CALIFORNIA
Water Boards

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Central Valley Regional Water Quality Control Board

7 January 2019

Morris Rodrigue
Shasta-Tehama-Trinity Joint Community
College District
P.O. Box 496006
Redding, CA 96049-6006

CERTIFIED MAIL: 7017 3040 0001 0265 0460

NOTICE OF APPLICABILITY; STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR DREDGED OR FILL DISCHARGES TO WATERS DEEMED BY THE U.S. ARMY CORPS OF ENGINEERS TO BE OUTSIDE OF FEDERAL JURISDICTION, WATER QUALITY ORDER NUMBER 2004-0004-DWQ, FOR THE SHASTA-TEHAMA-TRINITY JOINT COMMUNITY COLLEGE DISTRICT, SHASTA COLLEGE REGIONAL PUBLIC SAFETY TRAINING FACILITY PROJECT (WDID#5A45CR00558), REDDING, SHASTA COUNTY

On 18 December 2018, Shasta-Tehama-Trinity Joint Community College District (Applicant) submitted a Section 401 Water Quality Certification Application requesting coverage under the 4 May 2004 State Water Resources Control Board Water Quality Order Number 2004-0004-DWQ Statewide General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction (General WDRs) for the Shasta College Regional Public Safety Training Facility Project (Project). After review of the Application and the supplemental material submitted by the Applicant, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has determined that the Project qualifies for enrollment under the General WDRs. The proposed activity will take place within 0.07 acre/222 linear feet of waters of the State of California.

A copy of the General Waste Discharge Requirements Order is enclosed. You can also find the General Waste Discharge Requirements Order on the State Water Resources Control Board's website at:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

The Project must proceed in accordance with the requirements contained in this Notice of Applicability and Water Quality Order 2004-0004-DWQ. The Project is described in the Section 401 Water Quality Certification Application form requesting coverage under the General WDRs, dated 17 December 2018, and supplemental information (Application Package). Coverage under the General WDRs Order is no longer valid if the Project (as described) is modified.

PROJECT DESCRIPTION:
Construction of the proposed Shasta College Regional Public Safety Training Facility Project will provide Shasta College with modernized consolidated training facilities for its public safety academic programs and partnerships with Shasta County's public safety agencies. The project consists of two phases that will be constructed during the 2018 and 2019 construction seasons. Project implementation includes construction of classrooms, administrative offices, burn props, storage buildings, and other appurtenant infrastructure.

The Project will permanently impact 0.07 acre/222 linear feet of waters of the State of California.

COMPENSATORY MITIGATION REQUIREMENTS:
The permittee is required to provide compensatory mitigation for the authorized permanent impact to 0.06 acre of isolated wetlands and 0.01 acre of ephemeral stream by purchasing 0.07 seasonal wetland credits from the Stillwater Plains Mitigation Bank located in Shasta County, California.

APPROXIMATE TIMEFRAME OF PROJECT IMPLEMENTATION:
15 April 2018 through 31 October 2019

PROJECT LOCATION:
11555 Old Oregon Trail, Redding, CA, Shasta County
Latitude: 40°37'50.347"N and Longitude: -122°19'18.205"W

APPLICATION FEE RECEIVED:
An application fee of $1,638.00 was received on 18 December 2018. The fee amount was determined as required by California Code of Regulations, Title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as Category E – Low Impact Discharges (fee code 87) with the dredge and fill fee calculator.

If you have any questions regarding this Notice of Applicability, please contact Dannas Berchtold at (530) 224-4783 or Dannas.Berchtold@waterboards.ca.gov.

(for) Patrick Pulupa,
Executive Officer

DJB: hc

Enclosure: State Water Resources Control Board Water Quality Order Number 2004-0004-DWQ

cc w/enclosure: Eihnard Diaz, Diaz Associates

cc via email w/enclosure: Sam Ziegler, United States Environmental Protection Agency

STATE WATER RESOURCES CONTROL BOARD
WATER QUALITY ORDER NO. 2004-0004-DWQ

STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR DREDGED OR FILL DISCHARGES TO WATERS DEEMED BY THE U.S. ARMY CORPS OF ENGINEERS TO BE OUTSIDE OF FEDERAL JURISDICTION (GENERAL WDRs)

I. FINDINGS

The State Water Resources Control Board (SWRCB) finds that:

Reasons for issuing these General WDRs

1. Section 13260(a) of the California Water Code (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[1], file a report of waste discharge (ROWD). The discharge of dredged or fill material may constitute a discharge of waste that could affect the quality of waters of the State.

2. California has largely relied upon its authority under section 401 of the federal Clean Water Act (CWA) (33 U.S.C. § 1341) to regulate discharges of dredged or fill material to California waters. That section requires an applicant to obtain "water quality certification" from California that the project will comply with State water quality standards before certain federal licenses or permits may be issued. The permits subject to section 401 include permits for the discharge of dredged or fill materials (CWA section 404 permits) issued by the U.S. Army Corps of Engineers (ACOE).

