

RESPONSE TO COMMENTS

Renewal of Order Nos. R1-2018-0018

and R1-2018-0019

Scott and Shasta River TMDL Conditional Waivers of Waste Discharge Requirements (Order No. R1-2026-0048)

The following are summaries or quotes of, and responses to, the comments received on the Renewal of the Scott and Shasta River Conditional Waivers of Waste Discharge Requirements (Orders), which are regulatory tools implementing aspects of the Action Plans for the Scott River Total Maximum Daily Loads (TMDLs) and Shasta River TMDLs, respectively. These Orders have been proposed to be renewed, as necessary, to provide continued regulatory coverage for agricultural activities with actual and potential discharges of waste and to provide a direct mechanism for enforcement of violations of the Orders while staff finalizes the upcoming General Waste Discharge Requirements for Irrigated Lands in the Scott and Shasta Watersheds (Scott and Shasta General WDRs) that will replace these Orders, as described in Order No. R1-2026-0048 (Proposed Order). Comments of similar content are categorized by topic, summarized as general comments, and followed by a list of commenters that expressed issues related to the comment topic. The commenters are referenced in the general comments using the following numbered list.

List of Commenters

1. Communities United for Water Protection (CUWP)
2. Environmental Protection Information Center (EPIC)
3. Karuk Tribe and Environmental Law Foundation (ELF) *submitted jointly*
4. Mount Shasta Bioregional Ecology Center (MSBEC)
5. Pacific Coast Federation of Fishmen's Associates (PCFFA)
6. Siskiyou County Farm Bureau (SCFB)

Comments that were not addressed by the grouped general comments/responses are addressed individually. The individual comments and responses are grouped by commenter. Commenter sections are listed alphabetically. Comments are summarized below and the original comment letters are available upon request from Eli Scott (elias.scott@waterboards.ca.gov), the staff responsible for the for the Scott and Shasta TMDL Programs.

General Comments

General Comment 1 (commenters 1, 2, 3, 4, 5) – Renewal Length

Multiple commenters described preferences relating to the length of the short-term renewal. All commenters (1 through 5) raised concerns that a 5-year renewal is too long and requested a 1-2 year renewal, instead.

Response to General Comment 1

The intent of the renewal of the Orders is to ensure potential discharges of waste from agricultural operations in the Scott and Shasta are covered by an enforceable permit until the Scott and Shasta General WDRs are adopted and those operations are enrolled under this new permit. The Scott and Shasta General WDRs will have a fixed timeline for a coalition to form and enrollees to join the program. Staff believes that renewal of these Orders for five (5) years will provide a conservative buffer to allow these processes to unfold while also enabling staff to focus on development and implementation of the Scott and Shasta General WDRs rather than more renewals of the Orders. Note that the Proposed Order should continue to be active until Scott and Shasta General WDRs are adopted and until the enrollment deadline of those WDRs, which is still indeterminate. Upon enrollment in those WDRs, coverage under the Proposed Order will cease. Finding 20 indicates clearly that the Proposed Order will be terminated consistent with the enrollment deadline of the adopted Scott and Shasta General WDRs.

General Comment 2 (commenters 1, 2, 3, 4, 5) – Low Flows, Non-attainment of Instream Flow Targets, Impacts of Diversions, and Enforcement of Diversion Curtailments

Multiple commenters pointed to this year's non-attainment of instream flow targets and enforcement challenges, expressed during the bi-weekly Scott and Shasta Flow Coordination Group calls, as evidence that staff does not have the necessary tools for enforcement.

Response to General Comment 2

The North Coast Water Board is not responsible for the development, implementation, or enforcement of instream flow requirements. The North Coast Water Board has a robust enforcement program that has been successful in identifying violations, developing enforcement cases, achieving Board objectives and holding violators accountable to the requirements of its permitting programs and the California Water Code. Staff encourages all concerned public in the Scott and Shasta watersheds to report observed water quality violations through the [CalEPA Environmental Complaint System](https://calepa.ca.gov/enforcement/complaints/) (<https://calepa.ca.gov/enforcement/complaints/>). Staff of the North Coast Water Board and State Water Resources Control Board continue to work collaboratively on enforcement cases in these watersheds.

