

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

**ORDER No. R2-2005-0035**

**NPDES PERMIT NO. CAS029718**

**AMENDMENT REVISING ORDER NO. 01-119 FOR:**

SANTA CLARA VALLEY WATER DISTRICT, COUNTY OF SANTA CLARA, CITY OF CAMPBELL, CITY OF CUPERTINO, CITY OF LOS ALTOS, TOWN OF LOS ALTOS HILLS, TOWN OF LOS GATOS, CITY OF MILPITAS, CITY OF MONTE SERENO, CITY OF MOUNTAIN VIEW, CITY OF PALO ALTO, CITY OF SAN JOSE, CITY OF SANTA CLARA, CITY OF SARATOGA, AND CITY OF SUNNYVALE, which have joined together to form the SANTA CLARA VALLEY URBAN RUNOFF POLLUTION PREVENTION PROGRAM

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

**Findings**

1. Incorporation of related documents: The Fact Sheet for this Order includes cited references and additional explanatory information in support of the requirements of this amendment. This information, including any supplements thereto, and any future response to comments on the Tentative Order, is hereby incorporated by reference.

**Existing Orders**

2. The Board adopted Order No. 01-024 on February 21, 2001, reissuing waste discharge requirements under the National Pollutant Discharge Elimination System (NPDES) permit for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Program) for the discharge of stormwater to South San Francisco Bay and its tributaries. The Program's NPDES permit is jointly issued to the thirteen cities of Santa Clara County named above, Santa Clara County and the Santa Clara Valley Water District, all of which are Co-permittees. These Co-permittees are referred to as the Dischargers.
3. Order No. 01-024 recognizes the Santa Clara Valley Urban Runoff Management Plan (Management Plan) as the Dischargers' Comprehensive Control Program and requires implementation of the Management Plan, which describes a framework for management of stormwater discharges. The Management Plan describes the Program's goals and objectives and contains Performance Standards, which represent the baseline level of effort required of each of the Dischargers. The Management Plan contains Performance Standards for seven different stormwater management activities.
4. The Board adopted Order No. 01-119 on October 17, 2001, which amended Provision C.3. of Order No. 01-024 to enhance the Dischargers' existing Performance Standard for new development and significant redevelopment. Order No. 01-024 and Order No. 01-119 are

hereinafter collectively referred to as the Permit. Order No. 01-119 specifically requires a level of implementation of best management practices (BMPs), including source control, site design, and structural stormwater treatment measures in new development and significant redevelopment, that removes pollutants from the discharge to the maximum extent practicable (MEP). This is done through additional requirements to incorporate source control measures, site design principles, and structural stormwater treatment controls in new development and redevelopment projects in order to reduce water quality impacts of stormwater runoff for the life of these projects. The consistent application of such measures is intended to greatly reduce the adverse impacts of new development and redevelopment on water quality and beneficial uses by reducing stormwater pollutant impacts, and impacts of increases in peak runoff rate.

5. In September 2003, as allowed by the Permit, the Program proposed an alternate Group 2 definition under Provision C.3.c. so as to provide consistency between the Permit and the permits for other Bay Area Phase I municipal stormwater permit holders (hereinafter referred to as "other Bay Area Permittees"). The other Bay Area Permittees include the Alameda Countywide Clean Water Program, the Contra Costa Clean Water Program, Fairfield-Suisun Sanitary District, and the San Mateo Stormwater Pollution Prevention Program. Specifically, the proposed revisions excluded specific projects from the Group 1 and 2 Project categories, increased the threshold for implementation of C.3. requirements to 10,000 square feet for Group 2 projects, allowed projects with water quality benefits (such as stream restoration) under an alternative compliance program, provided exemptions for certain redevelopment projects, and requested additional time for the implementation of C.3. requirements for Group 2 Projects by extending the date from October 15, 2004, to April 15, 2005.
6. The Board approved the alternate Group 2 definition at its October 15, 2003 meeting and directed the Executive Officer to sign and send a Letter of Approval to the Dischargers. This Order conforms the Group 1 and 2 Project definitions in the Permit pursuant to the Board's prior Letter of Approval.

### **Amendments of this Order**

#### **Group 2 Projects**

7. This Order also establishes definitions for Group 2A and 2B Projects to allow implementation to be completed in phases by the Dischargers. The Order extends the implementation date for Group 2A projects from April 15, 2005, to within three months of adoption of this Order. This Order also amends Provision C.3.c.ii. of Order No. 01-119 to extend the implementation date for Group 2B Projects so as to provide consistency with permits for other Bay Area Permittees.