3. Given the regulatory process employed under section 401, waste discharge requirements under the Porter-Cologne Water Quality Control Act were typically waived for projects that required certification. Regional Water Quality Control Board (RWQCB) waivers also applied to discharges outside of ACOE jurisdiction. However, these waivers expired as of January 1, 2003 pursuant to the requirements of SB 390. These General WDRs regulate some of the activities for which WDRs were previously waived.

4. The certification process under section 401 only applies to those waters that are subject to the reach of the CWA. The CWA applies to "navigable waters," which are defined in the CWA as "waters of the United States." The term "waters of the United States" is defined expansively in 33 Code of Federal Regulations (CFR), part 328. In 2001, the U.S. Supreme Court issued a decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) ("*SWANCC*"), which held that certain "isolated" waters are not subject to CWA jurisdiction merely because they are frequented by migratory birds that cross state lines. The full implications of SWANCC are yet to be determined in the federal courts, but as a result

[1] "Waters of the State" as defined in Water Code section 13050(e).

of the decision, many projects that previously would have required a section 404 permit now no longer need one. From January 1, 2001 to December 31, 2003, the ACOE disclaimed jurisdiction over 160 water bodies comprising 449 acres of waters of the state, including 251 acres of wetlands, 121 acres of riparian area, and 77 acres of other waters (these figures are under-reported because 24 percent of the jurisdictional disclaimers did not specify the sizes of the disclaimed waterbodies). The prospect of issuing waste discharge requirements for each of the now non-federal waters, especially in a time of budgetary contraction, is daunting. Many of the projects that were traditionally subject to certification requirements involved small discharges with few or no permanent impacts. It is the intent of these General WDRs to regulate a subset of the discharges that have been determined not to fall within federal jurisdiction, particularly those projects involving impacts to small acreage or linear feet and those involving a small volume of dredged material.

5. Wetlands, riparian areas, and headwaters are shallow waters of the state, which are by their nature affected most often and severely by filling and excavation. Regulatory attention to these water bodies is necessitated by the State "No Net Loss" Policy for wetlands (Executive Order W-59-93); the high habitat value of these waters; the basin-wide value of these waters for pollutant removal, floodwater retention, channel stability, and habitat connectivity; the high number of special-status species associated with these waters and their associated habitats; the high percentage of historic losses of these waters in California; the vulnerability of these waters to future impacts from projected population growth and land development; and the high level of public interest in these waters.

6. Water Code section 13263(a) requires that waste discharge requirements (WDRs) be prescribed as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. Such WDRs 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 Water Code.

7. Water Code section 13263(i) authorizes the SWRCB to prescribe general WDRs for a category of discharges if the discharges are produced by the same or similar operations; the discharges involve the same or similar types of waste; the discharges require the same or similar treatment standards; and the discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

8. The discharges authorized by these General WDRs meet the criteria for general WDRs set forth in Water Code section 13263(i) because they are all produced by dredging or filling operations; they all involve the discharge of earth, rock, or similar solid materials; they are all limited in size per the terms of the WDRs; they all require similar mitigation techniques to avoid, minimize, and/or compensate for their adverse impacts; and they are all relatively small surface water bodies or water body segments that have been deemed by ACOE to be "isolated," do not meet the federal wetland criteria, or are above the "line of ordinary high water" limit of federal jurisdiction. They are appropriately regulated under General WDRs because of their similar nature, large numbers, and amenability to being regulated through the use of similar discharge restrictions, as specified in these General WDRs. Regulation of

such discharges by these General WDRs will allow the SWRCB and RWQCBs to direct limited staff time to larger, more complex, and potentially more damaging discharges to waters deemed to be outside of federal jurisdiction.

Eligibility Criteria

9. These General WDRs are restricted to dredged or fill discharges of not more than two-tenths (0.2) of an acre and 400 linear feet for fill and excavation discharges, and of not more than 50 cubic yards for dredging discharges. Projects that may be covered under these General WDRs include land development, detention basins, disposal of dredged material, bank stabilization, revetment, channelization, and other similar projects. These size maximums help limit the potential environmental impact of the discharges and make them amenable to similar discharge restrictions, while permitting about half of the projects discharging to non-federal waters, as projected from historical data on discharge sizes. The size and volume restrictions are appropriate because larger projects involve a significantly greater risk to the environment and are more appropriately regulated by individual WDRs.

