

PUBLIC REVIEW DRAFT TENTATIVE ORDER
(4/12/10)

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TENTATIVE ORDER FOR WASTE DISCHARGE REQUIREMENTS and WATER QUALITY CERTIFICATION FOR:

**MIDPENINSULA REGIONAL OPEN SPACE DISTRICT -
ROUTINE MAINTENANCE ACTIVITIES, SANTA CLARA AND SAN MATEO
COUNTIES**

The California Regional Water Quality Control Board, San Francisco Bay Region, hereinafter the Regional Water Board, finds that:

1. The Midpeninsula Regional Open Space District (hereinafter Discharger) proposes to conduct routine maintenance activities on 50,112 acres of land within Santa Clara and San Mateo Counties within the jurisdiction of the Regional Water Board. Projects may involve specified streams, creeks, channels, catchment basins, seeps, springs, ponds, and lakes. The purpose of the maintenance activities is to protect water quality and quantity, reduce erosion, and to maintain and enhance natural resources.
2. Routine maintenance activities would occur in several watersheds within San Mateo and Santa Clara Counties including Pilarcitos, Pomponio, Purisima, Butano, Lobitas, Tunitas, Pescadero and San Gregorio creeks watersheds that drain to the Pacific Ocean; and Matadero, Permanente, Saratoga, Calabazas, San Francisquito, Stevens, and Coyote creeks and the Guadalupe River watersheds that drain to San Francisco Bay. A complete list of 118 creeks where routine maintenance activities could occur is contained in Attachment E. This Order applies to portions of these watersheds that are located within the jurisdiction of the Regional Water Board as shown in Attachment D.
3. The Discharger developed documents referred to as Activities that Constitute Routine Maintenance in Waterways, Ponds, and Lakes in the Midpeninsula Regional Open Space District Watersheds (Attachment A) and Best Management Practices and Standard Operating Procedures for Routine Maintenance Activities in Water Courses (Attachment B) dated May 16, 2009, with assistance of Regional Water Board staff. These documents describe program activities, impact avoidance measures, Best Management Practices (BMPs) and habitat restoration measures.

4. The need for specific projects covered by this Order is normally the result of stormwater related erosion, channel down-cutting and sedimentation problems resulting from high stream flow events. Activities that constitute routine maintenance activities (herein referred to as “routine maintenance activities”) are summarized in Attachment A and primarily consist of repair and maintenance of existing structures such as bridges, trails, culverts, staging areas, parking lots, roads, and water supply facilities; limited culvert replacement; installation of fences and gates; minor grading to improve drainage and reduce erosion; trash and litter removal; and minor sediment removal from culverts, culvert outlets, ditches, and bridges.
5. The issuance of Waste Discharge Requirements (WDRs) and Water Quality Certification (WQC) serves to govern the Discharger’s various routine maintenance activities for the purpose of maintaining and enhancing water quality, protecting fish and wildlife habitat, and maintaining trail, road, and drainage infrastructure.
6. The Discharger has received a Notification No. 1600-2007-0107-3 of Lake or Streambed Alteration, dated April 24, 2007, from the California Department of Fish and Game (CDF&G) concerning routine maintenance activities subject to State Fish and Game Code Section 1601.
7. The Discharger contacted the U.S. Army Corps of Engineers regarding proposed routine maintenance activities. The majority of proposed routine maintenance activities qualify for an exemption from U.S. Army Corps of Engineers regulations under 33 Code of Federal Regulations Section 323.4, Discharge Not Requiring a Permit, specifically Exemptions 2 and 6. Some more complex routine maintenance activities may be authorized under the U.S. Army Corps of Engineers Nationwide Permits (NWP): NWP 3, Maintenance; NWP 13, Bank Stabilization; NWP 18, Minor Discharges; NWP 19, Minor Dredging; NWP 27, Aquatic Habitat Restoration, Establishment, and Enhancement Activities; NWP 37, Emergency Watershed Protection and Rehabilitation; NWP 40, Agricultural Activities; NWP 42, Recreational Facilities; or NWP 45, Repair of Upland Damaged by Discrete Events.
8. On March 24, 2008 the Discharger filed an application for Waste Discharge Requirements and Water Quality Certification with the Regional Water Board. For the purposes of this Order, the Activities that Constitute Routine Maintenance (Attachment A) and the BMP manual (Attachment B), together with required Annual Notification of Proposed Projects, describe the range of activities that are permitted under this Order.
9. Issuances of a multi-year permit allows for streamlining of regulatory approval, increasing the efficient use of staff resources for the Regional Water Board and

the Discharger while allowing for review of all planned maintenance projects. In addition, a multi-year permit will allow the Discharger to plan and budget for routine maintenance on a fixed annual cycle.

