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**DRAFT GENERAL CLEAN WATER ACT SECTION 401 WATER QUALITY  
CERTIFICATION AND WASTE DISCHARGE REQUIREMENTS FOR UTILITY  
WILDFIRE AND SIMILAR OPERATIONS AND MAINTENANCE ACTIVITIES  
ORDER NO. WQ XXXX-XXXX-XXXX**

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**Effective Date: DRAFT**

**Project:** Utility Wildfire and Similar Operations and Maintenance Activities

**WDID:** SB24032GN

**Discharger:** Electrical corporations (as defined in the Public Utilities Code (PUC), Section 218), local publicly owned electric utilities (as defined in the PUC, Section 224.3), and electrical cooperatives (as defined in the PUC, Section 2776)

**State Water Board Contact Person:**

For further assistance, please call State Water Resources Control Board (State Water Board) Staff listed above or (916) 341-5900 and ask to speak with the Wetlands Permitting and Planning Unit Supervisor.

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## I. Summary

This Utility Wildfire and Similar Operations and Maintenance Activities General Order Clean Water Act Section 401 Certification and Waste Discharge Requirements (WDR) (General Order), including Attachments A through F is issued to cover electric utility company wildfire risk mitigation, response, and cleanup activities listed in the Project Description (Section III) that may cause or threaten to cause a discharge of waste into waters of the state. The General Order also covers electric utility infrastructure operations and maintenance activities listed in Project Description (Section III) that are not directly related to wildfire because such activities are equivalent regardless of purpose and have similar potential effects on water quality.

This General Order serves as both (1) Clean Water Act Section 401 Certification and Waste Discharge Requirements for projects that include the discharge of dredged or fill material and (2) Waste Discharge Requirements for projects that do not discharge dredged or fill material.

All covered *project activities*<sup>1</sup> identified in Section III are required to comply with the conditions set forth in Section IV. As detailed in Section IV.E, certain projects are not required to file a Notice of Intent (NOI) to enroll under this General Order. Dischargers must file an NOI to enroll all other projects, including all projects requiring Clean Water Act Section 401 certification.

## II. Findings

- A.** California has had an increase in wildfire intensity and frequency in recent years due to drought, tree mortality due to pests, climate change, fuel accumulation, and fire suppression. One of the drivers of wildfire in California has been ignition sources associated with the electrical power grid.
- B.** In 2018, the California Public Utilities Commission adopted a fire threat map to identify areas of heightened fire risk for use by utilities in planning risk reduction activities. Developed in collaboration with the Department of Forestry and Fire Protection (CAL FIRE), the Office of Emergency Services, utilities, and stakeholders, this map breaks down the wildfire risk in a utility's service district into three tiers. Tier 1 areas show tree mortality high hazard zones near communities, road, and utility lines that are a direct threat to public safety. Tier 2 areas have a higher risk of utility related wildfires, and Tier 3 areas have an extreme risk. These areas are known as High Fire Threat Districts.

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<sup>1</sup> Italics are used throughout this document to indicate that a term is defined in the Glossary (Attachment F).

- C.** The California Legislature passed Senate Bill (SB) 901 on August 31, 2018, which imposed additional requirements on wildfire mitigation plans developed by utilities. These plans are aimed at reducing infrastructure-related wildfire risk within High Fire Threat Districts. Activities detailed in the wildfire mitigation plans include a variety of activities including vegetation management, system hardening, pole replacement, and access road improvements.
- D.** Wildfire prevention and response activities require a variety of construction activities including road grading, excavation, vegetation management through mechanical and chemical means, culvert replacement, and erection of temporary stream crossings. In addition, utilities in California need to construct and maintain *access routes* essential for the maintenance, repair, and upgrade of existing electrical infrastructure to ensure grid reliability, wildfire prevention and containment activities, escape routes, and power restoration for affected communities.
- E.** Wildfires directly and indirectly impact water quality through discharge of sediment, increases in erosion, removal of vegetative cover, and breakdown in soil structure. This General Order seeks to facilitate wildfire prevention work to reduce these risks to water quality posed by wildfires and to facilitate post-wildfire response activities that help mitigate the negative water quality impacts caused by wildfire. For example, wildfires in recent history have removed vegetative coverage over thousands of acres of highly erodible soils in the Northern California region. Excess sediment from these areas has in some cases filled in streams with more than 10 feet of accumulated sediment over the course of one rainy season.
- F.** The activities permitted by this General Order also have the potential to discharge waste to waters of the state including sediment, herbicides, oils and greases, and some vegetative waste. Accordingly, this General Order is necessary to impose conditions that avoid, minimize, and mitigate impacts to waters of the state.
- G.** This Order is adopted pursuant to Section 401 of the Clean Water Act and the California Porter-Cologne Water Quality Control Act (Wat. Code §§ 13000, et seq.). This Order covers the discharge of dredged or fill material as well as projects that do not discharge dredged or fill material but that may discharge other waste that affects water quality.
- H.** Pursuant to Water Code section 13263 subdivision (j), the State Water Board may prescribe waste discharge requirements.
- I.** Pursuant to Water Code section 13263 subdivision (i), the State Water Board may prescribe general WDRs for a category of discharges if the State Water Board finds or determines that all of the following criteria apply to the discharges in that category: The discharges are produced by the same or similar operations; the discharges involve the same or similar types of waste; the discharges require the same or similar treatment standards; and the discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

- J.** Because many utility operations and maintenance activities are similar in method and potential for waste discharge as activities to prevent wildfire, this General Order proposes to cover such operations and maintenance activities even when they are not directly related to wildfire mitigation because those activities are also needed to ensure grid reliability while wildfire mitigation activities are conducted. These discharges require the same treatment standards, such as erosion and sediment control, to protect beneficial uses.
- K.** These discharges are more appropriately regulated under general discharge requirements than individual discharge requirements because electrical utility infrastructure is located throughout the state. Individual WDRs for electrical utility operations and maintenance activities could lead to inconsistencies between regions that may affect the feasibility, procedures, and costs of electrical operations and maintenance activities throughout the state. This General Order establishes a framework to streamline the permitting process so that authorization of critical operation and maintenance activities is issued efficiently while protecting water quality.
- L.** The State Water Board has considered the factors in section 13241 in establishing the requirements in this General Order.
- M.** Pursuant to Water Code section 13260 subdivision (a), unless waived as set forth in subdivision (b), any person, citizen, or domiciliary discharging waste or proposing to discharge waste within any region, other than to a community sewer system, that could affect the quality of the waters of the state, must file a report of waste discharge to obtain coverage under WDRs or a waiver or WDRs. Certain projects, due to their higher potential for impacts to water quality, may require review and approval of water quality protection plans, restoration plans and potential mitigation proposals prior to project initiation. For activities that include dredge or fill activities or occur in areas with steep slopes and highly erodible soils, Dischargers will submit an NOI to the appropriate Water Board that will provide the Regional Water Board with specific project information before any activities with the potential to discharge are authorized.
- N.** This General Order covers projects for which no NOI is required to be filed. The Board may prescribe requirements although no discharge report has been filed. (Wat. Code, § 13263, subd. (d).) In such instances, written notification will be provided to all Dischargers with activities that may be subject to this General Order.
- O.** The ability to discharge waste is a privilege, not a right, and adoption of this General Order shall not be construed as creating a vested right to continue discharging waste (Wat. Code, § 13263, subd. (g)).

- P.** This General Order is also adopted pursuant to Clean Water Act Section 401. Section 401 of the Clean Water Act requires that any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this the Clean Water Act as well as any other appropriate requirement of State law. The State Water Board is authorized to issue any certificate under the Clean Water Act that an activity will comply with the applicable requirements of that federal law or any other appropriate requirements of state law. (Wat. Code, § 13160.)
- Q.** Consistent with 40 CFR § 121.3, to the extent enrollment under this General Order serves as a Clean Water Act Section 401 certification, this General Order covers the whole of the activity. As explained in the 2023 Clean Water Act Section 401 Water Quality Certification Improvement Rule, this interpretation is consistent with PUD No. 1 of Jefferson County v. Washington Department of Ecology, 511 U.S. 700 (1994). (88 Fed. Reg. 66558, 66593-98 (Sept. 27, 2023).) If the permissible scope of a certification changes, this General Order may be used to cover any portion of the project not covered by the Clean Water Act section 401 certification. Where an individual project is not required to obtain a federal permit and certification is not required, this General Order is a WDR adopted pursuant to only Porter-Cologne Act.
- R.** This General Order includes monitoring and reporting requirements pursuant to Water Code sections 13383 and 13267. The burden of preparing these reports, including costs, is reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices (BMPs) required under this General Order are sufficient to protect beneficial uses and water quality objectives. The reports related to accidental discharges also ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible. The anticipated costs are minimal as the reporting obligations require only visual monitoring and notification reporting. Water quality sampling may be required for in-water work, including such requirements as sampling for pH or turbidity. Testing for either of those constituents may be done with low-cost field equipment. Sampling during in-water work is appropriate because the risk of direct discharges poses a higher threat to water quality and would require quick corrective action.
- S.** Failure to comply with any condition of this General Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and/or the Clean Water Act. The Discharger may be subject to administrative or civil liability pursuant to the relevant enforcement provisions of the Water Code.

