roads, fence lines, water sources and other MPs designed to protect water quality;
- b) Description of MP objectives, including improvements in practices to reduce pathogens and sediment in local surface waters to achieve the TMDL load allocations;
- c) An inventory of resources based on visual observations and/or existing reports;
- d) An assessment of the Grazing Operations, per the checklist titled *Checklist Form For Assessing Grazing Operations in the Napa River and Sonoma Creek Watersheds* (Attachment F), identifying controllable discharge points for pathogens, nutrients, and sediment;
- e) Identification of legacy sediment discharge points (e.g., gullies, landslides), if appropriate;
- f) Assessment of residual dry matter (RDM) as specified in the University of California's, *California Guidelines for Residual Dry Matter Management on Coastal and Foothill Annual Rangelands, Rangeland Monitoring* (2006) (Series Publication 8092);
- g) Description of all MPs implemented at the ranch as part of Grazing Operations;
- h) A schedule for implementation of proposed MPs to comply with the standards of this Order (Condition 4);
- i) An implementation schedule for management of grazing activities, structural improvements, livestock management, and land treatments to comply with the Waiver standards; and,
- j) An implementation schedule for road-erosion control and prevention actions to avoid increases in erosion from existing, unstable areas (e.g., gullies, landslides) due to grazing practices.

The Attachment F checklist is intended to guide the Discharger in the inventory of resources and the preparation of the RWQP. Alternative checklists may be used, provided Water Board staff approves of them in writing. An approved RWQP template can be downloaded at the Region 2 Napa-Sonoma Grazing Waiver webpage:

[http://www.waterboards.ca.gov/sanfranciscobay/water\\_issues/programs/TMDLs/grazing/napa\\_sonoma\\_grazing.shtml](http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/grazing/napa_sonoma_grazing.shtml)

The RWQP shall also include a Plan for Compliance Monitoring and Reporting that describes the measures, protocols, and associated frequencies that will be used to verify the degree to which the MPs are being implemented and are achieving the waiver conditions and/or to provide feedback for use in modifying and updating the RWQP. Attachment E provides the Compliance and Monitoring Annual Certification (Annual Certification) template the Discharger may use to report compliance with the Order to the Water Board.

## 2) Deadlines and Compliance Schedule

Dischargers must meet the following deadlines and compliance schedule:

- a) RWQP shall be completed by April 15, 2018. Dischargers already enrolled in the Conditional Waiver do not need to produce a new RWQP but need to keep their existing RWQP updated to reflect current conditions.
- b) Implementation schedules shall be completed and included in the RWQP by April 15, 2018, and may be updated yearly thereafter, as needed.
- c) Each Discharger shall comply with the implementation timelines in the RWQP prepared pursuant to Condition 1. Initial implementation of the RWQP shall occur during the timeframe of this Order. The overall implementation of the RWQP may extend beyond the life of this Order and will be reviewed upon any renewal of this Order.
- d) The Plan for Compliance Monitoring and Reporting shall be completed and included in the RWQP by April 15, 2018. The Discharger shall submit an Annual Certification to the Water Board that its Grazing Operations meet the conditions of this Conditional Waiver, documenting any MPs implemented, an evaluation of the effectiveness of MPs, and records of any inspections where a water quality problem was identified, as well as the MPs taken to correct these problems. These certifications are due to the Water Board annually by November 15. The Annual Certification reporting period is defined as being between October 1 and September 30. Failure to comply with Annual Certification submittal by the November 15 deadline may subject the Discharger to monetary enforcement of up to \$10,000 a day. (Wat. Code § 13385, subd. (c).)

## 3) General Conditions

- a) The Dischargers must implement measures identified in the RWQP prepared pursuant to Condition 1 and make annual adaptive management adjustments to the RWQP to reduce fecal coliform indicator bacteria concentrations and sediment loads in surface waters.

In accordance with the schedule developed in the RWQP, the following conditions apply:

- i) The Dischargers shall not cause or contribute to conditions of pollution or nuisance as defined in Water Code section 13050.
- ii) The Dischargers shall comply with all water quality objectives of the Basin Plan.
- iii) The Dischargers shall not cause or contribute to exceedances of any regional, State, or federal numeric or narrative water quality standard stipulated in the Basin Plan.
- iv) This Order does not authorize the discharge of any waste not specifically regulated herein. Waste specifically regulated under this Order includes livestock wastes and fecal coliform bacteria. Examples of wastes not specifically regulated under this Order include

hazardous materials and human or mining wastes.