Impacts and Mitigation Measures

10. Activities that constitute routine maintenance activities are summarized in Attachment A and consist of the following main categories:
 - Facilities maintenance including roads, trails, bridges, culverts, and water supply facilities
 - Vegetation management including large woody debris management
 - Stream bank stabilization
11. Routine facilities maintenance refers to repair and maintenance of existing bridges, trails, culverts, staging areas, parking lots, roads, and water supply facilities. Facilities maintenance activities may include limited culvert replacement with in-kind structures to convey peak stream flows; trail brushing, installation of fences and gates; and grading of up to 2,000 square feet (0.05 acres) to improve drainage and reduce erosion.
12. Vegetation management refers to mowing, manual removal, prescribed fire, herbicide use, bio-control (i.e. livestock, or natural predator insects), shading, removal of trees that may impact park facilities, and replanting of vegetation. Herbicide application will be either spot spraying with backpack sprayers, coating recently cut stumps, or use of wick applicators on steep slopes. The use of herbicides for routine maintenance within the aquatic or riparian areas will be restricted to the Integrated Pest Management approached outline in Attachment B.
13. Bank stabilization involves the repair and stabilization of small bank and streambed when a weakened, unstable, or failing bank causes or threatens damage to an adjacent property; generates erosion which increases downstream sediment yields; impacts riparian habitat and/or other natural resource values; increases the flood hazard; threatens public safety; or impairs roads, transportation, or access.
14. Routine maintenance activities proposed under this Order are small in scale. The footprint of individual projects will not exceed 2,000 square feet (0.05 acres) or 150 linear feet for any one project, except clearing of inboard ditches when necessary to prevent or reduce diversion potential to road and trail systems. Projects over 150 feet in length or adjacent projects implemented within 3 calendar years totaling over 150 feet in length would require separate notification to the Board. Individual projects will not exceed a total of 25 cubic yards of cut material and 25 cubic yards of fill material. Projects solely consisting of clearing of inboard ditches, when necessary to reduce road and trail erosion, are not limited to 150 linear feet.

15. Routine maintenance activities proposed under this Order will not be performed in perennial, intermittent and ephemeral streams that are known to contain anadromous fish.
16. For most bank stabilization and sediment removal projects, excavators are used from the top-of-bank. For projects where the use of excavators from the top-of-bank is not possible, or would cause major vegetation impacts, equipment may be used within the channel when it is dry naturally or the flows bypassed.
17. Vegetation management techniques include removal using small hand tools and hand-held equipment, mechanical removal using heavy equipment like a flail mower attached to an excavator, and spot chemical control on tree stumps and along access roads.
18. All staging will occur on adjacent access roads or previously disturbed areas. Soil and rip-rap will be staged in areas that have been previously disturbed (i.e., service road, turn-outs, etc). If repair activities affect the active channel, the work area will be isolated from flowing stream segments using silt fences, wattles, and/or cofferdams and restored to pre-project conditions after maintenance is complete.
19. The Activities that Constitute Routine Maintenance in Waterways, Ponds, and Lakes (Attachment A) and Best Management Practices and Standard Operating Procedures (Attachment B) includes planning guidelines or principles to determine how, where, and when routine maintenance activities should occur. These principles are used in the development of each year's maintenance work plan, prior to any work. When applied, these principles consider the natural function of the system, provide an understanding of local physical constraints, identify sensitive habitats, consider watershed processes, determine when action is needed, identify maintenance activities needed, and strive to recognize and implement solutions to minimize the on-going need for maintenance activities.
20. The Activities that Constitute Routine Maintenance in Waterways, Ponds, and Lakes have been proposed in conformance with Department of Fish and Game Lake and Streambed Alteration Notification No. 1600-2007-0107-3 to minimize detrimental impacts to beneficial uses. Maintenance of bridge and culvert, stream bank stabilization, vegetation management and habitat enhancement will reduce the amount of sediment delivered to maintained channels and will enhance habitat for rare and endangered species.
21. Most Routine maintenance activities under this Order will be conducted in a manner that results in no net loss of wetlands, some may require on-site mitigation consistent with the State's 'no net loss' wetland policy. All wetland mitigation activities shall occur within the Discharger's jurisdiction. Wetland

impacts and mitigations associated with individual projects will be accounted for by acreage, linear feet, and type and will be reported to the Board annually.