- T.** In response to a suspected violation of any condition of this General Order, the State Water Board or Regional Water Quality Control Boards (collectively Water Boards) may require Dischargers under this General Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem 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.
- U.** Findings pursuant to Water Code section 13149.2 are required for the issuance statewide WDRs. The anticipated water quality impacts within the scope of the Board's authority are the discharge of dredged or fill material to waters of the state and the possibility of discharges associated with related activities, such as discharges of sediment, herbicides, oils and greases, and some vegetative waste. This General Order incorporates available measures within the scope of the State Water Board's authority to address the anticipated impacts of the permitted activities. As set forth in Section IV, this General Order imposes construction conditions, mitigation conditions, water quality monitoring, and reporting and notification requirements that ensure that Dischargers are required to avoid, minimize, and lastly, mitigate, for any impacts to waters.

#### **ANTIDegradation ANALYSIS**

- V.** State Water Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality Waters in California, the state's "Antidegradation Policy") provides that high quality waters of the state must be maintained unless it is demonstrated that any degradation will be consistent with the maximum benefit to the people of the state, will not unreasonably affect beneficial uses, and will not result in water quality worse than that described in the Regional Water Board's policies. The Antidegradation Policy further requires that dischargers comply with WDRs which will result in the best practicable treatment or control (BPTC) of the discharge necessary to assure that pollution or nuisance will not occur. This General Order requires compliance with all water quality policies, including the Antidegradation Policy. The implementation of the General Order requirements constitutes BPTC.
- W.** This General Order is consistent with the Antidegradation Policy. The state's Anti-Degradation Policy incorporates the federal Antidegradation Policy (40 CFR Part 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected." According to U.S. EPA, for dischargers of dredged or fill material comply with the federal Antidegradation Policy by complying with U.S. EPA's section 404(b)(1) Guidelines. The State Water Boards adopted a modified version of U.S. EPA's section 404(b)(1) Guidelines in the Dredge or Fill Procedures (State Supplemental Guidelines).

- X. This General Order is also consistent with the Antidegradation Policy because it includes conditions that require dischargers to minimize or eliminate discharges of waste from wildfire mitigation activities and similar operations and maintenance activities to waters of the state. In addition, most wildfire mitigation activities and operation and maintenance activities that would be eligible for this General Order are temporary. Any limited and temporal degradation of high-quality waters that could occur under this General Order is necessary to accommodate important economic or social development in the area and is consistent with the maximum benefit to the people of the state. Wildfire prevention and response activities support important economic and social development because they prevent or mitigate the harm caused by wildfire to public safety (including loss of life, flood control, system hardening), critical infrastructure, water quality, and property.

### III. Project Description

This General Order authorizes the following listed activities being performed for the purpose of wildfire mitigation, operation and maintenance of infrastructure, or post fire response, where the activities may cause or threaten to cause a discharge of waste to waters including discharges of dredged or fill materials except as set forth in Section IV.A. Compliance With Other Water Board Authorities. This General Order does not cover *project activities* within an *Urban Area*<sup>2</sup> as defined by the 2020 U.S. Census unless that activity is also within a California Public Utilities Commission (CPUC) High Fire Threat District<sup>3</sup>.

**A. Vegetation management:** removal of plant materials, such as leaves or tree branches, that results in:

1. potential increases in surface water temperature,
2. soil disturbance within 100 feet of any waters of the state, or
3. soil disturbance in locations with slopes equal to or greater than 30% and soils having *erodibility K factor* equal to or greater than 0.2.

**B. Herbicide Application:** application of herbicide to vegetation for the purposes of maintaining clearance requirements as required by PRC § 4292, or otherwise reducing the risk of wildfire (such as the creation of defensible space as required by PRC § 4291) within 100 feet of any waters of the state.

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<sup>2</sup> Urban areas represent densely developed territory, and encompass residential, commercial, and other nonresidential urban land uses. Each urban area must encompass at least 2,000 housing units or at least 5,000 people. (2020 U.S. Census Bureau)

<sup>3</sup> High Fire Threat Districts are defined as areas in the Final CPUC Fire-Threat Map adopted via Safety and Enforcement Division's disposition of a Tier 1 Advise Letter on January 19, 2018.



- C. Site access development/maintenance:** *construction*, reconstruction, *maintenance*, or improvements (e.g., grading, blading, graveling, brushing) of *access routes* used to access electric utility facilities where such activity involves more than 100 feet of roadway, or that results in soil disturbance within 500 feet of waters of the state. This includes but is not limited to road grading, maintenance and replacement of drainage crossings, culverts, ditches and side drains. This also includes placement of mats or other materials such as sandbags or sheet piles to gain access and perform work.
- D. Staging Areas and Laydown Yards:** development and maintenance, reconstruction and improvements of staging areas and laydown yards including areas to contain project-related equipment, vehicles, and materials, as well as parking for crews, project trailers, and shelter that results in soil disturbance within 50 feet of any waters of the state.
- E. Pole/Tower Repairs or Replacement:** repair, replacement, or upgrade of poles and towers that results in:
1. soil disturbance within 50 feet of any waters of the state, or
  2. soil disturbance in locations with slopes equal to or greater than 30% and soils having *erodibility K factor* equal to or greater than 0.2.
- F. Substation Maintenance:** repair or replacement of transformers, switches, fuses, cutouts, meters, and insulators that results in:
1. soil disturbance within 50 feet of any waters of the state, or
  2. soil disturbance in locations with slopes equal to or greater than 30% and soils having *erodibility K factor* equal to or greater than 0.2.
- G. Transmission Tower Maintenance:** repair or replacement of tower foundations that results in soil disturbance within 50 feet of waters of the state.
- H. Structural Conversion:** structural conversions; for example, conversion of a single pole to an H-Frame structure, tubular steel pole or lattice steel tower that results in:
1. soil disturbance within 50 feet of any waters of the state, or
  2. soil disturbance in locations with slopes equal to or greater than 30% and soils having *erodibility K factor* equal to or greater than 0.2.
- I. Line Reconductoring:** reconductoring of overhead electric utility lines to replace existing conductors with new conductors, along existing circuits; includes splicing and tensioning of electric lines that results in:
1. soil disturbance within 50 feet of any waters of the state, or
  2. soil disturbance in locations with slopes equal to or greater than 30% and

soils having *erodibility K factor* equal to or greater than 0.2.

- J. Undergrounding Powerlines:** replacement of overhead powerlines with underground powerlines; includes horizontal boring or trenching underground that that results in:
1. soil disturbance within 50 feet of any waters of the state, or
  2. soil disturbance in locations with slopes equal to or greater than 30% and soils having *erodibility K factor* equal to or greater than 0.2.
- K. Boardwalk Repairs or Replacement:** repair or replacement of access boardwalks used to service transmission facilities and located within 50 feet of waters.
- L. Electric Utility Infrastructure Lowering, Maintenance, Replacement or Removal:** electric utility infrastructure sections which are lowered, raised, maintained, replaced, or removed due to age, size, design, condition, and that results in:
1. soil disturbance within 50 feet of any waters of the state, or
  2. soil disturbance in locations with slopes equal to or greater than 30% and soils having *erodibility K factor* equal to or greater than 0.2.

This General Order does not replace or excuse compliance with any other applicable local, state, or federal requirement.

- This General Order does not provide coverage under any NPDES permit, including the NPDES general Permit for Storm Water discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-WQ or 2022-0057-DWQ) (Construction General Permit).
- This General Order does not authorize any act which results in the taking of a threatened, endangered or candidate species, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and G. Code, §§ 2050-2097) or the Federal Endangered Species Act (16 U.S.C. §§ 1531-1544). If a “take” will result from any act authorized under this General Order, Dischargers must obtain authorization for the take prior to any construction or operation of the portion of the project that may result in a take. Dischargers are responsible for meeting all requirements of the applicable endangered species act for the project authorized under this General Order.
- This General Order does not grant authority to conduct activities in a manner that violates applicable provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (Forest Practice Act).
- Discharger may need to obtain a Lake and Streambed Alteration Agreement

(LSAA) issued by the California Department of Fish and Wildlife for the *project activity*.

#### **IV. Conditions**

Provided General Order conditions are adhered to, this General Order provides reasonable assurance that projects authorized under this General Order will comply with state water quality requirements. The Water Board will review any project proposed for authorization under this General Order to analyze potential impacts to water quality and designated beneficial uses within the applicable watershed(s). If the eligibility requirements set forth in this General Order are not met, the Water Board will not authorize the proposed project under this General Order and instead require the project proponent to apply for an individual order or enrollment under another general order. Dischargers may also choose to apply for an individual order. Dischargers subject to this General Order must adhere to the following conditions:

##### **A. Compliance With Other Water Board Authorities**

1. If *project activities* qualify for enrollment under another certification or WDR regulating the discharge of dredged or fill material, authorization under that certification or WDR must be obtained, and coverage under this General Order for those *project activities* is not required. Such other certifications and WDRs include but are not limited to any of the following:
  - a. State Water Board's General Water Quality Certifications of the U.S. Army Corps of Engineers' Emergency Regional General Permits 5, 8 or 63 (at the time of issuance, the associated order numbers are Water Quality Order No. 2019-0044-EXEC; 2023-0061-DWQ, and 2023-0095-DWQ);
  - b. State Water Board's General Waste Discharge Requirements for Discharges of Dredged or Fill Material to Waters of the State from Emergency Repair and Protection Activities (Water Quality Order No. 2023-0058-DWQ);
  - c. State Water Board's General Water Quality Certification of the U.S. Army Corps of Engineers' Nationwide Permit 57 for Electric Utility and Telecommunications Activities (at the time of issuance, the associated order number is Order No. 2020-0039-EXEC);
  - d. State Water Board's General Water Quality Certification of the U.S. Army Corps of Engineers' Regional General Permit 10 for Wildfire Mitigation Activities (at the time of issuance, the associated order number is Order No. 2023-0055-DWQ).
2. Projects within the Carson River, Lake Tahoe, Little Truckee River, Truckee River, or Walker River Hydrologic Units must comply with Lahontan Regional Water Quality Control Board Basin Plan section 4.1

Waste Discharge Prohibition requirements. Dischargers with work within these hydrologic units should contact Regional Water Board staff to determine if they must apply for a Basin Plan Prohibition Exemption to seek coverage under this General Order.