#### **Hydromodification Management Plan (HMP) Report**

8. This Order also amends the Permit to approve key provisions of the Hydromodification Management Plan (HMP) Final Report<sup>1</sup> required under this Permit (hereinafter referred to as the HMP Report), as set forth in Attachment A of this Order, and which are hereby incorporated into

---

<sup>1</sup> Hydromodification Management Plan Report, Final Draft, Santa Clara Valley Urban Runoff Pollution Prevention Program, April 21, 2005.

this Permit. The intent of the HMP Report is to reduce the hydromodification impacts from stormwater discharges from certain development projects within the Dischargers' jurisdictions. Provision C.3.f.viii of the Permit required submittal of the HMP Report by October 15, 2003. However, the Dischargers were provided an additional three months to complete the HMP Report in order to provide the Dischargers and other Bay Area Permittees the same net amount of time to complete an HMP Report. Subsequently, the Dischargers submitted components of their HMP and were allowed additional time, approximately 15 more months, to resolve technical and administrative implementation issues and complete their HMP Report.

9. The other Bay Area Permittees submitted their own HMP reports on or about May 15, 2005. The next steps include Board staff review of all the HMP reports; comments on the technical merits of each report; collaborative meetings to encourage consistency; revision of the HMP reports as necessary; public notice of intent to approve and require the implementation of the HMPs; and a hearing(s) by the Board. Thus, it is expected that the other Bay Area Permittees will be required to implement their HMPs by late 2005 or early 2006. It is the Board's intention to make all the permit requirements and implementation dates essentially uniform for all Bay Area Permittees in the near future.
10. The Board intends to consider making revisions of the Dischargers' HMP provisions if needed to make the Dischargers' HMP consistent with the HMPs of other Bay area Permittees. The Board may do this through approval of a region-wide permit, though a blanket permit amendment for all Bay Area Permittees, or through reissuance of the Dischargers' permit accomplished in a consistent fashion with the other Bay Area Permittees.
11. The Board intends that the Executive Officer may request that all Bay Area Permittees investigate potential incremental costs, and benefits to waterways, from controlling a range of flows up to the 50-year peak flow versus controlling up to the 10-year peak flow, as required by this Order. Any future revisions of the Dischargers' HMP provisions may reflect improved understanding of this issue.
12. The Board strongly encourages land use planning agencies and developers to carefully consider, early in the development planning process, the potential impacts on water quality and beneficial uses of new development projects. The Board strongly discourages modifying watercourses to adapt to increased flows and durations of runoff, except in limited circumstances where avoidance or other natural alternatives are not feasible. In these limited circumstances, project proponents first demonstrate that hydromodification has been minimized to the extent practicable by minimizing increases in flows and durations of runoff discharge from the site. Second, the project proponents should demonstrate that off site mitigation measures have been employed to the maximum extent practicable to avoid hydromodification impacts. Project proponents also should document that there will be no adverse effects to water quality or beneficial uses.
13. For the purposes of this Order, the term "Redevelopment" is defined as a project on a previously developed site that results in the addition or replacement of impervious surface, and the term "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

14. Transit village type developments within ¼ to within ½ mile of transit stations and/or intermodal facilities, and projects within "Redevelopment Project Areas" (as defined by Health and Safety Code Section 33000, et seq.) that redevelop an existing Brownfield site or create housing units affordable to persons of low or moderate income as defined by Health and Safety Code Section 50093, are excepted from the requirements of Provision C.3.f. and the HMP, and after impracticability of including onsite treatment measures is established, from the requirement for alternate, equivalent offsite treatment. Significant change in impervious surface or significant change in stormwater runoff volume or timing is unlikely in these redevelopment circumstances, because these developments would be within a largely already paved catchment, and on a site that is largely already paved or otherwise impervious.
15. Certain control measures implemented or required by Dischargers for urban runoff management may create a habitat for vectors (e.g., mosquitoes and rodents) if not properly designed or maintained. Close collaboration and cooperative effort among Dischargers, local vector control agencies, Board staff, and the State Department of Health Services is necessary to minimize potential nuisances and public health impacts resulting from vector breeding.
16. The Board recognized in its "Policy on the Use of Constructed Wetlands for Urban Runoff Pollution Control" (Resolution No. 94-102) that urban runoff treatment wetlands that are constructed and operated pursuant to that Resolution and are constructed outside of a creek or other receiving water, are stormwater treatment systems and, as such, are not waters of the United States subject to regulation pursuant to Sections 401 or 404 of the federal Clean Water Act. Board staff is working with the California Department of Fish and Game (CDFG) and U.S. Fish and Wildlife Service (USFWS) to identify how maintenance for stormwater controls required under orders such as this Order can be appropriately streamlined, given CDFG and USFWS requirements, and particularly those that address special status species. The Dischargers are expected to work diligently and in good faith with the appropriate agencies to obtain any approvals necessary to complete maintenance activities for treatment controls. If the Dischargers have done so, when necessary and where maintenance approvals are not granted by the agencies, the Dischargers shall be considered by the Board to be in compliance with Provision C.3.e of the Permit.