Reporting Wetland Tracker System

22. It has been determined through regional, state, and national studies that tracking of mitigation/restoration projects must be improved to better assess the performance of these projects, following monitoring periods that last several years. In addition, to effectively carry out the State's No Net Loss Policy for wetlands, the State needs to closely track both wetland losses and mitigation/restoration project success. Therefore, we require that the Discharger use the Wetland Tracker Standard Form to provide Project information related to impacts and mitigation/restoration measures (see Provision E.32 and E.33 of this Order). An electronic copy of the form and instructions can be downloaded at: <http://www.waterboards.ca.gov/sanfranciscobay/certs.shtml> Project information concerning impacts and mitigation/restoration will be made available at the web link: <http://wetlandtracker.org>

Regulatory Framework

23. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the 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 implementation plans to achieve water quality objectives. The Basin Plan was duly adopted by the Water Board and approved by the State Water Resources Control Board, Office of Administrative Law and the U.S. EPA, where required.
24. The Basin Plan lists the following existing and potential beneficial uses for surface waters in San Mateo County and Santa Clara Counties within the jurisdiction of the Regional Water Board. The Discharger conducts maintenance activities on an estimated 118 creeks within the following watersheds: Butano, Pilarcitos, Pomponio, Purisima, Lobitas, Tunitas, Pescadero, San Gregorio, Matadero, Permanente, Saratoga, Calabazas, San Francisquito, Stevens, Coyote creeks and the Guadalupe River with the following designated beneficial uses:
 - a. Agricultural Supply (AGR)
 - b. Cold Freshwater Habitat (COLD)
 - c. Freshwater Replenishment (FRSH)
 - d. Groundwater Recharge (GWR)
 - e. Fish Migration (MIGR)
 - f. Municipal and Domestic Supply (MUN)
 - g. Navigation (NAV)
 - h. Rare, Threatened, or Endangered Species (RARE)
 - i. Water Contact Recreation (REC-1)
 - j. Non-contact Water Recreation (REC-2)
 - k. Fish Spawning (SPWN)
 - l. Warm Freshwater Habitat (WARM)

m. Wildlife Habitat (WILD)

Sediment management, vegetation management, and bank stabilization activities could temporarily impact beneficial uses of waters of the State for:

- a. Warm Freshwater Habitat (WARM)
- b. Cold Freshwater Habitat (COLD)
- c. Wildlife Habitat (WILD)
- d. Rare, Threatened, or Endangered Species (RARE)
- e. Fish Migration (MIGR)
- f. Fish Spawning (SPWN)

25. The following groundwater basins support the beneficial uses listed below. This includes; San Mateo Plain, Santa Clara Valley/Coyote Valley, and San Gregorio Valley.

- a. Agricultural Supply (AGR)
- b. Industrial Service Supply (IND)
- c. Industrial Process Supply (PROC)
- d. Municipal and Domestic Supply (MUN)

26. The following water bodies that could be affected by routine maintenance activities under this Order are identified as impaired on the Clean Water Act Section 303(d) list for the pollutants listed:

Impaired Water Body	Pollutant
Guadalupe Creek	Mercury
Pescadero Creek	Sediment/siltation
San Francisquito Creek	Sediment/siltation
San Gregorio Creek	Sediment/siltation Coliform bacteria
Stevens Creek	Toxicity
Stevens Creek Reservoir	Chlordane Mercury PCB (Polychlorinated biphenyl)

27. Lower San Francisco Bay, which is a receiving water body for some of the creeks listed above, is identified as impaired on the Clean Water Act Section 303(d) list and is listed as impaired for Chlordane, DDT, Dieldrin, Dioxin compounds, Exotic Species, Furan Compounds, Mercury, PCBs, and Selenium.

