I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing Self-Monitoring Program:

1. Has been developed in accordance with the procedures set forth in this Board's Resolution No. 73-16, in order to obtain data and document compliance with discharge requirements established in the Board Order No. R2-2004-0057.

2. Was adopted by the Board on July 21, 2004.

3. May be reviewed at any time subsequent to the effective date upon written notice from the Executive Officer or request from the Discharger, and revisions will be ordered by the Executive Officer or Board.

BRUCE H. WOLFE
Executive Officer

riparian sites shall also be included and in addition, any contemplated wetland mitigation contingency measures shall be discussed in the annual report.

4. **Dredging Activities**

For any single dredging activity per site greater than 200 cubic yards, the discharger shall submit a separate water quality certification application for dredging subject to the approval of the Executive Officer. Following dredging activities, written reports shall be filed for each calendar month that dredging occurs and filed no later than the fifteenth of the following month. The reports shall include the following:

a. A transmittal letter that includes identification of changes to the project design and any unplanned releases or failures that have occurred.

b. A monitoring report which details the magnitude of the releases or failures; any discharge limit exceedances; dates of all exceedances; cause of failures, releases or other violations; any corrective actions taken or planned; and the schedule for completion of corrective action(s).

c. Reports and the letter transmitting reports shall be signed by a principal executive officer(s) of the Discharger or by a duly authorized representative of that person.

5. **Best Management Practices (BMPs)**

a. The Discharger shall submit a list of all BMPs applied to the various maintenance projects completed within each preceding quarter as part of the required quarterly reports described above.

b. In addition, the annual report due on February 15th of each year (including the fourth quarter projects report) described under the annual report section, shall contain an overall evaluation of the effectiveness all BMPs applied during the preceding year including a proposal to refine BMPs, as well as, propose new BMPs if necessary.

Reports and the letter transmitting reports shall be signed by a principal executive officer(s) of the Discharger or by a duly authorized representative of that person.

a. May 15th for the first quarter projects (Jan., Feb., & Mar.)
b. August 15th for second quarter projects (Apr., May, & Jun.)
c. November 15 for third quarter projects (Jul., Aug., & Sept.)
d. February 15th for fourth quarter projects (Oct., Nov., & Dec.)

2. **Completed Routine Maintenance Projects -- Annual Report:**

Following the end of the fourth quarter, the discharger shall prepare and submit by February 15th of each year, a detailed report (annual report) on all completed routine maintenance projects. The annual report shall contain information regarding the various projects' associated Nationwide Permits, project locations, length and width of impact areas and culverts; a description of the bio-engineering bank stabilization methods utilized; a rationale for selecting an alternate bank stabilization method shall be stated in the annual report, if bio-engineering bank stabilization was not implemented.

In addition, the annual report shall contain photographs of revegetated bank stabilization and enhanced and restored pond sites used as mitigation sites for temporal waterbody impacts. A current account of impacts and mitigation restoration shall also be included in the annual report. If, necessary, contingency measures for all mitigation projects shall also be discussed and the discharger shall identify any special approaches or conditions utilized to complete the maintenance and mitigation projects.

3. **Mitigation for Wetland Impacts**

a. When a maintenance project has wetland impacts, including a wetland fill greater than 0.05 acre is proposed, the discharger shall submit a separate application for water quality certification. This application shall include a mitigation and monitoring proposal subject to approval by the Executive Officer.

b. Maintenance projects that result in impacts of less than 0.05 acre of wetland shall be mitigated for on a 1:1 basis at the various restoration and enhancement sites located within the Discharger's watershed.

c. Impacted trees with diameters greater 4 inches shall be mitigated for on a 3:1 basis within the Discharger's watershed in compliance with the Dept. of Fish and Game MOU.

d. The Status of all compensatory mitigation for all temporary impacts to waterbodies and wetlands shall be discussed in the annual report (fourth quarter projects report included) due by February 15 of each year. Photographs of vegetated wetland and

## C. Records to be maintained

1. Written reports, strip charts, calibration and maintenance records, and other records shall be maintained by the Discharger and accessible at all time. Records shall be kept for a minimum of three years. Records shall include notes and observations for each sample as follows:

    a. Identification of each sampling and observation station.
    b. Date and time of sampling.
    c. Date and time analyses are started and completed and the name of the person conducting analyses.
    d. Complete procedure used, including method of preserving or analyzing sample and identity and volumes or reagents used (if applicable). A reference to a specific section of *Standard Methods* is satisfactory.
    e. Calculations of results.
    f. Results of analyses and/or observations.

2. Records shall include a map or maps of the site showing the location of sediment sampling locations, discharge pipes, total volume of sediment dredged daily, etc. (if applicable).

