



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

**895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401**

PROPOSED ORDER NO. R3-2021-0006

**WASTE DISCHARGE REQUIREMENTS
FOR THE CITY OF MONTEREY
STORM DRAINAGE MAINTENANCE PLAN**



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I. FINDINGS

The Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) finds that:

A. RESPONSIBLE PARTY AND LOCATION

1. The City of Monterey (Discharger) proposes to implement the City of Monterey Storm Drainage Maintenance Plan (Plan), which involves maintenance activities within drainages and associated facilities within the city. Many of these drainages and associated facilities are modified naturally occurring streambeds, wetlands, riparian areas, and lakes. As such, the maintenance activities will result in permanent and temporary impacts and discharges of waste to seasonal, intermittent/ephemeral, and perennial waters of the state. The city delineated approximately 2.39 acres/4,895 linear feet of waters of the state (not including wetlands) and 0.36 acre/471.2 linear feet of wetlands within the Plan area as potential locations where maintenance activities could occur.
2. The Discharger proposes to implement the Plan at 29 priority locations within the city, although three of the proposed locations are located on the city's boundary between the cities of Monterey and Seaside. All priority locations are within the city's drainage network that conveys stormwater runoff to Monterey Bay. The Plan describes and identifies the location of each of the drainages and associated facilities.
3. The maintenance sites are located within the Point Pinos and Seaside subwatersheds, as well as an undefined subwatershed of the larger Monterey Bay HUC-10 watershed. Several maintenance sites are within intermittent/ephemeral drainages, such as Hartnell Creek, Iris Canyon Creek, Canyon Del Rey Creek, Josselyn Canyon Creek, and Aguajito Creek, which travel through the city from the surrounding hills. These subwatershed drainages are heavily modified in their lower reaches as they approach the city with more densely developed areas. Most of these drainages are diverted to underground stormwater systems west of the downtown area before flowing into El Estero, Del Monte Lake, and Laguna Del Rey before eventually discharging into the Pacific Ocean.

B. PURPOSE OF ORDER

1. On March 26, 2020, the Discharger submitted to the Central Coast Water Board an *Application/Report of Waste Discharge General Information Form for Waste Discharge Requirement or NPDES Permit*; the *City of Monterey Storm Drainage Maintenance Plan*; the *City of Monterey Storm Drain Maintenance Plan Jurisdictional Waters and Wetlands Delineation* dated December 2018; the *City of Monterey Storm Drainage Maintenance Plan Project Biological Resources Assessment* dated March 2019; the *Storm Drainage Maintenance Plan Administrative Draft Initial Study-Mitigated Negative Declaration* dated April 2019; the *Complete Notification of Lake or Streambed Alteration Notification No. 1600-2019-0096-R4*; the *City of Monterey*

Storm Drainage Maintenance Plan Multiple Streams-Monterey County dated October 7, 2019; *Additional Pages for the City of Monterey Storm Drainage Maintenance Plan Waste Discharge Requirements* dated March 26, 2020; *Additional Storm Drainage Maintenance Plan Site Details* dated March 26, 2020; and the United States Army Corps of Engineers (Corps) “No-Permit-Required” letter dated March 10, 2020. The Discharger submitted additional and revised documents as Central Coast Water Board staff worked with the Discharger to clarify Plan details, including the *21_0212 City Resp to WB Staff Cmnts III-CityMtrySDMP WDR* document, the *21_0212 Attachment 2b Additional SDMP site details* document, and the *City of Monterey Storm Drainage Maintenance Plan* dated April 14, 2021. These documents compose the Discharger’s report of waste discharge and describe permanent and temporary impacts and discharges of waste associated with implementation of the Plan to waters of the state including streambeds, wetlands, riparian areas, and lakes.