- v) Groundwater influenced by irrigation activities and livestock management shall be of such quality so as to assure protection of all actual or designated beneficial uses.
- b) The Water Board may conduct inspections pursuant to Water Code section 13267(c):  
*“In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.”*

Water Board staff or its authorized representatives may investigate the property of persons subject to this Order to ascertain whether the purposes of the Water Code are being met and whether the Discharger is complying with the conditions of this Order. The following conditions apply to enrollees under this Order:

- i) Except in cases of an unauthorized discharge or emergency circumstances, Water Board staff will typically contact a Discharger a minimum of 72 hours prior to site inspection.
- ii) Enrollees under the Conditional Waiver shall allow Water Board staff entry onto the affected property for the purposes of observing, inspecting, photographing, videotaping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with this Order.
- iii) If entry or consent to access to property is unreasonably withheld, the Executive Officer may terminate the applicability of the Order to the Discharger withholding access and the Discharger shall submit a ROWD to the Water Board pursuant to Water code section 13260. Failure to file a ROWD and unauthorized discharges may result in enforcement action pursuant to Water Code sections 13261 and 13385(m) respectively.

#### 4) Grazing Performance Standards

MPs identified in the RWQP shall be implemented so as to achieve the following Conditional Waiver Standards:

- a) Minimize delivery of **sediment** from Grazing Operations to surface waters;
- b) Minimize delivery of **pathogens and nutrients** from Grazing Operations to surface waters;
- c) Establish manure management operations designed to minimize runoff from entering watercourses;
- d) Manage animal use areas to minimize sediment/pathogen/nutrient runoff to watercourses;
- e) Construct and maintain access and ranch roads to minimize erosion;
- f) Manage existing Grazing Operations to prevent additional erosion of legacy sediment delivery sites; and,



- g) Design, implement, and manage animal crossings to minimize pathogen/sediment/nutrient runoff into watercourses.

## 5) Implementation of Management Practices (MPs)

- a) The Discharger shall meet the Conditional Waiver Standards by implementing site-specific MPs that reduce water pollution due to grazing and protect water quality. In selecting what MPs to use at the Grazing Operation, the Discharger shall take into consideration the vegetation, terrain, type of livestock, and general operation procedures.
- b) A list of potential management practices may be found in the Natural Resource Conservation Service Field Office Technical Guide, the California EPA grazing management guidelines guidance found at [www.waterboards.ca.gov/water\\_issues/programs/nps/encyclopedia/1e\\_graz.shtml](http://www.waterboards.ca.gov/water_issues/programs/nps/encyclopedia/1e_graz.shtml), or equivalent rangeland management guidance documents. The Field Office Technical Guide can be obtained at local offices of the USDA Natural Resources Conservation Service or the Conservation District office.

## 6) Implementation of Mitigation Measures

Mitigation measures identified in the Mitigated Negative Declaration for the Conditional Waiver shall be implemented as follows:

- a) Air Quality and Greenhouse Gas Emissions  
For projects that pose the potential to exceed applicable air quality standards, the Discharger shall implement dust abatement and greenhouse gas measures as required by the Bay Area Air Quality Management District.
- b) Geology and Soils  
Prior to initiating any projects involving large-scale grading and construction that disturb one acre or more, the Discharger shall obtain coverage for such projects under State Water Board Order 2009-0009-DWQ (Construction General Permit), as amended by Order 2012-0006-DWQ, and shall implement erosion control practices as specified therein.

Routine property maintenance of original line and grade, hydraulic capacity, or disturbances on land surfaces solely related to agricultural operations such as disking, harrowing, terracing and leveling, and soil preparation, are not construction activities covered by the Construction General Permit.

- c) Biological Resources/Hydrology/Water Quality  
Prior to initiating any project that involves construction activities in or adjacent to waters of the State, or any project that substantially impacts a sensitive species or other sensitive natural communities (identified in local or regional plans or by wildlife agencies), the Discharger who proposes the project shall obtain all applicable and necessary permits from the Water Board, the U.S. Army Corps of Engineers, and/or the California Department of Fish and Wildlife. The Discharger shall comply with the specified conditions and mitigation requirements set forth in the respective permits to mitigate for any identified significant environmental impacts to biology, hydrology, and water quality.