28. On June 1, 2007, the County of Santa Clara issued a Notice of Exemption (NOE) for maintenance activities in portions of Santa Clara County, San Mateo County, and Santa Cruz County. The NOE certifies that the Project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to:

- Section 15301 for the operation, repair maintenance, or minor alteration of existing structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use;
 - Section 15302 for the replacement or reconstruction of existing structures and facilities on the same site having substantially the same purpose and capacity; and
 - Section 15311 for small habitat restoration projects less than 5 acres.
29. Pursuant to Title 23, California Code of Regulations Sections 3857 and 3859 the Regional Water Board is issuing Waste Discharge Requirements and Water Quality Certification for routine maintenance activities proposed by the Discharger as described in Attachment A.
 30. The Regional Water Board has notified the Discharger and interested parties of its intent to issue Waste Discharge Requirements and Water Quality Certification for routine maintenance activities.
 31. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to this Order.

IT IS HEREBY ORDERED that the Midpeninsula Regional Open Space District (Discharger), in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

A. Discharge Prohibitions

1. The direct or indirect discharge of wastes, as defined in Section 13050(d) of the California Water Code, within or outside of the active project site, to surface waters or surface water drainage courses is prohibited, except as authorized in this Order.
2. The discharge shall not cause degradation of water quality and beneficial uses.
3. Excavated sediment shall remain within designated disposal areas at all times. The designated disposal areas are: (a) any off-site, authorized temporary or permanent location maintained in compliance with federal and state regulations, (b) any on-site, authorized temporary or permanent location, provided material will be isolated and contained to prevent impacts to waters of the State and their beneficial uses, or (c) a permitted landfill.
4. The discharge of sediment and runoff/decant water that exceeds effluent limits, from excavated materials disposed of at any temporary or permanent disposal site, to waters of the State, is prohibited.

5. Maintenance activities subject to these requirements shall not cause a condition of pollution or nuisance as defined in Section 13050 (l) and (m), respectively, of the California Water Code.
6. Groundwater beneficial uses shall not be degraded as a result of routine maintenance activities.
7. No debris, soil, silt, sand, cement, concrete, or washings thereof, or other construction related materials or wastes, oil or petroleum products or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into waters of the State.

B. Discharge Specifications

1. Appropriate soil erosion control measures shall be undertaken and maintained to prevent discharge of sediment to surface waters or surface water drainage courses.
2. Excavated material shall be fully contained to prevent any wind transport, surface runoff or erosion into waters of the state. At no point within the containment area shall the elevation of sediment exceed that of the containment levees.
3. In accordance with Section 13260 of the California Water Code, the Discharger shall file a report with this Regional Water Board of any material change or proposed change in the character, location, or volume of the discharge. Any proposed material change in the operation shall be reported to the Executive Officer at least two weeks in advance of implementation of any such proposal.
4. The responsible representative of the Discharger shall immediately and in no case no more than 24 hours, notify the Regional Water Board staff by telephone whenever an adverse condition occurs as a result of this discharge. An adverse condition includes, but is not limited to, a violation or threatened violation of the requirements of this Order, significant spill of petroleum products or toxic chemicals, or damage to control facilities that could affect compliance. Pursuant to Section 13267(b) of the California Water Code, a written notification of the adverse condition shall be submitted to the Regional Water Board within five days of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to the modifications of the Regional Water Board, for the remedial actions.

C. Effluent Limitations

Excavated material effluent (decant water) discharged from any permanent or temporary disposal site located on the project site or off the site, shall not exceed the following numeric and narrative limits at any time:

1. Numeric Limits

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|-----------------------|--------------|
| i) pH | 6.5 – 8.5 |
| ii) Settleable Matter | <1.0 ml/l-hr |

2. Narrative Limits

- a. Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses; and
- b. All water shall be free from dissolved sulfide concentrations above natural background levels.