#### **Applicable Federal, State, and Regional Regulations**

17. Pursuant to 40 CFR Sections 124.5.c.2 and 122.62, only those conditions to be modified by this amendment shall be reopened with this amendment. All other aspects of the existing Permit shall remain in effect and are not subject to modification by this amendment.
18. Provision C.11. of the existing Permit anticipated that amendments, revisions and modifications to the Management Plan and existing Permit would be necessary from time to time, and provided direction that changes requiring major revision of the Management Plan shall be brought before the Board as permit amendments. This Order is consistent with Provision C.11. of the existing Permit.

19. This action to modify an NPDES permit is exempt from the provisions of the California Environmental Quality Act (Division 13 of the Public Resources Code, Chapter 3, Section 21100, et.seq.) in accordance with Section 13389 of the California Water Code.

### Notification to Dischargers and Interested Parties

20. The Dischargers and interested agencies and persons have been notified of the Board's intent to modify waste discharge requirements for the existing discharge and have been provided opportunities for public meetings and to submit their written views and recommendations.

IT IS HEREBY ORDERED that the Dischargers, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted hereunder and the provisions of the Clean Water Act as amended and regulations and guidelines adopted hereunder, shall comply with the following revisions:

Provisions C.3.c. of Order 01-119 are hereby modified and amended as follows: additions to the Provisions are displayed as **underlined Bold** type, and deletions of text are displayed as ~~strikeout~~ format:

### C. Provisions

**3.c.i. Group 1 Projects:** Dischargers shall require Group 1 Projects to ~~design and implement stormwater treatment BMPs~~ **appropriate source control and site design measures and to design and implement stormwater treatment measures**, to reduce **the discharge of stormwater pollution pollutants** to the maximum extent practicable. ~~Implementation of this requirement shall begin on July 15, 2003, subject to a workplan, submitted March 1, 2002, acceptable to the Executive Officer, identifying incremental progress already made and to be made toward implementation of C.3.c.i. by July 15, 2003. If no acceptable workplan is received, implementation of C.3.c.i. requirements shall begin on October 15, 2002.~~ Group 1 Projects consist of all public and private projects in the following categories:

1. Commercial, industrial, or residential developments that create one acre (43,560 square feet) or more of impervious surface, including roof area, streets, and sidewalks. This category includes any development of any type on public or private land, which falls under the planning and building authority of the Dischargers, where one acre or more of new impervious surface, collectively over the entire project site, will be created. **Construction of one single-family home, which is not part of a larger common plan of development, with the incorporation of appropriate pollutant source control and design measures, and using landscaping to appropriately treat runoff from roof and house-associated impervious surfaces (e.g., runoff from roofs, patios, driveways, sidewalks, and similar surfaces), would be in substantial compliance with Provision C.3.**
2. Streets, road, highways, and freeways that are under the Dischargers' jurisdiction and that create one acre (43,560 square feet) or more of new impervious surface. This

category includes any newly constructed paved surface used primarily for the transportation of automobiles, trucks, motorcycles, and other motorized vehicles.