General Comment 3 (commenters 1, 2, 3, 4, 5, 6) – Suggested Permit Provisions and/or Perceived Order Deficiencies

Multiple commenters provided feedback on what provisions they would like to see in the next order iteration or provided perspectives that certain portions of the existing Orders do not comply with various state policies (e.g. Non-Point Source Policy, Water Code Section 13269, etc.).

Response to General Comment 3

North Coast Water Board staff disagrees that the existing Orders do not implement required state policies or necessary sections of the California Water Code, as described in its response to comments from the 2018 renewal. These responses are restated below, with updates where appropriate. However, comments related to perceived deficiencies in implementation or suggestions for future orders will be taken into consideration during the public process currently underway for the development and adoption of the Scott and Shasta General WDRs. Those future General WDRs are being developed and considered for adoption under a separate public process, including a public workshop at the October 2026 North Coast Water Board meeting, a written public comment period, and a public adoption hearing before the North Coast Water Board. Staff appreciates the suggestions made by all commenters and looks forward to continued engagement from all interested parties.

Comments related to Water Code section 13369, 13269, and the Water Quality Control Plan for the North Coast Region (Basin Plan).

Multiple commenters expressed concerns that the Orders are inconsistent with Water Code section 13369 (addressing the State of California's Nonpoint Source Pollution Control Program), Water Code section 13269 (addressing Waivers of Waste Discharge Requirements), and the North Coast Water Board's Basin Plan. The Karuk Tribe, in particular, asserts that the adoption of the orders was "illegal" because they do not implement precedential court decisions that pertain to non-point source control programs. Commenters are concerned about how the orders comply with the State Water Board's Non-Point Source Control Policy and the achievement of water quality objectives. Commenters also expressed concerns regarding timelines and milestones in the Orders to measure progress towards achieving water quality objectives and Total Maximum Daily Loads (TMDLs), and the nature of discretionary monitoring required by the North Coast Water Board's Executive Officer (EO). Commenters assert that the Orders do not comply with criteria in Water Code section 13269 for the issuance of waivers of WDRs, including ensuring that the waivers are in the public interest. The general comment also expresses concerns regarding the feedback mechanism that will be used to evaluate the Orders' contribution to compliance with water quality objectives or TMDLs.

Response to Comments related to Water Code section 13369, 13269, and the Basin Plan.

The existing Orders are not intended to implement all aspects of the TMDLs, only those that relate to discharges of waste and controllable water quality factors associated with the activities of the agricultural operation subject to the conditional waiver. Thus, these Orders do not constitute a complete nonpoint source water quality program as described in the state Nonpoint Source Policy. The Orders are one component of the non-point source control program, a program that contains multiple other elements including: watershed stewardship (including comprehensive watershed monitoring in both watersheds), coordination with the State Water Board Division of Water Rights (Division of Water Rights) on water diversions and drought response, implementation of additional North Coast Water Board waste discharge programs (i.e. Forest Activities, Dairies, and Water Quality Certification), application and enforcement of existing Basin Plan prohibitions, and the issuance of monitoring and reporting requirements. The Orders specifically address discharges of waste and controllable water quality factors associated with grazing, range land activities, and roads not covered by other permitting mechanisms. The Orders require implementation of management measures designed to prevent and eliminate discharges of waste consistent with TMDL load allocations and targets (See Provision 5 in both Orders). If dischargers do not implement adequate management measures, they will be out of compliance with the Orders and subject to further reporting, monitoring, or potential enforcement actions. At the discretion of the Executive Officer, the Orders can require development of management plans, as well as monitoring and reporting requirements based on site-specific risks to water quality. These order conditions, combined with the monitoring underway in the Shasta River watershed stewardship program and the Scott River Biostimulatory Conditions Monitoring Program, are collectively sufficient to provide data for evaluating the long-term watershed-scale impact of the management measures applied. If qualitative and quantitative monitoring results indicate that actions to address thermal, sediment, or nutrient loading are insufficient, then additional actions and measures can be identified to address those discharges and controllable water quality factors. Water Code Section 13269 states that 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.” Monitoring requirements, as set forth in the Orders, meet these criteria.

