

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

ORDER 00-047

WASTE DISCHARGE REQUIREMENTS FOR:

CALIFORNIA DEPARTMENT OF TRANSPORTATION  
GUADALCANAL VILLAGE RESTORATION SITE  
VALLEJO, SOLANO COUNTY

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

1. District 4 of the California Department of Transportation (hereinafter CALTRANS or the Discharger) proposes to restore tidal wetlands at Guadalcanal Village, a 53-acre site on Mare Island adjacent to Dutchman Slough, in the City of Vallejo, Solano County.
2. The Discharger proposes to restore these wetlands (hereinafter the Project) with the intent of using them as compensation for the anticipated loss of approximately 6.41 acres of tidal wetland habitat the associated with the proposed widening of a four-lane highway on State Route 37, extending 2.5 miles east from the Napa River Bridge to the existing highway section near Diablo Boulevard in Vallejo. The proposed highway-widening project will also result in loss of other types of habitat, including seasonal wetlands. The Discharger will provide additional compensation for these other wetland losses at a different site as a separate mitigation project.
3. This Order regulates only the creation of wetland habitat during the restoration at the Guadalcanal Village site (hereinafter restoration site) and not any additional mitigation project nor the highway-widening project. The Board will assess the impacts of the proposed highway-widening project upon receipt of an application for that project. Once it has been determined that the impacts of that project have been minimized, the Board will determine the sufficiency of the mitigation provided by the Guadalcanal Village restoration site and additional mitigation at that time.
4. There are currently approximately 13.7 acres of seasonal wetlands and 0.85 acres of other waters of the United States on the restoration site. Non-native eucalyptus trees dominate the seasonal wetlands and wildlife use is limited to common species of birds and mammals adaptable to disturbed habitat conditions. All of the seasonal wetlands and other jurisdictional waters at the restoration site will be graded or filled to restore tidal wetlands at the restoration site. The Project would create 14.8 acres of mudflat and subtidal sloughs and 29.1 acres of tidal wetland habitat for a total of 43.9 acres. In addition, 5.6 acres of upland refugia habitat would be created at the restoration site.

Of the 43.9 acres of created wetland habitat, 1.4 acres are considered mitigation to compensate for the loss of 0.35 acres of wetlands and waters of the United States from the construction of Vallejo Sanitation and Flood Control District's Sewer Rerouting Project in White Slough.

5. This Order regulates the discharge of dredged and fill material to surface waters and does not apply to storm water discharges associated with construction activities. The Discharger is responsible for complying with the rules and regulations of State Water Resources Control Board Order No. 99-060-DWQ, issued on July 15, 1999, National Pollutant Discharge Elimination System (NPDES) Permit, Statewide Storm Water Permit and Waste Discharge Requirements (WDRs) for the State of California, Department of Transportation (CALTRANS).
6. The Discharger has applied to the Board for Water Quality Certification under Section 401 of the Clean Water Act. On April 11, 2000, the U. S. Army Corps of Engineers (hereinafter Corps) issued a Public Notice for the wetland restoration.
7. State authority to regulate the discharge, and threatened discharge of waste to waters of the State, including surface water, groundwater, and wetlands is granted to the State Water Resources Control Board in the Porter-Cologne Water Quality Act (Act). Water Quality Control Plans implement the Act by designating the beneficial uses to be protected, and the water quality objectives reasonably required for that purpose.
8. The Board, on June 21, 1995, adopted, in accordance with Section 13240 et seq. of the Act, a revised Water Quality Control Plan, San Francisco Bay Basin (Basin Plan). This updated and consolidated revised Basin Plan was approved by the State Water Resources Control Board and the Office of Administrative Law on July 20, 1995, and November 13, 1995, respectively. A summary of regulatory provisions is contained in 23 CCR 3912. The Basin Plan defines beneficial uses and water quality objectives for waters of the State, including surface waters and groundwaters. Issuance of this Order and the activities regulated herein are in compliance with the Basin Plan.
9. The restoration site will become tributary to the Napa River. The following existing beneficial uses are identified in the Basin Plan for the Napa River: Agricultural Supply, Cold Freshwater Habitat, Fish Migration, Municipal and Domestic Supply, Navigation, Preservation of Rare and Endangered Species, Water Contact Recreation, Noncontact Water Recreation, Fish Spawning, Warm Freshwater Habitat, and Wildlife Habitat. The restoration site also has the existing beneficial uses for the Mare Island wetland area: Estuarine Habitat, Noncontact Water Recreation, Fish Spawning, and Wildlife Habitat.
10. In 1999, the San Francisco Bay Area Wetlands Ecosystem Goals Project completed the Baylands Ecosystem Habitat Goals (Habitat Goals). The Habitat Goals cite a severe decline in tidal wetland habitat over the last 100 years, which has resulted in adverse impacts to native fish, wildlife habitat, and the water quality of the Bay. The Habitat Goals recommend that large areas of tidal wetlands be restored around the Bay, particularly at the

mouths of creeks. The proposed Project is consistent with the Habitat Goals and will help to achieve improved water quality and support for the beneficial uses of Fish Spawning, Estuarine Habitat, Preservation of Rare and Endangered Species, and Wildlife Habitat.