**Excluded from this category are sidewalks, bicycle lanes, trails, bridge accessories, guardrails, and landscape features.**

3. Significant Redevelopment projects. This category is defined as a project on a previously developed site that results in addition or replacement, which combined total 43,560 ft<sup>2</sup> or more of impervious surface on such an already developed site ("Significant Redevelopment"). Where a Significant Redevelopment project results in an increase of, or replacement of, more than fifty percent of the impervious surface of a previously existing development, and the existing development was not subject to stormwater treatment measures, the entire project must be included in the treatment measure design. Conversely, where a Significant Redevelopment project results in an increase of, or replacement of, less than fifty percent of the impervious surface of a previously existing development, and the existing development was not subject to stormwater treatment measures, only that affected portion must be included in treatment **measure** design. Excluded from this category are interior remodels and routine maintenance or repair, ~~including roof or exterior surface replacement and repaving.~~ **Excluded routine maintenance and repair includes roof or exterior surface replacement, pavement resurfacing, repaving and road pavement structural section rehabilitation within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed.**

3.c.ii. **Group 2 Projects: Group 2 Projects will be divided into two subgroups: Group 2A and 2B.**

**Group 2A Implementation**

The Group 2A Project definition is in all ways the same as the Group 1 Project definition above, except that the size threshold of impervious area for new and Significant Redevelopment projects is reduced from one acre (43,560 ft<sup>2</sup>) to 5000 10,000 square feet **and the project is one of the following land use categories:** Dischargers shall require Group 2 Projects to design and implement stormwater treatment BMPs to reduce stormwater pollution to the maximum extent practicable. Implementation of this requirement shall begin on October 15, 2004, at which time the definition of Group 1 Project is changed to include all Group 2 Projects.

- **Gas stations;**
- **Auto wrecking yards;**
- **Loading docks and surface parking lots containing 10,000 square feet or more of impervious surface area; and**
- **Vehicle or equipment maintenance areas (including washing and repair), outdoor handling or storage of waste or hazardous materials, outdoor manufacturing area(s), outdoor food handling or processing, outdoor animal care, outdoor horticultural activities, and various other industrial and commercial uses where potential pollutant loading cannot be satisfactorily**

mitigated through other post-construction source control and site design practices.

Dischargers shall implement Provision C.3.d. with respect to Group 2A projects as soon as the Dischargers can adopt implementing ordinances, policies and/or guidance and, in any event, by no later than 3 months from the date of adoption of this Order.

#### Group 2B Implementation

Unless the Board otherwise approves an alternative Group 2 Project definition pursuant to the items listed below, the Group 2B Project definition will in all ways become the same as the Group 1 Project definition above (except with respect to implementation of Provision C.3.f.), but the size threshold of impervious area for new and Significant Redevelopment projects will be reduced from one acre (43,450 ft<sup>2</sup>) to 10,000 square feet.

1. The Board intends to require in the next reissuance of the Dischargers' permit that the Dischargers shall implement Provision C.3.d. with respect to Group 2B projects by August 15, 2006.

2. In the event that this permit is administratively extended until August 15, 2006 or later, then the Dischargers shall implement Provision C.3.d. with respect to Group 2B projects by August 15, 2006.

3. If the Board adopts a regional municipal stormwater permit that includes a different deadline for implementation of Group 2B projects or a different definition of Group 2 Projects, then that deadline and/or definition shall supersede those implementation dates and/or definitions set forth above.

C.3.iii. Alternative Project Proposal: The Program and/or any Discharger may propose, for approval by the Regional Board, an Alternative Group 2 Project definition, with the goal that any such alternative definition aim to ensure that the maximum created impervious surface area is treated for the minimum number of projects subject to Discharger review. Any such proposal shall contain supporting information about the Dischargers' development patterns, and pollutant source information, sizes and numbers of proposed projects for several years, that demonstrates that the proposed definition is comparable in effectiveness to would be substantially as effective as the Group 2 Project definition (i.e., that a comparable development area and/or pollutant loading would be addressed under the proposed alternate definition). in Provision C.3.c.ii. Proposals may include differentiating projects subject to the Alternative Group 2 Project definition by land use, by focusing solely on the techniques recommended by "Start at the Source" for documented low pollutant loading land uses, and/or by optimum use of landscape areas required by Dischargers under existing codes as treatment measures. Proposals must be submitted by April 15, 2004, in order to be considered by the

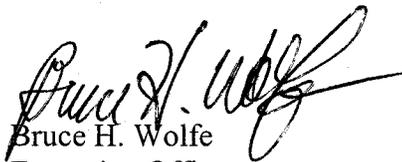
~~Regional Board before the Group 2 Project implementation date in C.3.c.ii.~~ **Proposals may be submitted anytime, with the understanding that the Group 2 Project definition, as described in Provision C.3.c.ii, will be upheld as the default in the absence of an approved Alternative Group 2 Project definition.**

Provisions C.3.f. of Order 01-119 are hereby modified and amended as follows: additions to the Provisions are displayed as **underlined Bold type**, and deletions of text are displayed as ~~strikeout~~ format.