## IV. Reports to be filed with the Board

### A. Report of Permit Violations

In the event that this permit is violated, the Discharger shall notify Board staff by telephone immediately and shall notify Board staff in writing within seven calendar days. A written report shall include time and date of incident, duration and estimated volume of discharge or bypass. The report shall include a detailed discussion of the reasons for the non-compliance and what steps were or will be taken to correct the failure and prevent it from occurring again.

### B. Self Monitoring Reports

1. **Routine Maintenance Projects:**

    The Discharger shall submit written notification to the Board's Executive Officer of proposed and completed projects including all maintenance, restoration and enhancement activities within the preceding quarter (quarterly reports). Quarterly reports shall be submitted whether or not, maintenance projects were conducted in that quarter. These reports shall include pre-construction and post-construction photographs of the various projects. Quarterly reports shall be submitted as follows:

5. If any instantaneous maximum limit for a constituent or constituents is exceeded for a 12 hour period, then the Discharger shall immediately notify the Board by telephone and e-mail of the exceedance and on how they are correcting or will correct the exceedance.

6. If any instantaneous maximum limit for a constituent or constituents is exceeded for a 24 hour period, then a violation shall have occurred and the dredging shall be terminated until the cause of the violation is found and sampling demonstrates that the exceedance has been corrected or when the Discharger has provided the Board with a corrective action plan, acceptable to the Executive Officer, that provides alternative methods of compliance.

7. For other violations, the Discharger shall notify the Board immediately whenever violations are detected and discharge shall not resume until the Discharger has provided the Board with a corrective action plan, acceptable to the Executive Officer, which provides alternative methods of compliance.

**B. Standard Observations**

The following observations shall be recorded on every day of operation:

1. Receiving Water:

   a. Floating and suspended materials of waste origin (to include oil, grease, algae, and other macroscopic particulate matter): presence or absence, source and size of affected area.
   b. Discoloration and turbidity: description of color, source and size of affected area.
   c. Odor: presence or absence, characterization, source, distance of travel and wind direction.
   d. Hydrographic condition including: time and height of corrected low and high tides; and depth of water columns and sampling depths.
   e. Weather condition including: air temperature, wind direction and velocity and precipitation.

2. Effluent:

   No effluent water discharge from active dredging sites or dredged material stockpile sites to any drainage is permitted.

3. Progress and location of active dredging and control measures, noted on a map of the site.

100 feet from the point of discharge is defined as 100 feet downstream of the dredging operation or from the center of the waste plume.
Active Site is defined as that portion of a channel or stream on which the project is being conducted and/or that may be subject to surface water flow during dredging.

Duly Authorized Representative is one whose:

a. authorization is made in writing by a principal executive officer, or

b. authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity (e.g., field supervisor, project manager, chief engineer).

## III. Specifications for Sampling and Analyses

The Discharger is required to perform sampling and analyses as found in accordance with the following conditions and requirements:

### A. Sampling Locations

1. Surface water sampling shall be conducted at the Active Site 100 feet downstream of the dredging operation. Prior to dredging, a background grab sample shall be collected upstream from the dredging site. These samples shall be analyzed immediately onsite for the following constituents:

| Constituents | Type of Sample | Units |
|---|---|---|
| Turbidity | Grab | NTUs |
| PH | Grab | Not Applicable |
| Dissolved Oxygen | Grab | Mg/l |

2. Samples shall be taken within one foot below the surface of the waterbody when possible.

3. If analytical results for constituents analyzed on-site show that any instantaneous maximum limit is exceeded, confirmation samples shall be taken within two hours and every subsequent two hours, and analyzed for all constituents for which on-site analysis is required. Sampling at this higher frequency shall continue until the exceedance has been corrected.

4. If any instantaneous maximum limit for a constituent or constituents is exceeded, then the Discharger shall follow the following process to address the exceedance:

   - Identify source of exceedance;
   - Correct source of exceedance;
   - Resample to determine whether exceedance has been corrected.

# ATTACHMENT C

## CALIFORNIA REGIONAL WATER QUALITY CONTROL PLAN SAN FRANCISCO BAY REGION

## SELF-MONITORING PROGRAM
for

East Bay Regional Park District, Regional Maintenance Activities

## I. General

A. Basis

Reporting responsibilities of the Project Proponent as "waste discharger" are specified in Sections 13225(a), 13267(b), 13268, 13383, 13387(b) of the California Water Code and this Board's Resolution No. 73-167.