   Absent a potential effect on the quality of waters of the state, no notification is required under these General WDRs.[2] The "quality of waters" refers to chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affects its use.[3] Because of the variability, complexity, and interactions of the factors affecting the quality of waters, it is not possible to provide advice on the kind, size, location, or duration of discharges that can affect water quality under all circumstances. Generally, discharges of dredged, fill, or excavated material to a wetland, or to the active channel or bed of a waterbody will require regulation. Discharges to a riparian area or to an area in proximity to a waterbody can affect the quality of the water if they directly or indirectly result in a discharge to the water (e.g., via stormwater flows, during flood events, or by generating pollutants or increased runoff); are associated with a change in the nature of vegetation that could affect water quality (e.g., by affecting pollutant removal, stream shading, or bank stability); or change the hydrologic or geomorphologic characteristics of the waterbody during some flow condition.

   These General WDRs do not set a lower size limit below which a Notice of Intent is not required. Neither the Porter-Cologne Water Quality Control Act nor the federal CWA establish a lower size threshold for permitting. If a lower threshold were established in these General WDRs, discharges below that threshold would be subject to regulation under individual WDRs or an individual waiver of WDRs, thus defeating the purpose of these General WDRs. Moreover, size is not the sole factor dictating the value of a wetland or other water. Small, strategically placed waters, or segments of waters, can play important roles in supporting local habitat, habitat connectivity, pollutant removal, floodwater attenuation, and other beneficial uses. In addition, without a reporting requirement, there would be no way for the State to ensure that multiple small discharges will not have significant cumulative effects.

10. Discharges of fill can directly or indirectly destabilize the channel or bed of a receiving water by changing geomorphic parameters, including hydrologic characteristics, sediment characteristics, or stream grade. Such destabilization diminishes the ability of the water body

[2] Water Code section 13260
[3] Water Code section 13050(g)

to support designated beneficial uses. Quantification and mitigation of such impacts may require detailed project-specific analyses. Therefore, these General WDRs do not authorize discharges that could destabilize the channel or bed of a receiving water.

11. In urbanizing basins or other situations, a large number of relatively small projects potentially eligible for these General WDRs, in their aggregate, may adversely impair the ability of the water body to support beneficial uses. Quantification and mitigation of such impacts may require basin-wide analyses. Therefore, these General WDRs do not authorize discharges that, when considered in conjunction with other potential discharges, could cause a significant cumulative effect on water quality or beneficial uses.

12. To the extent they are determined to fall within federal jurisdiction, it is likely that the SWRCB and RWQCBs will continue to regulate dredged or fill discharges primarily through their authority under section 401 of the CWA. Therefore, these General WDRs do not apply to discharges to federal waters that are subject to sections 401 and 404 of the CWA. These General WDRs likewise do not apply to discharges regulated under a section 402 storm water permit.

13. Discharges which could have a significant impact on rare, candidate, threatened, or endangered species require detailed project-specific analysis and individual regulation. Such discharges are therefore not authorized by these General WDRs.

14. Although a discharge may be eligible for coverage under these General WDRs, the RWQCB may elect to regulate the discharge under other WDRs or waivers thereof.

15. Discharges that would be exempt pursuant to section 404(f) of the CWA are waived from these WDRs. This waiver shall not affect a RWQCB's authority to issue individual WDRs or waivers for such discharges if it deems it appropriate.

Mitigation Plan

16. SWRCB Resolution No. 68-16, "Statement Of Policy With Respect To Maintaining High Quality Of Waters In California" ("Antidegradation Policy"), states that discharges to existing high quality waters will be required to meet WDRs which will result in the best practicable treatment or 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.

17. Executive Order W-59-93, dated August 23, 1993, establishes a California Wetlands Conservation Policy including an objective to ensure no overall net loss of and a long term net gain in the quantity, quality, and permanence of wetland acreage and value in California ("No Net Loss Policy").

18. Filling wetlands, riparian areas, headwaters, and other waters causes partial or complete loss of the beneficial uses provided by those waters. To reconcile such losses with the "No Net

Loss" requirements of Executive Order W-59-93 and the "Antidegradation" requirements of SWRCB Resolution No. 68-16, these General WDRs require mitigation plans to ensure that impacts are mitigated through avoidance and minimization and that unavoidable loss of beneficial uses is offset with appropriate compensatory mitigation, including creation, restoration, or (in exceptional cases) preservation of other waters of the state. These mitigation requirements are consistent with those adopted by the U.S. Environmental Protection Agency and the ACOE for regulation of dredged or fill discharges to federal waters under CWA section 404.

19. To comply with the objective of the State "No Net Loss Policy" to ensure the quantity, quality, and permanence of wetland acreage and values in California, and with the "Antidegradation" requirements of SWRCB Resolution No. 68-16, these General WDRs require that compensatory mitigation areas for permanent impacts be subject to a deed restriction or other legal instrument that ensures preservation of the mitigation in perpetuity. These General WDRs do not generally require compensatory mitigation for temporary impacts, because the SWRCB does not anticipate that projects eligible under this order would ordinarily create temporary impacts of a size, severity, and/or duration that would have a significant adverse impact on beneficial uses. The decision in this order to generally require compensatory mitigation only for permanent impacts is not meant to be a precedent for any other SWRCB or RWQCB order.