C.3.f.

- i. **No later than 3 months after the date of adoption of this Order,** ~~t~~The Dischargers shall manage increases in peak runoff flow and increased runoff volume, for all Group 1 Projects, where such increased flow and/or volume is likely to cause increased erosion of creek beds and banks, silt pollutant generation, or other impacts to beneficial uses. Such management shall be through implementation of **the key provisions of the** a Hydromodification Management Plan (HMP) **Final Report<sup>2</sup> as set forth in Attachment A of this Order and which are hereby incorporated into this Permit.** The HMP, ~~once approved by the Regional Board, will~~**shall** be implemented so that post-project runoff shall not exceed estimated pre-project rates and/or durations, where the increased stormwater discharge rates and/or durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses, attributable to changes in the amount and timing of runoff. The term duration in this ~~section~~ **Provision** is defined as the period that flows are above a threshold that causes significant sediment transport and may cause excessive erosion damage to creeks and streams.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that 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 July 20, 2005.

  
Bruce H. Wolfe  
Executive Officer

Attachment A: Key Provisions of the HMP Report

Attachment B: Figure 1. Key Provisions of the HMP Report, Areas of Applicability

---

<sup>2</sup> Hydromodification Management Plan Report, Final Report, Santa Clara Valley Urban Runoff Pollution Prevention Program, April 21, 2005.

**Attachment A:**

**Key Provisions of the HMP Report**

## Attachment A: Key Provisions of the HMP Report

### Hydromodification Management Standard, Performance Criteria, and Applicability<sup>1</sup>

#### Management Standard

Stormwater discharges from any non-exempt, Group 1 development/redevelopment project that creates or replaces one acre or more of impervious surface<sup>2</sup> shall not cause an increase in the erosion potential of the receiving stream over the pre-project (existing) condition, i.e., an Erosion Potential of up to 1.0 will be maintained for stream segments downstream of the project discharge point.

#### Performance Criteria

1. Projects shall meet the management standard by providing stormwater controls as needed to maintain the pre-project stream erosion potential. Stormwater controls may include a combination of on-site, off-site (drainage area) and in-stream measures.
2. On-site controls that are designed to provide flow duration control to the pre-project condition are considered to meet the erosion potential management standard and comply with the HMP.

Flow duration controls shall be designed such that post-project stormwater discharge rates and durations match pre-project discharge rates and durations from 10% of the pre-project 2-year peak flow<sup>3</sup> up to the pre-project 10-year peak flow.<sup>4</sup>

3. Where on-site measures are not practicable, as described in the following paragraph, for achieving flow duration control criteria, projects shall comply with the HMP requirements through the use of appropriate site design, source control, and treatment

---

<sup>1</sup> The text is excerpted from the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) "Hydromodification Management Plan" dated April 21, 2005 (submitted to the Executive Officer on May 2, 2005), and should be interpreted within the context of the analysis contained within the entire Hydromodification Management Plan.

<sup>2</sup> The HMP will continue to apply only to projects that create/replace one acre or more of impervious surface until such time as this size threshold is changed through such mechanisms as a region-wide permit, a blanket permit amendment for all Bay Area Permittees, or through reissuance of the Dischargers' permit accomplished in a consistent fashion with the other Bay Area Permittees.

<sup>3</sup> In computing Qcp, the allowable low flow discharge from a flow control structure on a project site, the original condition of the site before development must be considered. This does not imply that the developer is being required to provide flow controls to match pre-development conditions; rather, it is a means of apportioning the critical flow in a stream to individual projects that discharge to that stream, such that cumulative discharges do not exceed the critical flow in the stream.

<sup>4</sup> The post-project flow duration curve shall not deviate above the pre-project flow duration curve by more than 10% over more than 10% of the length of the curve.

control measures with flow control benefits to the maximum extent practicable<sup>5</sup>. In addition, where available, off-site and/or in-stream controls must be used to meet the management standard (see Performance Criterion #5).

The primary measure of practicability for application of this performance criterion is the construction cost of measures required to comply with the HMP. Meeting this criterion will be considered impracticable if the combined construction cost of both required stormwater treatment and flow control measures<sup>6</sup> exceeds 2% of the project construction cost (excluding land costs). If a developer demonstrates that the cost to fully comply with the HMP and other C.3. treatment requirements will exceed this cost threshold, a determination may be made by the reviewing agency that the project shall comply with this criterion by implementing HMP controls on-site to the MEP and contributing to an in-stream or off-site solution, if available, up to a maximum cost for all controls of 2% of project cost.

