

California Regional Water Quality Control Board
North Coast Region

Order No. R1-2013-0059

Waiver of Waste Discharge Requirements
and General Water Quality Certification for the
Mendocino County Permit Coordination Program

Mendocino County

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

1. The Mendocino County Permit Coordination Program (“PCP” or “program”) was developed to promote the implementation of high-quality conservation and restoration projects on farms, ranches, and forestland throughout the watersheds of Mendocino County. Projects implemented through the PCP are designed to control erosion and sediment discharges, improve instream habitat for aquatic species, stabilize eroding streambanks, promote native vegetation growth, and enhance aquatic and terrestrial habitat that may be affecting water quality and beneficial uses.

The PCP was developed through a partnership between the Mendocino County Resource Conservation District (District) and Natural Resources Conservation Service (NRCS) to provide technical, financial, and permitting assistance to landowners seeking to make environmental improvements on their lands. The PCP is based on a successful model¹ of coordinated, multi-agency regulatory review designed to ensure the integrity of agency mandates, while making permitting more accessible for working landscapes than the traditional process.

The implementation of conservation and restoration practices through the PCP promotes watershed recovery by controlling sources contributing to sediment and temperature impairments, consistent with Total Maximum Daily Load (TMDL) load allocations. Additionally, the proposed practices are consistent with the recommended actions included in state and federal recovery plans² for endangered salmonids.

2. The District is seeking programmatic permits and approvals from the state and federal regulatory agencies to cover projects that are implemented according to a set of ten standardized conservation practices based on NRCS technical guides³, plus

¹ The PCP is an expansion of the *Navarro River Watershed Permit Coordination Program* developed by the District and NRCS and adopted by the NCRWQCB in March 2003 via Order No. R1-2003-0009.

² Recovery plans for endangered salmonids include the NOAA-National Marine Fisheries Service’s 2012 Coho Recovery Plan and California Department of Fish and Wildlife’s 2004 Coho Recovery Strategy.

³ NRCS technical guides are located at the following address: <http://efotg.sc.egov.usda.gov/treemenuFS.aspx>

environmental protection and mitigation measures⁴. The following activities have the potential to discharge wastes that affect waters of the state:

- a. Access Roads – #560: Improvements to existing roads to control runoff, prevent erosion, and improve water quality while maintaining access for property management. Typical practices include the installation of rolling dips and ditch relief culverts, removal of berms to aid in water dispersal, and outsloping or installation of waterbreaks to decrease road connectivity and sediment delivery to the stream network.
- b. Critical Area Planting - #342: Establishment of native vegetation such as trees, shrubs, vines, grasses or forbs on highly erodible or critically eroding upland areas. This practice is used to stabilize soil, reduce damage from sediment and runoff to downstream areas, and improve wildlife habitat and visual resources. The practice is often associated with the re-vegetation of upland sites associated with road or landing removal and gully stabilization.
- c. Stream Habitat Improvement and Management – #395: Enhancement of instream habitat and riparian conditions for fish and other aquatic species. This practice includes improvements to degraded streams, channels, and ditches through strategic placement of large woody material, root wads, or natural rock that reduces the flow velocity through the area, develops habitat complexity, and provides refuge for salmonids from high winter flows and predation. Practices are derived from the California Department of Fish and Wildlife's Salmonid Stream Habitat Restoration Manual.
- d. Grade Stabilization Structure - #410: Installation of structures into a gully or waterway to control the grade and prevent head cutting in natural or artificial channels. This practice refers to rock, concrete, or non-chemically treated timber structures placed to slow water velocity above and below the structure, resulting in reduced streambank and streambed erosion. Under the PCP, this practice will not be undertaken in fish-bearing streams.
- e. Road/Trail/Landing Closure and Treatment - #654: Removal by excavation of old logging, ranch, or farm access roads and landing fills from stream channels. This practice applies to areas where roads, landing, and ramp fills were placed within or near streams, wetlands, ponds, or lakes, and have the potential to discharge sediment into surface waterbodies.
- f. Streambank Protection - #580: Installation of vegetation or other treatments to stabilize and protect streambanks or excavated channels against scour and erosion.

