

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

ORDER No. 00-050

WASTE DISCHARGE REQUIREMENTS FOR:

**THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES, MAINTENANCE
ACTIVITIES BY MOSQUITO ABATEMENT DISTRICTS**

The California Regional Water Quality Control Board, San Francisco Bay Region (hereafter Board) finds that:

1. The California Department of Health Services (DHS), acting as lead agency under a Cooperative Agreement with mosquito abatement districts statewide, has applied to the State for Waste Discharge Requirements for authorization to carry out maintenance activities by the Mosquito Abatement Districts (DHS and the mosquito abatement districts hereinafter called the Dischargers) for the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Solano, and Sonoma, in those areas within the jurisdiction of the San Francisco Bay Regional Water Quality Control Board. The maintenance activities would occur within tidal marshes, managed tidal and non-tidal marshes, seasonal wetlands in diked historic baylands, and in some creeks adjacent to these wetlands.
2. Maintenance activities by mosquito abatement districts are regulated by a permit issued by the U.S. Army Corps of Engineers (Corps). The Regional Board previously issued a recommendation for Water Quality Certification for the Corps permit on July 20, 1994. The Corps permit expired on September 1, 1999. The DHS has applied for a new five-year permit from the Corps to continue the maintenance activities. The Corps issued Public Notice No. 24852S on April 21, 2000, and expects to reissue the permit in June.
3. The activities by the dischargers covered by this Order consist of: 1) maintenance of existing water circulation ditches that does not include any modification that changes the character, scope, or size of the original ditch design, 2) removal of debris, weeds, and emergent vegetation in natural channels and sidecasting of fill incidental to removal, 3) repair or maintenance of existing control structures (floodgates and weirs), 4) clearing of brush for access to streams tributary to wetland areas, and 5) filling of existing, non-functional water circulation ditches to the extent necessary to achieve required water circulation dynamics and restore ditched wetlands.
4. Maintenance of ditches includes removing sediments and water from small (up to 18 x 24 inches) and large (from 18 x 24 inches up to 4 by 6 feet) lateral circulation ditches in tidal and reclaimed wetland areas. Such work is done either by hand-ditching or mechanical ditching with low ground pressure vehicles (e.g., Spryte,

rotary ditcher and clam-shell dredger). Sediments are typically sidecast up to three feet from the ditch margin. The volume of redistributed material is generally less than 0.17 cubic yards/lineal foot of channel.

5. Maintenance of existing control structures such as floodgates and weirs consists of removing sediments and oiling gates to keep structures functioning properly. This permit does not cover installation of any new structures.
6. Vegetation clearing along ditches and within creeks adjacent to wetlands consists of clearing brush to allow water circulation and to provide access to waterways in order to treat mosquito-infested areas. Vegetation cutting in streams is done only with hand tools.
7. The purpose of these maintenance activities is to protect public health and safety by controlling mosquito populations and minimizing breeding habitat while minimizing wetlands disturbance. Ditching promotes tidal flushing and allows access for mosquito fish, as well as eliminating areas of standing water where mosquito breeding takes place. The mosquito abatement districts in the Bay Area prefer to use long-term physical controls such as ditching and vegetation clearing to prevent mosquito populations instead of applying pesticides. The use of recirculation ditches has been shown to be an effective way to reduce mosquito populations as part of an overall biological control strategy that avoids the detrimental effects of chemical control methods on marsh habitat.
8. During the previous five-year Corps permit period, the mosquito abatement districts listed in finding #1 above dredged and redistributed approximately 5550 cubic yards of wetland materials (sediment and vegetation) over a total of approximately 65,000 linear feet. The districts anticipate redistributing the same or a lesser amount in the next five years. The amount of wetland temporarily impacted by maintenance and fill activities over the course of the five-year permit is estimated to be up to 10 acres for each district, with most districts averaging about 2 to 4 acres total.
9. The Board, on June 21, 1995, adopted, in accordance with Section 13244 et. seq. of the California Water Code, a revised Water Quality Control Plan, San Francisco Bay Basin (Basin Plan). This updated and consolidated 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 and groundwaters. This Order is in compliance with the Basin Plan. Beneficial uses for San Francisco Bay include: wildlife habitat, navigation, water contact recreation, non-water contact recreation, commercial fishing, preservation of rare and endangered species, estuarine habitat, fish spawning, migration, and cold water fisheries.