11. The Basin Plan Wetland Fill Policy establishes that there is to be no net loss of wetland acreage and no net loss of wetland value when the project and any proposed mitigation are evaluated together, and that mitigation for wetland fill projects is to be located in the same area of the Region, wherever possible, as the project. The Policy further establishes that wetland disturbances should be avoided whenever possible, and if not possible, should be minimized, and only after avoidance and minimization of impacts should mitigation for lost wetlands be considered. The Board finds that the Project complies with the Policy.
12. To protect the water quality at and in the vicinity of the Project for the duration of Project construction, to adequately address proposed Project impacts and mitigation to waters of the State, to meet the objectives of the California Wetland Conservation Policy, to require appropriate changes over the life of the Project and its construction, and to address public safety concerns in an environmentally responsible way, the Board has determined to regulate the Project's discharge of dredged and fill material to surface waters by issuance of Waste Discharge Requirements (WDRs).
13. The White Slough Protection and Development Act (White Slough Act) (Gov. Code, Sec. 66670-66682) was enacted in 1990 to establish San Francisco Bay Conservation and Development Commission (BCDC) jurisdiction over the White Slough area and to, among other things, establish requirements for the City of Vallejo, the County of Solano, CALTRANS, and BCDC to develop a plan to protect the White Slough area. The Mitigation Plan (see Finding 14) for this Project is a requirement of the White Slough Act.

The White Slough Act states (Gov. Code Sec. 66680(b)) that the highway construction project shall fill the minimum necessary wetland acreage and no more than 13 acres, that mitigation for tidal and tidally-influenced wetlands will be provided at a four-to-one ratio in a nearby upland area, that an independent biologist will be hired to assess the conditions of the newly created wetlands over time, and that the created wetlands will be fully functioning within five years. The highway-widening construction, as currently proposed, would result in the fill of 2.98 acres of tidal waters, 3.43 acres of tidal wetlands, and 4.76 acres of seasonal wetlands and other nontidal waters in the vicinity of White Slough Marsh.

The White Slough Act also says (Gov. Code Sec. 66679(d)) that state and local permits for projects affecting White Slough shall be issued "only if the permitting entity finds that the proposed project is consistent with the plan and the requirements of this chapter." The Board finds that this restoration project complies with the White Slough Act.

14. The Discharger has submitted a mitigation plan, "Mitigation Plan Supplement: Revised Tidal Wetland Mitigation Plan" (hereinafter Mitigation Plan), dated February 18, 2000, as a part of its proposal, to offset the loss of beneficial uses of waters of the State.

15. The California Environmental Quality Act (CEQA) requires all projects approved by State agencies to be in full compliance with CEQA, and requires a lead agency to prepare an appropriate environmental document (EIR or Negative Declaration) for such projects. CALTRANS and the California Transportation Commission approved the Project on December 10, 1997, and the Notice of Determination for CEQA compliance was signed on December 18, 1997. The Federal Highways Administration completed the NEPA environmental review process by issuing a Record of Decision in June 1998. The Board has reviewed the environmental documents and finds that there will be no unmitigated environmental impacts.
16. As authorized under Section 401 of the Federal Clean Water Act, and pursuant to Title 23 of the California Code of Regulations Section 3857, the Board finds that the proposed activity will result in a discharge into navigable waters of the United States and issues these WDRs to assure that this activity will meet California water quality standards. The Board will not act on the Discharger's application for Water Quality Certification.
17. By letter dated May 26, 2000, the Board notified the Discharger of its intent to prescribe WDRs for this discharge.
18. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

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

A. Discharge Prohibitions

1. The discharge of wastes including, but not limited to, oil, gasoline, diesel fuel, any petroleum derivative, any toxic chemical, or hazardous waste, or materials other than storm water, which are not otherwise regulated by a NPDES permit or allowed by this Order to waters of the State or surface water drainage courses is prohibited.
2. The Project shall not cause a condition of pollution or nuisance as defined in Section 13050 of the California Water Code.
3. At no time shall surplus or waste earthen materials be placed in surface drainage courses, or in such a manner as to allow the discharge of such materials to adjacent undisturbed land or to any surface water drainage course except as authorized by this Order as described in Finding 4, above, and as described in the Discharger's application/Report of Waste Discharge and supporting materials.
4. The groundwater shall not be degraded as a result of project construction and related activities.

5. The discharge of dredged material or other imported soil onto the restoration site is prohibited unless the material has been characterized as consistent with the current version of the Board's Beneficial Reuse of Dredged Materials: Sediment Screening and Testing Guidelines and a written suitability determination is obtained from the Executive Officer prior to discharge. In no case shall dredged material be placed above Mean High Water as specified in the Mitigation Plan.