2. The Corps determined in a letter dated March 10, 2020, that although the activities described in the Plan are proposed to occur within waters of the United States, the Plan does not include activities regulated by the Corps. As such, the Central Coast Water Board is issuing individual waste discharge requirements rather than a federal Clean Water Act section 401 water quality certification for the maintenance activities proposed in the Plan.
3. The California Department of Fish and Wildlife issued an Operation of Law letter for the Plan on September 1, 2020.
4. The Discharger identified its activities within waters of the state as routine maintenance activities that are limited to the removal of sediment, debris, and trash as well as trimming of vegetation. Mechanical and non-mechanical maintenance techniques will be applied with heavy equipment or hand tools. Equipment that cannot be accommodated within designated access areas will not be used. The maintenance activities are only authorized for the Discharger’s facilities to ensure adequate transport storm flows, minimizing the risk of flooding and property damage.
5. The term waste is defined by California Water Code section 13050(d) and includes “any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation.” Plan activities will result in discharges of waste or threatened discharges of waste that could affect the quality of the waters of the state. Removal of sediment, debris, and trash, and trimming of vegetation will result in the discharge, and/or threatened discharge, of these materials in locations and in a manner that could affect the quality of the waters of the state. These discharges will occur in quantities and at locations and at times that would not occur under natural conditions and are therefore waste discharges associated with human activity and habitation. In addition, vegetation management activities will reduce canopy cover, which can lead to erosion and sediment discharge to waters of the state. Mechanized equipment used for vegetation management and sediment removal can also result in discharges of petroleum products into waters of the state. Discharges of petroleum products are discharges of waste associated with human

activity and habitation that have the potential to affect the quality of the waters of the state.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The City of Monterey is the lead agency for the Plan pursuant to the California Environmental Quality Act (California Public Resources Code section 15367). As the lead agency, the City of Monterey adopted a Mitigated Negative Declaration for the Storm Drainage Maintenance Plan (State Clearinghouse No. 2019049012) on May 28, 2019, and filed a Notice of Determination on July 31, 2020, in accordance with California Code of Regulations title 14, chapter 3, and California Public Resources Code section 15301.
 - a. The Central Coast Water Board is a responsible agency under the California Environmental Quality Act (California Public Resources Code section 21069) and in making its determinations, presumes that the City of Monterey's adopted environmental document comports with the requirements of California Environmental Quality Act and is valid (California Public Resources Code section 21167.3). The Central Coast Water Board reviewed and considered the environmental document and the environmental effects of the Plan on water quality and beneficial uses (California Code of Regulations, title 14, section 15096, subdivision (f)).
 - b. The Central Coast Water Board has determined that the Plan, when implemented in accordance with the mitigation monitoring and reporting program and the requirements of this order, will not result in any significant adverse water resource impacts (California Code of Regulations, title 14, section 15096, subdivision (h)).

D. BASIN PLAN

1. The *Water Quality Control Plan for the Central Coastal Basin* (Basin Plan) was most recently updated and adopted by the Central Coast Water Board on June 14, 2019. The Basin Plan incorporates statewide plans and policies by reference and contains a strategy for protecting beneficial uses of state waters. This order implements the water quality standards stated in the Basin Plan.
2. The drainage features included in the Plan are identified on Figure 1 and in Table 1 of the Plan. The Basin Plan identifies the following beneficial uses of the waterbodies impacted during implementation of the activities described in the Plan:

- Municipal and Domestic Water Supply
- Municipal and Domestic Supply
- Groundwater Recharge
- Water Contact Recreation
- Non-Contact Recreation
- Wildlife Habitat
- Cold Fresh Water Habitat
- Warm Fresh Water Habitat

E. AQUATIC RESOURCES AND PROTECTIONS

1. Eight vegetation communities and/or land cover types were identified within the proposed Plan implementation area: coast live oak woodland, Monterey pine forest, mixed Monterey pine and coast live oak woodland, annual grassland, ruderal/developed/landscaped, arroyo willow riparian woodland, mixed riparian woodland, and freshwater emergent wetland.
2. Executive Order W-59-93, dated August 23, 1993, established the California Wetlands Conservation Policy, including an objective to ensure no overall net loss of and a long-term net gain in the quantity, quality, and permanence of wetland acreage and value in California (“No Net Loss Policy”).
3. State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (Resolution No. 68-16), requires regional water quality control boards, in regulating the discharge of waste, to maintain high quality waters of the state until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the state, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in a regional water quality control board’s policies. Resolution No. 68-16 also states, in part:

Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in best practicable treatment and 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.

