



## CALIFORNIA FARM BUREAU FEDERATION

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Charles Hoppin, Chair  
State Water Resources Control Board  
State of California

Randy Moore, Regional Forester  
Region 5, U.S. Forest Service  
U.S. Department of Agriculture



November 10, 2011

Dear Regional Forester Moore and Chairman Hoppin,

In response to the September 20<sup>th</sup> State Water Resources Control Board's (State Water Board) workshop regarding a waiver for activities on National Forest lands, the California Cattlemen's Association (CCA) and California Farm Bureau Federation (Farm Bureau) offer the following alternate proposal.

### Proposal

The State Water Board should issue a waiver covering activities on National Forest lands so long as they are implemented in accordance with the U.S. Forest Service's (USFS) Water Quality Management Plan (WQMP).

When the waiver concept was first presented to stakeholders by the regulatory agencies, the proposal was for the State Water Board to evaluate and approve the USFS WQMP. Notwithstanding this original objective, the current draft of the USFS Waiver proposes to construct an entirely new and unworkable process that would obligate regulatory redundancy while adding significant uncertainty into the process. The proposed alternative will go back to the approach originally proposed – thereby simplifying the process, encouraging efficiency, avoiding what will become a significant burden to the SWRCB, the USFS, and stakeholders; all while leaving the State Water Board's abilities to protect water quality entirely intact.

Since this is a new approach, the environmental review process would need to be revisited. However, this new CEQA review would be clear and straightforward since it would look at the impacts of a waiver of activities conducted in accordance with the USFS' WQMP. Since the environmental benefits and impacts of the WQMP are well established, CEQA likely could be completed as a Mitigated Negative Declaration, though a full EIR may be more appropriate. The idea here is to make the WQMP an adequately comprehensive instrument for mitigating any

potential impacts on National Forest lands. This would be accomplished through a comprehensive review process that incorporates all relevant science as well as public input.

A waiver based upon implementation of the WQMP is a better option than the proposed draft for a number of reasons. To begin with, it will improve regulatory efficiency by minimizing the regulatory redundancy between the State Water Board and USFS that exists in the current proposed waiver. This will relieve the Board of having to participate in NEPA review for every allotment, instead allowing it to focus on those NEPA processes where it may have concerns. This is necessary as the Regional Boards simply don't have the resources to be involved in each individual NEPA process. The NCWQCB USFS waiver experience has shown us that this allotment by allotment review is going to unnecessarily bog down the process. Similarly, the current draft waiver unnecessarily creates a duplicative avenue by which activities on National Forest lands can be challenged.

Our proposed waiver provides appropriate protections for water quality without hindering the State Water Board's enforcement authority or its involvement in the NEPA process. The State Water Board will still participate in the NEPA process, but will not be obligated to invest significant resources into duplicating what the Forest Service and other agencies are already doing on each individual allotment or activity. It is important to note that the State Water Board still has enforcement authority that it can use to address problem areas should any be found.

#### Comments on November 4<sup>th</sup> Revised Waiver

While CFBF and CCA will be submitting substantive comments on the revised Forest Service Waiver released November 4<sup>th</sup>, a preliminary review of the document indicates that the revisions have likely aggravated our concerns. It is vitally important that any waiver include an automatic enrollment clause for all grazing allotments. The elimination of this clause in the revised waiver is of major concern. The substituted language that would determine an allotment's coverage based on a risk assessment process is way too cumbersome to be feasible.

Please feel free to contact us with any questions. You may reach Justin Oldfield at 916-444-0845 or Elisa Noble at 916-561-5618.

Kind Regards,

*Elisa Noble*

Elisa Noble  
Livestock, Public Lands, and Natural Resources  
California Farm Bureau Federation

*Justin Oldfield*

Justin Oldfield  
Director of Government Relations  
California Cattlemen's Association

Cc: Dan Jiron, Region 5, U.S. Forest Service  
Barry Hill, Hydrologist, Region 5, U.S. Forest Service  
Anne Yost, Range Program Manager, Region 5, U.S. Forest Service  
Frances Spivy-Weber, Vice Chair, State Water Resources Control Board  
Tam Doduc, Member, State Water Resources Control Board  
Thomas Howard, Executive Director, State Water Resources Control Board  
Gaylon Lee, Forest Activities Program Manager, State Water Resources Control Board

—Original Message—

From: Justin Oldfield <justin@calcattlemen.org>  
To: Doduc, Tam <TDoduc@waterboards.ca.gov>

Sent: 11/4/2011 4:59:22 PM  
Subject: FW: Quick Call w/ Charlie

Hi Tam,

I was hoping to talk with Charlie about this briefly before we sent an official letter in but it looks like he will be out on vacation for the foreseeable future. Are you available to have a quick call to discuss the email below early next week?