As noted above, though not an official component of the Shasta TMDL Conditional Waiver, the Shasta Watershed Stewardship framework also includes a monitoring program that provides annual feedback on both temperature and dissolved oxygen at specific reaches and tributaries of the Shasta River watershed, information relevant to track TMDL implementation progress. Similarly, the Scott River Biostimulatory Conditions Monitoring Plan and the Scott River Watershed Water Quality Compliance and Trend Monitoring Plan are designed to produce data sufficient to establish current status and ongoing trends in water quality relevant to the Scott River TMDL. North Coast Water Board staff expects sediment monitoring as described in the Scott River Watershed Water Quality Compliance and Trend Monitoring Plan to be completed in 2026, adding a new round of sediment data to the historic record.

Comments related to the Antidegradation Policy.

Commenters, and specifically the Karuk Tribe, maintain that the Regional Board has not complied with the State Water Board antidegradation policy (State Water Board Resolution No. 68-16) or established court precedent interpreting the policy.

Response to Comments related to the Antidegradation Policy

The North Coast Water Board has complied with the antidegradation policy and the precedential decision *AGUA v. Central Valley Regional Board* (2012) 210 Cal. App. 4th 1255 (AGUA). This Proposed Order is the latest in a series of orders that address nonpoint source discharges primarily from agricultural and grazing activities in the Scott and Shasta Watersheds. Both watersheds have impairments and water quality does not meet objectives necessary to support all beneficial uses. These orders were designed to reduce and eliminate discharges from these activities within the Scott and Shasta Watersheds, and result in ongoing improvements over current conditions in the watersheds. Discharger compliance with the orders will result in increased riparian shading, decreased or eliminated tailwater flows into receiving waters, and minimized or prevented discharges of sediment into receiving waters. Discharges that comply with orders will result in improved water quality and conditions will not be further degraded from current conditions. The orders are consistent with Resolution No. 68-16 because they require that Dischargers employ the best practicable treatment and control measures in order to minimize degradation, achieve water quality standards and prevent nuisance. The management measures required by the orders establish an iterative process that includes evaluation and implementation of management practices in a timely manner to minimize, control, and prevent the discharge of waste. These management practices are enforceable, and the effectiveness of these measures will be verified through monitoring and reporting as required by the Executive Officer. The North Coast Water Board anticipates that any changes in water quality that may occur as a result of order implementation will, over time, reflect an improvement in water quality, not degradation. Thus, any change in water quality will be consistent with the maximum benefit to the people of the State and will not unreasonably affect beneficial uses.

The antidegradation policy does not specify the type of monitoring program that is necessary to address degradation, and *AGUA* did not set requirements that must be met to satisfy the antidegradation policy. Rather, the court found that a Regional Water Board must make appropriate findings to support its determination that authorized discharges will comply with the antidegradation policy. The North Coast Water Board has made the necessary findings in these orders and the prior issued versions of the orders. The orders do not allow new discharges that will degrade high-quality waters, and the Executive Officer will require additional monitoring to assess impacts if it is determined that activities may be leading to exceedances of water quality objectives. If ranch assessments indicate additional monitoring is necessary, the specific monitoring and reporting that may be required by the Executive Officer will be designed to confirm whether degradation is occurring, whether the management measures are sufficient to prevent degradation, or in some cases, whether additional management measures are needed to prevent degradation. If a discharger does not comply with the conditions set

forth in the orders, including ranch assessment and additional monitoring requirements, they will be out of compliance, and subject to further permitting and enforcement actions.

General Comment 4 (commenters 1, 2, 3, 4, 5). The North Coast Water Board should require mandatory enrollment in the Orders before adoption of the new Permit

Several commenters suggested that the North Coast Water Board require all dischargers to enroll in the existing Orders before adoption of the new permits.