The discharges regulated by this order are subject to waste discharge requirements that will result in the best practicable treatment or control, the prevention of pollution and nuisance, and maintenance of the highest water quality consistent with maximum benefit to the people of the state.

4. Plan activities such as vegetation treatment and sediment removal can result in partial or complete loss of waters’ beneficial uses at the locations where such activities occur, including temporal loss. To reconcile such losses with the “No Net Loss” requirements of Executive Order W-59-93 and the antidegradation

requirements of State Water Board Resolution No. 68-16, this order requires the Discharger to implement a mitigation plan to ensure that impacts to beneficial uses are mitigated through avoidance and minimization, and that unavoidable loss of beneficial uses is offset with appropriate compensatory mitigation.

5. This order specifies waste discharge requirements that are necessary to adequately address effects on, and threats to, water quality resulting from discharges of waste and the filling of waters of the state; to meet the objectives of the “No Net Loss” requirements of Executive Order W-59-93; to be consistent with antidegradation provisions of State Water Board Resolution No. 68-16; and to accommodate and require appropriate changes during implementation of the Plan. Through adherence to the waste discharge requirements, implementation of the Plan, as described in this order, will not result in violation of state water quality standards.
6. The Discharger will offset losses of waters of the state and associated beneficial uses and demonstrate no net loss of wetlands through implementation of an approved final Storm Drainage Maintenance Plan compensatory mitigation and monitoring plan (CMMP).
7. The *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Procedures) became effective on May 28, 2020. Section IV.B.1 of the Procedures states that when reviewing applications for individual orders,

The permitting authority has the discretion to approve a project only if the applicant has demonstrated the following:

- a. *A sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts that cannot be practicably avoided or minimized to waters of the state;*
- b. *The potential impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources in a watershed (or multiple watersheds when compensatory mitigation is permitted in another watershed as set forth in section IV.B.5(d));*
- c. *The discharge of dredged or fill material will not violate water quality standards and will be consistent with all applicable water quality control plans and policies for water quality control; and*
- d. *The discharge of dredged or fill material will not cause or contribute to significant degradation of waters of the state.*

State Supplemental Dredge or Fill Guidelines section 230.10(d) states in relevant part that “No discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem.”

F. GENERAL FINDINGS

1. Section 13260(a) of the California Water Code requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, which could affect the quality of the waters of the state,¹ file a report of waste discharge. The discharge of sediment, debris, trash, vegetation, or petroleum products constitutes a discharge of waste that could affect the quality of waters of the state.
2. California Water Code section 13263(a) requires that waste discharge requirements be prescribed as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. Such waste discharge requirements must implement any relevant water quality control plans, taking into consideration beneficial uses to be protected, the water quality objectives reasonably required for those purposes, other waste discharges, the need to prevent nuisance, and the provisions of section 13241 of the California Water Code.
3. On March 17, 2021, the Central Coast Water Board notified the Discharger and interested agencies and persons of its intention to issue this order and has provided an opportunity to review a copy of the proposed order and submit views and comments.
4. The Central Coast Water Board, in a public meeting held on June 18, 2021, heard and considered all comments pertaining to the proposed discharge.

II. ORDER

IT IS HEREBY ORDERED THAT the Discharger, to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, must comply with the following requirements:

A. PROHIBITIONS

1. The discharge of fill material or waste in a manner or to areas other than as described in the Storm Drainage Maintenance Plan dated April 14, 2021, the May 28, 2019 Mitigated Negative Declaration for the Storm Drainage Maintenance Plan, the report of waste discharge, the approved final CMMP, any other pertinent submittals, or the findings of this order is prohibited unless the Discharger obtains revised waste discharge requirements that provide for the proposed change prior to the discharge occurring. The requirements within this order supersede conflicting provisions within Discharger submittals.
2. The discharge of waste shall not create a condition of contamination, pollution, or nuisance as defined by section 13050 of the California Water Code.

¹ Waters of the state means any surface water or groundwater, including saline waters, within the boundaries of the state.

