



**CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD**

**895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401**

**PROPOSED ORDER NO. R3-2021-0012**

**WASTE DISCHARGE REQUIREMENTS  
FOR THE  
CITY OF EL PASO DE ROBLES  
ANNUAL FLOOD CONTROL AND FIRE FUEL LOAD REDUCTION PROJECT**



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The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) finds that:

#### **SITE OWNER AND LOCATION**

1. The City of El Paso de Robles (Discharger) proposes to conduct activities that will result in temporary, recurring impacts to ephemeral drainages, riparian habitat, and other waters of the state as part of the City of El Paso de Robles Annual Flood Control and Fire Fuel Load Reduction Project (Project).
2. The Discharger proposes to conduct the Project on a portion of the Salinas River watershed within city limits in northern San Luis Obispo County. City limits are shown in Exhibit 1: Project Vicinity Map. The Project area includes the Salinas River, selected drainages, and sediment basins. Flood control activities may be conducted in 19 drainages and two basins (a total of 21 locations), as shown in Exhibit 2: Flood Control Locations. The fire fuel load reduction area includes the Salinas River channel and floodplain from the intersection of North River Road and Clubhouse Drive in the north, to the southern end of Larry Moore Park at the south end of Riverbank Lane (Exhibit 3: Fire Fuel Load Reduction Areas). The Project area is within the Salinas River Hydrologic Unit, as described in the 2019 *Water Quality Control Plan for the Central Coastal Basin* (Basin Plan). Surface water within the Project area drains into the Salinas River, which outlets to the Pacific Ocean approximately 100 miles to the north in Monterey County.

#### **PURPOSE OF ORDER**

3. On July 31, 2020, the Discharger submitted a report of waste discharge (ROWD or permit application) describing temporary impacts and discharges of waste associated with the Project to waters of the state. Flood control activities will be conducted to reduce local flooding during heavy rain events. Fire fuel load reduction activities will be conducted to reduce the risk, intensity, and speed of spread of potential fires within the Salinas River channel and floodplain.
4. On October 19, 2020, the Discharger submitted an amendment to the ROWD after preliminary discussions with Central Coast Water Board staff that included significant changes to the Project description compared to those proposed in the July 31, 2020 ROWD. One of the significant changes was the elimination of broadcast burning from the fire fuel load reduction portion of the project. The Discharger also added a conceptual description of a wet weather preparedness plan and management practices for sensitive habitat avoidance, flagging, and staging. The Discharger introduced alternative compensatory mitigation strategies and proposed mitigation success criteria for the alternative strategies.

5. On October 30, 2020, the Discharger submitted *Desired Conditions for Fuel Beds within the Salinas River Fuels Reduction Project* (Exhibit 4).
6. On November 18, 2020, the Discharger submitted a proposal for selection criteria for mitigation receiver sites.
7. On November 30, 2020, the Discharger submitted information on cumulative impacts to tree and shrub canopy from fire fuel load reduction activities conducted in 2019 and 2020 (Exhibit 5 and 6).
8. On December 16, 2020, the Discharger submitted an amended supplemental information document, a revised Impacts Quantification Table (Exhibit 7), and a revised Mitigation Receiver Site Selection guidance document (Exhibit 8).
9. The Discharger submitted additional definitions for desired fuel models on December 22, 2020.
10. A preliminary evaluation of potential mitigation sites was submitted on January 8, 2020 (Exhibit 9).
11. A final version of the *Annual Drainage Maintenance Report of Waste Discharge Supplemental Information Report* was submitted on January 12, 2021 (Exhibit 10) and Central Coast Water Board staff determined the ROWD to be complete.
12. The U.S. Army Corps of Engineers (USACE) has not taken jurisdiction over the project activities. As such, the Central Coast Water Board is issuing individual waste discharge requirements rather than a federal Clean Water Act section 401 water quality certification for the project.
13. The California Department of Fish and Wildlife (CDFW) issued a Lake and Streambed Alteration Agreement for annual flood control activities in 2013 (Notification No. 1600-2013-0215-R4). On November 16, 2020, CDFW authorized an extension of the existing Streambed Alteration Agreement until March 10, 2025. A Streambed Alteration Agreement for annual fire fuel load reduction activities is pending.
14. The proposed Project includes flood control and fire fuel load reduction components. The flood control component of the project consists of manual vegetation treatment and mechanical and manual sediment removal, which will enhance the channel capacity and stormwater flow in drainages throughout the city. The fire fuel load reduction component of the Project consists of mechanical and manual vegetation treatment, low-intensity prescribed burns, and livestock grazing, reducing hazardous fire fuels within the Salinas River channel and floodplain. Both flood control and fire fuel load reduction components will take place annually from April 15 to October 14.

