

## Beth, Margarete@Waterboards

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**From:** Sunny Williams <sunnywilliams@valleywater.org>  
**Sent:** Tuesday, March 11, 2014 4:59 PM  
**To:** Beth, Margarete@Waterboards  
**Cc:** Rohrbough, Jon@Waterboards; Beau Goldie; gary.stern@noaa.gov; Mangione, Lisa SPN; valiela.luisa@epa.gov; Schane, Tami@Wildlife; Goude, Cay@FWS; Kristen O'Kane; Chris Elias; Hurley, Bill@Waterboards  
**Subject:** SCVWD comments on tentative Order  
**Attachments:** SCVWD Comment Letter\_TO\_031114.pdf

Ms. Beth

Please accept the SCVWD's comments on the SMP tentative Order. Please contact me if you have any questions.

Thank you

Sunny Williams  
Certified Arborist WE-3867A

Environmental Planner  
Stream Maintenance Program  
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San Jose CA 95118  
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*"The landscape belongs to the person who looks at it." Ralph Waldo Emerson*



"Please consider the environment before printing this email."

March 10, 2014

Ms. Margarete Beth  
California Regional Water Quality Control Board  
San Francisco Bay Region  
1515 Clay Street, Suite 1400, Oakland, CA 94612

**Subject: Comments on Tentative Order R2-2014-XXXX to issue Waste Discharge Requirements and Water Quality Certification (TO) for the District's Stream Maintenance Program**

Dear Ms. Beth:

The Santa Clara Valley Water District ("District") hereby submits the following comments on Tentative Order No. R2-2014-XXXX - Waste Discharge Requirements and Water Quality Certification (TO) for the District's Stream Maintenance Program (SMP), released for public review by the San Francisco Bay Regional Water Quality Control Board ("Regional Board") on February 10, 2014. The TO is scheduled to be considered at the April 9, 2014 Regional Board Hearing. The District requests that the TO be revised to reflect the comments discussed in this letter.

Page 2:

Finding 8 states: "The SMP Manual and associated attachments are considered a "living document" which allows for minor updates and revisions as maintenance techniques and methods are changed to be more protective of the environment to improve the District's stream maintenance program."

The District agrees that the SMP Manual is a "living document", however; the Manual states the following, "The SMP is envisioned to be flexible, subject to periodic revisions that reflect improved understanding of resource conditions, maintenance technologies, and management practices over time." The District incorporates stream stewardship practices into design and construction of maintenance activities by avoiding and minimizing impacts whenever possible. There may be instances that require a change to maintenance methods or best management practices due to the infeasibility of current practices. We respectfully request the following revision to Finding 8 (note: underline denotes new text): ""The SMP Manual and associated attachments are considered a "living document" which allows for minor updates and revisions as maintenance techniques and methods are changed to be more protective of the environment or to improve the District's stream maintenance program."

Page 2:

Finding 9 reads: "The SMP Manual covers five primary maintenance activities: vegetation management, sediment removal, bank stabilization, management of animal conflicts, and minor maintenance. The SMP also includes a habitat protection and enhancement component that consists of invasive plant management, riparian planting program, instream habitat complexity program, and land preservation."

The SMP's habitat protection and enhancement components also include gravel augmentation and large woody debris. While these components provide instream habitat complexity, the term "instream habitat complexity" is used in the SMP to be a specific mitigation type. Please add "gravel augmentation, large woody debris" to the list of habitat protection and enhancement components.

Page 2:

Finding 10 reads: "The District maintains channels where it has fee title or easements, or where the District has received specific direction from the District's Board or a regulatory agency."

Other regulatory agencies do not have jurisdiction or legal authority to require the District to conduct work where the District has no land rights (i.e., on private property). Please strike "or a regulatory agency."

Page 4:

Finding 19 reads: "Minor maintenance activities include: cleaning and removing sediment (limited to 25 cubic yards per project site) at outfalls, culverts, flap gates, tide gates, inlets, grade control structures, fish ladders, fish screens; removing trash and debris; repairing and installing fences and gates; grading and repairing existing maintenance roads to restore the original contour; grading small areas without vegetation above channel banks to improve drainage and reduce erosion, repairing structures with substantially similar materials within approximately the same footprint; installing and maintaining mitigation and landscape sites; removing obstructions at structures to maintain functions; and maintaining stream gauges."

Grading small areas above channel banks should include areas either with or without vegetation. Requirements for vegetation removal are included in the minor maintenance limits. Please strike "without vegetation."

Page 5:

Finding 21 states: "The District implements stream maintenance activities in an integrated stream management approach that involves protecting and enhancing existing instream resources while providing for the flood conveyance capacity in the stream channels."