## 7) Compliance Monitoring and Reporting

- a) The Discharger shall conduct visual inspections of the Grazing Operation to verify that MPs identified in the RWQP have been implemented and that Conditional Waiver Standards are being met.
- b) The Discharger shall, in addition to inspecting the Grazing Operation, visually inspect the closest receiving water, upstream and downstream of the Grazing Operation, to monitor any change in water quality resulting from facility operations. These inspections are needed to determine the effectiveness of Grazing Operation MPs.
- c) Inspections shall occur twice during the dry season and at least monthly during the rainy season, preferably before and after a forecasted storm event. One of the dry season inspections shall be conducted in the month of September, prior to the beginning of the rainy season, and shall encompass the entire area of the Grazing Operation to verify MP implementation and readiness for the rainy season. A Discharger is not required to perform inspections during dangerous weather conditions or when a storm begins after scheduled facility operating hours.
- d) Pre-storm inspections of the entire ranch facility shall ensure that appropriate MPs are properly installed and maintained; post-storm inspections are to evaluate whether management practices have functioned adequately and whether additional measures or maintenance work is needed.
- e) The Discharger shall maintain records of inspections, monitoring observations, and any response taken to eliminate potential sources of sediment, nutrients, and pathogens from the Grazing Operation for the term of this Order (minimum of five years). If a water quality problem is found during an inspection, the Discharger shall record the nature of the problem, the MPs taken to correct it, and report it in the Annual Certification document, as described in Condition 7)g.
- f) The Discharger shall measure and record measurements of Residual Dry Matter (RDM) prior to fall rains as specified in the *University of California 2006, California Guidelines for Residual Dry Matter Management on Coastal and Foothill Annual Rangelands, Rangeland Monitoring Series Publication 8092*. These measurements shall be included in the Annual Certification document, as described in Condition 7)g. If minimum RDM targets are not met, the Discharger shall provide an explanation for not meeting the targets in the Annual Certification document.
- g) The Discharger shall submit an Annual Certification (Attachment E) to the Water Board that certifies its facility meets the conditions of the Conditional Waiver, documenting any required mitigation measures, MPs implemented, an evaluation of the effectiveness of MPs, and records of any inspections where a water quality problem was identified, as well as the MPs taken to correct these problems. These certifications are due November 15, 2018, and annually thereafter.
- h) The Discharger shall report any spills or discharges that threaten human health or water quality within 24 hours of becoming aware of its occurrence. The incident shall be reported to the Water Board and to the California Office of Emergency Services (CalOES). The Discharger shall leave a message on the Water Board's spill hot-line at 510-622-2369. The message shall include the time, date, and place of the discharge and shall be recorded in writing by the Discharger. CalOES is operational 24 hours a day. A written report shall be

submitted to the Water Board office within five business days of the Discharger becoming aware of the incident. The written submission shall contain:

- i) The approximate date, time, and location of the discharge;
- ii) A description of the noncompliance event and its cause;
- iii) The rate, volume, and duration of the discharge;
- iv) The period of noncompliance, including dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,
- v) The steps taken to correct discharge and/or a time schedule and a plan to implement corrective actions necessary to prevent the recurrence of such discharges.

### **8) Third-Party Program**

Pursuant to Water Code sections 13267 and 13269, water quality monitoring and reporting of wastes discharged must be performed on a site-specific or watershed basis. The Discharger may do so individually or in cooperation with other similar Dischargers in the watershed. If a Third Party Program is developed, the entity providing the third party role shall be approved by the Executive Officer.

### **9) Permit Reopening, Revision, Revocation and Severability**

- a) The Water Board will review this Order periodically and may revise requirements when necessary for reasons including, but not limited to, adoption of more stringent applicable water quality standards in the Basin Plan or changes in State plans, policies, or regulations that would affect the requirements for the discharges.
- b) The provisions of this Order are severable, and if any provision of this Order, or the application of any such provision of this Order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.

### **10) Termination Procedures**

- a) Ranch Closure or Change in Land Use  
In the event of closure or change in land use of the ranch facility, the Discharger shall file a Notice of Termination (Attachment G) with the Water Board. The Water Board may revoke coverage under this Order at any time due to change in use and require the Discharger to submit a ROWD and obtain coverage under general WDRs, individual WDRs, an NPDES permit, or other permit.
- b) Noncompliance With the Conditional Waiver  
The Discharger shall, within 21 days of receiving notice from the Water Board that its facility no longer qualifies for coverage under this Order for failure to comply with its terms and conditions, file an updated ROWD. The ROWD shall be submitted with the applicable filing fee in order to obtain coverage under WDRs. Discharges that could affect the quality of the waters of the State may commence only in accordance with Water Code section 13264, subdivision (a).

c) Change of Control or Ownership of Land

In the event of any change in control or ownership of land, the Discharger shall immediately submit a Notice of Termination to the Water Board. The notice shall include the contact information of the succeeding Discharger in order for the original Discharger to be relieved of its responsibility to comply with this Order. The Water Board will request a NOI for coverage under this Order from the succeeding Discharger and must receive a completed NOI within 45 days of receipt of such request.

**11) Failure to Comply with Terms and Conditions of this Waiver**

A Discharger who fails to comply with the terms and conditions of this Order is subject to an enforcement action, including but not limited to, administrative civil liabilities. Discharges that could affect the quality of the waters of the State may commence only in accordance with Water Code section 13264, subdivision (a). The Executive Officer reserves the right to terminate a Discharger's coverage under this Order, and the Water Board may impose individual WDRs after proper notice and hearing (Wat. Code § 13263, subd. (a)).

**This Conditional Waiver expires on November 8, 2022.**

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of the Renewal of Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Napa River and Sonoma Creek Watersheds adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on *November 8, 2017*.