10. The Mosquito Abatement Districts of Alameda, Contra Costa, Marin/Sonoma, San Mateo, and Napa have certified compliance with CEQA by adopting mitigated negative declarations covering the activities listed above. The Solano County Mosquito Abatement District has determined that its mosquito control activities are categorically exempt from CEQA.
11. Pursuant to Section 13260 of the Porter-Cologne Water Quality Control Act, the Board regulates the disposal of wastes to ensure protection of the beneficial uses of surface and ground waters and the prevention of nuisances.
12. The Board has notified interested agencies and persons of its intent to prescribe Waste Discharge Requirements for the California Department of Health Services, Maintenance Activities by Mosquito Abatement Districts, and has provided them with an opportunity for a public hearing and an opportunity for them to submit their written views and recommendations.

IT IS HEREBY ORDERED that DHS and the Mosquito Abatement Districts of the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Solano, and Sonoma, pursuant to the provisions of Division 7 of the California Water Code, and regulations adopted thereunder, shall comply with the following:

A. Prohibitions

1. Neither the storage nor the discharge of waste shall create a condition of nuisance or pollution as defined by Section 13050 of the California Water Code.
2. Discharges of dredged or fill material into Waters of the State shall be avoided or minimized to the maximum extent possible, and measures shall be taken to avoid disrupting the natural drainage patterns in wetland areas.

B. Discharge Specifications

1. No activities shall be undertaken that may affect a listed, threatened, or endangered species without coordination with the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), and National Marine Fisheries Services (NMFS) to assure that all requirements of federal and state endangered species regulations have been met.
2. All maintenance work shall be done during times that minimize adverse impacts to nesting birds, anadromous fishes, and other species of concern, in consultation with the USFWS, NMFS, and the CDFG. Work authorized under this permit shall be conducted, whenever possible, during the period of August 1 through January 31st. In waterbodies that support anadromous fish, work shall be carried out during the period of July 1 through September 30th.

3. Staging areas for maintenance activities and equipment shall be on upland areas. Heavy equipment working in wetlands must be placed on mats or other measures taken to minimize soil and vegetation disturbance (e.g., use of low ground pressure vehicles).
4. All projects by the Districts shall be evaluated prior to introducing mechanical equipment in order to identify and flag sensitive sites and choose the shortest possible route to the work site consistent with protection of sensitive areas.
5. Measures shall be taken to minimize impacts from mechanical equipment, such as reducing turns by track-type vehicles, taking a minimum number of passes with equipment, varying points of entry, driving vehicles at low speed, avoiding driving on open mud and other soft areas, and using hand ditching as much as possible.
6. Work shall be done at low tide, and times of entry planned to avoid nesting seasons and to minimize disruption of wildlife.
7. No spoils sidecast adjacent to circulation ditches shall exceed eight inches in relief above the marsh plain after dewatering. Sidecast spoil lines exceeding four inches in height above the marsh plain shall extend no more than three feet from the nearest ditch margin. Any spoils in excess of these dimensions must be either hydraulically redispersed on the site (e.g., by rotary ditcher) or removed to an approved upland site. Sidecast spoil lines, i.e., spoils exceeding four inches in relief above the marsh plain, shall be breached at appropriate intervals to prevent local impediments to marsh circulation.
8. Ditching that drains high marsh salt ponds shall be minimized to the extent possible in order to protect the habitat of native salt pan species.
9. Vegetation clearing along creeks shall be done with hand tools only and shall be the minimum practicable to provide access to treatment areas. Vegetation removal shall be limited to brush cutting. Bankside vegetation removal shall not lead to bank erosion, increase in stream temperatures, or significant loss of habitat.
10. If proposed maintenance of ditches is likely to destroy or damage substantial amounts of shrub or sub-shrub vegetation (e.g., coyote brush, gumplant) on old sidecast spoils, the extent and quality of the vegetation shall be quantitatively estimated by a biologist with expertise in marsh vegetation. A revegetation plan for these species shall be included in the annual report as noted below.
11. In marshes that contain populations of invasive non-native vegetation such as pepperweed (*Lepidium latifolium*) and introduced species of cordgrass (*Spartina*), sidecast spoils shall be surveyed for frequency of establishment of invasive exotic species during the first growing season following the discharge of sediments. The results of the survey shall be included in the annual report as noted below, along with

appropriate weed abatement measures determined by consultation with the Corps and wildlife agencies.