3. Projects that are not covered under the NPDES general Permit for Storm Water discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ or 2022-0057-DWQ) (Construction General Permit) may need to obtain coverage under this General Order for eligible activities. If the Project is required to obtain coverage under the Construction General Permit for only part of its land disturbance activities and other portions of the project are eligible for enrollment in this General Order, compliance with the Construction General Permit constitutes compliance with Sections IV.F.1 through 8; 17; 19; K; L; and R.1.f; all other conditions in this General Order apply.
4. This General Order does not provide authorization for any discharge of pesticides residue to waters of the United States that is required to obtain an NPDES permit.

#### **B. General Compliance**

1. Permitted actions must not cause a violation of any applicable water quality objectives or water quality control plans, including impairment of designated beneficial uses for receiving waters as adopted in any applicable Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
2. Dischargers shall adhere to all requirements in the mitigation monitoring and reporting program (MMRP) which is incorporated herein by reference.
3. Dischargers must conform to any engineering plans, specifications, and technical reports submitted with an NOI and any plans approved by the Water Board.

#### **C. Standard Conditions**

1. This General Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, title 23, chapter 28, Article 6 commencing with section 3867.
2. This General Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless pertinent certification application was filed pursuant to subsection 2855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was

being sought.

3. This General Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations. See Section V for calculation of fees.

#### **D. Administrative**

1. Signatory requirements for all document submittals required by this General Order are presented in Attachment E.
2. **Site Access:** Dischargers shall grant Water Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
  - a. Enter upon the project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
  - b. Have access to and copy any records that are kept and are relevant to the project or the requirements of this General Order.
  - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated under this General Order.
  - d. Sample or monitor for the purposes of determining General Order compliance.
3. Dischargers are responsible for work conducted by their consultants, contractors, and any subcontractors. A copy of this General Order shall be provided to any consultants, contractors, and subcontractors working on behalf of the Discharger. Copies of this General Order shall remain at the project site for the duration of authorization under this General Order. All personnel performing work on the project shall be familiar with the content of this General Order and its location at the project site.
4. **Environmental Awareness Training:** Prior to participating in any *project activity*, all personnel (e.g., contractors, subcontractors, and consultants) shall participate in environmental awareness training (e.g., tail-gate meetings) conducted by a person knowledgeable about state and federal laws regarding the protection of water quality, aquatic resources, related special-status species, and tribal and cultural resources that are applicable to the project. More than one trainer may be needed depending on the size, location, and complexity of the project. The training shall include the requirements of this General Order, how to comply with this General Order, how to identify resources to be protected, and BMPs necessary to prevent water quality impacts.

5. At least one person who is knowledgeable about state and federal laws regarding the protection of water quality, aquatic resources and related special-status species, and tribal and cultural resources that are applicable to the project shall be onsite, during normal working hours, until all *project areas* are *stabilized*.

## E. Coverage Categories

Activities covered by this General Order are separated into two categories (Category A and B). All Dischargers (i.e. Category A and B) shall comply with Tribal Cultural Resources (TCR) conditions (Section IV.G). Requirements for the content of reporting and notification types are detailed in Attachments A and D, including specifications for photo and map documentation. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment D, which must be signed by the Discharger or an authorized representative. All Dischargers (i.e. Category A and B) must comply with the monitoring and reporting conditions in Sections IV.H through L. Sections IV.M through T apply only to Category B Dischargers.

1. **Non-Notifying Eligibility Criteria (Category A):** To qualify for Category A coverage, the following eligibility criteria must be met:
  - a. *Project activities* will not result in a discharge of dredge or fill materials to waters of the state; and no temporary diversions or impoundments of water, cofferdams, or similar structures installed for the purpose of temporary dewatering work areas are planned within the *project area*.
  - b. *Project activities* will not include the use of heavy equipment on *saturated soil* conditions.
  - c. *Project activities* will not include installation of new *access routes*.
  - d. *Project activities* will not occur on 1) slopes equal to or greater than 30% and 2) soils where the *erodibility K factor* is equal to or greater than 0.2.
  - e. **Category A Enrollment Process:** Category A projects are not required to submit an NOI.
    - i. Unless the Water Board determines that the project does not qualify for Category A, Category A Dischargers may proceed with *project activities* in adherence with Section IV. Conditions.
  - f. Dischargers shall maintain a list of Category A *project activity* coordinates and if applicable, activity dates. This list shall be provided to Water Boards staff within ten business days of request.

**2. Notifying Activities (Category B):** All projects that do not qualify for Category A coverage fall into Category B.

**a. Wildfire and Response Activities**

- i. Wildfire Activities:** Wildfire Activities are defined in this General Order as an unexpected action taken to maintain, cleanup, repair, demolish, or replace infrastructure necessary to maintain or restore essential public services or facilities in response to recent wildfire activity. Wildfire activities may be initiated at any time between the start of the wildfire and 90 days of the wildfire being 100% contained; wildfire recovery activities that begin over 90 days from the wildfire being 100% contained shall submit NOIs in compliance with Section IV.E.4 below.
- ii. Response Activities** Response activities occur when unpredictable weather, or another event outside of the Discharger's control, results in the need to implement a project within two weeks to restore or maintain electric service and construction will be completed within two weeks of the start date.

**b. Wildfire and Response Activity Initial Project Notification**

- i.** Wildfire and Response Activities Dischargers shall notify the appropriate Regional Water Board and the State Water Board as early as possible, and no less than seventy-two (72) hours prior to initiating the project. If seventy-two (72) hour notification is not possible, the Discharger shall notify the appropriate Regional Water Board and the State Water Board within one (1) business day of initiation of the project.
- ii.** Initial notification shall be made via email and include project coordinates, a brief description of planned activities and a point of contact. This notification serves as the Dischargers' commencement of construction notification.
  - 1.** A staff directory that includes contact information for State and Regional Program Managers is found at the State Water Board's Dredge or Fill Program Staff Directory ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/wqc\\_staffdir.pdf](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf)). An interactive map of Regional Board boundaries is included in Attachment B and an interactive version is on the State Water Board's

Regional Board Map website

([https://www.waterboards.ca.gov/waterboards\\_map.html](https://www.waterboards.ca.gov/waterboards_map.html))

2. Send an email to SB-Utility Wildfire General Order and the appropriate “Region Program Manager” from the staff directory linked above. Include “Attention: Wildfire or Response Activity” in the subject line.
  - iii. Unless the Water Board determines that the project does not qualify for a Wildfire or Response Activity designation, the Discharger may proceed seventy-two (72) hours after initial notification.
- c. Category B Notice of Intent Contents, Submission, and Approval Process:** Prior to NOI submission, Category B Dischargers shall adhere to all applicable Tribal Resources Conditions (Section IV.G).
- i. Notice of Intent Submission:**
    1. Unless a Wildfire and Response Activity, Category B Dischargers shall submit an NOI for enrollment under this General Order at least 45 days before any planned *project activity*.
      - a. Wildfire and Response Dischargers shall submit an NOI within thirty (30) days of initiating the activity.
    2. The NOI shall describe all proposed direct project impacts and project design steps taken to first avoid, and then minimize, impacts to waters of the state to the maximum extent practicable including threatened waste discharges. The NOI shall also include a delineation of impact sites where construction activities include impacts to or work within waters of the state. The NOI must provide all applicable information requested in Attachments A1 and A2. The NOI must be provided on the NOI form found in Attachment A1 until an electronic application form is available on the State Water Board’s webpage, at which time electronic submission will be required.
  - ii. Notice of Intent Review Process:**
    1. Within thirty (30) days from the NOI receipt date, incomplete NOIs will be returned with a description of information needed to satisfy the deficiency(ies).



2. After receipt of a complete NOI, the Water Board will issue one of the following:
  - a. A Notice of Exclusion that describes the reason the project is ineligible for General Order enrollment. Dischargers that receive a Notice of Exclusion may not proceed with *project activities* until an individual certification or WDR is obtained.
  - b. A Notice of Applicability (NOA). Unless a Wildfire or Response Activity, Category B Dischargers may not proceed with *project activities* until an NOA has been issued by the Water Board.
  - c. If the Water Board does not issue an NOA or Notice of Exclusion within forty-five (45) days of receiving a complete NOI, the Discharger may proceed with the project according to all applicable General Order conditions.

#### **F. Project Conditions**

1. All materials and supplies necessary for implementing effective BMPs under this General Order must be on-site and ready for use at the start of the activity and must remain in supply and ready for implementation throughout the project. All non-structural BMP materials (e.g., training documents, compliance tracking procedures) must be ready for use at the start of the activity. Apply effective BMPs to erodible construction materials (e.g., soil, spoils, fly-ash, stucco, hydrated lime) to prevent erosion and pollutant transport to receiving waters.
2. Environmentally sensitive areas and environmentally restricted areas, including any avoided waters of the state, must be clearly identified in the field for exclusion from disturbance prior to the start of *project activities*. Such identification must be properly maintained until construction is completed and the soil has been *stabilized*.
3. Unless authorized as a temporary or permanent impact, vehicles, construction equipment, personnel, all material, debris, spoils, soil, silt, sawdust, rubbish, steel, waste material, waste containers, other organic or earthen material, or any substances which could be detrimental to water quality or hazardous to aquatic life if discharged shall be prevented from entering waters of the state.
4. Modifications, repairs, and improvements shall be made to BMPs that are not functioning as intended.