Bruce H. Wolfe  
Executive Officer

**Attachments:**

- Attachment A:** Map of the Napa River and Sonoma Creek Watersheds
- Attachment B:** CEQA Addendum
- Attachment C:** Notice of Intent
- Attachment D:** Notice of Non-Applicability
- Attachment E:** Compliance and Monitoring Annual Certification Template
- Attachment F:** Checklist Form for Assessing Grazing Operations in the Napa River/Sonoma Creek Watershed
- Attachment G:** Notice of Termination

# Attachment A: Map of the Napa River and Sonoma Creek Watersheds



## **ATTACHMENT B – CEQA ADDENDUM**

The Water Board is the lead agency for this project under the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.*) (CEQA). This Conditional Waiver involves the renewal of the 2011 Waiver for existing Grazing Operations. It does not authorize expansion of use beyond the scope of the 2011 Waiver.

The Water Board adopted a Mitigated Negative Declaration (MND) for the 2011 Waiver on September 14, 2011. This renewed Conditional Waiver does not expand or restrict the scope of coverage, nor does it authorize expansion of Grazing Operations or the geographic area covered by this Order.

Concurrent with this Order, the Water Board is adopting an addendum to the 2011 MND pursuant to Title 14 of the California Code of Regulations, section 15164. The addendum concludes that, in accordance with Cal. Code Regs., tit. 14, §§ 15162, 15164, a subsequent MND is not necessary for the Order for the following reasons:

- a. This Order renewal makes only minor technical changes and additions to the 2011 Waiver;
- b. There have been no changes in the scope or applicability of the Conditional Waiver or its requirements that would result in new significant environmental effects or increases in the severity of previously identified less-than-significant effects;
- c. There have been no known physical changes on Grazing Lands or at Grazing Operations that have caused significant new environmental effects or increased the severity of previously identified less-than-significant environmental effects, such as would require major revisions of the previous MND; and,
- d. No new information of substantial importance has emerged since the MND was adopted that would affect the conclusions of the MND.

For these reasons, the Water Board relies on the 2011 MND and the current addendum and finds that the conditions of this Conditional Waiver will avoid any significant environmental effects or mitigate the effects to a point where clearly no significant effects would occur. There is no substantial evidence, in light of the whole record before the Water Board, that the Order, as conditioned, may have a significant effect on the environment.

ATTACHMENT C

NOTICE OF INTENT

TO COMPLY WITH THE TERMS OF ORDER NO. R2-2017-00XX
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR GRAZING OPERATIONS
IN THE NAPA RIVER AND SONOMA CREEK WATERSHEDS

FORM MUST BE SUBMITTED TO WATER BOARD BY MARCH 15, 2018

SECTION I. WAIVER OF WASTE DISCHARGE REQUIREMENTS

Instructions: This Notice of Intent (NOI) applies to existing grazed properties that meet enrollment criteria operating on or before November 8, 2017.
Grazing Operations currently enrolled under Resolution R2-2011-0060 (2011 Waiver) will not be required to submit a new NOI under this Order if there have been no changes in the Grazing Operations, the Grazing Lands identified in the NOI, or ownership or operation of the Grazing Lands or Grazing Operations.
Dischargers (landowners and operators) conducting eligible Grazing Operations and not currently enrolled under the 2011 Waiver are required to complete this form and submit it to the Water Board on or before March 15, 2018.
Mail completed NOI to: San Francisco Regional Water Quality Control Board; 1515 Clay Street, Suite 1400; Oakland, CA 94612, Attn: Grazing Waiver Program. Or email to: R2GrazingWaiver@waterboards.ca.gov

SECTION II. RANCH OPERATOR INFORMATION

Name:
Mailing Address:
City: State: Zip Code:
Name of Contact Person: Contact Phone:
Contact E-mail:

SECTION III. RANCH LANDOWNER INFORMATION (IF OPERATOR IS NOT THE OWNER)

Name:
Mailing Address:
City: State: Zip Code:
Name of Contact Person: Contact Phone:
Contact E-mail:





**SECTION VIII. LANDOWNER CERTIFICATION**

If the Ranch Operator is not the ranch landowner, the Landowner must certify that he/she has been notified of this waiver and its requirements.

Landowner or Authorized Representative\* Printed Name: \_\_\_\_\_

Landowner or Authorized Representative Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

\* A duly authorized person designated by the Landowner as having legal responsibility for the overall operation of the regulated facility. The authorized representative may be the grazing operator or operator's duly authorized designee.

**SECTION IX. CERTIFICATION**

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of the Order will be complied with."

Landowner or Authorized Representative Printed Name\*: \_\_\_\_\_

Landowner or Authorized Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

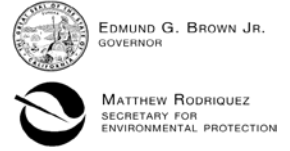
Telephone Number: \_\_\_\_\_

Email: \_\_\_\_\_

\* A duly authorized person designated by the owner of the confined animal facility, as having responsibility for the overall operation of the regulated facility. The authorized representative may be the operator or operator's duly authorized designee.