15. The term *waste* is defined by California Water Code section 13050(d) and includes “any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation.” Project activities will result in discharges of waste or threatened discharges of waste that could affect the quality of the waters of the state. As a result of vegetation management, large woody debris, downed vegetation, and masticated material will be discharged in locations and in a manner that could affect the quality of the waters of the state. These discharges will occur in quantities and at locations and times that would not occur under natural conditions and are therefore waste discharges associated with human activity and habitation. In addition, vegetation management activities will reduce canopy cover, which can lead to erosion and sediment discharge to waters of the state as well as an increase of temperature - in waters of the state. Mechanized equipment used for vegetation management and sediment removal can also result in erosion and discharges of sediment and petroleum products from equipment into waters of the state. Livestock used for herbivory treatment can result in discharge of bacteria and introduction of invasive species. Discharges of sediment, heat, petroleum products, and livestock waste are discharges of waste associated with human activity and habitation that have the potential to affect the quality of the waters of the state.
16. Waters of the state that will be impacted by the project activities are shown in Exhibits 2 and 3, including 19 drainages and two basins where annual vegetation maintenance has taken place since 2015, as well as the Salinas River channel and floodplain. Vegetation and sediment management for flood control will result in direct, recurring, temporary impacts to waters of the state over an area of approximately 0.8 acres and 56,035 linear feet. Vegetation management for fire fuel load reduction will result in direct, recurring, temporary impacts to the Salinas River channel and floodplain over an area of approximately 140 acres and 20,026 linear feet.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

17. The City of El Paso de Robles is the lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (California Public Resources Code section 15367). As the lead agency, the City of El Paso de Robles certified the Initial Study/Mitigated Negative Declaration for the City of Paso Robles Salinas River Vegetation Management Program on [MMDDYYYY] (State Clearinghouse No. [##]), in accordance with California Code of Regulations title 14, chapter 3 and California Public Resources Code section 15301.
- a. The Central Coast Water Board is a responsible agency under CEQA (California Public Resources Code section 21069) and, in making its determinations, presumes that the City of El Paso de Robles’s adopted

environmental document comports with the requirements of CEQA and is valid. (California Public Resources Code section 21167.3.) The Central Coast Water Board has reviewed and considered the environmental document and the environmental effects of the Project on water quality and beneficial uses. (California Code of Regulations, title 14, section 15096, subdivision (f).)

- b. The Central Coast Water Board has determined that the Project, when implemented in accordance with the mitigation monitoring and reporting program and the conditions in this order, will not result in any significant adverse water resource impacts. (California Code of Regulations, title 14, section 15096, subdivision (h).)

18. The City of El Paso de Robles filed a categorical exemption for the routine flood protection maintenance on February 8, 2021, in accordance with California Coded of Regulations title 14, chapter 3, and California Public Resources Code section 15301. The Central Coast Water Board has determined that the routine flood protection maintenance portion of the Project is exempt from review under CEQA pursuant to California Code of Regulations, title 14, section 15061. Specifically, the issuance of this order and the activities described herein meet the exemption criteria under California Code of Regulations, title 14, section 15301. Additionally, the Central Coast Water Board concludes that no exceptions to the CEQA exemption apply to the activities approved by this order.

## **BASIN PLAN**

19. The Basin Plan was updated and adopted by the Central Coast Water Board on June 14, 2019. The Basin Plan incorporates statewide plans and policies by reference, identifies water quality standards, and contains implementation strategies for protecting state waters. This order implements the water quality standards in the Basin Plan.
20. The Project area includes the Salinas River channel and floodplain as well as unnamed ephemeral drainages and blue line streams that drain the Project area and flow to the Salinas River. The Project area includes water bodies not identified in the Basin Plan. Surface water bodies not identified in the Basin Plan and that do not have beneficial uses designated for them are assigned the designations of municipal and domestic water supply and protection of both recreation and aquatic life. Franklin Creek and the Salinas River are streams in the Project area that are listed water bodies in the Basin Plan with the following beneficial uses:

- a. Franklin Creek:

- i. Municipal and domestic supply
  - ii. Agricultural supply
  - iii. Groundwater recharge;
  - iv. Water contact recreation;
  - v. Non-contact water recreation;
  - vi. Wildlife habitat;
  - vii. Commercial and sport fishing.
- b. Salinas River:
  - i. Municipal and domestic supply;
  - ii. Agricultural supply;
  - iii. Industrial process supply;
  - iv. Groundwater recharge;
  - v. Water contact recreation;
  - vi. Non-contact water recreation;
  - vii. Wildlife habitat;
  - viii. Cold fresh water habitat;
  - ix. Warm fresh water habitat;
  - x. Migration of aquatic organisms;
  - xi. Spawning, reproduction, and/or early development;
  - xii. Rare, threatened, or endangered species;
  - xiii. Commercial and sport fishing.

## **WATERS OF THE STATE CONSERVATION AND MITIGATION**

21. State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (Resolution No. 68-16), requires regional water quality control boards, in regulating the discharge of waste, to maintain high quality waters of the state until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the state, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in a regional water quality control board's policies (e.g.,

quality that exceeds applicable water quality standards). Resolution No. 68-16 also states, in part: “*Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in best practicable treatment and control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.*” The discharges regulated by this order are subject to waste discharge requirements that will result in best practicable treatment or control, the prevention of pollution and nuisance, and maintenance of the highest water quality consistent with maximum benefit to the people of the state.