The District appreciates the Water Board's recognition of our approach to incorporate protection and enhancement of existing stream resources into our maintenance activities. The primary goal of the SMP is to preserve flow conveyance capacity for flood protection and to maintain

structural integrity of District facilities such as stream banks and maintenance roads. The District incorporates stream stewardship measures to reduce potential impacts and enhance conditions where possible. We request this finding be revised to read, "The District implements stream maintenance activities in an integrated stream management approach that involves preserving the flood conveyance capacity in the stream channels while protecting and enhancing existing instream resources."

Page 6:

Finding 24 states: "The District has a mitigation deficit associated with SMP, activities conducted during the 2002-2013 period (SMP-1) under Order R2-2002-0028. The District shall complete mitigation as required in Provision No. 49 of this Order. Order No. R2-2002-0028 required the District to complete a total of 10.0 mitigation acres for the Freshwater Wetland Creation/Restoration mitigation component and 81.0 mitigation credits for the Stream and Watershed Protection mitigation component. The District has fulfilled the mitigation requirements for the Tidal Wetland Restoration mitigation component, the Giant Reed Control mitigation component, and the Invasive Smooth Cordgrass mitigation component. The District has completed 7.0 mitigation acres for the Freshwater Wetland Creation/Restoration mitigation component and 10.0 mitigation credits for the Stream and Watershed Protection mitigation component. The District is in the midst of several land acquisitions, including finalizing associated conservation easements and long-term management plans that will fulfill another 59.0 mitigation acre credits. The District shall complete the remaining mitigation requirements of 3.0 mitigation acres for the Freshwater Wetland Creation/Restoration mitigation component and 12.0 mitigation credits for the Stream and Watershed Protection mitigation component by December 31, 2014 including finalizing land acquisition(s) and associated conservation easements and long-term management plans."

The District is proposing to fulfill both the remaining 3.0 mitigation acres for the Freshwater Wetland Creation/Restoration mitigation component and the remaining 12.0 mitigation credits for the Stream and Watershed Protection (S&WP) mitigation component via acquisition and preservation of a property in the Guadalupe Watershed, which was introduced and described to the permitting agencies through a February 10, 2014 email and a February 25, 2014 site visit. This property will provide more than 15.0 S&WP mitigation credits. Because the District just recently became aware of this property, we are requesting that paragraph above be revised to read (note: underline denotes new text and strikethrough denotes deleted text), "The District is in the midst of several land acquisitions, which are scheduled to be completed by December 31, 2014 including finalizing associated conservation easements and long-term management plans that will fulfill another 59.0 mitigation acre credits. The District shall complete the remaining 15 mitigation credits ~~mitigation requirements of 3.0 mitigation acres for the Freshwater Wetland Creation/Restoration mitigation component and 12.0 mitigation credits for the Stream and Watershed Protection mitigation component~~ by December 31, 2015 including finalizing land acquisition(s) and associated conservation easements and long-term management plans." The

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schedule for finalizing these property transactions are subject to receipt of approval from regulatory agencies that those properties would adequately fulfill the outstanding mitigation requirements.

Page 7:

Finding 28: "Fish Spawning (SPWN)" should be letter "n." in the list of beneficial uses.

Page 8:

Finding 31 states: The TMDLs is an average fish issue concentration of 10 mg total PCBs per kg of typically consumed fish, on a wet weight basis (10 µg/kg wet weight).

Please revise "fish issue" to the appropriate "fish tissue".

**Terms and Conditions**

*B. Discharge Specifications*

Page 10:

Condition B. 4. states, "The District shall notify the Regional Water Board promptly by telephone or email, and in no case more than 24 hours after, if an adverse condition occurs as a result of a discharge. An adverse condition includes, but is not limited to, a violation or threatened violation of the conditions of this Order, spill of petroleum products or toxic chemicals, or damage to control facilities that could affect compliance."

The 2002 SMP permit allowed the District to resolve an adverse condition as a result of a discharge within 24 hours. If the adverse condition persists after 24 hours the District would then report it. We request the same requirement in the 2014 Tentative Order.

*C. Receiving Water Limitations*

Page 11:

Condition C.2. includes water quality limits that shall not be exceeded. The Water Quality Monitoring Plan sent to us by Regional Board staff to include as Attachment H in the SMP Manual does not require the District to test for dissolved sulfide, toxicity, un-ionized ammonia, and salinity, nor does the District anticipate that SMP activities would result in an exceedance of the limits for these parameters. We request that these constituents be removed from the list of required water quality tests.

*D. Provisions*

Page 15:

Provision 27 states, "All staging shall occur on adjacent access roads or previously disturbed areas. Soil and riprap shall be staged in areas that have been previously disturbed (e.g., service roads, turn-outs)."