5. Dischargers shall implement the following applicable BMPs for waste management:
  - a. Provide containment (e.g., secondary containment) of sanitation facilities (e.g., portable toilets) to prevent discharges of pollutants. Both sanitation facilities and the corresponding containment should be placed as far from waters of the state as possible. Containers must be located so that accidental spills will be contained and not drain into the any waters of the state;
  - b. Clean or replace sanitation facilities and inspect them regularly for leaks and spills;
  - c. Keep debris or trash in waste containers if it is subject to transport from the site by wind or runoff;
  - d. Prevent discharges from waste disposal containers. Cover waste disposal containers at the end of every business day and during a *Precipitation Event*;
  - e. Secure and contain washout areas that may contain additional pollutants to minimize discharge into the underlying soil and onto the surrounding areas. Wash areas shall be covered during a *Precipitation Event*; and
  - f. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Vehicles shall be washed in a designated area which is bermed, to prevent discharge of the wash water. Wash waters shall be captured and treated prior to discharge or disposed of at a permitted facility that can accept that waste, to mitigate impacts to water quality.
6. **Dischargers shall implement the following BMPs to eliminate or minimize site erosion for any ground disturbing activities:**
  - a. Minimize the amount of soil disturbed by *project activity*;
  - b. Minimize slope disturbance;
  - c. Implement effective wind erosion controls such that windblown wastes (e.g., sediment, trash) that result from *project activities* do not discharge to waters of the state;
  - d. Immediately initiate stabilization of disturbed areas, using reestablishment of vegetation and non-vegetative erosion controls, whenever earth disturbing activity has permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days;

- e. Dischargers that stabilize soil using bonded-fiber matrices, hydromulches, spray tackifiers, or other land-applied products shall:
  - i. Apply the product according to the manufacturer's instructions and guidance; and
  - ii. Apply the product according to the manufacturer's guidance to allow for ample cure time and to prevent treatment chemicals from being transported by runoff.

## **7. Erosion and Sediment Control for Soil Disturbing Activities**

- a. During a *Precipitation Event*, Dischargers shall ensure that disturbed areas that drain to waters of the state are protected with erosion and sediment control BMPs (e.g., silt-fencing, geotextile fabrics, coir logs/rolls, straw bale dikes, jute, coconut fiber, erosion control fabric, hydroseeding). Erosion and sediment control BMPs shall be installed in accordance with the manufacturer's installation manual/instructions.
- b. Only 100-percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable.
- c. Spoils from excavations shall not be stored or discarded in waters of the state or in locations in a manner that may discharge to waters of the state. All spoil piles with a potential to discharge to waters of the state must be covered or *stabilized* with tarps, mulch, or another material to prevent sedimentation into waters during a *Precipitation Event*.

## **8. Runoff and Run-on Controls for Soil Disturbing Activities**

- a. Dischargers shall manage all run-on and runoff from a *project area*. Examples include installing berms and other temporary run-on and runoff diversions, protecting bare mineral soil with ground cover or other means of armoring, and controlling runoff to prevent erosion and scour in the areas of discharge points.
- b. Site drainage shall be designed to accommodate anticipated flows from a *Precipitation Event* and shall be installed prior to such an event. Site drainage must not result in increased velocities or erosion of the channel and streambank of receiving waters.

**9. Heavy Equipment:** Dischargers shall adhere to the following conditions when using heavy equipment within 50 feet of waters of the state (additional requirements apply if in water work is planned – see Section VI.S):

- a. Avoid compaction from heavy equipment and limit disturbance to the minimum area needed to complete the activity.
- b. Unless authorized by the Water Boards in an NOA, the use of heavy equipment on 1) slopes that exceed a 50 percent grade and soils where the *erodibility K factor* is equal to or greater than 0.2 or 2) *saturated soils* is prohibited.
- c. Place heavy equipment, which is to be fueled, maintained, and stored in a designated area with properly installed BMPs in place (e.g., sorbent pads; booms; surface protection; secondary containment).
- d. Implement best management practices to prevent soil compaction and rutting (i.e., place equipment and vehicles on matting).
- e. Use drip pans under leaking vehicles to capture fluids.
- f. Repair leaks before operating the vehicle in a location where it may leak onto soil or into a water of the state.
- g. Transfer contained fluids to a designated waste storage area as soon as possible.

**10. Dischargers shall preserve existing topsoil, as follows:**

- a. Unless the intended function of a specific area dictates that the topsoil be removed, Dischargers shall preserve the top six to 12 inches of soil within waters of the state. Dischargers shall stockpile reserved topsoil within the *project area* and use the soil to restore disturbed areas.
- b. Unless authorized for restoration, material excavated to prepare a site for placement of the permitted fill material must be properly disposed of in an upland area. The disposal site must be located at a sufficient distance away from flowing or standing water such that the excavated material does not erode or discharge into any water of the state. Where NOI submission is required, disposal areas shall be identified in the project NOI.

**11. Access Route Construction, Decommission and Maintenance Activities**

- a. The number of *access routes*, number and size of staging areas, and the total area of the ground disturbance shall be limited to the minimum necessary to achieve the project goal.
- b. *Access route* surfaces shall be *hydrologically disconnected* from streams and stream crossings.
- c. *Access route* surface runoff must be designed to sufficiently disperse flows to appropriate vegetated or otherwise protected upland areas to minimize or avoid erosion, rather than concentrating flows and/or discharging sediment to waters of the state.
- d. Unless authorized by the Water Boards in an NOA, Dischargers shall incorporate drainage structures according to Table 1 spacing parameters. Functional ditch relief, including culverts, *rolling dips*, inboard ditches, and crossroad drains, shall be spaced with enough frequency to prevent concentration of *access route* related runoff and erosion of *access route* fill material.

**Table 14.** Drainage Structure Spacing Requirements (in feet) Depending on *Access route* Grade and Erosion Hazard Rating

Estimated Erosion Hazard Rating	<i>Access route</i> Grade Less Than 10 %	<i>Access route</i> Grade 11-25%	<i>Access route</i> Grade 25-50%	<i>Access route</i> Grade Greater than 50%
Extreme	100	75	50	50
High	150	100	75	50
Moderate	200	150	100	75
Low	300	200	150	100

Note: Estimated Erosion Hazard Rating evaluation procedures specified in California Code of Regulations, title 14, § 912.5.

- e. Dischargers shall prioritize locating the outflow of the *access route* surface drainage structures towards well-vegetated, stable areas to ensure road related discharges do not negatively impact waters of the state.

<sup>4</sup> California Department of Forestry and Fire Protection Resource Management, Forest Practice Program. 2021. California Forest Practice Rules.

- f. Unless authorized by the Water Boards in an NOA, newly constructed *access routes* shall be *outsloped*. If *outsloping* is determined to be infeasible, provide justification and drainage designs that will provide for similar performance to the appropriate Water Board.
- g. *Access route* surface drainage structure outflow shall not directly discharge to waters of the state or areas that will likely result in erosion and direct discharge to waters of the state.
- h. Dischargers shall ensure that *access route* drainage features are maintained to prevent erosion and sediment discharge.
- i. All sediment and other material disturbed during blading and other *access route construction* activities shall be contained and removed or permanently *stabilized* with effective engineered sediment and erosion control BMPs.
- j. Cut or bladed sediment or other material shall not be side-cast or otherwise pushed off the roadway and left unstabilized such that it is subject to erosion or in a manner that threatens to discharge sediment to a water of the state.
- k. *Access routes* shall be constructed to ensure proper stability of cut and fill slopes and ensure drainage and runoff generated from *access routes* is *hydrologically disconnected* from receiving waters and does not cause erosion and sediment discharge.
- l. Where natural slopes exceed 60%, *access routes* should be constructed using full bench construction. Should full bench construction not be feasible, provide reasoning as to why and provide *access route construction* plans that will provide for the same stability as full bench construction.
- m. Road drainage facilities (e.g., *outsloping, rolling dips, waterbreaks*) shall be fortified to endure the duration of planned use and shall prevent sediment discharges to waterbodies. If utilizing rock armoring to fortify drainage structures, the armoring must be appropriately sized and installed for anticipated flow conditions and must extend to completely cover unprotected fill slopes.
- n. Following use, *access routes* shall be left in a condition that enables long-term *hydrologically disconnected* road drainage with minimal or no maintenance requirements.

**12. Deactivation/Decommissioning:** *Access routes* that are intended for *seasonal deactivation* or permanent *decommissioning* shall comply with the following conditions within 30 days of final use:

- a. Permanent *access route decommissioning* requires the removal of all anthropogenic structures including fills associated with *access route* watercourse crossings to create a natural drainage pattern.
- b. *Hydrologically disconnected* drainage must be established on *decommissioned access routes* and must be designed to provide maintenance free operation upon completion of activities.
- c. Soils exposed during *seasonal deactivation* or permanent *decommissioning* shall be *stabilized* to prevent soil erosion and sedimentation. Any resulting soil stockpiles must be removed from locations where discharge to waters of the state could occur.