3. The discharge shall not directly or indirectly destabilize a channel or bed of a receiving water.
4. The Discharger shall not conduct maintenance activities to increase the size or capacity of a drainage feature beyond the as-built dimensions.
5. The discharge, as mitigated, shall not cause significant adverse environmental impacts.
6. The discharge shall not cause in combination with other discharges a significant cumulative adverse effect on water quality or beneficial uses of waters of the state including, but not limited to, wetlands and headwaters.
7. Discharges to surface waters of wastes or pollutants that are not otherwise regulated by separate National Pollutant Discharge Elimination System requirements or waste discharge requirements are prohibited.
8. The discharge of waste classified as “hazardous” as defined in California Code of Regulations title 23, section 2521, or “designated,” as defined in California Water Code section 13173, is prohibited.
9. The discharge of sand, silt, clay, or other earthen materials from any activity in quantities that cause deleterious bottom deposits, turbidity, or discoloration in waters of the state or that unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
10. The application of hardscape bank stabilization, including but not limited to rip rap, concrete, grout, gabions, sakrete or similar features and materials is prohibited.

B. PROVISIONS

1. The Discharger must comply with all requirements of this order. Violations may result in enforcement actions, including Central Coast Water Board orders or court orders requiring corrective action or imposing civil monetary liability, or in modification or revocation of these waste discharge requirements by the Central Coast Water Board. (California Water Code sections 13261, 13263, 13265, 13267, 13268, 13300, 13301, 13304, 13330, 13340, 13350, and title 23 California Code of Regulations 3867).
2. The Discharger must comply with Basin Plan provisions, including maintaining the protection of beneficial uses and complying with any prohibitions and water quality objectives governing the discharge. In the event of a conflict between the provisions of this order and the Basin Plan, the more stringent provisions prevail.
3. All personnel who engage in maintenance activities or their oversight at the maintenance sites (superintendent, construction manager, foreman, crew, contractor, biological monitor, etc.) shall attend annual trainings prior to the commencement of work for that year. Trainings shall be conducted by a qualified individual with expertise in these waste discharge requirements and actions necessary to maintain compliance with water quality and beneficial use protection measures. The trainings shall include, but are not limited to:

- a. The requirements of this order and how to perform their duties in compliance with those requirements.
 - b. A review of the Basin Plan 4.8.5.1 Land Disturbance Prohibitions; and
 - c. Site-specific discussion of authorized actions at locations where sediment removal is proposed.
4. The Discharger shall continually evaluate maintenance conditions and practices with the objective of reducing maintenance impacts and improving protection of water quality and beneficial uses. The evaluation shall consider at least the following elements:
 - a. Analyzing maintenance practices, particularly in light of new technologies and methods, to identify where existing maintenance practices could be improved or new maintenance practices could be implemented; and
 - b. Analyzing causes and/or sources of problems leading to the need for recurring maintenance (e.g., excessive erosion and sediment discharges, and undersized culverts), that, if addressed, could result in reduced maintenance impacts.
5. The Discharger shall implement the Plan only when necessary to alleviate flood blockage and when thresholds as described in this order are exceeded.
 - a. The Discharger shall clear culverts, culvert inlets, culvert outfalls, flap gates, diversion structures, storm drains, manholes, catch basins or other storm drainage features only when these features are noticeably clogged with debris, sediment, and/or trash and at least 30 percent of their conveyance area is impacted or reduced. However, the Discharger may also remove trash from drainage features at any time, for the purpose of protecting water quality and the beneficial uses of water, provided that removal does not cause significant vegetation impacts or destabilization of drainage feature beds or banks.
6. The Discharger shall not excavate more than 110 linear feet and 50 cubic yards of sediment and debris or remove more than 0.038 acre and 110 linear feet of vegetation at any one site. Minor exceedances above these limits requires approval from the Central Coast Water Board Executive Officer.
7. The Discharger shall not excavate more than 655 linear feet and 236 cubic yards of sediment and debris or remove more than 0.052 acre and 175 linear feet of vegetation in waters of the state in a single year. Minor exceedances above these limits requires approval from the Central Coast Water Board Executive Officer.
8. The Discharger shall use existing roads, trails, and access ramps to access maintenance areas to the maximum extent practicable.
9. Heavy equipment such as excavators and backhoes shall be located outside waters of the state. Locations inaccessible by heavy machinery shall be accessed on foot and actions shall be implemented via hand tools.