Mail signed form to:

San Francisco Bay Regional Water Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
ATTN: Grazing Waiver Program  
Or email to: [R2GrazingWaiver@waterboards.ca.gov](mailto:R2GrazingWaiver@waterboards.ca.gov)



San Francisco Bay Regional Water Quality Control Board

ATTACHMENT D

NOTICE OF NON-APPLICABILITY

OF COVERAGE UNDER REGIONAL WATER BOARD ORDER R2-2017-00XX
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR GRAZING OPERATIONS IN
THE NAPA RIVER AND SONOMA CREEK WATERSHEDS
(CONDITIONAL WAIVER)

Submission of this Notice of Non-Applicability constitutes notice by the landowner/operator of the ranch facility identified on this form that the facility should not be required to comply with Water Board Order R2-2017-00XX at this time. Only landowners/operators that are not filing a Notice of Intent (NOI) for coverage under the Conditional Waiver should file this form. If you are unsure whether your facility is required to comply with the Conditional Waiver, please contact the Water Board, San Francisco Bay Region at (510) 622-2410 or via email at R2GrazingWaiver@waterboards.ca.gov.

Note: If the information provided in this form is inaccurate or incomplete, or if the activity at the ranch facility is changed, this Notice may no longer apply. Further, the information provided shall in no way release the landowner or operator of the ranch facility from any liability which may result from noncompliance with the requirements of the Conditional Waiver, should they apply. The ongoing accuracy of the information provided may be subject to verification by inspection by Water Board staff.

I. LANDOWNER INFORMATION

NAME: \_\_\_\_\_
MAILING ADDRESS: \_\_\_\_\_
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_
EMAIL: \_\_\_\_\_

II. OPERATOR INFORMATION (If different than landowner above)

NAME: \_\_\_\_\_
MAILING ADDRESS: \_\_\_\_\_
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_
EMAIL: \_\_\_\_\_

DR. TERRY F. YOUNG, CHAIR | BRUCE H. WOLFE, EXECUTIVE OFFICER

1515 Clay St., Suite 1400, Oakland, CA 94612 | www.waterboards.ca.gov/sanfranciscobay

**III. RANCH FACILITY INFORMATION**

RANCH NAME: \_\_\_\_\_

ASSESSOR PARCEL NUMBER(S) (APN): \_\_\_\_\_

\_\_\_\_\_

FACILITY ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

TYPE OF BUSINESS CONDUCTED AT THE RANCH FACILITY:

\_\_\_\_\_

**IV. BASIS OF NON-APPLICABILITY**

**Check each that apply and provide an explanation for each in Section V. below.**

\_\_\_\_\_ 1. The ranch is not used for Grazing Operations.

*For the purposes of the Grazing Waiver, the term 'Grazing Operations' will refer to those facilities where animals are fed or maintained on irrigated vegetation or rangeland forage for a total of 45 days or more in any 12-month period, and vegetation forage growth is sustained over the lot or facility during the normal growing season. A Grazing Operation includes auxiliary facilities such as roads, reservoirs, etc.*

\_\_\_\_\_ 2. The ranch is not currently actively grazed.  
Date last used for active grazing \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_ 3. The ranch was once used for grazing. The ranch is now closed and all materials and waste associated with the business have been removed or cleaned-up.

Date of closure \_\_\_\_/\_\_\_\_/\_\_\_\_ Date of completed clean-up \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_ 4. The ranch is subject to another general or individual permit issued by the Water Board. If so, indicate type of permit, and permit number. Permit or Order No. \_\_\_\_\_

\_\_\_\_\_ 5. The ranch is not located in the Napa River or Sonoma Creek watersheds.  
Please provide a map showing the location of your ranch.

\_\_\_\_\_ 6. There is a new landowner/operator of the identified ranch. I am no longer the responsible party for this site. Provide information below.

Date of landowner/operator transfer \_\_\_\_/\_\_\_\_/\_\_\_\_

Has the new owner/operator been notified of Grazing Waiver requirements?

Yes\_\_ No\_\_

NEW LANDOWNER/OPERATOR INFORMATION

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

\_\_\_\_ 7. I am not and have never been the landowner/operator of the identified ranch facility.

LANDOWNER/OPERATOR INFORMATION (IF KNOWN)

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

**V. EXPLANATION OF BASIS OF NON-APPLICABILITY**

Please include an explanation to support the appropriate category checked in Section IV above. A thorough and complete explanation will streamline the review process relative to any requirements of the Conditional Waiver. Attach additional documentation if necessary.

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\_\_\_\_\_

**V. CERTIFICATION**

I certify under penalty of law that the identified ranch does not require coverage under Water Board Order R2-2017-00XX, or that I am not the landowner/operator of the ranch. I understand that the submittal of this Notice of Non-Applicability does not release a landowner/operator from liability for any violations of the California Water Code.