22. Project activities such as vegetation treatment and sediment removal can result in partial or complete loss of waters’ beneficial uses at those locations, including temporal loss. To reconcile such losses with the antidegradation requirements of State Water Board Resolution No. 68-16, this order requires the Discharger to implement a mitigation plan to ensure that Project impacts to beneficial uses are mitigated through avoidance and minimization, and that unavoidable loss of beneficial uses is offset with appropriate compensatory mitigation.
23. This order specifies waste discharge requirements that are necessary to adequately address effects on, and threats to, water quality resulting from discharges of waste to waters of the state; to be consistent with antidegradation provisions of State Water Board Resolution No. 68-16; and to accommodate and require appropriate changes during implementation of the Project. Through adherence to the waste discharge requirements, the Project, as described in this order, will not result in violation of state water quality standards.
24. For purposes of this order, restoration is defined as a combination of rehabilitation and enhancement. Rehabilitation is defined as manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource, resulting in a gain in aquatic resource function but not in a gain in aquatic resource area. Enhancement is defined as manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s), resulting in the improvement of selected aquatic resource function but not a gain in aquatic resource area.
25. Mitigation for project activities is described in Section 5: Compensatory Mitigation, in the revised *Annual Drainage Maintenance Report of Waste Discharge Supplemental Information Report* dated January 2021 and the *Mitigation Receiver Sites* selection guidelines submitted January 8, 2020. Both documents together are referred to as the Mitigation Plan. The Mitigation Plan



will adequately compensate for impacts to beneficial uses of waters of the state associated with the project activities. The Discharger may modify mitigation sites identified in *Mitigation Receiver Sites Preliminary Evaluation* (Exhibit 9) with written approval from the Central Coast Water Board Executive Officer, depending on success factors identified during implementation of the Project. Selection guidelines in the Mitigation Plan will further assist the Discharger to select optimal locations for mitigation receiver sites.

26. During 2019 and 2020, the Discharger conducted unauthorized emergency vegetation management work for fire fuel load reduction in the Salinas River channel and floodplain. Mitigation for the impacts to beneficial uses resulting from this work is also required by this order. These impacts are quantified in the 2019 and 2020 Impacts Quantification Table, Exhibit 7. In 2019, 64 acres of total work area were impacted. In 2020, 102 acres of total work area were impacted. Cumulative impacts to tree and riparian canopy for 2019 and 2020 combined was 10.5 acres. Mitigation for impacts from the 2019 and 2020 emergency work is required by this order, according to the mitigation ratios specified herein. The Discharger is required to mitigate for impacts only once for impacts occurring until 2025. Repeat maintenance activities that occur within the footprint of previous maintenance activities of the same type do not require additional mitigation, provided that mitigation was provided for the initial impact.

## GENERAL FINDINGS

27. Section 13260(a) of the California Water Code requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, which could affect the quality of the waters of the state,<sup>1</sup> file an ROWD. The discharge of cut vegetation and disturbed sediment resulting from Project activities constitutes a discharge of waste that could affect the quality of waters of the state, as described in finding 15.
28. California Water Code section 13263(a) requires that waste discharge requirements be prescribed as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. Such waste discharge requirements must implement any relevant water quality control plans, taking into consideration beneficial uses to be protected, the water quality objectives reasonably required for those purposes, other waste discharges, the need to prevent nuisance, and the provisions of section 13241 of the California Water Code.

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<sup>1</sup> Waters of the state means any surface water or groundwater, including saline waters, within the boundaries of the state.

29. On January 26, 2021, the Central Coast Water Board notified the Discharger and interested agencies and persons of its intention to issue these waste discharge requirements and provided an opportunity to review a copy of the proposed order and submit views and comments.

30. The Central Coast Water Board, in a public meeting held on April 14-16, 2021, heard and considered all comments pertaining to the proposed discharge.

## **ORDER**

**IT IS HEREBY ORDERED THAT** that upon adoption of this order, pursuant to California Water Code sections 13263 and 13267, the Discharger, its agents, successors, and assigns, to meet the provisions contained in division 7 of the California Water Code and regulations adopted hereunder, must comply with the following requirements in this order.

### *Prohibitions*

1. The discharge of waste in a manner other than as described in the [MMDDYYYY] Initial Study/Mitigated Negative Declaration for the City of El Paso de Robles Fuel Reduction Vegetation Management, February 8, 2021 Categorical Exemption for the Routine Flood Protection Maintenance; ROWD; *Annual Drainage Maintenance Report of Waste Discharge Supplemental Information Report* submitted January 12, 2021 (Exhibit 10); *Desired Conditions for Fuel Beds within the Salinas River Fuels Reduction Project* guidance document submitted October 30, 2020 (Exhibit 4); the Impacts Quantification Table (Exhibit 7) and Mitigation Receiver Site selection guidelines (Exhibit 8) submitted December 16, 2020; or findings of this order is prohibited unless the Discharger obtains revised waste discharge requirements that provide for the proposed change prior to the discharge's occurring.
2. The discharge of waste in a manner that has not been described in the ROWD, and for which valid waste discharge requirements are not in force, is prohibited.
3. The discharge of waste shall not create a condition of pollution, contamination, or nuisance, as defined by section 13050 of the California Water Code.
4. The discharge shall not directly or indirectly destabilize a channel or bed of a receiving water.
5. The discharge, as mitigated, shall not cause significant adverse environmental impacts.

6. The discharge shall not cause, in combination with other discharges, a significant cumulative adverse effect on water quality or beneficial uses of the waters of the state, including, but not limited to, wetlands, riparian areas, and headwaters.
7. Discharges to surface waters of wastes or pollutants that are not otherwise regulated by separate National Pollutant Discharge Elimination System (NPDES) requirements or waste discharge requirements are prohibited.
8. The discharge of waste classified as “hazardous” or “designated” as defined in title 22, section 66261 of the California Code of Regulations, or California Water Code section 13173, is prohibited.
9. The discharge of sand, silt, clay, or other earthen materials from any activity in quantities that cause deleterious bottom deposits, turbidity, or discoloration in waters of the state or that unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
10. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner that may permit its being transported into the waters, is prohibited unless authorized by this order.