10. No sediment, trash, or green waste storage shall occur overnight; all materials shall be hauled off-site on the day of removal from drainage features.
11. Sediment, trash, and green waste generated from the proposed activities shall be disposed of at the Monterey Peninsula Landfill in Marina or another licensed disposal facility.
12. Following sediment removal, the Discharger shall restore channel geometry at sediment removal sites to natural stable conditions, as much as feasible, to be consistent with the water body shape, dimensions, and slope upstream and downstream of the maintenance site. The Discharger shall create smooth transitions between sediment removal sites and undisturbed areas, avoiding the creation of steps or head cut-type features that could cause destabilization or excessive erosion under flow conditions.
13. The Discharger shall stabilize all areas disturbed by maintenance activities with appropriate erosion and sediment control measures. Erosion control materials shall consist of natural fibers that biodegrade over time.
14. The Discharger shall not install permanent petroleum-based erosion control materials, including but not limited to silt fences and or plastic mesh covered coir rolls.
15. Trimming and or removal of vegetation such as shrubs and trees shall be selectively performed to remove as little vegetative material as possible and only vegetation that obstructs stormwater conveyance. If pruning of tree and shrub limbs is necessary, the Discharger shall remove limbs that cross the direction of flow while retaining branches that align with direction of flow, if possible.
16. The Discharger shall not remove whole trees or disturb root systems unless a tree has a trunk of less than two inches at the trunks' widest diameter and the tree obstructs stormwater conveyance.
17. The Discharger shall avoid destabilizing the soil during vegetation removal.
18. The Discharger shall not remove more than 30 contiguous feet of shade or cover created by tree canopy each year without Central Coast Water Board Executive Officer approval.
19. Removal of vegetation that provides shade to surface waters shall not cause an increase in water temperature that adversely affects beneficial uses.
20. All work performed within waters of the state shall be completed in a manner that minimizes impacts to beneficial uses and habitat. Measures shall be employed to minimize land disturbances that will adversely impact the quality of waters of the state. Disturbance or removal of vegetation shall not exceed the least amount of vegetation removal that is necessary to complete Plan implementation.
21. Portions of the maintenance activity areas that occur below top of creek banks or in other waters of the state shall be stabilized for the winter prior to October 1 of each year, either by completing maintenance (including installation of permanent erosion

control measures) or by implementing winterization stabilization measures capable of effectively stabilizing the area and preventing erosion under winter rain and flow conditions generated by the 10-year, 24-hour storm event. No maintenance activities shall be conducted below top of creek banks or in other waters of the state during the winter period of October 1-May 31 unless prior written approval has been obtained from the Central Coast Water Board Executive Officer. Requests to conduct maintenance activities below top of creek banks or in other waters of the state during the winter period shall be submitted to Central Coast Water Board Executive Officer by September 9 at the latest. If approval is obtained, the Discharger shall implement the approved winter work as specified by the Central Coast Water Board Executive Officer.

22. At any time of year, the Discharger shall not conduct maintenance activities below top of creek banks or in other waters of the state during rain events or on any day for which the National Weather Service has predicted a 25 percent or more chance of at least 0.1 inch of rain in 24 hours (Predicted Rain Event). The Discharger shall install effective erosion control, sediment control, and other protective measures no later than the day prior to the Predicted Rain Event and prior to the start of any rainfall. Maintenance activities below top of creek banks or in other waters of the state may resume after the rain has ceased, the National Weather Service predicts clear weather for at least 24 hours, and site conditions are dry enough to continue work without discharge of sediment or other pollutants from the maintenance area.
23. This order authorizes the maintenance activities identified in this order in emergency situations if the Corps is not taking regulatory authority over a specific maintenance activity. A situation is considered an emergency if it is a sudden, unexpected occurrence involving a clear and imminent danger that demands immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage (California Public Resources Code Section 21060.3). All emergency actions shall minimize impacts to water quality as much as possible while alleviating the emergency situation.