Response to General Comment 4

The current Orders do not include a system of enrollment. Rather, the Orders broadly apply to producers that are responsible for discharges of waste into the watersheds and allow certain discharges if the conditions of the Orders are met. Properties operating outside of the conditions described in the Orders are either in violation of the Orders or are not provided regulatory coverage for their discharges of waste. Staff has followed a prioritization scheme in implementing these Orders by inspecting certain subsets of dischargers based on the length of stream frontage included in their property holdings (in the Scott), the critical habitat existing on their property, especially cold-water springs (in the Shasta), or as a result of citizen complaints. This method of implementation will be reviewed during the short-term renewal and assessed against alternative approaches.

During the period following renewal of these Orders but before a new order is proposed, staff will continue active implementation of the Orders in both watersheds, as well as seek improvements in outreach to dischargers whose operations have not yet been inspected.

General Comment 5 (commenters 1, 2, 3, 4, 5, 6) –Implementation of the Orders has not led to meaningful change in water quality and/or the 10-year TMDL Reassessment Has Not Been Completed

Several commenters asserted that no improvement in water quality has occurred because of these Orders, citing either a lack of data or lack of analysis.

Response to General Comment 5

This comment echoes comments that were provided in the 2023 short-term renewal. This response reiterates what was communicated in that response with updates based on the current state of the project.

North Coast Water Board staff has presented data in public forums indicating specific improvements in water quality in the Shasta River, including reductions in daily maximum temperatures in Big Springs Creek, reductions in daily maximum temperatures at the watershed scale, and reductions in dissolved oxygen water quality objective exceedances at specific locations across the Shasta River. Staff

acknowledges that since 2020, annual data updates have not occurred as staff's attention has turned to development of the Scott and Shasta General WDRs and support of the Division of Water Right's emergency and long-term flow efforts. Additionally, due to the nature of continuous temperature and dissolved oxygen data, an acceptable repository for the large Shasta River data set or the growing Scott River data set does not exist for public assessment and download. Staff has recently provided ongoing water quality updates in various public and regulatory forum (including the bi-weekly Scott and Shasta Flow Coordination Group calls and the Klamath Fish Health Assessment Team calls) on real-time sensors in both Watershed recently deployed by the United State Geological Survey and the North Coast Water Board to track conditions over time. North Coast Water Board staff has also provided full copies of their Shasta River database to interested parties upon request and provided funding for the Shasta Valley Resource Conservation District to conduct their own water quality analyses that are publicly available on their website.

In the Scott, staff acknowledges the lack of historic data needed for status and trends analysis. This data gap was one of the impetuses behind the Scott River Biostimulatory Conditions Study staff is engaged in to confirm the 2012 listing of the Scott for biostimulatory conditions, low dissolved oxygen, and pH. All nutrient grab sample results from this study are uploaded to CEDEN for the public to review and work is ongoing to ensure data quality of the continuous temperature and dissolved oxygen data. Staff have assessed this data, along with remote-sensed riparian tree cover and updated Shasta River water quality data, and is currently preparing a memo to summarize findings to date, with the full Scott River Biostimulatory Conditions analysis to be developed following the 2026 sampling season. Staff also acknowledges that a data gap exists regarding sediment conditions in the Scott and has contracted with the Quartz Valley Indian Reservation to support the implementation of portions of the Scott River Watershed Water Quality Compliance and Trend Monitoring Plan, which will produce an updated sediment data set to assess changes in fine sediment loads, embeddedness, and sediment size distribution across the watershed. Riparian vegetation has shown improvement since the adoption of the TMDL in specific areas, including French Creek, Sugar Creek, the East Fork Scott River, Moffett Creek, and along the mainstem of the Scott River. The North Coast Water Board has presented photos at each bridge crossing in public forums and continues to update this dataset and assess trends in riparian vegetation. This improvement in riparian vegetation is due to changes in riparian grazing management, collaborative efforts by watershed partners, grant-funded projects supported by the North Coast Water Board and others, and the efforts of dischargers responsible for riparian areas. More work is required to continue improving riparian conditions to full site potential effective shade, however riparian conditions in the Scott have objectively improved since the adoption of since the adoption of the initial orders establishing waivers of waste discharge requirements in both watersheds.