### *Provisions*

#### *General*

11. The Discharger must comply with all conditions of this order. Violations may result in enforcement actions, including Central Coast Water Board orders or court orders requiring corrective action or imposing civil monetary liability, or in modification or revocation of these waste discharge requirements by the Central Coast Water Board. (California Water Code sections 13261, 13263, 13265, 13267, 13268, 13300, 13301, 13304, 13330, 13340, 13350, and 23 California Code of Regulations section 3867). The conditions within this order supersede conflicting provisions within applicant submittals.
12. The Discharger must comply with Basin Plan provisions, including protecting beneficial uses and complying with any prohibitions and water quality objectives governing the discharge. In the event of a conflict between the provisions of this order and the Basin Plan, the more stringent provisions prevail.
13. This order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). This Order requires compliance with requirements to protect the beneficial uses of waters of the state, including

protecting rare, threatened, or endangered species. The Discharger is responsible for meeting all requirements of the applicable federal and state Endangered Species Act.

#### Maintenance Activities

14. The Discharger shall not commence the proposed maintenance activity until written approval of an annual workplan, submitted by March 15 of each year according to Monitoring and Reporting Program No. R3-2021-0012, included in this order, has been obtained from the Central Coast Water Board Executive Officer. The Discharger shall implement maintenance activities in accordance with the approved annual workplan for each year. If no response has been received from the Central Coast Water Board Executive Officer by April 14 of a given year, the Discharger may proceed with maintenance activities in accordance with the annual workplan. If the Central Coast Water Board sends comments on the annual workplan prior to April 14, the Discharger must address those comments and receive written approval of the Annual Work Plan before activities commence.
15. Prior to maintenance activities, the Discharger shall perform the following, using information obtained by the pre-activity survey conducted in accordance with the ROWD completed on January 12, 2021, and the Visual Monitoring section of Monitoring and Reporting Program No. R3-2021-0012 included in this order:
  - a. Clearly identify and delineate, by flagging or staking, the boundaries of each maintenance area and points of connection to the channel;
  - b. Clearly identify and delineate, by flagging or staking, sensitive resources to be avoided, including at a minimum the low-flow channel, riparian vegetation associated with flow channels, wetlands, and surface water;
  - c. Clearly identify and delineate, by flagging or staking, the boundaries of invasive species removal areas;
  - d. Evaluate the proposed alignment of each maintenance area compared to field conditions and adjust the alignment of the maintenance area where maintenance impacts could be reduced without reducing flood control or fire fuel reduction benefits;
  - e. Identify what treatment/maintenance type will be used for each maintenance area to achieve the desired flood control and fire fuels reduction conditions, using information obtained by the visual assessments described in the Fire and Fuel sections below.

16. During maintenance activities within waters of the state, adequate erosion and sediment control measures (e.g., revegetation, fiber rolls, erosion control blankets, hydromulching, compost, straw with tackifiers) must be kept on site and immediately available for installation. If the National Weather Service predicts a 25% or more chance of at least 0.1 inches of rain within 24 hours (Predicted Rain Event), all maintenance activities within waters of the state must cease and the site manager must install effective erosion and sediment control measures. The Discharger shall install effective erosion control, sediment control, and other protective measures no later than the day prior to the Predicted Rain Event and prior to the start of any rainfall. Erosion and sediment control measures and other construction management practices shall be implemented and maintained in accordance with all specifications governing their proper design, installation, operation, and maintenance. Project activities below top of creek banks or in other waters of the state may resume after the rain has ceased, the National Weather Service predicts clear weather for at least 24 hours, and site conditions are dry enough to continue work without discharge of sediment or other pollutants from the project site.
17. The Discharger shall not conduct routine flood control and fire fuel load reduction in waters of the state from October 15 through April 14 unless prior written approval has been obtained from the Central Coast Water Board Executive Officer. A Wet Weather Preparedness Plan shall be submitted in the annual workplan (as described in Monitoring and Reporting Program No. R3-2021-0012, included in this order). Requests to conduct management activities outside the work window in any year shall be submitted to the Central Coast Water Board at least 21 days prior to the planned work date.
18. The Discharger must confine all trash and debris generated at the site during Project activities in appropriate enclosed bins. Trash and debris contained in rubbish bins that can be emptied by hand shall be disposed of at an appropriate site at least weekly. Large debris and trash recovered from the Salinas River channel contained in large roll-off or dumpster style bins shall be disposed of at an approved site when the trash receptacle is full. Large roll-off or dumpster style bins shall be properly secured and covered during rain events to prevent trash from escaping during the time they are in use.
19. Any proposed discharge/maintenance activity that may alter flow patterns and/or change the approved impact footprint is prohibited without Central Coast Water Board Executive Officer approval. Not later than thirty days prior to the beginning of any proposed change, the Discharger must submit for approval by the Central Coast Water Board Executive Officer detailed plans and specifications showing the proposed change in relationship to the approved annual workplan.