District field staff make every effort to utilize existing roads, turnouts, or other previously disturbed areas for staging areas. There may be instances where staging needs to occur closer to the active site than these areas allow. When previously undisturbed areas are used for staging, the District intends to avoid/minimize impacts to the extent possible. When impacts cannot be completely avoided or minimized, mitigation will be provided for any remaining impacts. The Regional Board has agreed with other agency staff in the development of SMP project notification requirements that include the reporting of "Staging Length (feet)", "Staging Width (feet)" and "Acres". In order to be consistent with the agreed upon project notification requirements, we request that this provision be revised to incorporate the use of previously undisturbed areas as staging.

Page 17:

Provision 41 states: "The District shall visually inspect each maintenance site at least once daily during extended storm events to confirm that BMPs are effective and maintained as necessary."

Provision 42 states: "The District shall visually inspect each maintenance site within two business days (48 hours) after each qualifying rain event to determine whether the BMPs were effective and identify the need to modify or include additional BMPs to be protective."

Previous reviews of this language included the word "active" to ensure that the District is only monitoring sites we are currently working in. We request both provisions be revised to state: "The District shall visually inspect each active maintenance site...."

Page 22:

Provision 57 states: "Annual minor maintenance activities that impact greater than 0.01 acre of wetland or riparian habitat shall be mitigated per the mitigation program described in Chapter 10 of the SMP manual."

Minor maintenance activities are regulated by time of activity and are limited per project, annually, and per the 10-year program. The limits provide the constraints for the activities. There are no other mitigation requirements for minor activities. If mitigation is required it would not be considered minor. Please strike this provision from the Order to be consistent with the Manual.

Ms. Margarete Beth

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Page 25:

Provision 72 states, "Each successive Notice of Proposed Work during the permit term shall contain a higher percentage of work (e.g. proposed sediment removal, bank stabilization, and vegetation management) that is located within reaches where new or updated MGs have been developed."

Maintenance Guidelines do not apply to bank stabilization projects. Please strike "bank stabilization" from this provision.

Thank you for the opportunity to comment on the Tentative Order for the District's Stream Maintenance Program. We appreciate the continued efforts of Water Board staff on the SMP and other District projects.

Sincerely,



Norma J. Camacho  
Chief Operating Officer  
Watersheds

cc: Beau Goldie, Sunny Williams--SCVWD  
Gary Stern—National Marine Fisheries Service  
Lisa Mangione—U.S. Army Corps of Engineers  
Jon Rohrbough – Central Coast Regional Water Quality Control Board  
Luisa Valiela – US EPA Region IX  
Tami Schane – California Department of Fish and Wildlife  
Cay Goude – US Fish and Wildlife Service

## **Beth, Margarete@Waterboards**

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**From:** Denker, Sharon@Waterboards  
**Sent:** Tuesday, March 11, 2014 2:28 PM  
**To:** Beth, Margarete@Waterboards  
**Cc:** Rohrbough, Jon@Waterboards; Lee, Shin-Roei@Waterboards; Riley, AL@Waterboards; Hurley, Bill@Waterboards; KOKane@valleywater.org  
**Subject:** COMMENT LETTER – TENTATIVE ORDER NO. R2-2014-XXXX, WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION FOR SANTA CLARA VALLEY WATER DISTRICT STREAM MAINTENANCE PROGRAM  
**Attachments:** SCVWD SMP2\_RB2 Draft Order\_2014.02.10\_CCRWQCB Comments\_final.pdf

### **COMMENT LETTER – TENTATIVE ORDER NO. R2-2014-XXXX, WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION FOR SANTA CLARA VALLEY WATER DISTRICT STREAM MAINTENANCE PROGRAM, SANTA CLARA COUNTY**

The Central Coast Regional Water Quality Control Board is increasing its efforts to transmit correspondence and other information electronically, reducing the amount of paper used, and increasing the speed of which information is distributed. Therefore, you are receiving the attached correspondence for the subject site from the Central Coast Water Board in a Portable Data Format (PDF) and will not receive a hard copy unless requested. If you need help opening this document please refer to the link below:

<http://www.adobe.com/products/acrobat/readstep2.html>



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## Central Coast Regional Water Quality Control Board

March 11, 2014

Margarete Beth  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
Email: [Margarete.Beth@waterboards.ca.gov](mailto:Margarete.Beth@waterboards.ca.gov)

VIA ELECTRONIC MAIL

Dear Ms. Beth:

**COMMENT LETTER – TENTATIVE ORDER NO. R2-2014-XXXX, WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION FOR SANTA CLARA VALLEY WATER DISTRICT STREAM MAINTENANCE PROGRAM, SANTA CLARA COUNTY**