Data availability and transparency are critical to an open public regulatory process, and Staff acknowledge that this is an area needing attention in the subsequent orders. Ongoing analysis and reporting are needed to ensure the effectiveness of the current

and future regulatory program and staff will release an analysis of existing data to the public imminently. The development of the Scott and Shasta General WDR have provided an opportunity for North Coast Water Board staff to re-think water quality data monitoring, reporting, and data transparency and look forward to public engagement commenting on the monitoring and reporting systems developed within the Scott and Shasta General WDR.

General Comment 6 (Commenters 1, 2, 3, 4, 5) – Salmonid Population Decline/Low Population

Several commenters discussed the ongoing suppressed numbers of salmonids, specifically Southern Oregon Northern California Coast Coho Salmon.

Response to Comment 6

The Scott and Shasta TMDLs, and the water quality protections described in the orders being renewed by the Proposed Order are specifically intended to improve water quality conditions that support the beneficial uses associated with these species. The implementation of the Scott and Shasta TMDLs continues to evolve to address water quality impairments more effectively over time and the release of the Draft Scott and Shasta General WDRs is an example of the North Coast Water Board's evolving implementation approach over time. The intent of the Proposed Order is to ensure a regulatory backstop exists while the upcoming WDRs are being developed and subsequently adopted. That said, not all stressors can be addressed by the Proposed Order or future orders for the whole life cycle of anadromous salmonids and other cold water species and their numbers may not be the best tool to assess program effectiveness.

Specific Comments

Comment 1 (Commenter 2)

The transition schedule between the Proposed Order and the forthcoming Scott and Shasta General WDR is unclear.

Response to Comment 1

The North Coast Water Board acknowledges there is uncertainty in the adoption timeline and eventual enrollment deadline of the Scott and Shasta General WDR, which makes the transition time between the Proposed Order and the WDRs unclear. The current adoption schedule is intended to build in the appropriate time to consider public comments received, engaged with commenters as needed, and refine the Draft WDRs into a final proposed version that is ready for adoption. Staff is focused on a timeline to bring a proposed WDR to the Board for consideration by August 2027.

Comment 2 (Commenter 2)

Provide a concise compliance and enforcement summary and make implementation records easier to access.

Response to Comment 2

The North Coast Water Board acknowledges that not all current implementation records are available online. Compliance summaries have been provided at Board updates, in Board Item packages, and upon public records act request. The Scott and Shasta General WDR program is envisioned to fully utilize the California Integrated Water Quality System (CIWQS) to track enrollees and reports, which can be accessed by the public online.

Comment 3 (Commenter 2)

The Board has extended an interim program while promising a replacement. Water quality issues continue in the field. A short readoption is reasonable but should not exist as a fallback regulatory program that can remain in place until 2031 without another Board decision.

Response to Comment 3

As indicated in response to General Comment 1, the length of the renewal is to ensure permit coverage until the requirements of the Scott and Shasta General WDR are in place and those required to enroll have enrolled. The Proposed Order contains language in Finding 21 that the Proposed Order will be terminated consistent with the enrollment deadline of the adopted Scott and Shasta General WDR.

Comment 4 (Commenter 2)

This comment states that Finding 20 of the Proposed Order states that it intends, “to issue this renewal of the 2018 Scott Order and 2018 Shasta Order for approximately two (2) years from the termination date of October 7, 2026”, however Finding 21 states that the renewal period will be for 5 years. The commentor asks that staff explain what implementation steps require that amount of time and why they cannot be completed on a shorter schedule. The comment suggests that the Proposed Order should terminate automatically when enrollment under the Scott and Shasta General WDR becomes mandatory.