D. Receiving Water Limitations

- 1. Work in and around the stream channel shall not cause the following conditions to exist in waters of the State at any place:
 - a. Waters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.;
 - b. Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses;
 - c. Waters shall not contain biostimulatory substances in concentration that promote aquatic growth to the extent that such growth cause nuisance or adversely affect beneficial uses;
 - d. Waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life;
 - e. There shall be no alteration of temperature, turbidity, or apparent color beyond present natural background levels;
 - f. Dissolved Oxygen, with the following beneficial use designations, shall not be reduced below the following minimums in the receiving water from the point of discharge;
 - g. Routine maintenance activities shall not cause the following limits to be exceeded in waters of the State at any point:

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- a. Dissolved Oxygen: 5.0 (WARM) or 7.0 (COLD) mg/l minimum. When natural factors cause lesser concentrations, then this discharge shall not cause further reduction in the concentration of dissolved oxygen.
- b. Dissolved Sulfide: All water shall be free from dissolved sulfide concentrations above natural background levels. Concentrations of only a few hundredths of a milligram per liter can cause a noticeable odor or be toxic to aquatic life. Violation of the sulfide objective will reflect violation of dissolved oxygen objectives as sulfides cannot exist to a significant degree in an oxygenated environment.
- c. pH: A variation of natural ambient pH by more than 0.5 pH units.
- d. Toxicity: All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms.
- e. Un-ionized Ammonia: 0.025 mg/L as N, annual median; and 0.16 mg/L as N, maximum.
- f. Salinity: The project shall not increase total dissolved solids or salinity to adversely affect beneficial uses
- g. Turbidity: Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases from normal background light penetration or turbidity relatable to waste discharge shall not be greater than 10 percent in areas where natural turbidity is greater than 50 NTU.

3. The discharge shall not cause a violation of any particular water quality standard for receiving waters adopted by the Regional Water Board or the State Water Board as required by the Clean Water Act and regulations adopted thereunder. If more stringent applicable water quality standards are promulgated or approved pursuant to Section 303 of the Clean Water Act, or amendments thereto, the Regional Water Board will revise and modify this Order in accordance with such more stringent standards.

E. Provisions

General Water Quality

1. The Discharger shall be restricted to maintenance activities summarized in Attachment A that are related to the following U.S. Army Corps of Engineers Nationwide Permits (NWP) for the purpose of this Order:
 - NWP 3, Maintenance
 - NWP 13, Bank Stabilization
 - NWP 18, Minor Discharges
 - NWP 19, Minor Dredging
 - NWP 27, Aquatic Habitat Restoration, Establishment, and Enhancement Activities
 - NWP 37, Emergency Watershed Protection and Rehabilitation
 - NWP 40, Agricultural Activities
 - NWP 42, Recreational Facilities
 - NWP 45, Repair of Upland Damaged by Discrete Events

The description of the type of work considered for each NWP listed above is provided in the June 7, 2000 U.S. Army Corps of Engineers document entitled: “Final Notice of Issuance, Re-issuance, and Modification of Nationwide Permits.”

2. The Discharger shall submit, by December 30th each year an Annual Notification of proposed projects specifying planned routine maintenance activities that will occur in the following year. The annual work plan shall indicate project location, scope, purpose and need, and wetland fill and associated mitigation.
3. The Discharger shall adhere to the conditions of 1602 Lake and Streambed Alteration Agreement No. 1600-2007-0107-3 entered into between the Discharger and the California Department of Fish and Game on April 24, 2007, regarding streambed alteration notification and fish and wildlife habitat protection.
4. Under this Order, routine maintenance activities will not be conducted in perennial or intermittent streams known to contain anadromous fish. For intermittent streams and tributaries connected to perennial streams with anadromous fish, where the presence of anadromous fish is unknown, the Discharger shall conduct surveys prior to any activity to determine the presence of any anadromous fish using the Sensitive Species Distribution Map (Attachment C), and list of Affected Water Bodies (Attachment E).
5. The Discharger shall implement all applicable BMPs described in Attachment B. Changes to the bank repair methods shall be proposed in the Annual Notification

of Proposed Projects package, or equivalent document, and approved in writing by the Executive Officer before implementation.