Thank you for the opportunity to comment on the February 10, 2014 California Regional Water Quality Control Board San Francisco Bay Region Tentative Order No. R2-2014-XXXX, Waste Discharge Requirements and Water Quality Certification for Santa Clara Valley Water District Stream Maintenance Program (Tentative Order). As you are aware, the Santa Clara Valley Water District (District) conducts maintenance activities associated with the Stream Maintenance Program (SMP) in waterbodies under the jurisdiction of both the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) and the Central Coast Regional Water Quality Control Board (Central Coast Water Board). As a result, San Francisco Water Bay Board staff and Central Coast Water Board staff have worked together to develop requirements that are consistent between the two Regions. Central Coast Water Board staff offers the following comments in the interest of this collaboration and after discussion with San Francisco Water Board staff.

1. Provision 58 (p. 22)

This provision requires the District to monitor all mitigation sites in accordance with Chapter 11 of the SMP Manual. Section 11.9.1 of the SMP Manual includes a statement that the District will monitor large woody debris (LWD) placement (Tier 4 only) for one year post-construction. Flow conditions vary in streams from year to year due to variations in rainfall and other factors. Therefore it is unlikely that a one-year monitoring period is sufficient to determine that placement of LWD will not cause erosion or other water quality problems. Therefore we recommend adding a provision requiring the District to monitor LWD placement annually for at least two years post-construction, and up to five years, depending on site conditions. We also recommend that the Tentative Order include a provision requiring the District identify the site-specific monitoring period in the appropriate mitigation plan proposal each year.

2. Provision 61 (p. 22)

This provision requires the District to submit a Notice of Proposed Work (NPW) each year that includes the information specified in Chapter 12 of the SMP Manual. According to Chapter 12 of the SMP Manual, the District will evaluate alternative maintenance approaches that achieve

the same result under the following circumstances: (1) when conducting vegetation management activities (Section 12.2.2.1.m), and (2) when conducting sediment removal activities (Notification Form, item 63). The District should be required to evaluate alternative approaches for maintenance activities in steelhead streams when conducting bank stabilization activities as well. Therefore we recommend revising Provision 61 to include a statement requiring the District to evaluate alternative maintenance approaches when conducting vegetation management activities, sediment removal activities, and bank stabilization activities in steelhead streams, at a minimum.

3. Provision 71 (pp. 24-5)

This provision requires the District to develop a workplan and implementation schedule for developing new and updated maintenance guidelines (MGs) each year that addresses all channels listed in Chapter 3 (List of Facilities for MG Development (2014-2023)) of the SMP Manual. However, it is not clear in the February 7, 2014 SMP Manual whether Table 3-4 (List of Facilities for MG Development (2014-2023)) contains reaches that are planned for capital improvement projects. While Central Coast Water Board staff agrees that the District should develop MGs for all capital improvement projects, development of MGs for capital improvement projects should not be included under the SMP. Therefore we recommend revising Provision 71 to include a statement that, if Table 3-4 of the SMP Manual includes reaches that are planned for capital improvement projects, those reaches should be removed from Table 3-4 and replaced with reaches that are not planned for capital improvement projects.

4. Provision 87 (p. 27)

This provision requires the District to conduct SMP maintenance work within specified work windows. In particular, the provision allows the District to conduct the following maintenance activities year-round in non-instream areas: vegetation management, herbicide application, large woody debris removal, mowing, flaming, grazing, animal conflict management, and minor maintenance. It is not clear how the term "non-instream," used in the Tentative Order, compares with the term "non-in-channel," which is used in the February 10, 2014 SMP Manual. According to the February 7, 2014 SMP Manual, "in-channel" is defined as "inboard levee toe to the opposite inboard levee toe; where there is not a levee, inboard toe of the stream, ordinarily associated with 'channel bottom'; or below bankfull. See Glossary cross-section diagram." According to this definition and the Glossary cross-section diagram, "in-channel" includes areas within waters of the State. Therefore we recommend revising the Tentative Order to use terminology that is consistent with the SMP Manual, and to apply the "in-channel" work window and other requirements to all areas within the inboard tops of levee or bank.

If you have questions please contact **Jon Rohrbough** at (805) 549-3458 or via email at [Jon.Rohrbough@waterboards.ca.gov](mailto:Jon.Rohrbough@waterboards.ca.gov), or Phil Hammer at (805) 549-3882.

Sincerely,

*for*  
Kenneth A. Harris  
Executive Officer

CC: Shin-Roei Lee, San Francisco Bay Water Board, [Shin-Roei.Lee@waterboards.ca.gov](mailto:Shin-Roei.Lee@waterboards.ca.gov)  
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