20. Consistent and equitable application of these General WDRs is in the interest of environmental protection and the applicants. These General WDRs therefore provide guidance to SWRCB and RWQCB staffs regarding factors to evaluate in considering the eligibility of these General WDRs and in evaluating mitigation plans.

Basin Plans

21. All WDRs must implement the RWQCB Water Quality Control Plan (Basin Plan) for the region affected by the discharge. These General WDRs require dischargers to comply with all applicable Basin Plan provisions, including maintaining the protection of beneficial uses and complying with any prohibitions and water quality objectives governing the discharge.

Beneficial Uses

22. Beneficial uses are the most fundamental of the State's water quality standards. RWQCBs designate appropriate beneficial uses for waters in their regions' Basin Plans. The beneficial uses for the waters of the State include, but are not limited to, domestic supply, municipal supply, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

Fees

23. Water Code section 13260(d)(1) requires that each person for whom WDRs have been prescribed pursuant to section 13263 shall submit an annual fee according to a reasonable fee

schedule established by the SWRCB. The schedule of fees for discharges of dredged or fill material is published at California Code of Regulations (CCR) 23 section 2200(a)(2). For activities covered by these General WDRs, the SWRCB anticipates that most of the discharges will be one-time and of short duration. Therefore, only a one-time fee usually will be charged.

California Environmental Quality Act (CEQA)

24. CEQA requires a government agency to comply with certain procedures when it approves or proposes to carry out an activity. (Cal. Code Regs., tit. 14, § 15002(e))

25. Private actions are subject to CEQA if they involve governmental participation, financing, or approval. (Cal. Code Regs., tit. 14, § 15002(c))

26. A Mitigated Negative Declaration in compliance with CEQA has been adopted for these General WDRs.

27. Potential dischargers and all other known interested parties have been notified of the intent to adopt these General WDRs.

28. All comments pertaining to the proposed discharges have been heard and considered in a public meeting.

II. ORDER

A. ELIGIBILITY

IT IS HEREBY ORDERED that only discharges that meet the following criteria shall be enrolled under these General WDRs:

1. The discharge shall not be subject to section 404 of the CWA or section 10 of the federal Rivers and Harbors Act. These General WDRs likewise do not apply to discharges regulated under a section 402 storm water permit.

2. The discharge shall be dredged or fill materials.

3. The discharge shall meet the following size criteria:

    a. Excavation[4] and fill activities must not excavate or fill an area greater than two-tenths (0.2) of an acre of waters of the state, and

[4] "Excavation refers to moving sediment or soil in shallow waters or under no-flow conditions where impacts to beneficial uses are best described by the area of discharge. It typically is done for purposes other than navigation. Examples include trenching for utility lines, other earthwork preliminary to construction, removing sediment to increase channel capacity, and aggregate mining in fresh water." (Cal. Code Regs., tit. 23, § 2200(a)(2).)

b. Linear excavation and fill activities affecting drainage features and shorelines (e.g., bank stabilization, revetment, and channelization projects), must not excavate or fill more than 400 linear feet of waters of the state, measured parallel to the streambank or shoreline, and

c. Dredging[5] activities must dredge not more than 50 cubic yards within waters of the state.

d. These size criteria apply to discharges, which could either permanently or temporarily affect the quality of waters of the state[6].

e. These size criteria apply to complete projects and shall not be used to authorize "piecemealing" of larger discharges. In regulating recurring discharges, e.g., routine maintenance of sedimentation basins, forebays, or similar waters, these criteria shall be applied for each discharge episode.

4. For purposes of defining the size criteria specified in this section, determining fees as required by section II.B.3, and evaluating mitigation proposals as required by section II.B.4 of these General WDRs, the lateral extent of waters of the state shall be determined by the most expansive of the following:

   a. The federal criteria current on the date of adoption of these General WDRs[7],

   b. Headwaters, defined as intermittent and ephemeral drainages.

5. The discharge shall not directly or indirectly destabilize a channel or bed of a receiving water. In determining whether a discharge meets this criterion, the RWQCB Executive Officer[8] will consider potential project-induced changes to:

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[5] "Dredging" refers to removing sediment in deeper water to increase the depth. Impacts to beneficial uses are best described by the volume of the discharge. It typically occurs to facilitate navigation and for aggregate extraction in marine waters.