6. For routine maintenance activities impacting watercourses that are known to support or have the potential to support threatened and/or endangered species, a qualified biologist shall conduct a pre-construction survey. If a threatened and/or endangered species are located during the pre-construction survey at the project site, the Discharger will not conduct the project under this Order and will consult with Regional Water Board staff.
7. The Discharger shall implement bioengineering methods as the preferred methodology for bank stabilization projects. Repairs that require alternative structural reinforcement, such as placement of rock rip-rap, shall be filled with native soil and local plant materials and mulch, unless these materials would contribute to further erosion and sedimentation. A rationale for each instance of utilizing an alternate more hardened bank stabilization method must be stated and discussed in the annual report.
8. Routine maintenance activities shall not result in direct or cumulative significant impacts to water quality or beneficial uses of waters of the State.

Wetland Mitigation

9. Most routine maintenance activities under this Order will be conducted in a manner that results in no net loss of wetlands, some may require mitigation consistent with the State's "no net loss" wetland policy. The Discharger shall maintain records of all wetland loss and wetland creation associated with each individual routine maintenance activity project. The total acreage, linear feet, and type of wetland impacted and the total acres, linear feet, and type of wetland created, and total credits available from prior years and current year shall be reported in the annual Post-maintenance reports. In addition, the number, location, and nature of restoration sites, including pre-construction and post-construction photographs, of restored sites shall be submitted as part of the annual Post-maintenance reports.
10. If excess wetland credits are accrued the Discharger may make credits available to other public entities to be used as compensatory mitigation for loss of wetlands associated with other projects located within the following watersheds: Pilarcitos, Pomponio, Purisima, Butano, Lobitas, Tunitas, Pescadero, San Gregorio, Matadero, Permanente, Saratoga, Calabazas, San Francisquito, Stevens, Coyote Creek and the Guadalupe River. The Discharger may allow public entities to use excess wetland mitigation credits documented from previous years as compensatory mitigation or may accept payment of an in-lieu fee to construction wetland mitigation projects within Midpeninsula Regional Open Space District managed lands.

11. The Discharger shall submit separate WQC applications for projects that do not meet the criteria for the routine maintenance activities summarized in Attachment A, or do not qualify for the U.S. Army Corps of Engineer NWP's listed in Provision E.1. At minimum, the Discharger shall submit separate applications for water quality certification for any single wetland impact to a water body or wetland fill greater than 2,000 square feet (0.05 acre) and for any dredging activity of more than 25 cubic yards per site per year.

Sediment Management

12. The Discharger may temporarily stockpile excavated sediment prior to disposal or reuse, provided that appropriate state and federal regulations are met and BMPs are implemented to protect water quality and beneficial uses. The excavated sediment may be stockpiled on-site so that it can be loaded into trucks for off-site disposal within three working days. The excavated sediment may also be temporarily stockpiled at an off-site location so that runoff, sediment, or decant water from the excavated materials will not contact waters of the State.
13. All staging shall occur on adjacent access roads or previously disturbed areas. Soil and rip-rap shall be staged in areas that have been previously disturbed (i.e., service road, turn-outs, etc). If repair activities affect the active channel, the work area shall be isolated from flowing stream segments using silt fences, wattles, and/or cofferdams and restored to pre-project conditions after maintenance is complete. Instream diversion techniques and instream isolation techniques are specified in Attachment B. All stream diversions shall be closely maintained and monitored. Pumped diversions shall be continuously monitored (24-hours). Upon completion of work in diverted channel, the stream diversion shall be removed and flow shall be re-directed through the new culvert or back into the original stream channel.
14. Non ground-disturbing work may be conducted in the channel zone, but outside the low-flow channel, at anytime. This includes pruning and removing select non-native invasive plant species, maintaining channel access roads for drainage and accessibility, conducting minor repairs of culverts, and repairing fences (along either side of access roads, including the upper portion of stream banks where access is from the service road). These maintenance activities may be conducted at any time, provided there is no discharge of waste that may cause an adverse impact to water quality or beneficial uses. Planting of riparian vegetation may be done at any time provided there is no erosion and sedimentation that may cause an adverse impact to water quality or beneficial uses.
15. Temporary road crossings primarily for emergency use such as for the passage of heavy equipment for fire suppression shall be graded carefully to preclude the discharge of sediment, soil or rock into flowing or standing water. The rock and gravel being graded shall not be removed from the streambed.