### 13. Watercourse Crossings

- a. New construction and reconstructed watercourse crossings shall be sized and designed to accommodate 100-year storm flood flow (including transport of debris and sediment).
  - i. Temporary watercourse crossings installed and removed in the same calendar year between May 1 and September 30, are not required to be designed to accommodate the 100-year storm flood flow.
- b. Plastic or High-density polyethylene (HDPE) culverts are prohibited from being installed in high, very high, or extreme fire threat areas as mapped by CAL FIRE's Fire and Resource Protection Program.<sup>5</sup>
- c. Cured in Place Pipe is prohibited where it could cause detrimental physiological responses to human, plant, animal, or aquatic life, or cause discharges of waste to waters of the state that do not comply with water quality objectives.
- d. Crossings shall be designed to ensure that the stream does not divert in case of a crossing failure. Critical dips shall be installed below (downslope) of the crossing to ensure that should the crossing be overtopped, flows will be diverted back into the watercourse channel.
- e. Bridges, culverts, dip crossings, or other structures must be installed so that water and in-stream sediment flow is not impeded.
- f. Culvert inlets shall have low plug potential, such as mitered/beveled inlets, wing walls, etc. installed where needed and where they can be maintained.

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<sup>5</sup> California Department of Forestry and Fire Protection. 2022. Fire and Response Assessment Program (FRAP). Accessed May 2022. Available at: <https://frap.fire.ca.gov/>

- g.** Culverts shall be installed at the base of the fill in line with and at the same grade and orientation as the natural channel to reduce plugging, overtopping and scour potential.
- h.** Culverts shall be maintained to be clear of debris.
- i.** Culverts shall be at a gradient and orientation that will not result in erosional scour at the outlet, and shall be in alignment with the stream channel.
- j.** Culvert replacement projects shall repair any existing scour or headcutting actively eroding/discharging sediment.
- k.** Where feasible, culverts shall be located such that road approaches are perpendicular to the stream channel and not located in a meandering bend of the stream channel.
- l.** Rock ford or rock armored fill crossings should be installed instead of culverts on watercourses in locations where watercourse crossings have a higher risk of failure due to their landscape position (e.g., in areas prone to debris flows or landslides) or remote areas where access or maintenance is difficult.
- m.** Rock ford or rock armored fill watercourse crossings shall be designed to accommodate 100-year storm flood flow, including rock sizing, rock application depths, and chute dimensions of the crossing. The armoring must also extend to completely cover unprotected fill slopes.
- n.** Watercourse crossings proposed for removal or watercourse crossings located on roads to be *decommissioned* must meet the following conditions:

  - i.** Permanently *decommissioned* watercourse crossings shall be excavated to exhume the original, stable, stream bed and channel side-slopes, and then banks must be *stabilized* with materials including, but not limited to, mulch, seeding, replanting, and rock armoring.
  - ii.** Fills shall be excavated to form a channel as close as feasible to the natural watercourse grade, that is wider than the natural channel upstream and downstream of the crossing to be removed.
  - iii.** Any cutbank resulting from watercourse crossing removal shall not exceed a slope of 50% from the outside edge of the channel to prevent slumping and erosion.



#### 14. Work in Waters of the State

- a. Work in waters of the state must not cause or contribute to an exceedance of water quality objectives or water quality control plans. Work in waters commences at the onset of the regulated activity and continues until the activity is finished and all restoration of the affected work area is complete. The term “work in waters” means any activities in any waters of the state that are permitted under this General Order, regardless of the presence or absence of flowing or standing water.
- b. If temporary diversions or impoundments of water, cofferdams, or similar structures installed for the purpose of temporary dewatering work areas are planned, a dewatering plan that includes the following information must be provided with the NOI:
  - (a) an adequate description of the proposed dewatering structures, including design criteria, (b) appropriate BMPs for the installation, operation, maintenance, and removal of those structures, and (c) appropriate monitoring for water quality upstream and downstream of diversion structures.
- c. Temporary materials placed in any water of the state must be removed as soon as construction is completed at that location, and all temporary *access routes* must be removed or re-contoured and restored according to approved restoration plans.
- d. All temporary diversions and overland flows, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may cause or threaten to cause a discharge to waters of the state.
- e. A method of containment must be used below any temporary bridge, trestle, boardwalk, and/or other stream crossing structure to prevent any debris or spills from falling into the waters of the state. Containment must be maintained and kept clean for the life of the temporary crossing structure.
- f. Any structure, including but not limited to, culverts, pipes, piers, and coffer dams, placed within a stream where fish (as defined in Fish and Game Code section 45) exist or may exist, must be designed, constructed, and maintained such that it does not constitute a barrier to upstream or downstream movement of fish, or cause an avoidance reaction by fish due to impedance of their upstream or downstream movement. This includes, but is not limited to, maintaining the supply of water and maintaining flows at an appropriate depth, temperature, and velocity to facilitate

upstream and downstream fish migration. If any structure results in a long-term reduction in fish movement, the Dischargers shall be responsible for restoration of conditions as necessary (as determined by the Water Board) to secure passage of fish across the structure.

- g.** Equipment may not be operated in standing or flowing waters unless implementing the following conditions:

  - i.** All land disturbing activities must be effectively isolated from water flows. This may be accomplished by working in the dry season or dewatering the work area. The diverted water flow must not be contaminated by construction activities. All open flow temporary diversion channels must be lined with filter fabric or other appropriate liner material to prevent erosion. Structures used to isolate the in-water work area and/or diverting the water flow (e.g., coffer dam, geotextile silt curtain) must not be removed until all disturbed areas are *stabilized*.
  - ii.** Cofferdams and water barrier construction must be adequate to prevent seepage into or from the work area to the greatest extent feasible.
  - iii.** Flow diversions must be conducted in a manner that prevents siltation and that restores pre-project flows upon completion of the activity. Diverted flows must be of sufficient quality and quantity, and of appropriate temperature, to support existing fish and other aquatic life both above and below the diversion.
  - iv.** If additional Water Board permits relating to dewatering are required, the designated Water Board staff contact must be notified and copied on pertinent correspondence pertaining to those other required permits.
  - v.** All temporary dewatering methods shall be designed to have the minimum necessary impacts to waters of the state. All dewatering methods shall be installed such that natural flow is maintained upstream and downstream of the diversion area. Any temporary dams or diversions shall be installed such that the diversion does not cause sedimentation, siltation, or erosion upstream or downstream of the diversion area. All dewatering methods shall be removed immediately upon completion of activities for which diversions are needed.

- vi. All temporary dewatering activities are subject to the work-in-water reporting and monitoring conditions presented in the conditional notifications and reports section of this General Order.
- h. Dischargers are responsible for ensuring that all project personnel follow proper weed control practices when conducting activities within waters of the state, and that appropriate weed prevention measures are documented and available to personnel.
- i. Any equipment entering or leaving the *project area* from an area of known *soil borne pathogen* infestation shall be thoroughly cleaned using methods appropriate for the known pathogen before entering or leaving the *project area*.
- j. All equipment, including clothing, footwear, heavy equipment, and vehicles, will be cleaned and treated of soil, seeds, vegetative matter, and from in-water work, prior to entering a new treatment area, or leaving an area with an invasive species infestation.
- k. Prior to entering the work area, pressure wash or otherwise appropriately decontaminate heavy equipment and vehicles at designated weed-cleaning stations, where wash water will not discharge to a water of the state.
- l. Heavy equipment, vehicles, and tools must be inspected for sand, mud, or evidence that invasive seeds or propagules could be present prior to entering the treatment area.
- m. Equipment shall be staged in an area free of invasive plant infestations unless there is no reasonable alternative staging area.

#### **15. Vegetation Management Conditions**

- a. The discharge or threatened discharge of *vegetation management waste* into waters of the state is prohibited.
- b. *Vegetation management waste* shall not be stored or staged in locations where the waste has potential to discharge to waters of the state.
- c. Wood chips shall not be used to stabilize disturbed soils on slopes steeper than 30% within 100 feet of waters of the state. On slopes less than 30% within 100 feet of waters of the state, application of wood chips is permissible only if it is the only viable stabilization method. In such cases, the wood chips shall be processed consistent with the wood strand mulch dimensions reported in the US Forest Service Erosion Control Treatment Selection Guide

(2006)<sup>6</sup>, which are approximately 1.6 to 6.3-inches long, 0.125-inch-thick, and 0.240-inch wide. Wood chips shall not exceed a depth of 3 inches and shall be applied and *stabilized* in a manner that minimizes potential discharge to waters of the state (e.g., reinforce wood chips with *slash* to keep the wood chips in place).

- d. When using *slash* to stabilize disturbed soils within 100 feet of waters of the state, individual limbs shall not exceed 4 feet in length, and all *slash* must be worked into the soil. Any *slash* that is not worked into the soil must be removed from the work area.
- e. Within 100 feet of waters of the state, *compatible vegetation* that is not targeted for vegetation management activities must be retained and protected during vegetation management activities. More extensive removal may be appropriate for sites dominated by invasive species listed on the California Invasive Plant Council's Inventory<sup>7</sup>.
- f. Limit vegetation removal to the extent necessary to achieve project goals.

## 16. Felled Trees and Vegetation Management Impacts

- a. Trees shall be felled away from waters of the state, unless approved by the Water Boards for the purpose of aquatic habitat restoration. If a tree is accidentally felled into, or across, a water of the state, it must be removed and placed outside of and away from waters of the state to the farthest distance practicable, immediately.
- b. Dischargers shall preserve the riparian canopy to the greatest practicable extent that still complies with applicable regulatory requirements (e.g., CPUC General Order 95, PRC Sections 4292 and 4293).