[6] Fill or dredged discharges can *permanently* affect the quality of waters of the state when the discharged material will be in place indefinitely and/or by its nature precludes a reasonable assurance that beneficial uses will be fully reestablished. Examples include filling of wetlands or other waters, streambank hardening, channelization, construction of bridge piers and abutments, and ongoing vegetation removal and channel maintenance. Fill or dredged discharges can *temporarily* affect the quality of waters of the state when the discharged material will be in place for a limited time and/or there is a reasonable assurance that beneficial uses will be fully reestablished once the discharge ceases. Examples include temporary fills, excavation for temporary access roads, and one-time vegetation removal or excavation of sediment. Mitigation measures or management practices may be needed to assure that impacts are "temporary" (e.g., reestablishment of natural grade, revegetation, reestablishment of soil permeability to allow vegetative growth, compaction of backfill to assure that utility trenches do not dewater wetlands).

[7] 33 CFR 328.3(b)-(e), 33 CFR 328.4, 40 CFR 230.41.

[8] For multi-region projects, the SWRCB Executive Director. The terms Executive Officer or Executive Director as used herein include any designees.

a. Quantity, velocity, timing, and direction of flow;
b. Sediment characteristics;
c. Stream grade; and
d. Other relevant project-induced changes.

6. The discharge shall not cause in combination with other discharges a significant cumulative effect on water quality or beneficial uses of the waters of the State including, but not limited to, wetlands and headwaters.

7. The discharge shall not adversely impact, either directly or through habitat modification, any plants or animals identified as candidate, sensitive, or special status species in local or regional plans, policies or regulations; or by the California Department of Fish and Game (DFG), the U.S. Fish and Wildlife Service (USFWS), or the National Marine Fisheries Service (NMFS). The project shall not , substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number of or restrict the range of an endangered, rare or threatened species.

8. The discharge shall not significantly conflict with any adopted and approved USFWS Habitat Conservation Plan (HCP) or DFG Natural Community Conservation Plan (NCCP).

9. The discharge shall not adversely impact a significant historical or archeological resource, shall not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature, shall not disturb any human remains, and shall not eliminate important examples of the major periods of California history or prehistory.

10. The discharge shall not cause conflict with existing zoning for agricultural use or a Williamson Act contract.

11. The discharge, as mitigated, shall not cause significant adverse environmental impacts.

12. Discharges that would be exempt pursuant to section 404(f) of the CWA are waived from these WDRs. This waiver shall not affect a RWQCB's authority to issue individual WDRs or waivers for such discharges if it deems it appropriate.

B. APPLICATION REQUIREMENTS

IT IS FURTHER ORDERED that dischargers seeking enrollment under these General WDRs shall submit the following to the appropriate RWQCB Executive Officer or, in the case of multi-Region projects, to the SWRCB Water Quality Certification Program Manager at least 45 days prior to any discharge:

1. A Notice of Intent (NOI) to be enrolled under and to comply with these General WDRs.

2. Any CEQA documents that have been prepared for the project.

3. A fee pursuant to Title 23, section 2200 of the CCR.

4. A Mitigation Plan:

   The Mitigation Plan shall demonstrate that the discharger will sequentially avoid, minimize, and compensate for the adverse impacts to the affected water bodies' beneficial uses (as defined in the applicable Basin Plan). The Mitigation Plan shall address the following:

   a. Avoidance: No discharge shall be permitted if there is a practicable alternative[9] to the proposed discharge, which would have less adverse impact to the aquatic ecosystem, as long as the alternative does not have other significant adverse environmental consequences.

   b. Minimization: Unavoidable temporary impacts shall be mitigated by restoring water bodies and vegetation to pre-discharge conditions as quickly as practicable and by taking other practicable measures to reduce the severity and duration of such impacts.

   c. Compensatory mitigation: Discharges resulting in unavoidable permanent impacts to wetlands or headwaters shall ensure "no net loss" of area (acreage), functions, and beneficial use values by providing appropriate compensatory mitigation including creation, restoration, or (in exceptional cases) preservation. The RWQCB Executive Officer/SWRCB Executive Director will consider, at a minimum, the following when reviewing the adequacy of compensatory mitigation:

      (1) Onsite habitat value
      (2) Habitat connectivity value
      (3) Floodwater retention value
      (4) Pollutant removal value
      (5) Ratio of area of proposed compensation to proposed loss
      (6) Proposed revegetation and irrigation plans and success criteria
      (7) Availability of suitable soils, hydrology, and natural vegetation at the compensation site
      (8) Monitoring and reporting provisions
      (9) Contingency plan for failure to achieve success criteria
      (10) Any other information requested by the RWQCB or SWRCB.

   The Mitigation Plan shall demonstrate that all potentially adverse environmental impacts have been mitigated to a less than significant level. The thoroughness of the alternatives analysis and the extent of the proposed mitigation shall be commensurate with the purpose of the discharge, the value and sensitivity of the receiving water(s), and the extent, severity, and duration of the effect on the quality of waters.