20. The City of El Paso de Robles shall use existing roads, trails, and access ramps to access maintenance areas to the maximum extent practicable. Access routes shall minimize crossings of dry channels to the maximum extent practicable. Where existing ingress and egress points are not sufficient, the City of El Paso de Robles shall identify specific locations for crossing dry channels prior to commencing work.

- a. Equipment shall not be driven through any wetted channel.
- b. Care shall be exercised if any heavy equipment needs to cross dry high-flow channels to ensure that no sediment is pushed into the channel from turning or from moving up or down banks. If sediment is pushed into the channel, within 48 hours it shall be removed, the bank returned to its original contours, and effective erosion control management practices installed.
- c. No heavy tracked equipment shall be used in the drainage channels, Salinas River channel and floodplain, or detention basins. Only handheld equipment such as chainsaws, string trimmers, mowers, or similar equipment shall be used in drainages or detention basins. A backhoe or excavator positioned outside the top of bank may be used to reach into the drainage or basin to remove sediment or material too heavy to be removed by hand. A small excavator may be used for fire fuel load reduction in the Salinas River channel and floodplain.

21. All vehicles and equipment used on site shall be well maintained and checked daily for fuel, oil, and hydraulic fluid leaks or other problems that could result in spills of hazardous materials.

22. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment may not result in a discharge or a threatened discharge to water bodies. At no time may the Discharger use vehicles or equipment that leak any substance that might impact water quality. Staging and storage areas for vehicles and equipment must be located 50 feet from the tops of channels and over drip pans. Temporary storage and refueling shall be confined to paved or well-compacted permanent roads and/or parking areas.

23. The Discharger must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the state.

24. All construction-related equipment and materials and any temporary management practices no longer needed must be removed and cleaned from the

site upon completion of maintenance each year and at the conclusion of the project.

25. Large woody debris, downed vegetation, and masticated material removed from maintenance areas shall be transported outside of the greater channel and shall be placed in locations outside of waters of the state and in locations where material cannot flow into waters of the state, except as authorized below.

- a. Large woody debris and downed vegetation may be temporarily stockpiled within the greater channel, provided that stockpiles (i) shall be placed only in already-disturbed areas; (ii) shall not be placed on native riparian vegetation; and (iii) shall be removed from the greater channel by October 1 of each year unless prior written approval is received from the Central Coast Water Board Executive Officer.
- b. Masticated material discharged within the Salinas River channel and floodplain shall not be placed in locations where it will cause flow obstruction and shall not be discharged in flow channels.
- c. The Central Coast Water Board Executive Officer will consider approval of permanent placement of large woody debris within the greater channel on a case-by-case basis upon written request in the annual workplan from the City of El Paso de Robles.

#### Fire Fuel Load Reduction

26. Areas in the primary fire break shall be visually assessed and compared to the *Natural Fuels Photo Series* and *Standard Fire Behavior Fuel Models: A Comprehensive Set for Use with Rothermel's Surface Fire Spread Model* to identify and flag areas that require treatment. As part of the visual assessments, the Discharger shall characterize vegetation according to the fuel model definitions included in Table 1, below. Fire fuel load reduction for each fuel model shall be conducted annually following the methods in the ROWD (Exhibit 4, *Desired Conditions for Fuel Beds within the Salinas River Fuels Reduction Project*) and according to the targets (in tons/acre) described as follows for each fuel model category:

- a. Grass fuel type: reduce fuels loading to no less than 0.4 tons per acre (from GR4 to GR1)
- b. Grass-shrub fuel type: reduce fuels loading to no less than 1.35 tons per acre (from GS2 to GS1)
- c. Shrub fuel type SH5 (typical of interior islands and areas without tree canopy cover): reduce fuels loading to no less than 3 tons per acre

- d. Shrub fuel type SH8 (typical of areas with tree canopy cover and dense understories): reduce fuels loading no less than 2 tons per acre, focusing on ladder fuels
27. Fire fuel load reduction within the fire-break management area is not permitted without Central Coast Water Board Executive Officer review and approval of the annual workplan (as described in Monitoring and Reporting Program No. R3-2021-0012, included in this order). If no response to the annual workplan has been received from the Central Coast Water Board Executive Officer by April 14 of a given year, the Discharger may proceed with fire fuel load reduction activities in accordance with the annual workplan.
28. Native trees and shrubs measuring 4 inches diameter at breast height may be trimmed but removal shall be avoided to preserve canopy cover to the maximum extent possible.
29. Controlled burns shall be conducted according to the following management practices:
- a. Burn piles will be established, where necessary, on compacted road or parking lots where no vegetation is present. If burn piles are created in other areas, they (i) shall be established in open areas (with no trees) or be sized appropriately as to not negatively impact tree canopy; (ii) shall be placed only in already-disturbed areas; and (iii) shall not be placed in areas of native vegetation.
  - b. Burn piles will not exceed 20 feet in length, width, or diameter.
  - c. All pile-burn scars will have native duff, or organic mulch and seed raked into the scar to a minimum 85% coverage as soon as the burn is completely extinguished.
  - d. Trash and debris (other than cut or masticated vegetation) will be removed each year in advance of broadcast burning.