⁴ The PCP conservation practices, environmental protection and mitigation measures, are described in detail in the June 2012 *Mendocino County Resource Conservation District Mitigated Negative Declaration/ Initial Study for the Mendocino County Permit Coordination Program* and can be found at the following web address: <http://mcrd.org/wp-content/uploads/1-Final-Mendocino-Co-PCP-CEQA-doc-05-03-12-rkl.pdf>

The banks of streams and waterbodies are protected to reduce sediment loads causing downstream damage and pollution, to improve the stream for fish and wildlife habitat, and to protect adjacent land from erosion damage. This practice is intended to promote biotechnical approaches; hard structural solutions will be recommended only in unusual circumstances, or in conjunction with other bio-engineered structures.

- g. Stream Channel Bank Vegetation - #322: Establish permanent vegetation in open channel and stream corridors in order to stabilize eroding areas and improve water quality, fish and wildlife habitat, and aesthetics. This conservation practice differs from Critical Area Planting in that it improves the plant community within a stream channel and streambank and does not include materials such as large rock.
- h. Structure for Water Control - #587: Placement of a structure, generally a culvert that conveys water and controls the direction or rate of flow. This practice will be used to replace culverts that are not functioning properly, are likely to plug, or are barriers to fish passage. New culverts or bridges may also be installed on existing roads where there is no water control structure at a stream crossing or where ditch relief is needed to control erosion. All culverts and bridges in fish-bearing streams that are installed or repaired under the PCP will conform to NMFS and CDFW standards and criteria for anadromous fish passage.
- i. Stream Crossing - #578: The Structure for Water Control Practice (NRCS #587 above) is used for installation of ditch relief culverts and other structures that convey water across a road. Stream Crossing (NRCS #578) is used where an intermittent or perennial watercourse exists and a ford, bridge, or culvert crossing is needed. All culverts and bridges in fish-bearing streams that are installed or repaired under the PCP will conform to NMFS and CDFW standards and criteria for anadromous fish passage.
- j. Restoration and Management of Rare or Declining Habitats - #643: Restoration of declining native vegetation communities and associated wildlife habitat. Non-native plants may be removed to allow regeneration for the native plant community. Native trees, shrubs, and herbaceous species may be planted to improve diversity, restore aquatic habitats and conserve native plant communities. This practice may include hand or mechanical removal or application of herbicides⁵ to control invasive species.

Potential impacts resulting from the implementation of the conservation and restoration practices above are associated primarily with erosion and sediment delivery, changes to riparian systems that may temporarily reduce shade and affect water temperatures, effects

⁵ Projects that include the point-source discharge of aquatic herbicides into Waters of the United States are required to obtain separate permit authorization through the U.S. EPA's National Pollutant Discharge Elimination System (NPDES). These projects are currently permitted through the State Water Resources Control Board, Division of Water Quality, and are not otherwise covered by this Order.

on instream habitat conditions, and nonpoint source discharges that may result from pesticide applications and heavy equipment or tool use. This Order authorizes discharges of waste associated with the activities described in finding 2, subject to certain terms and conditions.

Framework of the Mendocino County Permit Coordination Program

3. The intent of the PCP and the associated conservation and restoration practices is to reduce erosion and sedimentation, and enhance habitat values in the watersheds of Mendocino County. To assist landowners with regulatory compliance, the District seeks to offer “one-stop permit shopping” to assist landowners who agree to work under the guidance of the District to achieve water quality and habitat conservation and restoration goals.
4. The District proposes that the PCP be permitted for 10 years, with a full evaluation of the program and summary report submitted to the regulatory agencies after five years of operation. The District proposes to implement up to 25 projects – each consisting of one or more conservation practice – per year under the PCP with up to 250 restoration projects completed by the end of the ten year period. Projects that may adversely affect listed salmonids will be limited to 3-5 per year in each sub-watershed, depending on watershed size and predicted work focus.
5. Annually, the District will be responsible for securing or complying with permits, agreements, or authorizations from the local, state, and federal agencies with jurisdiction over one or more of the conservation practices prior to implementation:
 - a. North Coast Regional Water Quality Control Board – Waiver of Waste Discharge Requirements and Clean Water Act §401 General Certification.
 - b. California Department of Fish and Wildlife – California Fish and Game Code §1602 Streambed Alteration Agreement and California Endangered Species Act (CESA) Consultation.
 - c. U.S. Army Corps of Engineers – Clean Water Act §404 Nationwide Permits or Regional General Permits.
 - d. U.S. Fish and Wildlife Service – Endangered Species Act (ESA) Section 7 Consultation/Incidental Take Statement.
 - e. National Oceanic and Atmospheric Administration (NOAA) – ESA Section 7 Consultation/Incidental Take Statement.
6. The ten conservation practices described in finding 2 of this Order provide the framework for the types of projects that can be conducted under the PCP and are derived from NRCS technical guides. Additionally, the *Initial Study/Mitigated Negative Declaration for the Mendocino County Permit Coordination Program* includes environmental protection and mitigation measures that apply to all of the practices such as: temporal limitations on construction, limitations on earthmoving and construction equipment, guidelines for removal of plants and revegetation, conditions for erosion control, limitations on work in streams and permanently ponded areas, and limitations on use of pesticides, herbicides, and fertilizers. These environmental