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[9] An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded, or managed in order to fulfil the basic purpose of the proposed activity may be considered (this definition is the same as presented in federal regulations at section 230.10(a)(2) of Title 33 of the CFR).

5. Any other additional information requested by the SWRCB or RWQCB to evaluate the proposed dredged or fill discharge.

A discharge shall not be enrolled under these General WDRs unless the RWQCB Executive Officer or SWRCB Executive Director finds that the Mitigation Plan meets the requirements of this section and the discharge meets all other eligibility criteria. The RWQCB Executive Officer or SWRCB Executive Director shall independently determine eligibility, including the adequacy of the Mitigation Plan, but may consider findings and requirements included in other agencies' permits.

C. DISCHARGE REQUIREMENTS

IT IS FURTHER ORDERED that the discharger shall comply with the following:

Prohibitions:

1. The discharge of material is prohibited until the discharger has received a Notice of Applicability (NOA) from the RWQCB Executive Officer or the SWRCB Executive Director or until 45 days after submission of a complete and accurate NOI.[10] If the RWQCB Executive Officer or the SWRCB Executive Director has not issued a Notice of Exclusion (NOE) within 45 days of receiving a complete and accurate NOI, the discharge may proceed.

2. No discharges are authorized under these General WDRs if the discharger has received a NOE from the RWQCB Executive Officer or the SWRCB Executive Director.

3. The discharge shall not cause pollution, contamination, or nuisance as defined in Water Code section 13050.

4. The discharge of material in a manner other than as described in the NOI, the Findings or conditions of these General WDRs, or in the RWQCB Executive Officer or SWRCB Executive Director-approved Mitigation Plan is prohibited.

5. The discharge of substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses therein, is prohibited.

6. The discharge of waste classified as "hazardous" or "designated" as defined in Title 22, section 66261 of the CCR, or Water Code section 13173 is prohibited.

Special Provisions:

7. The discharger shall discharge in a manner that is consistent with the information provided in the NOI.

[10] The RWQCB Executive Officer or the SWRCB Executive Director, within 30 days from submittal of the NOI, may find a submittal to be incomplete or inaccurate.

8. The discharger shall comply with the eligibility criteria for these General WDRs.

9. The discharger shall implement the approved Mitigation Plan.

10. Requested amendments to the approved Mitigation Plan must be submitted in writing to the RWQCB Executive Officer and, for multi-region projects, to the SWRCB Water Quality Certification Program Manager. The discharger may not modify operations until the discharger has received written notification that the RWQCB Executive Officer or SWRCB Executive Director has approved the amendment. If the RWQCB Executive Officer or the SWRCB Executive Director does not disapprove the requested amendment within 45 days of receiving the written notification, the changes to the approved Mitigation Plan may be implemented as described in the requested amendment.

11. If mitigation measures do not meet their interim or ultimate success criteria, the discharger shall implement remedial measures that are acceptable to the RWQCB Executive Officer or SWRCB Executive Director.

12. All compensatory mitigation areas shall be subject to a conservation easement, deed restriction, or other legal instrument, which shall ensure preservation of the mitigation in perpetuity. Documentation of the easement, restriction, or other legal instrument shall be submitted to the RWQCB, or to the SWRCB for multi-region projects, before any discharge authorized by these General WDRs occurs.

13. The discharger, if requested by the RWQCB or SWRCB, shall provide certification that supervisory and other responsible operations personnel have received training regarding these General WDRs.

14. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to water bodies. At no time shall the discharger use vehicles or equipment that leak any substance that might impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of water bodies.

15. Except in compliance with the terms of an NOA for this order, no construction material, spoils, debris, or other substances associated with this project, that may adversely impact water quality, shall be located in a manner which may result in a discharge or threatened discharge to water bodies.

16. Upon completion of the project, the discharger shall complete a Notice of Termination (NOT) requesting to be un-enrolled from these General WDRs.

Standard Provisions:

17. A copy of these General WDRs shall be kept at the project site for reference by project personnel. Personnel shall be familiar with its contents.

18. The discharger shall take all reasonable steps to prevent any discharge in violation of these General WDRs.

19. The discharger shall report promptly to the RWQCB or SWRCB any proposed material change in the character, location, area, and/or volume of the discharge. The discharger shall obtain confirmation from the RWQCB or SWRCB that such proposed modifications do not disqualify the discharger from coverage under these General WDRs. Confirmation or new WDRs shall be obtained before any modifications are implemented. If the RWQCB Executive Officer or the SWRCB Executive Director does not disapprove the proposed change within 45 days of receiving a written report describing the proposed change, the discharge may proceed in accordance with the proposed modifications.

20. These General WDRs do not convey any property rights or exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, do not protect the discharger from liability under federal, State, or local laws, and do not create a vested right to continue to discharge waste.