C. SITE MANAGEMENT

1. Excavated materials, maintenance materials, and equipment shall not cover aquatic or riparian vegetation.
2. The Discharger shall prevent vehicles loaded with saturated sediment removed from maintenance areas from leaking water onto roadways or into storm drains or waters of the state.
3. The Discharger shall implement and maintain an effective combination of erosion and sediment control measures (e.g., revegetation, fiber rolls, erosion control blankets, hydromulching, compost, straw with tackifiers, temporary basins) to prevent erosion and capture sediment.

4. Erosion and sediment control measures shall be stored at the city's corporation and maintenance yards throughout the City of Monterey so they are readily available for installation in anticipation of rain events.
5. Erosion and sediment control measures and other maintenance best management practices shall be implemented and maintained in accordance with all specifications governing their proper design, installation, operation, and maintenance.
6. All maintenance vehicles and equipment shall be well maintained and checked daily for fuel, oil, and hydraulic fluid leaks or other problems that could result in spills of toxic materials.
7. To the extent practicable, all maintenance equipment and materials (e.g., heavy machinery, sediment, and debris) shall be contained within an existing service road, paved road, or other previously disturbed staging area that is 100 feet from surface waters. The staging area shall be far enough away from surface waters so that materials removed from drainage features cannot be washed by rainfall or runoff into waters of the state and water draining from removed materials cannot re-enter waters of the state.
8. All maintenance, refueling, and washing of equipment shall occur in the designated staging area.
9. The Discharger shall retain a spill plan and appropriate primary spill control and cleanup materials (e.g., oil absorbent pads) onsite in case spills occur. If staging areas cannot be maintained 100 feet from surface waters, the Discharger shall construct secondary containment (i.e., embedded silt fencing, earthen berms or similar impermeable features) so that fluid cannot be transported off of the staging area.
10. All maintenance-related equipment and materials and any temporary BMPs no longer needed shall be removed and cleared upon completion of activities at each maintenance site.
11. If maintenance activities require dewatering or diversion, the Discharger shall submit detailed dewatering/diversion plans for Central Coast Water Board Executive Officer approval at least 21 days prior to any dewatering or diversion. Dewatering/diversion plans shall include the area to be dewatered, timing of dewatering, and method of dewatering to be implemented. The Discharger shall consult with Central Coast Water Board staff for dewatering/diversion plan guidelines. All temporary dewatering/diversion methods shall be designed to have the minimum necessary impacts to waters of the state to isolate the immediate maintenance area. All dewatering/diversion methods shall be installed such that natural flow is maintained upstream and downstream of the maintenance site. Any temporary dams or diversions shall be installed such that the diversion does not cause sedimentation, siltation, or erosion upstream or downstream of the maintenance site. All dewatering/diversion methods shall be removed immediately upon completion of dewatering/diversion activities. Dewatering or diversion shall not commence until the Discharger has obtained Central Coast Water Board Executive Officer approval of

the dewatering/diversion plans. Any dewatering/diversion must be implemented in compliance with approved dewatering/diversion plans.

D. MITIGATION

1. The Discharger shall submit a compensatory mitigation and monitoring plan (CMMP) to the Central Coast Water Board for review and approval by May 31, 2023. The CMMP shall be designed to fully compensate for all permanent and temporary impacts to waters of the state resulting from implementation of the activities detailed in the Plan that are expected to occur over the first five years that the Discharger is covered by this order (impacts that occur from 2021 through 2026). The CMMP shall:
 - a. Identify the mitigation sites and its landowners and any other parties who have legal responsibility over the sites.
 - b. Identify the goals of the CMMP, which shall include:
 - i. Fully mitigating all permanent and temporary impacts to waters of the state that are anticipated to result from Plan implementation over the first five years; and
 - ii. Ensuring no net loss of wetland area and function.
 - c. Identify performance criteria (measures and quantitative targets) that will be used to demonstrate mitigation goals have been achieved and mitigation has been successful.
 - d. Provide impact and mitigation site details for the first five years of enrollment in this order. The third, fourth, and fifth year of impacts will be the impacts that the Discharger anticipates for those years. The Discharger shall include identification of the:
 - i. Impacted habitat types;
 - ii. Estimated acreage and linear feet of impacts, by habitat type;
 - iii. Functions and value of the impacted habitats;
 - iv. Sensitivity of the impacted habitats;
 - v. Use of the impacted habitats by special-status species;
 - vi. Current habitats, functions, values, and hydrologic resources of the mitigation site;
 - vii. Proposed mitigation ratios for impacts, taking into account:
 - 1) Type of impact (permanent or temporary);
 - 2) Impacted habitat type (e.g., wetland, streambed, riparian);
 - 3) Impacted habitat function and value;