Owner or Authorized Representative\* Printed Name: \_\_\_\_\_

Owner or Authorized Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

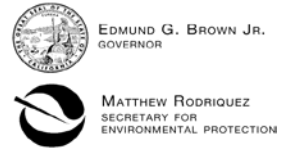
\* A duly authorized person designated by the owner of the ranch as having responsibility for the overall operation of the ranch operation. The authorized representative may be the ranch operator or operator's duly authorized designee.

Mail completed forms to:

San Francisco Bay Regional Water Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Attention: Grazing Waiver Program

Or email to: [R2GrazingWaiver@waterboards.ca.gov](mailto:R2GrazingWaiver@waterboards.ca.gov)



San Francisco Bay Regional Water Quality Control Board

ATTACHMENT E

ANNUAL CERTIFICATION (required to be completed and submitted annually)
REPORTING PERIOD OF OCTOBER 1, 20\_\_ THROUGH SEPTEMBER 30, 20\_\_

This ranch/farm is in compliance with the Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Napa River and Sonoma Creek Watersheds, Resolution No. R2-2017-00XX).

Form with fields for Farm/Ranch Name, Phone, Email, Mailing Address, City/State/ZIP, APNs, and compliance questions.

Ranch Plan (check one)

- Checkboxes for Ranch Water Quality Plan completion and update status.

Compliance Monitoring Inspections (fill in dates when monitoring inspections were completed)

- 1) Wet-season inspections conducted on: Dec., Jan., Feb., March, April
2) Dry-season inspections occurred on: June, Sept.
3) Survey of stream(s) below and above ranch (Grazing Operations) completed on:
4) RDM results: All fields > minimum, Most fields = min., Most fields < min., All fields < min.



**Attachment F  
Checklist Form for Assessing Grazing Operations  
in the Napa River and Sonoma Creek Watersheds**

IN COMPLIANCE WITH RESOLUTION NO. R2-2017-XXXX

Date: \_\_\_\_\_ Weather: \_\_\_\_\_

Name of Person Completing checklist: \_\_\_\_\_

**Ranch Information**

<b>Ranch Name:</b>	<b>Owner Name &amp; Address (if different):</b>
<b>Address:</b>	<b>Nearest Water Body:</b>
<b>Operator Name &amp; Address:</b>	<b>Number of Animals:</b>
<b>Operator Telephone Number:</b>	<b>Type of Animals:</b>
<b>Acreage:</b>	<b>Animal Density:</b>
<b>Ranch Assessor's Parcel Number (number of parcels):</b>	

**Erosion and Sediment Sources**

Sediment from Sheet, Rill, and Gully Erosion: Sheet and Rill erosion generally occurs on cropfields or overgrazed pastures and corrals. Gullies can occur from these same conditions, or can be caused by natural occurrences, such as from burrowing animals.

<b>Rangeland &amp; Pasture</b>	<b>Yes</b>	<b>No</b>
Upon close inspection, is bare soil visible in pastures?		
At a distance of 20 feet, can you distinguish small objects such as roots and cow pies?		
Is rill or sheet erosion present?		
Are gullies, slumps, or headcuts present?		
<b>Crop Fields</b>		
Do cropfields have rill or other signs of surface erosion?		



Attachment F: Checklist Form for Assessing Grazing Operations in the Napa River and Sonoma Creek Watersheds

<b>Crop Fields</b>	<b>Yes</b>	<b>No</b>
Are cropfields clean cultivated so that all plant residue is tilled under?		
<b>Road Erosion</b>		
Do ranch roads show signs of surface erosion such as rills or gullies?		
Are there any gullies caused by unprotected culverts?		
Are drainage ditches eroding?		
Are drainage ditches partially filled with sediment after winter?		
Do road surfaces consist of bare soil?		

Other types of erosion noted:

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Suggestions for correcting problems indicated by yes answers above:

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**Nutrients and Pathogens**

**Pollution from animal waste:** This generally occurs where animals congregate or are confined, or where animals have access to creeks. Nutrient pollution problems are best evaluated during the rainy season when water testing can be used to locate problems.

<b>Pollution from animal waste</b>	<b>Yes</b>	<b>No</b>
Are there possible sources of nutrients and pathogens from direct animal access to creeks?		
Are feeding areas, water troughs, or salting areas near creeks?		
Are manure stock piles located where runoff could flow into creeks?		
Is manure applied to pastures less than 2 weeks before a runoff generating rain storm?		

Locations of problem areas:

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Other types of animal waste pollution noted:

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Suggestions for correcting problems indicated by yes answers above:

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### Riparian Areas

**Condition of Creek and Streams:** Riparian areas are sensitive to damage from livestock. Livestock should be excluded from or carefully managed in riparian areas. Condition of riparian areas can be evaluated at any time of the year.