## 17. Toxic and Hazardous Materials

- a. Activities permitted under this General Order shall not discharge toxic substances in concentrations that cause or contribute to an exceedance of water quality objectives or water quality control plans.

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<sup>6</sup> USDA. 2006. Erosion Control Treatment Selection Guide. USFS. National Technology and Development Program. December 2006. Accessed May 26, 2020. Available at: [https://www.fs.fed.us/t-d/pubs/pdf/hi\\_res/06771203hi.pdf](https://www.fs.fed.us/t-d/pubs/pdf/hi_res/06771203hi.pdf)

<sup>7</sup> California Invasive Plant Council. 2022. Cal-IPC Inventory. Accessed March 1, 2022. Available at: <https://www.cal-ipc.org/plants/inventory/>

- b.** Discharge of unset cement, concrete, grout, slurry, damaged concrete spoils, concrete dust, or water that has contacted uncured concrete or cement, or related washout to surface waters or ground water is prohibited. If concrete washout is necessary at the site, washout containment shall be used to prevent any discharge.
- c.** Activities permitted under this General Order shall not discharge waste classified as “hazardous”. Dischargers shall implement best management practices to prevent a discharge of hazardous waste to waters of the state, at a minimum, these include:

  - i.** *Hazardous materials*, including chemicals, fuels, and lubricating oils, shall not be stored within 50 feet of waters of the state.
  - ii.** Adequate spill prevention and cleanup equipment and materials shall always be present on site at all times during project implementation and must be available for immediate use. Any spills or leaks of *hazardous materials*, chemicals, fuels, lubricants, or any other potential pollutants shall be promptly and completely treated upon observation using appropriate materials and equipment.
  - iii.** Chemicals shall be stored in watertight containers with secondary containment to prevent any spillage or leakage or stored in a completely enclosed storage area. Secondary containment must be at least 10% larger than the total volume of the primary containers, or 100% of the volume of the largest container, whichever is greater.
  - iv.** All mechanized equipment shall be maintained in good operating order and inspected for leaks on a regular basis.
  - v.** Pumps or other stationary equipment shall utilize appropriate secondary containment systems to prevent spills.
  - vi.** A staging area for equipment and vehicle fueling and storage shall be designated at least 50 feet away from waters of the state, in a location where fluids or accidental discharges cannot flow into waters of the state.
  - vii.** An Accidental Discharges of Hazardous Materials notification will be made as described in the conditional notifications and reports section of this order.

## 18. Herbicide Application

- a. Herbicides shall not be applied in a manner, or at rates that would cause or threaten to cause a discharge of waste to waters of the state at levels that cause or contribute to an exceedance of water quality objectives or water quality control plans.
- b. This General Order does not authorize the application of herbicides that discharge to a water of the U.S. such that it requires an NPDES permit.
- c. Herbicide applications must comply with all laws and regulations, including any applicable water quality control plan requirements, pertaining to storage, use, and application. If herbicide treatments are needed, consultation with a licensed Pest Control Advisor shall occur.
- d. Herbicide application is prohibited under the following conditions: in winds that exceed seven miles per hour, during a *Precipitation Event* or in violation of any label directions related to precipitation, or during Wildfire or Response Activities.

**19. Final Stabilization:** Dischargers shall stabilize *project areas* by implementing the following conditions:

- a. Removing all construction-related equipment and temporary BMPs from the *project area*;
- b. Properly disposing of construction materials and wastes;
- c. Permanently stabilizing soils disturbed by construction activities by:
  - i. Achieving seventy percent ground cover. Where appropriate, permanent vegetative cover must be evenly established over 70 percent of all disturbed and exposed areas of soil (non-paved or non-built). In areas that naturally have low vegetative coverage (e.g., deserts), 70 percent of the natural conditions of local undisturbed areas is acceptable. Photos of all site areas are required to verify compliance with the 70 percent final cover requirement; **or**
  - ii. The Discharger may request approval from the Regional Water Board to use a method or analytical model other than Section IV.F.19.c.i above, to demonstrate that the site complies with the final stabilization requirements listed in Sections IV.F.19.a; b; and d. Photos of all site areas are required to verify the custom method used.

- d. Soils must be *stabilized* using materials that:
  - i. Have a product life that support the full and continued stabilization of the site;
  - ii. Achieve stabilization without becoming trash or debris; and
  - iii. Minimize the risk of wildlife entrapment.

## 20. Undergrounding and Drilling

- a. The discharge of bentonite, drilling muds, lubricants, or any drilling compounds into waters of the state is prohibited.
- b. An environmental monitor shall monitor for compliance with the horizontal directional drilling (HDD) or drilling plan throughout drilling operations under waters of the state.
- c. Any HDD or other drilling operation shall be designed and implemented to minimize the risk of any spills and discharges including the frack-out release of drilling lubricants through fractures in the streambed or bank substrates. In substrates where frack-outs are likely to occur, HDD contractors shall employ all reasonable means and methods available to minimize potential for frack-out.
- d. All drilling muds or compounds shall be contained and properly disposed of after drilling activities are completed.
- e. If bore pits are excavated to support drilling operations, spoils shall be stored a minimum of 25 feet from waters of the state, where feasible; if site specific conditions warrant constructing pits or storing spoils less than 25 feet from waters of the state this request must be provided in the HDD or drilling plan submitted to the Water Board prior to any drilling activities with potential impacts to waters of the state. Spoils shall be stored behind a sediment barrier and covered with plastic or otherwise *stabilized* (i.e., tackifiers, mulch, or detention).
- f. Dischargers that plan to conduct HDD activities under waters of the state shall prepare an HDD or drilling plan. The plan must be available for review upon Water Board request. The drilling plan must describe how compliance with Sections IV.F.20.a. through e. will be maintained and include:
  - i. Release of bentonite, drilling muds, lubricants through fractures in the streambed or bank substrate during drilling is referred to as a “frack-out.” Because of the potential for frack outs to occur, the HDD or drilling plan shall include a frack

out response plan. The frack-out response plan shall specify all measures to be initiated if frack-outs should occur during HDD operations;

- ii. A drill path at least 10 feet below the streambed, unless infeasible due to local site conditions;
- iii. Constant monitoring of drill fluids for loss of pressure or returns;
- iv. Use of an onsite vacuum truck during drilling or other suitable means to capture and contain fluids that reach the surface;
- v. Contact information of those responsible for drilling activity monitoring;
- vi. Daylight hour drilling to enable visual monitoring for potential frac-outs;
- vii. Use of clean gravel bags instead of sandbags to contain a frack-out; and
- viii. For all HDD and other drilling sites, a means of containment (e.g., damming, fluming) or screening capable of capturing all of the potential discharge shall be described in the HDD plan. The downstream end of any such containment structure shall be capable of containing all bentonite or other drilling muds or debris that may be released during boring or drilling. Any drilling mud and spoils must be completely removed from the streambed prior to removal of the containment structure (e.g., dam, flume, and screen).

## **G. Tribal Cultural Resources**

1. The Water Boards' tribal liaisons are available to support and engage in this process, as requested, by phone at (916) 341-5229 or email at [Tribal-Liaison@waterboards.ca.gov](mailto:Tribal-Liaison@waterboards.ca.gov).
  - a. TCR Conditions are defined in California Public Resources Code (PRC) section 21074 as either of the following:
    - i. sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe (tribe) that is:
      1. Listed, or eligible for listing, in the California Register of Historical Resources;



2. Listed in a local register of historical resources as defined in PRC section 5020.1(k);
- b. Office of Regulatory Affairs resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC section 5024.1.
- c. TCRs may also include sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are listed in a private tribal register.

**2. Tribal Cultural Resources Evaluation Procedures and Mitigation Measure Development.** Except as set forth in Section IV of this General Order, the Discharger must comply with the following TCR process to ensure TCRs are identified and protected:

- a. Perform a Native American archaeological resources records search of the California Historical Resources Information System (CHRIS). The search area shall match the geographic extent of the *project area*. The requirement to perform a CHRIS records search may be satisfied using the results of a previous CHRIS records search completed for the specific parcel or parcels where the *project activities* are proposed to occur within the previous five years;
- b. Request a Sacred Lands Inventory for the *project area* from the Native American Heritage Commission;
- c. In the event of a positive CHRIS result or identification of an archaeological site, as early as possible and at least 120 days prior to commencing work, provide all tribes identified in steps a and b above with:
  - i. A complete and technically accurate project description and a map of suitable scale and quality to determine the location of the proposed activity;
  - ii. Native American archaeological sites or artifacts identified in a CHRIS positive result to consult and establish Project specific mitigation measures to ensure the protection of TCRs within the proposed *project area*; and
  - iii. Provide a 30-day opportunity for the tribe(s) to request consultation. In cases where tribe(s) are consulting, mitigation measures will be developed by the Discharger in cooperation with the consulting tribe(s) and submitted to the Water Board for approval.