protection and mitigation measures have been developed in coordination with state and federal regulatory agencies to prevent or reduce the environmental impacts of restoration under the PCP and provide the minimum standards by which all projects activities conducted under the PCP must follow to maintain coverage under this Order.

7. Annually by May 15, the District will submit a workplan describing individual projects and associated conservation practices to the Regional Water Board for review. Site visits will be arranged, upon request, to evaluate projects and tailor mitigations to the site specific project. Input from Regional Water Board staff will be incorporated into preliminary project designs. The notification will include the following information:
 - a. Project identification location; ownership will not be identified on public review documents.
 - b. Nature of work and description of need.
 - c. Approved practices to be installed.
 - d. Location of work to be performed by subwatershed.
 - e. Project dimensions (volume, length and area, if applicable).
 - f. Approximate volume of discharge below the ordinary high water mark.
 - g. Total area of disturbance to be affected by the project.
 - h. Quantitative assessment of temporary impacts on native vegetation, including number and size of trees, approximate species diversity, approximate coverage of herbaceous species and revegetation plans.
 - i. Environmental setting – surrounding habitat, adjacent land use.
 - j. Potential presence of listed species.
 - k. Applicable environmental protection and mitigation measures to be used during project implementation.
 - l. Type, method, and duration of project monitoring as discussed in the Monitoring and Reporting Program associated with this Order.
8. Specific permit terms and conditions will be included with the individual design standards and specifications for each project implemented under the PCP as conditions of a *Cooperator Agreement* between the landowner and the District. If a cooperator does not carry out work in compliance with project design standards and specifications, including previously agreed upon terms and conditions, the District will notify the cooperator and work directly with them to resolve the problem. If the cooperator still fails to conform, the District will notify the cooperator that their activities are inconsistent with the standards and specifications contained in their agreements and that the activities are no longer covered by the project's programmatic and individual permits. The District will notify the Regional Water Board in writing that the project is no longer covered by the PCP. The cooperator will then be responsible for obtaining regulatory review and individual permit from the appropriate regulatory agencies and will be held liable for any violations.

Basin Plan and TMDLs

9. The Water Quality Control Plan for the North Coast Region (Basin Plan) is the Regional Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives to protect waters of the state, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives.
10. The federal Clean Water Act section 303(d) requires the states to determine waterbody compliance with water quality objectives and to develop a list of impaired waterbodies. Federal regulations require that a TMDL analysis be conducted for 303(d) listed water bodies for each pollutant of concern.
11. The PCP is designed to promote conservation and restoration projects to control sources contributing to sediment and temperature impairments, including on lands within the following watersheds for which the U.S. EPA has already established TMDLs: Albion River, Big River, Eel River-Upper Main, Eel River-Middle Main, Eel River-Middle Fork, Eel River-South Fork, Eel River-North Fork, Garcia River, Gualala River-North Fork, Mattole River, Navarro River, Noyo River, Upper Russian River⁶, and Ten Mile River. Currently, the Garcia River is the only watershed in Mendocino County for which a TMDL implementation plan has been developed and adopted into the Basin Plan.
12. The implementation of a sediment and/or temperature TMDL typically consists of three separate water quality goals which, when implemented together, can provide the elements required to achieve TMDL compliance across a property:
 - 1) Address *existing water quality problems* (e.g., controllable sediment discharges, stream diversions, deficient stream shade, lack of instream habitat, displacement of native organisms by invasive species, damage caused by riparian grazing, etc.);
 - 2) Prevent *new water quality problems* that may result from different land use activities by adhering to a variety of BMPs (e.g., riparian setbacks for agricultural activities, heavy equipment use restrictions, timber harvest watercourse protection zones, riparian fencing, gravel mining and construction stormwater BMPs, etc.), and;
 - 3) Establish a long-term monitoring and maintenance strategy to ensure that *future water quality problems* are addressed over time (e.g., plugged or rusting culverts, aging fences, damaged/compromised road drainage features, stream diversions, etc.).
13. The PCP provides an efficient and effective process for addressing *existing water quality problems* (part 1 of finding 12 above) by inventorying, prioritizing, and remediating