Response to Comment 4

The inconsistency between Finding 20 and Finding 21 appears to be an error. Thank you for identifying this. Finding 20 of the Proposed Order has been updated to reflect a renewal for approximately five years. As written, Finding 21 anticipates that the Proposed Order will be terminated at the enrollment deadline in the final adopted Scott and Shasta General WDRs, which is consistent with the commenter’s suggestion. A 5 year renewal is needed to accommodate uncertainty that the WDRs will be adopted during the first adoption hearing (currently scheduled for August 2027), and the time that will be required to develop Coalitions, obtain review and approval by the North Coast Water Board’s Executive Officer, and conduct the subsequent enrollment process. The timelines for coalition formation, enrollment, and other order implementation milestones will be determined through the public process for WDR

development and adoption. The Draft WDRs that are currently out for public review include an enrollment deadline of December 31, 2028.

Comment 5 (Commenter 6)

The Conditional Waivers already provide the North Coast Water Board with a robust enforcement toolkit.

Response to Comment 5

The Proposed Order does provide the North Coast Water Board with enforcement tools, however these tools are limited to ranches and farms that have been assessed, public complaints, and observations made from public rights of way. Moving to an enrollment-based system with clear water quality benchmarks, more comprehensive monitoring requirements, specific timelines, and program milestones will provide a more complete enforcement toolkit than exists under the Proposed Order with clearer delineation of compliance and non-compliance.

Comment 6 (Commenter 6)

WDR Development should be coordinated with, not advanced ahead of, concurrent instream flow and groundwater sustainability efforts

Response to comment 6

The North Coast Water Board has been in coordination with the Siskiyou County Flood Control District regarding the Sustainable Groundwater Management Act (SGMA) since the development of their Groundwater Sustainability Plan (GSP). Staff has provided comments on the draft GSP relating to the groundwater nexus to water quality in both Scott and Shasta temperature TMDLs and the Shasta dissolved oxygen TMDL. Staff has attended Groundwater Advisory Committee Meetings on a regular basis to provide input and listen to deliberations. Lead staff for this have been Eli Scott and Chris Watt, both of whom are on the development team for the Scott and Shasta General WDRs. There is clear coordination between these efforts, and this has been the intent from the start of General WDRs development. The Scott and Shasta TMDL Action Plans are envisioned to be 40-year plans initiated in 2006 and 2007, respectively. SGMA is envisioned to be a 20-year process following 2022 GSP adoption. Both efforts need to move simultaneously. Permits that implement portions of the Action Plan must be developed and adopted at a pace that results in timely achievement of water quality objectives and benchmarks described by the TMDLs. Staff does not envision the Scott and Shasta General WDRs to require any specific groundwater management practices that would otherwise be implemented or required by the Scott or Shasta GSP. Staff believes both processes can continue in parallel and inform each other.

The North Coast Water Board has been in coordination with the State Water Resources Control Board Division of Water Rights (Water Rights) on how instream flow requirements can support the TMDLs since before the adoption of the Scott and Shasta Emergency Drought Regulations. North Coast Water Board staff continues to coordinate with Water Rights staff on the development of the long-term instream flow

efforts in these watersheds. Similar to the GSP efforts, there is not an intent to develop overlapping authorities or management practice requirements between the current flow regulations and the Scott and Shasta General WDRs. North Coast Water Board staff has also briefed State Water Resources Control Board executive management about this upcoming permit. The timeline for permanent instream flow targets for the Scott and Shasta are uncertain and the need for a more robust waste discharge control program is immediate.

The North Coast Water Board's timeline for development of the Scott and Shasta General WDRs is not dictated by the progress or process of these other complimentary efforts. However, staff will continue to coordinate with the County and our State agency partners as we develop, bring to the Board for adoption, and implement these regulations.

Comment 7 (Commentor 6)

Any study used to inform TMDL effectiveness or development of WDRs should receive a formal public review opportunity.

Response to Comment 7

The North Coast Water Board relies on the best available science, staff analysis of existing data, input from the public, and best professional judgement to guide policy decisions. The process for the Scott and Shasta General WDRs has and will continue to follow this approach.

The North Coast Water Board intends to release a memorandum to the public reflecting staff's draft analysis of water quality data in both watersheds and provide an opportunity to comment. Staff will consider these comments as they finalize the draft memorandum and invite the public to discuss the results in meetings throughout the period between public release of the draft Scott and Shasta General WDRs and its intended adoption in Fiscal Year 2027-2028.