21. These General WDRs do not relieve the discharger from the responsibility to obtain other necessary local, State, and federal permits, nor do these General WDRs prevent imposition of additional standards, requirements, or conditions by any other regulatory agency.

22. The discharger shall allow the RWQCB or SWRCB, or an authorized representative, upon the presentation of credentials and other documents, as may be required by law, to do the following:

    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 these General WDRs,

    b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of these General WDRs,

    c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under these General WDRs, and

    d. Sample, photograph, and monitor at reasonable times, for the purpose of assuring compliance with these General WDRs.

23. After notice and opportunity for a hearing, coverage of an individual discharge under these General WDRs may be terminated or modified for cause, including, but not limited to, the following:

    a. Violation of any term or condition of these General WDRs.

    b. Obtaining these General WDRs 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.

24. The filing of a request by the discharger for an order modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of these General WDRs.

25. Where the discharger becomes aware that it failed to submit any relevant facts in an NOI or submitted incorrect information in an NOI to the RWQCB or SWRCB, it shall promptly submit such facts or information.

26. The discharger shall furnish, within a reasonable time, any information the RWQCB or SWRCB may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the discharger coverage under these General WDRs. The discharger shall also furnish to the RWQCB or SWRCB, upon request, copies of records required to be kept by these General WDRs.

27. The Water Code provides that any person failing or refusing to furnish technical or monitoring program reports, as required under these General WDRs, or falsifying any information provided in the monitoring reports, is subject to civil liability for each day in which the violation occurs.

28. The discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with these General WDRs, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

29. All reports, notices, or other documents required by these General WDRs or requested by the RWQCB or SWRCB shall be signed by a person described below or by a duly authorized representative of that person.

    a. For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

    b. For a partnership or sole proprietorship: by a general partner or the proprietor.

    c. For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official.

30. Any person signing a document under Provision II.C.29 shall make the following certification, whether written or implied:

"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 gathered and evaluated 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 there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

31. The discharger shall report any discharge of waste that may endanger public health or the environment. Any information shall be provided orally to the RWQCB within 24 hours from the time the discharger becomes aware of the occurrence. A written report shall also be submitted to the RWQCB Executive Officer within five (5) consecutive days of the time the discharger becomes aware of the occurrence. The written report shall contain (a) a description of the noncompliance and its cause; (b) the period of the noncompliance event, including dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and (c) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

32. The discharger shall report all instances of noncompliance not reported under Provision II.C.31 within seven (7) consecutive days of the time the discharger becomes aware of the occurrence. The report shall contain any applicable information listed in Provision II.C.31.

33. The discharger shall comply with all of the conditions of these General WDRs. Any noncompliance with these General WDRs constitutes a violation of the Water Code and is grounds for an enforcement action.

34. The discharger must comply with all applicable Basin Plan provisions, including maintaining the protection of beneficial uses and complying with any prohibitions and water quality objectives governing the discharge. In the event of a conflict between the provisions of these General WDRs and the applicable Basin Plan, the more stringent provisions prevails.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the SWRCB held on May 4, 2004.

AYE:

NO:

ABSENT:

ABSTAIN:

Debbie Irvin
Clerk to the Board

ATTACHMENT 1
TO WQ ORDER NO. 2004-004-DWQ

STATE WATER RESOURCES CONTROL BOARD

NOTICE OF INTENT (NOI)

TO ENROLL UNDER AND COMPLY WITH THE TERMS OF WATER QUALITY ORDER NO. 2004-004 DWQ (GENERAL WDRs), STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR DREDGED OR FILL DISCHARGES TO WATERS DEEMED BY THE U.S. ARMY CORPS OF ENGINEERS TO BE OUTSIDE OF FEDERAL JURISDICTION

Mark Only One Item	1. ☐ New Discharge 2. ☐ Change of Information-WDID # _____

I. **Owner of the Land**

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person				

II. **Billing Address**

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person				

III. **Discharger (if different from owner of the land)**

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person				

STATE USE ONLY

WDID: ☐☐☐☐☐☐☐☐☐☐	Regional Board Office: ☐☐	Date NOI Received:	
[redacted]		Check #: _____	

IV. **Site Location**

Street (including address, if any)	
Nearest Cross Street(s)	
County:	Total Size of Site (acres):

Latitude/Longitude (Center of Discharge Area) in degrees/minutes/seconds (DMS) to the nearest ½ second or decimal degrees (DD) to four decimals (0.0001 degree)

DMS: N. Latitude Deg. _____ Min. _____ Sec. _____

W. Longitude Deg. _____ Min. _____ Sec. _____

DD: N. Latitude _____

W. Longitude _____

Attach a map of at least 1:24000 (1" = 2000') detail of the proposed discharge site (e.g., USGS 7.5 minute topographic map).