16. The Discharger shall divert any flow at the site around the active maintenance site in a non-erosive manner, in accordance with Best Management Practices for Standard Operating Procedures for Routine Maintenance Activities (Attachment B).
17. No equipment shall operate in standing or flowing water. Work may be performed in the stream channel if no water is flowing or if flow has been diverted in accordance with Provisions E.13. E. 14 and E15, above.

Vegetation Management

18. All vegetation management activities that could result in the runoff of herbicides that are not registered for aquatic use into waters of the State are prohibited.
19. The Applicant shall select and apply herbicides according to the product label directions and uses approved by the United States Environmental Protection Agency and the California Department of Pesticide Regulation, and per applicable provisions of this Order.
20. Only herbicides and surfactants registered for aquatic use will be applied to aquatic areas or within the banks of channels. Herbicides will not be applied during or within 24 hours prior to rain.
21. Livestock will be managed and prohibited from entering stream channels. Vegetation removal will not exceed 2,000 square feet (0.05 acres) in size, 150 adjacent linear feet, or the minimum necessary to complete operations, whichever is less.
22. Vegetation management activities that could result in the destabilization of stream banks or increase sediment input into waters of the State are prohibited.
23. Vegetation management activities shall not adversely impact the riparian zone, shade, canopy coverage, or habitat. Overall impacts of vegetation management activities shall improve beneficial uses.
24. The Discharger shall mitigate for impacts to water quality and beneficial uses from its vegetation management activities. Mitigation shall be by revegetation with native vegetation, and other methods describe in Attachments A and B.

Waste Management

25. The Discharge of any hazardous, designated or non-hazardous waste as defined in Title 27, Division 2, Subdivision 1, Chapter 2 of the California Code of Regulations shall be conducted in accordance with applicable state and federal regulations.

26. The Discharger shall remove and relocate any wastes that are discharged in violation of this Order. Waste shall be disposed of at a location in compliance with federal and state regulations and in such a way as to prevent impacts to waters of the State and their beneficial uses.
27. The Discharger shall ultimately dispose of dewatered material at a permitted landfill, approved upland sediment disposal site, or at an approved reuse site in accordance with applicable state and federal regulations, including applicable provisions of this Order.

Monitoring and Reporting

28. Annual Notification Reports, including the Annual Notification of Proposed Projects for the following year's proposed projects shall be submitted by December 30th of each year.
29. The following activities are exempt from annual notification requirements and may occur any time at the discretion of the Applicant: maintenance of existing access roads located along the top-of-bank where there will be no impact on waters of the State; maintenance of V-ditches along existing service roads where all work is above the level of top-of-bank of the adjacent stream, and there is no impact to waters of the State; and removal of debris (trash, shopping carts, etc.) accumulations using hand labor and not involving the removal of vegetation or large woody debris.
30. Annual Post-Maintenance reports, including a description of work performed, any unanticipated field conditions, changes to planned projects or performance of mitigation measures.
31. After eight years of routine maintenance activities, the Discharger and Regional Water Board will consider reissuing WDR and WQC for an additional eight years. The review will include an assessment of routine maintenance activities conducted to date, BMPs, and overall program coordination and communication between the Discharger and regulatory agencies.
32. To support annual program implementation, the Discharger will submit the following documents and reports annually to the Regional Water Board:
 - a) Annual Notification of Proposed Projects,
 - b) Annual Post-Maintenance Report,
 - c) Any other Self-Monitoring Reports required or deemed necessary

The Discharger can choose to submit the above reports by uploading them to the Wetland Tracker website at <http://www.wetlandtracker.org/tracker/ba/list>. To upload the reports, go to the above link, click on your project, click on Files & Links, and follow the steps. If any report is uploaded to the Wetland Tracker, then

the Discharger shall notify the Regional Water Board staff case manager that the report has been uploaded.

33. The Discharger is required to use the standard Wetland Tracker form to report habitat losses and gains as part of the Annual Post-Maintenance Report. The completed Wetland Tracker form shall be submitted electronically to wetlandtracker@waterboards.ca.gov and in hard copy to both 1) the Regional Water Board (see the address on the letterhead), attention Wetland Tracker; and 2) to the San Francisco Estuary Institute, 1110 Pardee Lane, Oakland, CA 94621-1424 to the attention of Mike May.
34. This Order combines Waste Discharge Requirements and Clean Water Act Section 401 Water Quality Certification provisions. The annual fee shall reflect this, and consist of the following:

The fee amount for the Waste Discharge Requirements portion shall be in accordance with the current fee schedule, per California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200(a)(1), based on the discharge's Threat to Water Quality and Complexity rating of the Discharge to Land or Surface Waters, plus applicable surcharge(s). The Threat and Complexity rating shall be rated as 3C, and shall remain at this level throughout the period of this Order.