**Table 1:**

<b>Fuel Model</b>	<b>Description</b>	<b>Fire spread</b>	<b>tons/acre</b>
GR1	Short grass, either naturally or by grazing, and may be sparse or discontinuous.	Spread rate is low, flame length low	0.40
GR4	Nearly pure grass and/or forb; moderately coarse continuous grass, average depth about 2 feet.	Spread rate very high, flame length high	2.15



<b>Fuel Model</b>	<b>Description</b>	<b>Fire spread</b>	<b>tons/acre</b>
GS1	Mixture of grass and shrubs combined. Shrubs are about 1 foot high; grass load is low.	Spread rate is moderate, flame length low	1.35
GS2	Mixture of grass and shrub, up to 50 percent shrub coverage; shrubs are 1-3 feet high, moderate grass load.	Spread rate high, flame length moderate	2.1
SH5	Shrub cover at least 50 percent, grass sparse to nonexistent; heavy shrub load, depth 4 to 6 feet.	Spread rate very high, flame length very high	6.5
SH8	Shrub cover at least 50 percent, grass sparse to nonexistent; dense shrubs, little to no herb fuel, depth about 3 feet.	Spread rate high; flame length high.	6.4

#### Flood Control

30. Maps of planned flood control areas must be submitted for Central Coast Water Board Executive Officer review and approval in the Annual Work Plan (as described in Monitoring and Reporting Program No. R3-2021-0012, included in this order). The Discharger shall identify the Vegetation Condition from the maintenance criteria in Table 2 for all areas planned for maintenance. The Discharger shall only conduct maintenance as specified in Table 2 upon written approval of the Annual Work Plan. If no response to the Annual Work Plan has been received from the Central Coast Water Board Executive Officer by April 14 of a given year, the Discharger may proceed with flood control activities in accordance with the Annual Work Plan.
31. Sediment removed from flood control areas shall be transported outside of the greater channel, placed in locations outside of waters of the state and in locations where sediment cannot flow into waters of the state, and transported to the Water and Streets Department Lower Water Yard, the Paso Robles Wastewater Treatment Plant, or another appropriate designated location such as Paso Robles Landfill or similar by October 1 of each year.
32. Sediment removal shall be conducted according to the description in Section 2.3.2: Sediment Removal and BR-11 of the ROWD. Sediment removal shall not occur when surface water is present, with the exception of the Scott Creek Basin and Westfield Drainage. Washed gravel bags shall be used in lieu of sandbags if

isolation of the work area is necessary. Monitoring for turbidity shall occur as described in Monitoring and Reporting Program No. R3-2021-0012, included in this order. Any changes to the in-water sediment removal methodology must be submitted for Central Coast Water Board Executive Officer review and approval at least 15 days prior to in-water work and implemented as specified in the approval.

33. All temporary diversion methods shall be designed to have the minimum necessary impacts to waters of the State to isolate the immediate work area. All diversion methods shall be installed such that natural flow is maintained upstream and downstream of the project 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 project area. All diversion methods shall be removed within 48 hours of completion of sediment removal activities. Any diversion must be implemented in compliance with the *Annual Drainage Maintenance Report of Waste Discharge Supplemental Information Report* (Exhibit 9). The Discharger shall implement corrective measures immediately if excessive turbidity is observed during turbidity monitoring.

**Table 2:**

<b>Vegetation Condition</b>	<b>Vegetation Description</b>	<b>Maintenance description</b>
Red	100% vegetation blocking inlets/outlets; vegetation holding sediment blocking inlet/outlet; vegetation occludes visual observation of pipes and/or restricts drainage flow.	Trim low vegetation and groundcover to allow free flow of water through inlet/outlet or drainage. Trim up trees to a height of 6 feet.
Yellow	50% vegetation blocking inlets/outlets	Same as above
Orange	25% vegetation blocking inlets/outlets	Same as above
Green	0% vegetation blocking inlets/outlets	No maintenance required

#### Site Management

34. All Discharger staff and associated contractors that plan to work within waters of the state must attend annual pre-work training, prior to commencement of their activities, on the conditions of this order and how to perform their activities in

compliance with those conditions. Trainings shall be conducted by a qualified biologist with training and experience in waste discharge requirements and compliance and documented through the use of a sign-in sheet, to be kept on record.

35. The Discharger shall only conduct herbicide application if specified in the annual workplan reviewed and approved by the Central Coast Water Board Executive Officer. If herbicide use is planned, the Discharger or personnel applying herbicides must have all the appropriate state and local herbicide applicator licenses and comply with all state and local regulations regarding herbicide use, including enrollment under Water Quality Order No. 2013-0002-DWQ, *Statewide General NPDES Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications*. The Discharger must mix herbicides and apply them in conformance with the product manufacturer's directions. The Discharger may only use products identified as non-toxic to birds and small mammals near nests or dens, and the Discharger may not apply herbicides within 50 feet of any surface waterbody when water is present. The Discharger may not apply herbicides if the National Weather Service predicts a 25% or more chance of rain within 24 hours, the target area has puddles or standing water, or when wind velocity exceeds 10 miles per hour. If the Discharger observes spray to be drifting to a non-target location, the Discharger must discontinue spraying until conditions causing the drift have abated.
36. Livestock used for vegetation management shall be introduced onto riverbed property only after being quarantined outside the city properties for a minimum of 72 hours and fed or grazed on commercially produced bulk feed or agricultural crops so as not to further introduce non-native species. Animals shall be healthy, well-nourished, and free of internal and external parasites. Grazing shall not expose base soil excessively in grassland areas and shall not be conducted when precipitation is occurring or when soils are wet or saturated or subject to compaction.