Condition of Creek and Streams	Yes	No
Do creek banks lack good cover of grasses trees and shrubs?		
Are creeks exposed to full sun?		
Is there excessive growth of algae in creeks?		
Are creek banks actively eroding or trampled?		
Do livestock have access to riparian areas?		
Is there cattle exclusion fencing?		
If cattle fencing exists is it for seasonal exclusion?		
Do livestock congregate in riparian areas?		
Are waterway crossings secure and bermed?		
Are water troughs located away from riparian areas?		

Attachment F: Checklist Form for Assessing Grazing Operations in the Napa River and Sonoma Creek Watersheds

Describe cattle grazing seasonality (which seasons, how long, cattle density, trigger to let cattle in riparian area):

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Vegetation types in riparian areas (full riparian, sporadic riparian, wetland, grasses, bare dirt):

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Location of problem areas:

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Other types of degradation observed in riparian areas:

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Suggestions for correcting problems indicated by yes answers above:

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**Ranch/Farm Site Map**

**ATTACHMENT G**

**NOTICE OF TERMINATION**

FROM ENROLLMENT UNDER THE CONDITIONAL WAIVER OF WASTE DISCHARGE  
REQUIREMENTS FOR GRAZING OPERATIONS IN THE NAPA RIVER AND  
SONOMA CREEK WATERSHEDS (Resolution No. R2-2017-00XX)

**SECTION I. FACILITY OPERATOR INFORMATION**

Name:		Contact E-mail:
Mailing Address:		
City:	State:	Zip Code:
Name of Contact Person:		Contact Phone:

**SECTION II. LANDOWNER INFORMATION (IF OPERATOR IS NOT THE OWNER)**

Name:		Contact E-mail:
Mailing Address:		
City:	State:	Zip Code:
Name of Contact Person:		Contact Phone:

**SECTION III. FACILITY INFORMATION**

A. Facility Name	County:	
Mailing Address:	Contact E-mail:	
City:	State:	Zip Code:
Name of Contact Person:		Contact Phone:
Facility County Assessor's Parcel Number(s):		
Nearest Receiving Water:		

**SECTION IV. BASIS OF TERMINATION**

1. The ranch facility was considered a Grazing Operation. The ranch facility is now closed and all materials and waste associated with the business have been removed or cleaned-up.

Date of closure \_\_\_/\_\_\_/\_\_\_

Date of completed clean-up \_\_\_/\_\_\_/\_\_\_

2. The ranch facility is subject to another general or individual permit issued by the Water Board. If so, indicate type of permit, and permit number. Permit or Order No. \_\_\_\_\_

3. There is a new landowner or operator of the identified ranch facility. I am no longer the responsible party for this site. Provide information below.

Date of landowner/operator transfer \_\_\_/\_\_\_/\_\_\_

Has the new owner/operator been notified of Grazing Waiver requirements?

Yes\_\_ No\_\_

Contact information for the succeeding landowner or operator is:

\_\_\_\_\_  
\_\_\_\_\_

**SECTION V. LANDOWNER NOTIFICATION**

If the facility operator is not the landowner of the facility, the landowner must certify that he/she has been notified of this waiver and its requirements.

Owner or authorized representative\* printed name: \_\_\_\_\_

Owner or Authorized representative signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

\* A duly authorized person designated by the landowner as having legal responsibility for the overall operation of the regulated facility. The authorized representative may be the grazing operator or operator's duly authorized designee.

**SECTION VI. CERTIFICATION**

"I certify under penalty of law that this document and attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines."

Printed Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Mail signed form to:**

**San Francisco Bay Regional Water Quality Control Board**  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
ATTN: Grazing Waiver Program

Or email to: R2GrazingWaiver@waterboards.ca.gov

**APPENDIX B**

**COMMENTS RECEIVED**

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## Leclerc, Rene@Waterboards

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**From:** Morgan Doran <mpdor@ucanr.edu>  
**Sent:** Tuesday, September 19, 2017 5:12 PM  
**To:** Leclerc, Rene@Waterboards  
**Cc:** David Lewis; Ponton, James@Waterboards  
**Subject:** Comments for Conditional Grazing Waiver in Napa River and Sonoma Creek Watersheds

Dear Mr. Leclerc,

Regarding the renewal of the Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Napa River and Sonoma Creek Watersheds, my colleague, David Lewis (copied), and I are submitting the following suggestions for your consideration.

Based on our September 8th conversation in which you and Jim Ponton clarified the reasons for requesting "Total Acres Grazed" and "Type of Animals" in the proposed Annual Certification form, we recommend more straightforward requests that will provide information to help staff determine if grazing operations are still eligible for the waiver and what significant changes have occurred since NOI submission. We recommend that you:

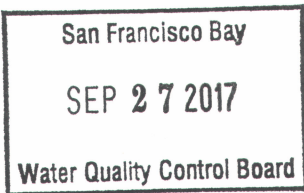
1. Replace "Total Acres Grazed" box with a new row that says "Is your grazing operation still eligible for waiver enrollment (100 acres or larger)? Y / N"
2. Replace "Type of Animals" box with a new row that says "During the reporting period, were changes made to your grazing operation (for example, expansion or change in herd type, addition or subtraction of parcels grazed, etc.) that would require update of your Ranch Water Quality Plan? Y / N"

Thank you for your consideration.