V. **Discharge Information**

Subject		Notes
Name(s) and type(s) of receiving waters:		Receiving water types are: river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland
Eligibility of receiving water. Provide evidence that the water affected by this discharge is deemed to be out side of federal jurisdiction:		U.S. Army Corps of Engineers jurisdictional disclaimer letter, or explanation why such a disclaimer is not needed
Identify all regulatory agencies having jurisdiction over this project. Attach copies of all federal and State license/permit applications or issued copies of licenses/permits from government agencies:		For example: Dept. of Fish and Game Streambed Alteration Agreement, Coastal Commission permit
Proposed project start date:	Expected date of completion:	

Project description:	For example: Discharge of riprap; discharge of fill; excavation for a utility line
Purpose of the entire activity:	For example: Stream-bank erosion control; flood management; residential development
Characterization of discharges:	What types of constituents will be discharged? Is the sediment contaminated?

Fill and Excavation Discharges: For each water body type listed below indicate in ACRES the area of the proposed discharge to waters of the state, and identify the impacts(s) as permanent and/or temporary. For linear discharges to drainage features and shorelines, e.g., bank stabilization, revetment, and channelization projects, ALSO specify the length of the proposed discharge to waters of the state IN FEET.[1]

Water Body Type	Permanent Impact		Temporary Impact	
	Acres	Linear Feet	Acres	Linear Feet
Wetland				
Streambed				
Lake/Reservoir				
Ocean/Estuary/Bay				
Riparian				

Dredging Discharges: Volume (cubic yards) of dredged material to be discharged into waters of the United States.

[1] For guidance in determining the extent of impacted waters, see General WDRs, section II.A.4

VI. **California Environmental Quality Act**

Will an environmental impact report or a negative declaration be adopted for this project or has one been adopted?

❑ YES ❑ NO

If yes, what is the current status of the environmental impact report or negative declaration?

❑ Not yet issued for public review.
❑ In public review.
❑ Adopted.

Name of lead agency _____

If an environmental impact report or a negative declaration is in public review or has been adopted, enclose the document with this NOI.

Will the discharge occur in, or in immediate proximity to, an area covered by a U.S. Fish and Wildlife Service (USFWS) Habitat Conservation Plan (HCP) or a Department of Fish and Game Natural Community Conservation Plan (NCCP)?

❑YES ❑NO

Will the discharge occur in, or in immediate proximity to, any habitat of a plant or animal species that has been classified by the Department of Fish and Game, the U.S. Fish and Wildlife Service, or the National Marine Fisheries Service as candidate, sensitive, endangered, rare, or threatened?

❑YES ❑NO

Will the discharge occur in, or in immediate proximity to, a significant historical or archeological resource, a unique paleontological resource or site, a unique geologic feature, or any human remains?

❑YES ❑NO

Will the discharge occur in, or in immediate proximity to, land under existing zoning for agricultural use or under a Williamson Act contract?

❑YES ❑NO

Will the discharge, as mitigated, cause any other significant adverse environmental impact?

❑YES ❑NO

If you answered "yes" to any of the previous five questions, provide a detailed explanation demonstrating why the discharge is eligible to be enrolled under the General WDRs.

VII. **Additional Submittals.** In accordance with provisions of State Water Resources Control Board (SWRCB) Water Quality Order No. 2004-0004 DWQ, please submit the following with this NOI to the appropriate Regional Water Quality Control Board or, for multi-Region projects, to the SWRCB.

a. A fee pursuant to California Code of Regulations, Title 23 Section 2200.

b. A Mitigation Plan, as described in the General WDRs.

VIII. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and 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. In addition, I certify that the provisions of these General WDRs will be complied with."	
Signature of Discharger	Title
Printed or Typed Name	Date

ATTACHMENT 2
TO WQ ORDER NO. 2004-0004-DWQ

STATE WATER RESOURCES CONTROL BOARD

NOTICE OF TERMINATION

OF DREDGED OR FILL DISCHARGES
TO WATERS DEEMED BY THE U.S. ARMY CORPS OF ENGINEERS
TO BE OUTSIDE OF FEDERAL JURISDICTION
(WATER QUALITY ORDER NO. 2004-0004 DWQ)

WDID # _____

III. **Owner of the Land**

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person				

III. **Discharger (if different from owner of the land)**

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person				

III. **Site Location**

Street (including address, if any)
Nearest Cross Street(s)
County:

IV. **Reason For Notice of Termination**

Indicate why the discharge should no longer be regulated under WQ Order No. 2004-0004-DWQ.

STATE USE ONLY

WDID: □□□□□□□□□□	Regional Board Office: □□	Date NOT Received: _____ __	Date NOT Processed: _____ __

V. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and 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."	
Signature of Discharger	Title
Printed or Typed Name	Date