⁶ There currently is not a completed TMDL for the Upper Russian River

current sources contributing to sediment and temperature impairments. For some landowners, participating in the PCP may address all *existing water quality problems* if actions are taken to inventory, prioritize, and remediate sources across their entire property. Often, these activities are included in erosion control plans, ranch plans, or other similar planning documents.

14. The PCP meets the water quality protection needs of the Regional Water Board while consolidating efforts of various local, state, and federal agencies to conserve resources and avoid duplicative implementation of regulatory requirements, and is consistent with the goals of the Sediment TMDL Implementation Policy, Resolution No. R1-2004-0087.
15. At any time, the Executive Officer of the Regional Water Board retains the discretion to approve or deny projects under the PCP, or any other waste discharge requirement permits, waiver of waste discharge requirement permits, or water quality certifications, and to make the determination of compliance with an existing sediment and/or temperature TMDL within the North Coast Region.
16. Projects described in finding 2 that involve construction, restoration, and other associated activities, in waters of the United States may require a federal permit pursuant to section 404 of the Clean Water Act. Section 401 of the Clean Water Act (33 U.S.C. § 1341) requires every applicant for a federal license of permit to provide water quality certification from the state. State water quality certification conditions shall become conditions of any federal license or permit for the project. This Order includes a Section 401 General Water Quality Certification for activities and associated discharges described in finding 2.

The Waiver Order

17. The Regional Water Board has a statutory obligation to prescribe waste discharge requirements except where it finds that a waiver of waste discharge requirements for a specific type of discharge is in the public interest pursuant to Water Code section 13269.
18. Water Code section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Regional Water Board a Report of Waste Discharge (ROWD) containing such information and data as may be required. The Regional Water Board may waive the requirements of Water Code section 13260 for specific types of discharge if the waiver is consistent with the Basin Plan and in the public interest. Any waiver is conditional and may be terminated at any time. A waiver should include monitoring requirements to verify the adequacy and effectiveness of the waiver's conditions. This Order conditionally waives the requirement to file a ROWD for activities and associated discharges described in finding 2.

19. The State Water Board 2004 *Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy) requires nonpoint source discharges of waste to be regulated by waste discharge requirements (WDR), waiver of waste discharge requirements, or prohibitions to ensure compliance with the Regional Water Boards' Water Quality Control Plans.
20. This Order contains conditions that rely on the implementation of the conservation practices, as well as the environmental protection and mitigation measures, provided by the PCP. The primary substantive components include: 1) prevention and minimization of water quality impacts associated with conservation and restoration practices; 2) environmental protection and mitigation measures described in the *Initial Study/Mitigated Negative Declaration for the Mendocino County Permit Coordination Program*; 3) adherence to permits, agreements, or authorizations from the local, state, and federal agencies; and 4) monitoring and reporting requirements.
21. As authorized by Water Code section 13269, this Order conditionally waives the requirement to file a ROWD and obtain WDRs for activities and associated discharges identified in finding 2 for the District and cooperators who are implementing projects consistent with the PCP, including the monitoring and reporting program.
22. It is appropriate to regulate discharges from nonpoint source activities as described in finding 2 under a general waiver order rather than individual discharge requirements because this Order addresses the same or similar discharges of waste from the same or similar operations and proposes the same or similar treatment methods and management practices. By regulating these discharges and activities under a general waiver order, it simplifies and streamlines the regulatory process thereby allowing the Regional Water Board and District to focus limited resources in a coordinated manner. Further, Regional Water Board staff recognizes the technical and financial challenges facing landowners who need to conduct improvements on their land. Staff anticipates landowner participation in the PCP because of the technical expertise, permit coordination, and potential for public funding assistance that it provides.