12. A report shall be forwarded by the DHS from each district and submitted to the Executive Officer of the Regional Board, the Corps, USFWS, CDFG, and NMFS no later than July 1 of each year. The report shall include each district's workplan for the year's proposed maintenance activities with the following elements:

- a delineation of all proposed ditching overlain on topographic maps at a minimum scale of 1" = 1000', with accompanying vicinity maps,
- a delineation of all areas where brush clearing along stream channels is proposed,
- the dominant vegetation of the site,
- the length and sizes of ditches to be maintained, cleared, or filled,
- type of equipment proposed to be used,
- proposed measures to minimize impacts on marsh vegetation and wildlife species,
- the estimated date of the work, and
- any proposed revegetation plan pursuant to discharge specification #10 above.

The report shall also include a description of actual work carried out in the previous year, including location maps, methods and equipment used, linear feet of ditching and vegetation cleared, description of work done along stream channels, the number of cubic yards of material redistributed onto the wetlands, disposal location of any dredge spoils disposed of offsite, dates of work, results of survey(s) for exotic species, and any necessary weed abatement measures.

The report shall also include a discussion of the measures used to minimize wetland impacts, the success of such measures, and any new or different measures planned to be implemented in the coming year.

C. Provisions

1. The Dischargers shall comply with all Prohibitions, Specifications, and Provisions of this Order immediately upon adoption. All required submittals must be acceptable to the Executive Officer. Violations may result in enforcement actions, including Regional Board orders or court orders requiring corrective action or imposing civil monetary liability, or in modification or revocation of these waste discharge requirements.
2. The Dischargers shall allow the Regional Board, or its authorized representatives, in accordance with California Water Code Section 13267 (c):
 - a. Immediate entry upon premises where maintenance activities are being performed or facilities in which any required records are kept,

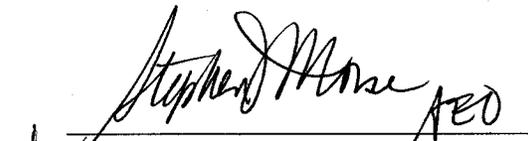
- b. Access to copy any records required to be kept under terms and conditions of this Order,
 - c. Inspection of any equipment, practices, or operations regulated or required by this Order, and
 - d. Sampling, photographing or videotaping of any discharge or monitoring device.
3. A copy of this Order shall be maintained at the discharge facility and shall be available at all times to operating personnel. Key operating personnel shall be familiar with its content.
 4. The filing of a request by the Dischargers for modification, revocation and reissuance, or termination of this Order, or notification of planned changes or anticipated noncompliance, does not stay any condition of this Order.
 5. The provisions of this Order are severable. If any provision of this Order is found invalid, the remainder of the Order shall not be affected.
 6. This Order is not transferable to any person except after notice to the Board. The Board may modify or revoke and reissue the Order to change the name of the Dischargers and incorporate such other requirements as may be necessary. In the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the Dischargers, the Dischargers shall notify the succeeding owner(s) or operator(s) of the existence of this Order by letter, a copy of which shall be forwarded to the Board.
 7. Except for data determined in advance to be confidential, all reports prepared in accordance with terms of this Order shall be available for public inspection at the offices of the Board.
 8. The Dischargers shall give advance notice to the Board of any planned changes in the permitted facility or activity that may result in noncompliance with this Order.
 9. Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be submitted under this Order, including monitoring reports or reports of compliance or noncompliance, shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or both.
 10. Each person who is representing a mosquito abatement district or the DHS in signing a report required by this Order or other information requested by the Board shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The DHS, acting as agent for the Dischargers, shall mail a copy of all reports required by this Order to:

California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

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


LAWRENCE P. KOLB
Acting Executive Officer