Records Provisions

35. The Discharger shall maintain records of all routine maintenance activities, natural resources in the program area, permitting requirements, and mitigation efforts.
36. The Board Executive Officer may request that data be provided to the Regional Water Board at times outside of the reporting requirements specified in this order.
37. Discharger shall retain records of all reports required by this Order, and records of all information used to complete the application for this Order, for a period of at least eight years. This period may be extended by request of the Regional Water Board Executive Officer at any time.
38. The Discharger shall submit electronic versions of any submitted reports or documents.

General Provisions

39. Capital improvement projects and emergency activities and procedures are not covered in this Order, except as specified and approved by the CDF&G Lake and Streambed Alteration Agreement No. 1600-2007-0107-3.

40. The Discharger shall comply with all necessary approvals and/or permits routine maintenance activities from applicable government agencies, including, but not limited to, San Francisco Bay Regional Water Quality Control Board, California Department of Fish and Game, United States Army Corps of Engineers, United States Fish and Wildlife Service, National Oceanic and Atmospheric Administration - National Marine Fisheries Service, and local agencies. The Discharger shall submit copies of such approvals and/or permits to the Regional Water Board's Executive Officer prior to routine maintenance implementation.
41. The Discharger shall implement the routine maintenance activities in accordance with BMPs described in Attachment B and the findings herein, and shall comply with all applicable water quality standards.
42. Any change to routine maintenance activities that would have a significant or material effect on the findings, conclusions, or conditions of this Order shall be submitted to the Executive Officer for review and written approval.
43. Routine maintenance activities shall occur only when there is no surface flow or the channel has been dewatered during the construction period of April 15 to October 31 of any year, or until the immediate project area receives the first significant rainfall (defined as 0.5 inches of rain in a 24-hour period), whichever comes first. Routine maintenance activities shall occur beginning June 15 for streams that support anadromy in accordance with CDF&G Lake and Streambed Alternation Agreement No. 1600-2007-0107-3. Routine maintenance activities started before October 15 shall be at least 50 percent complete by October 15 of any year, and shall be completed by October 31 or until the first significant rainfall as described above.
44. This water quality certification and issuance of WDRs is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code Section 13330 and Title 23, California Code of Regulations, Section 3867.
45. This water quality certification is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Title 23, California Code of Regulations, Section 3855, Subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
46. The Regional Water Board may add to or modify conditions of this Order, as appropriate, to implement any new or revised TMDL requirements.
47. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and

implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.

48. The Discharger shall maintain a copy of this Order, and all relevant plans and BMPs at routine maintenance work sites so as to be available at all times to site operating personnel.
49. The Discharger shall correct any and all problems that arise from routine maintenance activities, including a failure to meet the conditions of this Order that results in an unauthorized release of pollutants, including sediment.
50. The Discharger shall permit the Regional Water Board staff or its authorized representative, upon presentation of credentials:
 - a. Entry on to the premises on which maintenance activities are planned or underway, wastes are located, or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Order.
 - c. Access to inspect any treatment equipment, monitoring equipment or monitoring method required by this Order.
 - d. Access to sample any discharge or surface water covered by this Order.
51. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this Order, the Regional Water Board may require the Discharger to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.
52. This Order is not transferable.
53. The authorization of this Order expires on June 9, 2010. Mitigation reporting, accounting, and Post-maintenance report requirements that extend beyond the term of this Order are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

I, Bruce Wolfe, Executive Officer, do hereby certify that the foregoing is a full, complete and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region on

BRUCE H. WOLFE
Executive Officer

Attachments:

- A: Activities that Constitute Routine Maintenance
in the Discharger's Watersheds
- B: Best Management Practices (BMPs)
- C: Sensitive Species Distribution Map
- D: Regional Map
- E: Affected Water Bodies