Sincerely,  
Morgan Doran and David Lewis

Morgan P. Doran  
Livestock & Natural Resources Advisor  
Director  
UC Cooperative Extension Capitol Corridor  
*Serving Solano, Yolo & Sacramento Counties*  
Phone: (530) 666-8738  
Mobile: (530) 219-9226  
[mpdor@ucanr.edu](mailto:mpdor@ucanr.edu)

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Jeffrey Becker  
1200 Rossi Road  
St. Helena California 94574  
(707) 815-7948  
balingwire@beckerworks.net

Sept 23, 2017

Dear S. F. Bay Regional Water Quality Control Board -

I am a participant in the 2011 Waiver program as a small rancher in Napa County. I am writing in support of and to request the renewal of the Conditional Waiver Program. Having been involved in the dialogue and process leading to this program's establishment since 2003, and now as a participant, I have found it to be a reasonable and practical balance of the Board's mission of water quality stewardship and the rancher's mission of land stewardship and food production.

Aside from the obvious benefit of food production responsible grazing provides vital benefits to our communities in two other ways - fire-fuel reduction and safety - security services. These benefits help our area residents and first responders stay safe and secure at a time when wildfire losses, financial, personal and environmental are, sadly, growing, as is rural crime.

With the Waiver program in place, we can continue to provide these benefits while absorbing the significant expenditures of time, labor,

Jeffrey Becker  
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balingwire@beckerworks.net

out of pocket expenses and reduced income that are part of compliance.

All good ranchers are constantly trying to improve their practices. With the educational help of UC D, the support of some state and local agencies and our willingness to dig deeper into our stewardship commitments we can continue to do right by our water and waterways.

Please renew the waiver program, for the benefit of all concerned, especially our land and water environments.

Thank You.

Jeffrey Becker

**APPENDIX C**

**RESPONSE TO COMMENTS**

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**  
**SAN FRANCISCO BAY REGION**

**RESPONSE TO WRITTEN COMMENTS**

On Tentative Resolution for  
Renewal of Conditional Waiver of Waste Discharge Requirements  
for Grazing Operations in the Napa River and Sonoma Creek Watersheds

**Introduction**

The tentative resolution was circulated for a 30-day public review on August 29, 2017. By the close of the comment period on September 29, we had received comments from the following two parties:

<b>No.</b>	<b>Date Received</b>	<b>Commenter Name</b>	<b>Affiliation</b>
1.	September 19, 2017	Morgan Doran and David Lewis	University of California Cooperative Extension
2.	September 25, 2017	Jeffrey Becker	Private Citizen

Appendix B contains copies of all comments received.

**Comment No. 1**

**Commenter(s):** Mr. Morgan Doran and Mr. David Lewis

**Affiliation:** University of California Cooperative Extension

Mr. Morgan and Mr. Lewis made a recommendation to clarify part of the Annual Certification (Attachment E) as follows:

1. *Replace “Total Acres Grazed” box with a new row that says “Is your grazing operation still eligible for waiver enrollment (100 acres or larger)? Y/N”*
2. *Replace “Type of Animals” box with a new row that says “During the reporting period, were changes made to your grazing operation (for example, expansion or change in herd type, addition or subtraction of parcels grazed, etc.) that would require update of your Ranch Water Quality Plan? Y/N”*

**Response to Comment No. 1**

We agree with these recommendations and have revised Attachment E accordingly. These revisions retain the Water Board’s original intent of determining whether grazing operations have changed during the annual monitoring period such that a rancher is no longer eligible for Conditional Waiver enrollment or may need to update the Ranch Water Quality Plan to reflect recent changes to the grazing operation.

**Comment No. 2.**

**Commenter:** Mr. Jeffrey Becker

**Affiliation:** Rancher in Napa County enrolled under Conditional Waiver

Mr. Jeffrey Becker, a rancher enrolled under the 2011 Conditional Waiver, submitted a letter outlining the benefits of the 2011 Conditional Waiver and encouraged the Water Board to renew the Conditional Waiver. An excerpt from his letter is as follows:

*“I am a participant in the 2011 Waiver program as a small rancher in Napa County. I am writing in support of and to request the renewal of the Conditional Waiver Program. Having been involved in the dialogue and process leading to this program’s establishment since 2003, and now as a participant, I have found it to be a reasonable and practical balance of the Board’s mission of water quality stewardship and the rancher’s mission of land stewardship and food production.”*

**Response to Comment No. 2**

We appreciate Mr. Becker’s letter of support.