#### Mitigation

37. The Discharger must implement the Mitigation Plan described in Section 5: Compensatory Mitigation, in the revised *Annual Drainage Maintenance Report of Waste Discharge Supplemental Information Report* dated January 2021 and the *Mitigation Receiver Sites* selection guidelines submitted January 8, 2020 (Exhibits 10 and 8, respectively). Both documents together are referred to as the Mitigation Plan. Mitigation maintenance shall occur a minimum of once per year during the monitoring and maintenance period until all success criteria are achieved.

38. The following definitions shall apply to the vegetation and habitat types impacted by management activities:
- a. Grassy or herbaceous riparian: predominantly wild oats and annual brome grasses, forbs, and herb species
  - b. Low-flow channel: the principal trunk of a river or stream, also known as the main-stem channel.
  - c. Active channel: consists of a primary (low-flow or main-stem channel) and one or more secondary channels of varying sizes. The active channel area includes high-flow channels and vegetated islands that are exposed at a normal high-water stage within the braided high-flow channels.
  - d. Floodplain: a strip of relatively flat land bordering a stream channel that is inundated at times of high water. For the El Paso de Robles stretch of the Salinas River, areas beyond the active channel and associated riparian edge are floodplain.
39. Mitigation shall be achieved by a combination of removal of non-native vegetation, removal of trash, and habitat rehabilitation and enhancement. Removal of trash must occur from within the low-flow and active channel to count towards mitigation and may only compose a maximum of 25 percent of the required mitigation area. Mitigation shall achieve success criteria described in the Mitigation Plan by the fifth year following mitigation installation. If mitigation measures do not meet their interim or final success criteria, the discharger shall implement remedial measures until such time the interim or final success criteria are met.
40. Mitigation shall be implemented according to the following ratios:
- a. The minimum required rehabilitation to impact ratio for the impacts categorized as trimming of riparian vegetation within the low-flow channels is 1:1. The minimum required rehabilitation and enhancement to impact ratio for the impacts categorized as trimming of tree and shrub canopy within the active channel is 1:1. Mitigation for both of these types of impacts is not permitted to be implemented in areas that will be subject to future fire fuel load reduction activities.
  - b. For rehabilitation or enhancement implemented in areas that will not be subject to future fire fuel load reduction activities, the minimum required rehabilitation or enhancement mitigation to impact ratio for the impacts categorized as trimming of tree and shrub canopy within the floodplain is 0.5:1.

- c. For rehabilitation or enhancement implemented within the Salinas River channel where future fire fuel load reduction will be managed by grazing for control of grasses only, minimum required rehabilitation or enhancement to impact ratio for the impacts categorized as trimming of tree and shrub canopy within the floodplain is 0.5:1.
  - d. For rehabilitation or enhancement implemented within the Salinas River channel where future fire fuel load reduction will be managed by mechanical means, minimum required rehabilitation or enhancement to impact ratio for the impacts categorized as trimming of tree and shrub canopy within the floodplain is 1:1.
  - e. The Discharger shall mitigate for the removal of native trees or shrubs four inches or greater in diameter at breast height by replacing in kind at a 3:1 ratio.
  - f. No mitigation is required for impacted waters categorized as grassy or herbaceous riparian habitat.
  - g. No mitigation is required for area of invasive plants removed.
41. In the annual report submitted prior to implementation of mitigation (no later than December 31, 2023), the Discharger shall identify final selected mitigation sites and provide an amended mitigation proposal for Central Coast Water Board Executive Officer review and approval. The Discharger shall implement the approved mitigation proposal.
42. The Discharger must complete installation of mitigation no later than December 31, 2024. Delays in implementing mitigation require an increase in mitigation area by 0.01 acre per 0.1 acre of impact for each month of delay.
43. If at any time during the implementation and establishment of planted or graded mitigation areas and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, the Discharger is responsible for implementing mitigation so that no net loss of aquatic resource habitat or beneficial uses occurs as a result of Project activities. The Discharger may pursue alternative compliance by submitting an amended Mitigation Plan for written approval from the Central Coast Water Board Executive Officer.
44. Mitigation sites located outside the Salinas River channel and floodplain shall be located on city property and/or properties protected from development in perpetuity. A conservation easement or other appropriate legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, vegetation maintenance, and any other

infrastructure development that would not maintain or enhance the habitat functions and values of the mitigation site. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, paved maintenance roads, and areas of maintained landscaping for recreation.

45. Mitigation sites located within the Salinas River channel and floodplain shall be located on city property and/or properties protected from development in perpetuity. A conservation easement or other appropriate legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the habitat functions and values of the mitigation site. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, paved maintenance roads, and areas of maintained landscaping for recreation. Vegetation maintenance shall not be permitted to be conducted in a manner that will prevent the site from meeting mitigation success criteria. The City of El Paso de Robles Fire Department shall be consulted on locations and species to ensure that habitat rehabilitation and enhancement do not contribute to fire risk and will not need to be removed in the future.
46. No plant species on the most recent California Invasive Plant Council (Cal-IPC) list "Exotic Pest Plants of Greatest Ecological Concern in California"<sup>2</sup> may be planted in mitigation areas, waters of the state, vegetated stormwater best management practice areas, or other areas used to convey urban runoff and stormwater.
47. The Discharger must take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

#### Monitoring

48. The Discharger shall comply with Monitoring and Reporting Program No. R3-2021-0012 (included as part of this order).

#### Site Access and Information Requirements

49. The Discharger must allow personnel of the Central Coast Water Board and authorized representatives, upon the presentation of credentials and other documents, as may be required by law, to do the following:

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<sup>2</sup> The Cal-IPC list may be found on-line at <http://www.cal-ipc.org/>.