- iv. If requested by an affiliated tribe, a pedestrian survey will be conducted by a qualified archaeologist to identify and record resources. Affiliated tribes must be given the opportunity to accompany the archaeologist during the pedestrian survey or to visit the site and assess impacts to previously recorded sites. A copy of the Cultural Resources Assessment should be provided to the affiliated tribes.
  - v. If the Discharger and the consulting tribe(s) are unable to agree on appropriate mitigation measures, the Discharger will complete the following:
    - 1. The Discharger shall provide to the applicable Water Board a Tribal and Cultural Resources Report detailing the Discharger's attempt to consult with tribe(s) in good faith, a description of tribe requested mitigation measures and why the measures would be infeasible, and alternative mitigation measures that protect the integrity of the site.
  - vi. Mitigation measures shall be implemented for the duration of *project activities*.
  - vii. The Discharger shall maintain confidentiality of the TCR location and provide worker training about any applicable mitigation measures.
  - viii. Provide a Tribal and Cultural Resources Report to the applicable Water Board that shows either 1) no TCRs were identified within the *project area*; 2) the appropriate mitigation and conservation measures developed in consultation with the affected California Native American tribe when the survey and research reveal a TCR or a Sacred Lands Inventory positive result; or 3) documentation that shows that affected California Native American tribes were contacted and did not respond to the opportunity to consult within 30 days.
- 3. Mitigation Measures for Treatment of Human Remains.**  
The Discharger shall immediately comply with Health and Safety Code section 7050.5 and, if applicable, Public Resources Code section 5097.98, and take the following actions, upon discovery of any human remains:
- a. Immediately cease all ground-disturbing activities in the vicinity of the discovery, with a minimum buffer of 100 feet;
  - b. Immediately notify the county coroner;

- c. Discontinue ground disturbing activities until the requirements of Health and Safety Code section 7050.5 and, if applicable, Public Resources Code section 5097.98 have been met; and,
- d. Ensure that the human remains are treated with appropriate dignity.
- e. The coroner has two working days to examine human remains after being notified by the person responsible for the excavation, or by their authorized representative per Health and Safety Code section 7050.5, and 24 hours to notify the Native American Heritage Commission for Native American remains.  
The Native American Heritage Commission will immediately notify the persons it believes to be the most likely descended from the deceased Native American per Public Resources Code section 5097.98. The most likely descendent has 48 hours from the time they are granted access, to make recommendations to the landowner or representative for the treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods.
- f. The landowner or their authorized representative shall reinter the human remains and items associated with the Native American human remains with appropriate dignity on the property in a location not subject to further and future disturbance consistent with subdivision (e) of Public Resources Code section 5097.98 if the:
  - i. Native American Heritage Commission is unable to identify a descendant;
  - ii. Mediation provided for pursuant to subdivision (k) of Public Resources Code section 5097.94, if invoked, fails to provide measures acceptable to the landowner;
  - iii. Most likely descendent does not make recommendations within 48 hours;
  - iv. Most likely descendants and the landowner have not mutually agreed to extend discussions regarding treatment and disposition pursuant to subdivision (b)(2) of Public Resources Code section 5097.98;
  - v. If the Landowner does not accept the descendant's recommendations. The landowner or the descendants may request mediation by the Native American Heritage Commission pursuant to Public Resources Code section 5097.94, subdivision (k).

#### 4. Wildfire or Response Activities Tribal and Cultural Resources Notification Procedures

- a. The Tribal and Cultural Resources Notification procedures described in Section IV.G.2 and 3 do not apply to Category B Wildfire and Response Activities.
- b. As set forth in Section VI., the applicable Water Board will provide public notice of Wildfire and Response projects concurrently with the issuance of any NOA.

#### H. Water Quality Monitoring

1. **General:** If standing or flowing water within a water of the state is within 50 feet of active construction, visual monitoring shall be conducted at least once every 24-hour period to detect discharge of construction related pollutants (e.g., oil and grease, sediment and earthen materials, uncured concrete).
  2. **Potentially Noncompliant Discharges:** Dischargers shall notify the Water Board when the discharge includes *hazardous materials* or may cause or contribute to an exceedance of water quality objectives or water quality control plans. Water Board staff may require additional water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.
- I. **Discharges of Hazardous Materials:** Following a discharge of a reportable quantity of a *hazardous material*, sewage, or an unknown material as set forth by Water Code Section 13271, all Dischargers shall comply with the following conditions:
1. As soon as (A) Dischargers have knowledge of the discharge, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other *emergency* measures then:
    - a. First call – 911 (to notify local response agency)
    - b. Then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
    - c. Lastly, follow the required OES procedures as set forth in the [Office of Emergency Services' Spill Release Reporting Web Page](https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/) (https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/)
  2. Following notification to OES, Dischargers shall notify the Water Board within 24 hours. Notification may be delivered via written notice, email, or other verifiable means.

3. Within five (5) working days of notification to the Water Board, Dischargers must submit an Accidental Discharge of Hazardous Material Report.

**J. Violation of Compliance with Water Quality Control Plans:**

1. Dischargers shall notify the Water Board of any event causing a violation of compliance with water quality objectives or water quality control plans. Notification may be delivered via written notice, email, or other verifiable means.
2. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Control Plan Report.
3. Examples of noncompliance events include, but not limited to: lack of treatment following a rain event, discharges causing a visible plume in a water of the state, and water contact with uncured concrete described in the toxic and hazardous materials section of this General Order.

**K. Erosion and Sediment Control Plan:** All Dischargers that propose soil disturbing activities shall develop and implement an Erosion and Sediment Control Plan for proposed *project activities*. Category B projects must submit the Erosion and Sediment Control Plan with the NOI unless the discharger has a programmatic Erosion and Sediment Control Plan that was previously approved by the applicable Water Board. If a programmatic plan is used, supplemental site-specific information must be included with the NOI, as needed, to address the site-specific details listed below. The Erosion and Sediment Control Plan shall include:

1. A description of the 1) *project activity* type(s) and construction methods; 2) *project activity* start and end-point locations; 3) acreage of proposed: ground disturbance, temporary impacts to waters of the state, and permanent impacts to waters of the state; 4) the volume of planned fill for each activity; and 5) BMPs implemented in the *project area*.
2. For *access route* work activities, also detail the 1) number of proposed newly constructed and/or reconstructed watercourse crossings; 2) standards (e.g. Handbook for Forest, Ranch, and Rural Roads<sup>8</sup>) and 100-year storm flows design accommodations (including the standards for the maximum and minimum rock sizes for fill prim (e.g. bank) armoring); 3) culvert size; and 4) *hydrologically disconnected* drainage structure types, including critical dips and roadside ditches, and their respective

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<sup>8</sup> Weaver, W.E., Weppner, E.M. and Hagans, D.K., 2015, Handbook for Forest, Ranch and Rural Roads: A Guide for Planning, Designing, Constructing, Reconstructing, Upgrading, Maintaining and Closing Wildland Roads (Rev. 1st ed.), Mendocino County Resource Conservation District, Ukiah, California.

spacing distances.

3. Identify the significant existing and potential *Controllable Sediment Discharge Sources* (CSDS) within the proposed *project area*. A *Controllable Sediment Discharge Source* meets all the following conditions:
  - a. Was caused or affected by anthropogenic activity,
  - b. Is under the Discharger's ownership and/or control, and
  - c. Can be treated through implementation of management measures.
4. The Erosion and Sediment Control Plan shall 1) list each *Controllable Sediment Discharge Source*; 2) include photograph(s) and a narrative description of each *Controllable Sediment Discharge Source*; and 3) specify whether each occurrence is currently discharging or has potential to erode.
5. The Erosion and Sediment Control Plan shall describe treatment BMPs to prevent or reduce erosion and prevent a discharge of sediment and other waste to waters of the state. If work is proposed on unstable areas or *saturated soils* include BMPs specific to working in those conditions.
6. Where the activities are planned on unstable slopes, the Executive Officer or Executive Director may require the submission a geotechnical analysis, conducted by a licensed professional, that includes 1) subsurface profile and conditions, 2) potential land subsidence, 3) potential slope failure, and 4) potential and existing geologic hazards.
7. Dischargers shall implement the Erosion and Sediment Control Plan.

**L. *Controllable Sediment Discharge Sources* Monitoring and Reporting:**

Dischargers shall conduct *Controllable Sediment Discharge Source* monitoring and reporting until the *project area* is *stabilized* as follows and as detailed in Attachment C:

1. Monitoring will be conducted when the site can be accessed without contributing to significant environmental effects or risking the safety of the monitor. If the project site is inaccessible due to road closures, hazardous weather conditions or other extenuating circumstances, the Discharger shall restart the monitoring when the site becomes accessible. Category B Dischargers shall notify the Water Boards of the need for a change in the monitoring schedule below or as required in an NOA.
2. *Controllable Sediment Discharge Sources* monitoring shall be conducted at the following frequency to evaluate the efficacy of implemented management measures (watercourse crossings, disconnected drainage structures, *access route* banks, etc.) and BMPs to prevent sediment

discharge, identify CSDS occurrences, and resolve the CSDS occurrences as soon as feasible. Additional monitoring and reporting may be required by the Water Board in the NOA:

- a. An initial survey shall be conducted once between September 1 and October 1.
  - b. Within 48 hours of a *precipitation event* that produces at least 1.5 inches of precipitation in 24 hours between October 1 and January 15.
  - c. Within 48 hours of a *precipitation event* that produces at least 1.5 inches of precipitation in 24 hours between January 15 and May 1.
  - d. A survey shall also be conducted between May 1 and June 15.
3. Category B Dischargers shall provide all information requested on the Controllable Sediment Discharge Sources Monitoring Form Attachment C, including:
  - a. Evidence of erosion (for example, bank failures, washed out stream crossings, tension cracking or settling of *access route* fill or sidecast, and rilling or gullyng of *access route* surfaces, *access route* fills, landings, or cutbanks):
    - i. That has caused or threatens to cause a discharge into waters of the state;
    - ii. Within 50 feet of waters of the state.
    - iii. Locations where BMPs failed.
    - iv. A description of corrective measures to address BMP failures.