4. Projects located on sites less than or equal to 20 acres in size that are not part of a larger phased development ("Small Site Project") shall comply with the HMP requirements through the use of appropriate site design, source control, and treatment control measures with flow control benefits to the maximum extent practicable. In addition, where available, off-site and/or in-stream controls must be used to meet the management standard (see Performance Criterion #5).

To demonstrate compliance with the maximum extent practicable criterion<sup>5</sup>, Small Site Projects may use small scale, distributed stormwater management techniques such as bioretention facilities, infiltration trenches, filter strips, vegetated swales and multi-functional landscape areas to achieve treatment and flow reduction.<sup>7</sup> Runoff volume reduction and time of concentrations for small-scale facilities can be computed using a discrete storm event approach until other simplified tools based on continuous simulation modeling are available for sizing flow control BMPs. Small Site Projects may demonstrate that this performance criterion is being met by matching pre- and post-project runoff volume and time of concentration (based on the 2- and 10-year storms) to the MEP.

5. Off-site (drainage area) or in-stream controls may be implemented to address potential project impacts in lieu of or in combination with on-site controls, where an approved plan, including an appropriate funding mechanism, is in place that accounts for the stream changes expected to result from changes in project runoff conditions. The off-site or in-stream controls or combination of controls shall be designed to achieve the

---

<sup>5</sup> In the Dischargers' HMP, a criterion of 2% of project cost (not including land cost or costs of normal site enhancements such as landscaping or grading that is required for other purposes) is used to determine practicability in performance criteria 3 and 4. In those cases, projects are allowed to implement flow control measures onsite to the maximum extent practicable, with the 2% cost criterion used to define the level of effort needed to comply.

<sup>6</sup> Costs of control measures shall not include land costs, soil disposal fees, hauling, contaminated soil testing, mitigation, disposal, or other normal site enhancement costs such as landscaping or grading that are required for other development purposes.

<sup>7</sup> Other alternatives such as aboveground and underground storage devices may also be considered.

hydromodification management standard threshold of  $E_p < 1.0$  from the point of discharge to the stream as far downstream as potential impacts will occur.

### **Operation & Maintenance**

The operation and maintenance requirements of Provision C.3.e shall apply to stormwater controls implemented under the requirements of Provision C.3.f.<sup>8</sup>

### **Conditions of Applicability**

All Group 1 New and Redevelopment Projects that create or replace one acre or more of impervious surface shall implement hydromodification controls that meet the performance criteria above, except for the following projects:

1. Projects that do not create an increase in impervious surface over pre-project conditions.
2. Projects located within areas that drain to stream channels within the tidally influenced area. Such areas are shown in purple on Figure 1, Attachment B.
3. Projects located within areas that drain to non-earthen stream channels that are hardened on three sides and extend continuously upstream from the tidally influenced area. Such areas are shown in purple on Figure 1, Attachment B. The Program will continue to determine the accuracy of this map.
4. Projects draining to Sunnyvale East or West Channels. Such areas are shown in purple on Figure 1, Attachment B.
5. Projects draining to an underground storm drain that discharges directly to San Francisco Bay.
6. Projects that demonstrate, upon completion of stream-specific and modeling studies that are consistent with the method used in the HMP Report and its supporting technical documents, that there will be no increase in potential for erosion or other adverse impact to beneficial uses to any State Waters.
7. Projects that are less than 50 acres in total project size that are located in areas with < 65-70% impervious surface<sup>9</sup> and 90% or more built-out, as shown in yellow on Figure 1, Attachment B. Such projects shall be encouraged but not required to implement the HMP.

---

<sup>8</sup> See Section 7.7 of the HMP Report for further guidance on operations and maintenance.

<sup>9</sup> The map is based on 65% impervious surface; however, impervious surface was determined from aerial photographs taken during the summer, when foliage covered impervious surfaces.

8. Projects that are located in areas with  $\geq 65$ -70% impervious surface<sup>10</sup> and 90% or more built-out, as shown in red on Figure 1, Attachment B. Such projects shall be encouraged but not required to implement the HMP.

---

<sup>10</sup> The map is based on 65% impervious surface; however, impervious surface was determined from aerial photographs taken during the summer, when foliage covered impervious surfaces.

**Attachment B:**

**Figure 1. Key Provisions of the HMP Report, Areas of Applicability**