- 4) Mitigation type (establishment, re-establishment, rehabilitation, and enhancement); and
 - 5) Mitigation values and functions upon attainment of performance criteria.
 - viii. Estimated quantity of each habitat type to be established, re-established, rehabilitated, and/or enhanced as mitigation for impacts;
 - ix. Proposed overall functions and values of the mitigation site habitats upon achievement of mitigation goals and performance criteria; and
 - x. Proposed time the CMMP implementation will begin and the time until mitigation goals will be achieved.
 - e. A description of mitigation monitoring to be conducted to assess mitigation progress and ensure mitigation is successful and attains performance criteria. The description shall include:
 - i. Length of the monitoring period;
 - ii. Frequency of monitoring;
 - iii. Assessment of growth, survival, percent cover, general health and stature, and signs of reproduction;
 - iv. Assessment of progress towards achieving success criteria; and
 - v. Confirmation monitoring will continue until performance criteria are achieved.
 - f. A description of mitigation maintenance that will be conducted, based on the results of mitigation monitoring, to ensure attainment of mitigation performance criteria.
2. The Discharger shall not implement maintenance activities in year three of this order until the Discharger has obtained approval of the CMMP by the Central Coast Water Board Executive Officer.
 3. The Discharger shall submit a CMMP to the Central Coast Water Board for review and Executive Officer approval by May 31 every five years that the Discharger is covered by this order, i.e., 2026, 2031, and so on. Each draft CMMP shall be designed to fully mitigate all anticipated permanent and temporary impacts to waters of the state during the next five years the Discharger is subject to this order, as well as any impacts not completely mitigated in the previous five years. Each subsequent CMMP needs to only be designed to mitigate those anticipated impacts that are in addition to the impacts resulting from the first five years of Plan implementation.
 4. The Discharger shall not implement maintenance activities in 2026 or subsequent years unless the Executive Officer has approved the most recently submitted CMMP, as specified in section II.D.3 above.

5. The Discharger must implement the Central Coast Water Board Executive Officer approved CMMPs.
6. The Discharger shall remove irrigation lines and equipment from mitigation sites once the mitigation site is successfully established, provided that removal will not result in significant vegetation impacts or soil destabilization.
7. If at any time during the implementation and establishment of planted or graded mitigation areas, and prior to verification of meeting performance criteria, a catastrophic natural event (e.g., fire, flood, drought) occurs and impacts the mitigation area, the Discharger is responsible for repair of the damaged areas.

E. MONITORING AND REPORTING

1. The Discharger shall comply with Monitoring and Reporting Program No. R3-2021-0006 (Attachment 1 of this order).
2. The Discharger must take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

F. SITE ACCESS AND INFORMATION REQUIREMENTS

1. The Discharger shall allow the Central Coast Water Board to do the following:
 - a. Enter upon the premises where a regulated facility or activity is located or conducted, or where records shall be kept under the requirements of this order;
 - b. Have access to and copy any records that shall be kept under the requirements of this order;
 - c. Inspect at reasonable times any facilities, equipment (including maintenance equipment), practices, or operations regulated or required under this order; and
 - d. Sample, photograph, and monitor at reasonable times, for the purpose of ensuring compliance with this order.
2. The Discharger must furnish, within a reasonable time, any information related to the implementation of the Plan and compliance with this order that the Central Coast Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this order. The Discharger must also furnish to the Central Coast Water Board, upon request, copies of records required to be kept by this order.
3. All reports, notices, or other documents required by this order or requested by the Central Coast Water Board must be signed by a responsible City of Monterey officer such as (1) a city manager, assistant city manager, or director of the city's public works in charge of a principal city function; (2) any other person who performs

similar policy or decision-making functions for the city; or (3) by a duly authorized representative of that person.