## **ADDITIONAL CATEGORY B MONITORING AND REPORTING REQUIREMENTS**

### **M. Felled Trees and Vegetation Management Impacts Offset**

1. Where riparian vegetation management activities meet the conditions below, Category B Dischargers will, upon request by the applicable Water Board, provide a Vegetation Management Impact Offset Plan for Water Board approval. A plan for multiple sites that is generally applicable may be submitted in advance.
  - a. Riparian vegetation management activities are within 100 feet of any waterbody that is listed as impaired for sediment, nutrients, or temperature; or

- b. Riparian vegetation management activities are within 100 feet of any *Class I* or *Class II watercourse* and may cause or increase:
  - i. bank instability;
  - ii. loss of shade that maintains cooler stream temperatures for anadromous fish;
  - iii. loss of beneficial allochthonous material or other riparian ecosystem services; or
  - iv. adverse impacts to beneficial uses including the Rare and Spawning beneficial use.
- c. The Vegetation Management Impact Offset Plan shall describe how *utility-compatible vegetation* can be established to minimize long term impacts identified in Section IV.M.1.b, above, or
- d. The Discharger shall propose alternative enhancement projects (e.g., large wood augmentation, planting additional willow cuttings) within the impacted watershed, to minimize long term impacts identified in Section IV.M.1.b, above.

#### **N. Restoration of Temporary Impacts to Waters of the State**

1. Dischargers shall restore all areas of temporary impacts to waters of the state to pre-impact conditions as described in an approved restoration plan. The restoration plan shall be submitted with the NOI. A restoration plan that is generally applicable to multiple project sites may be submitted in advance and be used at applicable sites. Unless the project is a Wildfire or Response Activity, temporary impacts to waters of the state are not authorized and shall not occur until a restoration plan has been approved by Water Board staff.
2. The restoration plan shall provide the following: a schedule; plans for grading of disturbed areas to pre-project contours; a planting palette with plant species native to the *project area*; seed collection location; invasive species management; performance standards; monitoring timeline (the monitoring shall continue until performance standards have been met) and protocol until performance standards are met; and maintenance requirements (e.g., watering, weeding, and replanting).
3. In cases where implementation actions in the restoration plan cannot be reasonably conducted within one year, or where the adverse temporary impacts result in temporary loss of aquatic resource function(s), Dischargers may be required to provide compensatory mitigation to offset temporal loss of waters of the state.



**O. Compensatory Mitigation for Permanent Impacts to Waters of the State**

1. Compensatory mitigation may be required for permanent impacts to waters of the state. If the Water Board determines that the project is designed to restore or improve the ecological function of the impacted aquatic resource, it may determine that compensatory mitigation is not required.
2. When compensatory mitigation is required, Dischargers shall provide the following:
  - a. A proposed compensatory mitigation plan at a level of detail sufficient to accurately evaluate whether compensatory mitigation offsets the adverse impacts attributed to the project considering the overall size and scope of impact. The draft compensatory mitigation plan shall be submitted with the NOI.
  - b. Compensatory mitigation at a minimum of a one-to-one mitigation ratio, measured in area or length. The Water Board will require a higher overall mitigation ratio where necessary to ensure replacement of lost aquatic resource functions.
  - c. Subject to approval by the appropriate Water Board, the mitigation may be satisfied using any of the following compensatory mitigation methods: restoration, enhancement, establishment, and/or preservation<sup>9</sup>.
  - d. Compensatory mitigation shall be provided through a mitigation bank or in-lieu fee program, where feasible. If no mitigation bank or in-lieu fee program options are available, mitigation may be provided through on-site or off-site discharger-responsible mitigation, subject to approval by the appropriate Water Board.

**P. Commencement of Construction:** Unless authorized as a Wildfire or Response Activity, Category B Dischargers shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities and, if applicable, corresponding Waste Discharge Identification Number (WDID) issued under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ or 2022-0057-DWQ).

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<sup>9</sup> Restoration should generally be the first option considered because the likelihood of success is greater and the impacts to potentially ecologically important uplands are reduced compared to establishment, and the potential gains in terms of aquatic resource functions are greater, compared to enhancement and preservation.

**Q. Annual Reporting:** Category B Dischargers shall submit an Annual Report by September 1 for the previous reporting period from July 1 through June 30 of each year unless an NOA specifies a different due date for this report. Annual reporting shall continue until the Water Board issues a Notice of Project Complete Letter to the Discharger. Dischargers shall provide at least one annual report, in the event the project is completed in less than one year. Dischargers may consolidate Annual Report contents listed in Reporting and Notifications (Attachment D) for multiple projects into a single Annual Report.

**R. Request for Notice of Project Complete Letter:** Category B Dischargers shall submit a Request for Notice of Project Complete Letter when construction and any post-construction monitoring is complete (including Section IV.L *Controllable Sediment Discharge Sources* Monitoring and Reporting), and no further *project activities* will occur; this request shall be submitted to Water Board staff within thirty (30) days following completion of all *project activities*. Water Board staff may conduct an inspection prior to approval of the request. Upon approval of the request, the Water Board staff shall issue a Notice of Project Complete Letter to the Discharger.

**1. The Water Board will consider the request when all portions of the project area comply with all the following conditions:**

- a. All restoration and mitigation performance criteria have been met;
- b. The Discharger has completed all *project activities*;
- c. There is no greater potential for construction-related stormwater pollutants to be discharged into site runoff than prior to the construction *project activities*;
- d. Construction-related equipment and temporary BMPs have been removed from the site;
- e. Construction materials and wastes have been disposed of properly and in accordance with waste characteristics (e.g., hazardous waste, general refuse);
- f. The Discharger has demonstrated compliance with all Section VI.F.19 final *stabilization* requirements.

**S. In-Water Work and Diversions:**

1. Except for Wildfire or Response Activities, Category B Dischargers shall notify the Water Board at least forty-eight (48) hours prior to initiating work in any stream channel regardless of whether there is standing or flowing water. Notification may be delivered via written notice, email, or other verifiable means.
2. For projects involving planned work in water or stream diversions, a water

quality monitoring plan shall be submitted to the Water Board for approval at least 30 days in advance of any discharge to the affected water body. This plan must be provided as early as possible for Wildfire or Response Activities and no later than 30 days after the diversion is initiated.

3. Water quality monitoring shall be conducted in accordance with the approved plan.
4. Within seven (7) working days following completion of work in waters of the state, an In-Water Work and Diversions Water Quality Monitoring Report shall be provided to Water Board staff.

**T. Project Modifications:** Project modifications may require an amendment of project documentation to maintain coverage under this General Order. Category B Dischargers shall give advance notice to Water Board staff if project implementation as described in the materials submitted with the NOI is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a Modifications to Project Report.

#### **V. Fees**

The fee amount for individual projects authorized under this Order is determined by California Code of Regulations, title 23, section 2200. (Cal. Code of Regs., tit., 3833, subd. (b)(3); Wat. Code, §13260, subd. (d).) Category A projects are not subject to fees. (Wat. Code, § 13269.) For Category B projects that include discharges of dredged or fill material, fees shall be calculated in accordance with section 2200, subdivision (a)(4). For projects that do not include discharges of dredged or fill materials, fees shall be calculated in accordance with section 2200, subdivision (a), Threat to Water Quality Category 3 and Complexity Category C, Discharge to Land or Surface Waters. Note that fees are periodically adjusted. Dischargers should confirm the correct fee amount prior to submitting payment.

#### **VI. Public Notice**

The applicable Water Board will give public notice of an NOI at least twenty-one (21) days before taking action on the NOI. If a Wildfire or Response Activity requires that an NOA be issued in less than 21 days, public notice shall be provided as much in advance of issuance as possible, but no later than simultaneously with issuance of the NOA.

#### **VII. Dispute Resolution**

Several areas of the permit will be mandated at the discretion of the Regional Board Executive Officer after permit adoption. In this function, the Regional Water Board Executive Officers are in essence acting as agents of the State Water Board. Therefore, determinations of the Regional Water Board Executive Officers in interpreting and implementing this permit are considered actions of the State Water Board (and accordingly not actions of the Regional Water Board subject to

the petition process under Water Code section 13320) except where the Regional Water Board itself acts or the Executive Officer acts under Water Code Sections 13300, 13304, or 13383. However, recognizing the need for some level of statewide consistency in interpretation and implementation of Order provisions, this Order includes a dispute resolution process where there is disagreement between a Discharger and a Regional Water Board Executive Officer. The Discharger should first attempt to resolve the issue with the Executive Officer of the Regional Water Board. If a satisfactory resolution is not obtained at the Regional Water Board level, the Discharger may submit the issue in writing to the Executive Director of the State Water Board or his designee for resolution, with a copy to the Executive Officer of the Regional Water Board. The issue must be submitted to the Executive Director within thirty days of any final determination by the Executive Officer of the Regional Water Board; after thirty days the Permittee will be deemed to have accepted the Regional Water Board Executive Officer's determination. The Executive Officer of the Regional Water Board will be provided with an opportunity to respond.

**VIII. Certification**

IT IS HEREBY ORDERED that pursuant to Water Code sections 13263 and 13269, the Discharger shall comply with all prohibitions, specifications, provisions, and other requirements herein in order to meet the provisions contained in Division 7 of the Water Code and regulations adopted thereunder as well as comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), 307 (Toxic and Pretreatment Effluent Standards), and other appropriate requirements of state law.

I, Courtney Tyler, Clerk to the Board, do hereby certify that this Order with all its attachments is a full, true, and correct copy of an Order adopted by the State Water Board, on [DATE].

AYE:

NAY:

ABSENT:

ABSTAIN:

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Date

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Courtney Tyler  
Clerk to the Board