B. Provisions

1. The Discharger shall comply with all the Prohibitions and Provisions of this Order immediately upon adoption of this Order or as provided below.
2. The Discharger shall immediately notify the Board by telephone whenever an adverse condition occurs as a result of this discharge. An adverse condition includes, but is not limited to, a violation of the conditions of this Order, significant spill of petroleum products or toxic chemicals, or damage to control facilities that could cause noncompliance. Pursuant to Section 13267(b) of the California Water Code, a written notification of the adverse condition shall be submitted to the Board within two weeks of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to the modifications of the Board, for the remedial actions.
3. The Discharger shall at all times fully comply with the engineering plans, specifications, and technical reports submitted with the Discharger's application for water quality certification and the completed Report of Waste Discharge.
4. All reports submitted pursuant to these Provisions shall be prepared under the supervision of a suitable professional licensed in the State of California.
5. The Discharger shall remove and relocate any wastes that are discharged at any sites in violation of this Order.
6. In accordance with Section 13260 of the California Water Code, the Discharger shall file with the Board a report of any material change or proposed change in the character, location, or quantity of this waste discharge. Any proposed change in operation shall be reported to the Executive Officer at least 30 days in advance of implementation of any proposal. This shall include, but not be limited to, all significant new soil disturbances, all proposed expansion of development, or any change in drainage characteristics at the Project site. For the purpose of these requirements, this includes any proposed change in the boundaries of the Project site.
7. The Discharger shall maintain a copy of this Order at the Project site so as to be available at all times to site operating personnel.

8. The Discharger is considered to have full responsibility for correcting any and all problems that arise in the event of a failure that results in an unauthorized release of waste or wastewater.
9. The Discharger shall permit the Board or its authorized representative, upon presentation of credentials:
  - a. Entry on to the Project site or the premises in which records are kept.
  - b. Access to copy any records required to be kept under the terms and conditions of this Order.
  - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.
  - d. Sampling of any discharge or surface water covered by this Order.
10. The Discharger shall implement the Mitigation Plan and shall notify the Board in writing 30 days prior to actual start date of the mitigation. Any substantive future changes to the Mitigation Plan that do not change the acreage, functions or values of the created wetlands must be approved in writing in advance by the Executive Officer. The Board must approve changes that will affect the acreage, functions or values of the created wetlands.
11. The Discharger shall provide annual reports on July 1<sup>st</sup> of each year beginning 2001 until the Mitigation Plan has been successfully completed. The annual report shall summarize work completed during the previous year, explain any problems encountered or anticipated which may result in delay or failure to meet the stated project objectives in the desired time period, and describe the solutions implemented or planned. The annual reports shall also include a listing and summary of all data collected, and details regarding the location of the data. In addition, a copy of all site evaluation and monitoring reports produced pursuant to Section 66680(b)(5)(C) of the White Slough Protection and Development Act shall be provided to the Regional Board within 30 days of report completion. Access to or copies of all data shall be provided upon request.
12. All reports and other information, including restoration monitoring reports, required to be submitted to the Corps shall also be submitted to the Executive Officer of the Board at the same time they are submitted to the Corps.
13. The monitoring program shall be continued until the Mitigation Plan has been successfully completed. In no case shall the restoration site be monitored for less than five years.
14. When the Discharger has determined that the restoration has achieved the specified success criteria, it shall submit a notice of completion, acceptable to the Executive Officer. The notice of completion shall include a plan for long-term maintenance and management of

the restoration site, acceptable to the Executive Officer. The Discharger shall implement this plan.

15. The Discharger shall submit copies of all necessary approvals and/or permits for the Project and mitigation projects from applicable government agencies, including the California Department of Fish and Game, prior to the start of Project construction.
16. The Discharger shall implement best management practices to minimize deposition of sediment into waters of the State while performing any work authorized by the Corps' Permit and while creating the wetland habitat.
17. Appropriate native seed mixtures shall be used for hydroseeding or broadcast seeding of disturbed surfaces outside of the created wetlands.
18. The Discharger shall be considered to have a continuing responsibility for ensuring compliance with the Prohibitions and Provisions of this Order in the operations or use of the owned property. The Discharger shall immediately notify the Board when a change in ownership of the mitigation site occurs.
19. These Requirements do not authorize commission of any act causing injury to the property of another or of the public; do not convey any property rights; do not remove liability under federal, state or local laws, regulations or rules of other programs and agencies, nor do these Requirements authorize the discharge of wastes without appropriate permits from other agencies or organizations.

I, Lawrence P. Kolb, Acting Executive Officer, do hereby certify that the foregoing is a full, complete and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on June 21, 2000.

  
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Lawrence P. Kolb  
Acting Executive Officer