Thanks,

Justin

Justin T. Oldfield

Director of Government Relations

California Cattlemen's Association

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From: Justin Oldfield  
Sent: Friday, November 04, 2011 4:57 PM  
To: 'Sadie Macali'  
Cc: 'choppin@waterboards.ca.gov'  
Subject: Quick Call w/ Charlie

Hi Sadie,

I was hoping to schedule a quick call with Charlie early next week to go over a few issues related to the waiver of waste discharge requirements for USFS activities that will be heard next month. CCA and Farm Bureau plan to submit an official alternative proposal to what is currently on the table and I wanted to take a few minutes to go over it with him before we officially send it in. I've outlined some preliminary details below to go over on the call. Please let me know if he is available.

I hope you have a great weekend!

Justin T. Oldfield

Director of Government Relations

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**Proposal for Addressing Statewide Waiver of Activities on National Forest Lands**

**Proposal:** The State Board Waiver would cover activities that are implemented in accordance with the U.S. Forest Service's (USFS) Water Quality Management Plan (WQMP).

**Rationale:** 1) When the waiver concept was first presented to stakeholders by the regulatory agencies, the concept was for the State Board to evaluate and approve the USFS WQMP.

2) The current draft of the USFS Waiver sets in place a completely unworkable process that requires regulatory redundancy and constructs a new process that will be very inefficient and sets up a new avenue to challenge actions.

**Environmental Review Process:**

Since this is a new approach, CEQA will need to be revisited. A CEQA review would be conducted on the USFS WQMP. Since the environmental impacts of the WQMP are well established, CEQA could possibly be done as a Mitigated Negative Declaration, though it could require a full EIR.

A waiver based upon implementation of the handbook is a better option because it:

- a. Improves regulatory efficiency.
  - i. This approach will minimize the regulatory redundancy (State Board & USFS) that exists in the current draft waiver.
  - ii. This will relieve the Board of having to participate in NEPA review for every allotment, instead allowing it to focus on those NEPA processes where it may have concerns.
  - iii. The NCWQCB experience has shown us that this allotment by allotment review is going to unnecessarily bog down the process.
  - iv. The Regional Boards simply don't have the resources to be involved in each individual NEPA process.
  - v. The current draft waiver unnecessarily creates an additional avenue by which activities on National Forest lands can be challenged.

b. Provides appropriate protections for water quality without hindering the Board's enforcement authority or its involvement in the NEPA process.

i. Board will still participate in NEPA process, but will not be obligated to invest significant resources into duplicating what the Forest Service and other agencies are already doing.

ii. Board still has enforcement authority that it can use to address problem areas should any be found.

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## State Water Resources Control Board

**TO:** All Interested Parties

**FROM:**   
Tam M. Doduc  
Board Member  
**EXECUTIVE OFFICE**

**DATE:** November 21, 2011

**SUBJECT:** DISCLOSURE OF COMMUNICATION REGARDING THE ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND PROPOSED STATEWIDE WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR NONPOINT SOURCE DISCHARGES RELATED TO CERTAIN ACTIVITIES ON NATIONAL FOREST SYSTEM LANDS IN CALIFORNIA; SCHEDULED FOR CONSIDERATION AT THE DECEMBER 6, 2011 BOARD MEETING

On November 7, 2011, I received a brief phone call from Mr. Justin Oldfield of the California Cattlemen's Association. During the course of that call, Mr. Oldfield mentioned a proposal contained in the Association's public comment letter of November 10, 2011, regarding the Board's proposed Waiver referenced in the subject line above. This comment letter is already a part of the administrative record concerning the Waiver. Mr. Oldfield did not add anything of substance to the Association's comments and merely requested that we consider the comments. I indicated that the Board carefully considers all public comments we receive and that I would review the Association's comments.

Although no new issues or points were made to me during the November 7, 2011 phone call concerning the pending Waiver, in an abundance of caution, I am disclosing the communication as an ex parte communication, pursuant to Government Code section 11430.50.

A copy of this memorandum shall be included in the record of the proceeding.

cc: **[All via email only]**

Charles R. Hoppin, EXEC

Frances Spivy-Weber, EXEC

Tom Howard, EXEC

Jonathan Bishop, EXEC

Vicky Whitney, DWQ

Shahla Farahnak, DWQ

Syed Ali, DWQ

Gaylon Lee, DWQ

Michael Lauffer, OCC

Philip Wyels, OCC

Emel Wadhvani, OCC

Randy Moore, Regional Forester, Region 5, U.S. Forest Service

Barry Hill, Region 5, U.S. Forest Service