General Water Quality Certification

23. Projects described in finding 2 that involve construction and other work in waters of State, may also be considered federally jurisdictional Waters of the United States (below ordinary high water) and will likely require a permit from the Army Corp of Engineers pursuant to section 404 of the Clean Water Act. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act, and other appropriate requirements of state law (33 U.S.C. §1313). The Regional Water Board Executive Officer may issue a decision on a water quality certification application (Cal. Code Regs. Tit. 23, §3838, subd. (b)). State water quality certifications shall become conditions of any federal license or permit for the project.

24. The Regional Water Board may issue a general water quality certification for a class or classes of activities that are the same or similar, or involve the same or similar types of discharges and possible adverse impacts to water quality if it determines that these activities are more appropriately regulated under a general certification rather than individual certifications (Cal. Code Regs. Tit. 23, §3861). General certifications must be conditioned to require subsequent notice to the Regional Water Board at least 21 days prior to commencement of the activity, and include appropriate monitoring and reporting requirements.
25. This Order includes a General Water Quality Certification for covered activities detailed in finding 2 which may require a federal permit. General certification conditions, in addition to waiver conditions, are provided for in a separate section of this Order. This Order will provide Clean Water Act section 401 certification for the federal permit that is required for that project *unless* the Regional Water Board determines that the project or activity does not meet the specified criteria for coverage under the General Water Quality Certification. Projects that do not meet the criteria for coverage under the general certification must apply for individual certification.
26. The District must provide written notification and fee to the Regional Water Board at least 21 days prior to commencement of any activity, or activities, to be authorized under this General Water Quality Certification. This notification of upcoming project commencement can be provided concurrent with submittal of the annual workplan as discussed in finding 7 above so long as 21 days have passed before commencement of the activity.
27. Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, section 3833, subdivision (b)(3). Annual Fee Schedules for general certification orders are detailed in the California Code of Regulations, title 23, section 2200. The fee schedule can be found on the State Board website at the following web address under waste discharge requirement fees, dredge and fill fee calculator: <http://www.waterboards.ca.gov/resources/fees/>.
28. The District is required to submit one individual fee for each property that includes project(s) requiring General Water Quality Certification. For example, if the District proposes to conduct projects across five separate properties, and three of the properties include projects that require General Water Quality Certification, then the District must submit a combined fee for the three individual projects. Projects that do not require coverage under the General Water Quality Certification are not required to submit a fee to qualify for coverage under this waiver of waste discharge requirements.
29. The District may proceed with activities associated with the proposed workplan for the year if the Regional Water Board does not respond in writing to the District within 30 days of receipt.

Monitoring

30. Effective January 1, 2004, Water Code section 13269 requires waivers of waste discharge requirements to include the performance of individual, group, or watershed-based monitoring. Pursuant to Water Code section 13267, a Monitoring and Reporting Program is attached to this Order which includes: 1) an annual reporting requirement, 2) BMP implementation and effectiveness monitoring, and 3) a feedback mechanism to ensure that lessons learned are included in PCP projects.
31. The Monitoring and Reporting for this Order is issued pursuant to Water Code Section 13267 and may be modified as needed by the Executive Officer of the Regional Water Board.