4. Any person signing a document under this order, the monitoring and reporting program, or the final CMMP must make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

5. After notice and opportunity for a hearing, this order may be terminated or modified for cause, including, but not limited to, the following:
 - a. Violation of any term or requirement of this order;
 - b. Obtaining this order by misrepresentation or failure to disclose all relevant facts; or
 - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

G. STANDARD PROVISIONS

1. The Discharger must maintain a copy of this order at the maintenance sites so it is available at all times to maintenance site personnel and agencies.
2. This order is not transferable to any person except after notice to the Central Coast Water Board. In accordance with California Water Code section 13260, the Discharger must file with the Central Coast Water Board a report of any material change or proposed change in the ownership, character, location, or quantity of this waste discharge. The notice must include a written agreement between the existing and new dischargers containing a specific date for the transfer of this order's responsibility and coverage between the current Discharger and the new discharger. This agreement must include an acknowledgment that the existing Discharger is liable for violations up to the transfer date and that the new discharger is liable from the transfer date on. The Central Coast Water Board may require modification or revocation and reissuance of this order to change the name of the dischargers and incorporate such other requirements as may be necessary under the California Water Code.
3. Any proposed material change in operation must be reported to the Central Coast Water Board at least 30 days in advance of the proposed implementation of any change. This includes, but is not limited to, any proposed expansion in maintenance impact areas. The Central Coast Water Board may require modification or revocation and reissuance of this order to change any requirements in this order and incorporate such other requirements as may be necessary under the California Water Code.

4. This order does not authorize commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws, regulations or rules of other programs and agencies, nor does this order authorize the discharge of wastes without appropriate permits from other agencies or organizations.
5. This order 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 Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 United States Code sections 1531 to 1544). This order requires compliance with requirements to protect the beneficial uses of waters of the state, including protecting rare, threatened, or endangered species. The Discharger is responsible for meeting all requirements of the applicable federal and state Endangered Species Act.
6. The filing of a request by the Discharger for the modification, revocation and reissuance, or termination of this order, or notification of planned changes or anticipated noncompliance does not stay any requirement of this order.

III. NOTIFICATIONS

1. The technical and monitoring reports identified in this order are required pursuant to California Water Code section 13267. The Central Coast Water Board needs the required information to determine the extent of impacts to water quality and beneficial uses from implementing the Plan activities, to evaluate the effectiveness of implementation of required mitigation, and to ensure compliance with this order. The Discharger is required to submit this information because it is the entity that implements the Plan, and, as described in the report of waste discharge, the Plan activities will result in discharges of waste to waters of the state that have the potential to affect water quality and beneficial uses. The requirements of this order are also based on the Discharger's CEQA documentation that identifies actions and mitigation measures. The total cost of all required annual reporting according to this MRP is estimated to be approximately \$10,000 to \$30,000. Given the significance of the potential impacts of the activities on water quality, the burden, including costs, of the annual monitoring reports bears a reasonable relationship to its need and the benefits to be obtained. The evidence supporting the need for the reports required by this order is set forth in this order and in the Central Coast Water Board's public file on this order.
2. These requirements have not been officially reviewed by the United States Environmental Protection Agency and are not issued pursuant to section 402 of the Clean Water Act.
3. The provisions of this order are severable, and if any provision of this order or the application of any 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.

4. This order and its requirements remain in effect until such time as the Discharger requests to terminate its enrollment and such termination is approved by the Central Coast Water Board, or until this order is revoked by the Central Coast Water Board.

IV. ENFORCEMENT

1. Violations of these waste discharge requirements may result in enforcement actions as authorized under the California Water Code.
2. All technical and monitoring reports submitted pursuant to this order are required pursuant to section 13267 of the California Water Code. According to section 13268 of the California Water Code, any person failing or refusing to furnish technical or monitoring reports or falsifying any information provided in such reports is guilty of a misdemeanor and may be civilly liable. Failure to submit reports in accordance with schedules established by this order or attachments to this order or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer may subject the Discharger to enforcement action pursuant to section 13268 of the California Water Code.

V. EFFECTIVE DATE OF THE ORDER

1. This order takes effect upon Central Coast Water Board adoption.

I, Matthew T. Keeling, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Central Coast Region on June 18, 2021.

Matthew T. Keeling
Executive Officer