- a. Enter upon the premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this order;
  - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this order;
  - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this order;
  - d. Sample, photograph, and monitor at reasonable times, for the purpose of ensuring compliance with this order.
50. The Discharger must furnish, within a reasonable time, any information related to the implementation of the Project and compliance with this order that the Central Coast Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this order. The Discharger must also furnish to the Central Coast Water Board, upon request, copies of records required to be kept by this order.
51. All reports, notices, or other documents required by this order or requested by the Central Coast Water Board must be signed by a responsible city employee such as (1) the public works director or city manager; (2) a stormwater program manager or fire chief of the City of El Paso de Robles in charge of a public service; (3) any other person who performs similar functions for the City of El Paso de Robles; or (4) by a duly authorized representative of that person.
52. Any person signing a document under this order or the associated monitoring and reporting program must make the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
53. After notice and opportunity for a hearing, discharges under this order may be terminated or modified for cause, including, but not limited to, the following:
  - a. Violation of any term or condition of this order;
  - b. Obtaining this order by misrepresentation or failure to disclose all relevant facts;

- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

#### Standard Provisions

- 54. This order is not transferable to any person except after notice to the Central Coast Water Board. In accordance with California Water Code section 13260, the Discharger must file with the Central Coast Water Board a report of any material change or proposed change in the ownership, character, location, or quantity of this waste discharge. The notice must include a written agreement between the existing and new dischargers containing a specific date for the transfer of this order's responsibility and coverage between the current Discharger and the new discharger. This agreement must include an acknowledgment that the existing Discharger is liable for violations up to the transfer date and that the new discharger is liable from the transfer date on. The Central Coast Water Board may require modification or revocation and reissuance of this order to change the name of the dischargers and incorporate such other requirements as may be necessary under the California Water Code.
- 55. Any proposed material change in operation must be reported to the Central Coast Water Board at least 30 days in advance of the proposed implementation of any change. This must include, but not be limited to, all significant new soil disturbances, all proposed expansion of maintenance, or any change in drainage characteristics at the project site. For the purpose of this order, this includes any proposed change in the boundaries of the wetland/waters of the state fill sites. The Central Coast Water Board may require modification or revocation and reissuance of this order to change any requirements in this order and incorporate such other requirements as may be necessary under the California Water Code.
- 56. The Discharger must maintain a copy of this order at the project site so as to be available at all times to site operating personnel and agencies.
- 57. This order does not authorize commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws or regulations or rules of other programs and agencies; nor does this order authorize the discharge of wastes without appropriate permits from other agencies or organizations.
- 58. This order authorizes project activities only until December 31, 2025. The Central Coast Water Board will consider reissuance of this order upon submittal of the final annual report and demonstration of successful installation of required compensatory mitigation. Compensatory mitigation implementation, monitoring, maintenance, and reporting requirements and conditions of this order remain in effect until the Discharger complies with all such requirements and conditions.



59. The filing of a request by the Discharger for the modification, revocation and reissuance, or termination of this order or notification of planned changes or anticipated noncompliance do not stay any condition of this order.

## **NOTIFICATIONS**

60. The technical and monitoring reports identified in this order are required pursuant to California Water Code section 13267. The Central Coast Water Board needs the requested information to determine the extent of impacts to water quality and beneficial uses from Project activities, to evaluate the effectiveness of implementation of required mitigation, and to ensure compliance with this order. The Discharger is required to submit this information because it is the entity that conducts the Project and, according to the ROWD, Project activities have resulted in and will continue to result in discharges to waters of the state that have the potential to affect water quality and beneficial uses. The requirements of this order are also based on the Discharger's CEQA documentation that identify actions and mitigation measures. The total cost of all required annual reporting according to this MRP is estimated to be approximately \$84,500. Given the significance of the potential impacts of the activities on water quality, the burden, including costs, of the annual monitoring reports bears a reasonable relationship to its need and the benefits to be obtained. The evidence supporting the need for the reports required by this order is set forth in this order and in the Central Coast Water Board's public file on this order.
61. These requirements have not been reviewed by the United States Environmental Protection Agency and are not issued pursuant to section 402 of the Clean Water Act.
62. The provisions of this order are severable, and if any provision of this order or the application of any provision of this order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this order shall not be affected thereby.

## **ENFORCEMENT**

63. Violations of these waste discharge requirements may result in enforcement actions as authorized under the California Water Code.
64. All technical and monitoring reports submitted pursuant to this order are required pursuant to section 13267 of the California Water Code. According to section 13268 of the California Water Code, any person failing or refusing to furnish technical or monitoring reports or falsifying any information provided in such reports is guilty of a misdemeanor and may be civilly liable. Failure to submit reports in accordance with schedules established by this order or attachments to

this order or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer may subject the Discharger to enforcement action pursuant to section 13268 of the California Water Code.

**CERTIFICATION**

This order becomes effective on the date of adoption by the Central Coast Water Board.

I, Matthew T. Keeling, 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, Central Coast Region on April 16, 2021.

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Matthew T. Keeling  
Executive Officer