Additional Findings

32. State Water Board Resolution No. 68-16 *Statement of Policy with Respect to Maintaining High Quality of Water in California* (Resolution No. 68-16) requires the Regional Water Boards, in regulating the discharge of waste, to maintain high quality waters of the state, requires that any discharge not unreasonably affect beneficial uses, and not result in water quality less than that described in the Regional Water Board's policies. This Order is consistent with Resolution No. 68-16 because it will result in a net benefit to water quality through the implementation of conservation practices, and adherence to mitigation measures designed to avoid impacts to water quality. The activities permitted under this Order have been determined to have a low potential impact to water quality when conducted pursuant to the terms of the Order, resulting in compliance with applicable water quality control plans, including water quality objectives. Additionally, this Order requires monitoring of and reporting on the implementation of covered activities to ensure full implementation and effectiveness of BMPs and mitigation measures.
33. On June 12, 2012, the Mendocino County Resource Conservation District adopted a mitigated negative declaration (SCH No. 2012052019) for the PCP to comply with the California Environmental Quality Act (CEQA). The Regional Water Board has reviewed and considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The Regional Water Board will file a Notice of Determination within five days from the issuance of this Order. Mitigation measures necessary to reduce or eliminate significant impacts on the environment, and monitoring and reporting are incorporated as conditions of approval below.
34. The Regional Water Board has reviewed the contents of this Order, the adopted mitigated negative declaration (SCH No. 2012052019) for the PCP, written public comments and testimony and hearing and finds that the adoption of this Order is consistent with the Basin Plan, and is in the public interest.

IT IS HEREBY ORDERED that pursuant to Water Code sections 13263, subdivision (a), 13267, and 13269, the Regional Water Board waives the requirement to submit a report of waste discharge and the requirement to establish waste discharge requirements for activities described in finding 2 pending compliance with the following conditions:

1. Each project must be designed and implemented in accordance with the conservation and restoration practices and minimum protection measures and mitigations listed in the *Initial Study/Mitigated Negative Declaration for the Mendocino County Permit Coordination Program* (State Clearinghouse No. 2012052019). CEQA mitigation measures shall constitute enforceable conditions under this Order.
2. **By May 15 of each year of operations**, the District must submit to the Regional Water Board an annual workplan that includes the following information for each individual project proposed for the coming year:
 - a. Project identification location; ownership will not be identified on public review documents.
 - b. Nature of work and description of need.
 - c. Approved practices to be installed.
 - d. Location of work to be performed by subwatershed.
 - e. Project dimensions (volume, length and area, if applicable).
 - f. Approximate volume of discharge below the ordinary high water mark.
 - g. Total area of disturbance to be affected by the project.
 - h. Quantitative assessment of temporary impacts on native vegetation, including number and size of trees, approximate species diversity, approximate coverage of herbaceous species and revegetation plans.
 - i. Environmental setting – surrounding habitat, adjacent land use.
 - j. Potential presence of listed species.
 - k. Applicable environmental protection and mitigation measures to be used during project implementation.
 - l. Type, method, and duration of project monitoring as discussed in the Monitoring and Reporting Program associated with this Order.

In some circumstances, unforeseen projects may also become available for consideration after the May 15 submittal date. The District may submit these unforeseen projects to the Regional Water Board for review, inspection, and comment. These projects must include all the same information required in the annual workplan as detailed above, and are subject to all other elements of this Order.

3. The District cannot proceed with activities associated with the proposed workplan for the upcoming year until the Regional Water Board determines that the workplan is complete and may proceed. Within 30 days of receiving the annual workplan, Regional Water Board staff will contact the District in writing to take any of the following actions: (1) request additional information for a project or projects included in the workplan; (2) request an inspection of one or more of the proposed projects; (3) notify the District that the application is complete and projects are eligible for coverage under this Order as proposed; or (4) notify the District that the workplan, or specific elements relative to

one or more of the projects, is incomplete or inconsistent with the requirements of this Order and may not proceed without securing the appropriate individual water quality permits and/or certifications.

4. The District may proceed with activities associated with the proposed workplan for the year if the Regional Water Board does not respond in writing to the District within 30 days of receipt.
5. The District shall provide reasonable accommodations to schedule and coordinate a site visit if the Regional Water Board requests an inspection of a proposed, active, or completed project. The District shall be responsible for securing access from the property owner to conduct an inspection of the project area to: (1) determine whether a proposed project qualifies for coverage under this Order; (2) determine if an enrolled project is being implemented in a manner consistent with this Order; (3) to evaluate the outcomes of projects implemented through the PCP.
6. If the Regional Water Board's inspection request is denied by either the District or the landowner, then the project can be denied coverage under this Order. If the Regional Water Board determines during an inspection that a project is not being implemented in a manner consistent with the Order or other previously stipulated requirements, then the project may be required to seek other water quality certification and/or permitting, and/or could be subject to enforcement actions.
7. The District is required to provide written notification to the Regional Water Board of any changes made to the proposed projects as determined through review of the proposed workplan, or through an inspection of one or more projects. Any recommendations made by Regional Water Board staff during the initial workplan review or project inspection must be fully incorporated into the project proposals to be covered by this Order.
8. **By March 31 of each year of operations**, the District shall provide written notification of the status of all projects to the Regional Water Board in the form of an annual post-construction report for the required duration of monitoring. The report will list participating landowners and describe each project objective, area affected, natural biological enhancements, monitoring protocols conducted, and cut/fill volumes and scope of work. The report will discuss the benefits/outcomes from the conservation practice, quantify gains in wetlands and riparian areas, and provide photo documentation of site conditions before and after implementation. Photo documentation will occur from photo points before construction and annually thereafter throughout the term of the monitoring program. If requested by the Regional Water Board, the District will provide the opportunity to review project outcomes at any time during the monitoring period or as allowed through permits.
9. The District is responsible for Order compliance, regardless of whether the activities covered by this Order are conducted by its employees or its contractors. In addition, contractors must comply with all applicable conditions of this Order.

10. This Order does not preclude the need for permits which may be required by other governmental agencies, including necessary certification and permitting for the application of pesticides and herbicides.
11. Compliance with Order conditions will ensure that no significant environmental impact to water quality occurs from an activity covered by this Order. Activities that have potentially significant impacts to water quality that cannot be reduced to less than significant levels are not eligible for coverage under this Order and the District will need to submit a Report of Waste Discharge to the Regional Water Board and obtain individual authorization for that activity.
12. The District and any projects enrolled on private lands under the Order shall comply with all applicable water quality standards, requirements and prohibitions specified in the Basin Plan as modified, and policies adopted by the State Water Board.
13. Projects covered under this Order shall not discharge to waters of the State any substances in concentrations toxic to human, plant⁷, animal or aquatic life. Projects covered under this Order shall not discharge waste classified as “hazardous” as defined in California Code of Regulations, title 22, section 66261 and Water Code section 13173.
14. The District shall not cause a pollution, contamination, or nuisance as defined by Water Code section 13050.
15. Water Code section 13269 provides that any such waiver of waste discharge requirements shall be conditional, enforceable and may be terminated at any time by the Regional Water Board. The Executive Officer or Regional Water Board may terminate the applicability of this Order to the District at any time, if the PCP has not been adequately implemented or is not achieving its goals to restore sediment and temperature impaired watersheds.
16. This Order does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the Water Code.

⁷ Projects that include the point-source discharge of aquatic herbicides into Waters of the United States are required to obtain separate permit authorization through the U.S. EPA’s National Pollutant Discharge Elimination System (NPDES). These projects are currently permitted through the State Water Resources Control Board, Division of Water Quality, and are not otherwise covered by this Order.

THE REGIONAL WATER BOARD HEREBY CERTIFIES that projects in compliance with the waiver conditions above will comply with section 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, subject to the following additional terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, section 3833, subdivision (b)(3). Annual Fee Schedules for general orders are detailed in the California Code of Regulations, title 23, section 2200. The fee schedule can be found on the State Board website at the following web address under waste discharge requirement fees, dredge and fill fee calculator:
<http://www.waterboards.ca.gov/resources/fees/>
4. The District is required to notify the Regional Water Board at least 21 days prior to initiation of an activity that requires certification under this Order. The notification, in the form of the annual workplan, must include project details outlined above in finding 7 (page 5), and appropriate fee.
5. The authorization of this certification for any General Water Quality Certification or dredge and fill activities expires five (5) years from the date the activity commences.
6. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
7. The General Water Quality Certification portion of the Order may be modified as needed by the Executive Officer of the Regional Water Board.

Certification:

I, Matthias St. John, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California North Coast Regional Water Quality Control Board, on November 20, 2013.

Original signed by

Matthias St. John
Executive Officer

13_0059_MendocinoCountyPermitCoordinationProgram