B. Purpose

The principal purposes of a monitoring program by a discharger, also referred to as a Self-Monitoring Program, are to document compliance with effluent requirements and prohibitions established by this Board; facilitate self-policing by the discharger in the prevention and abatement of pollution arising from improper effluent; to develop or assist in the development of effluent or other limitations, discharge prohibitions, national standards of performance, pretreatment and toxicity standards; and to prepare water and wastewater quality inventories.

C. Sampling and Methods

All monitoring instruments and equipment, including instruments and equipment used in field sampling and analysis, shall be properly calibrated and maintained to ensure accuracy of measurements.

## II. Definition of Terms

Grab Sample is defined as an individual sample collected in a short period of time not exceeding 15 minutes. Grab samples shall be collected during normal peak flows for the parameters of interest. They are to be used primarily in determining compliance with daily maximum limits and instantaneous maximum limits. Grab samples only represent the condition that exists at the time the water and effluent are collected.

Instantaneous Maximum is defined as the highest measurement obtained during a calendar day.

3. For the duration of the five-year permit, the District will restore 12-15 currently dry pond sites. These proposed restoration sites are within the current distributional range of the California red-legged frog, California tiger salamander and/or Western pond turtle and will be enhanced to provide additional permanent habitat for these special status species. In addition, they will provide long-term habitat for a variety of other aquatic species. Restoring and/or creating permanent aquatic habitat will more than compensate for the small-scale temporary cumulative impacts associated with the various routine maintenance projects. Any unused restoration credits that accrue can be used for future routine maintenance projects determined to have temporary impacts. It is also important to recognize that although some projects may have temporary impacts, most routine maintenance projects consists of improving existing conditions and enhancing the habitat for aquatic species (i.e., cattails removal from choked out waterbodies, replacing or removing dysfunctional culverts, removing stream obstructions and barriers). Overall, this proposal represents a "self-mitigating" plan for habitat enhancement.

   Any compensatory mitigation (restoration) activities shall be reported in the quarterly routine maintenance project reports. In addition, the number, location, and nature of restoration sites including pre-construction and post-construction photographs of restored sites shall be submitted as part of the annual report due on February 15th each year.

2. Stock ponds will only be dredged when dry and after determining no California red-legged frogs, California tiger salamanders, or Western pond turtles are present.

3. Wherever feasible, dredged ponds and earthen dams will be reconfigured to enhance the habitat for aquatic species.

**G. Restoration and enhancement to address or offset temporal impacts to waterbodies**

1. While conducting routine maintenance, the District is incorporating an adaptive management strategy to improve existing conditions. Overall, implementing the above BMPs reduce adverse effects to parklands and nearby waterbodies. The District will also include restoration and enhancement of existing ponds, streams and other waterbodies to address or offset any temporary impacts associated with the maintenance of the various existing facilities. Restoration and enhancement will include, but need not be limited to, the following:

    a. Stream and pond restoration for special status species and other aquatic species.
    b. Removing in stream man-made structures to restore the natural stream conditions.
    c. Planting native riparian and wetland vegetation to improve water quality.
    d. Controlling and removing non-native invasive species (i.e., bullfrogs, exotic fish, Chinese mitten crab, etc.).
    e. Identifying and removing in stream barriers to fish and other aquatic species.
    f. Installing nest boxes for riparian bird species (i.e., wood ducks, tree swallows, and flycatchers).

2. The District will select the appropriate sites and type of restoration to compensate for any potential temporary impacts associated with all routine maintenance projects. These mitigation sites will be located within the District's watershed to insure the high likelihood of restoration success. In addition, mitigation sites will be located where wetlands, ponds, or streams previously existed or where nearby waterbodies still exist. The District will calculate the total area (i.e., linear feet, square feet, acres) for each routine project determined to potentially have a temporary impact. In addition, the total area of each enhancement and restoration project will be similarly calculated and directly applied at a 1:1 ratio to compensate for any temporary cumulative impacts associated with a routine project and reported in the annual report.

6. To stabilize culverts the District will construct headwalls, discharge end splash pads, and install armoring with porous materials or other techniques that allow plant growth and avoid the permanent elimination of stream habitat.

**D. The following practices will be used to stabilize banks and prevent or control erosion:**

1. Whenever feasible, the District will use bio-engineering such as planting riparian woody vegetation, willow waddles and mattresses, log crib-walls, log and stump deflectors, or vortex weirs to stabilize banks and reduce erosion.

2. Where appropriate, jute netting or other erosion control fabrics will be used to provide protection until adequate plant growth can provide permanent protection.

3. Where appropriate, broadcast and/or hydro seeding (native mix) with tackified straw and planting of willow, maple, alder, and other native riparian woody vegetation will be utilized to stabilize banks and prevent erosion.

**E. The following practices will be used for routine maintenance dredging of ponds and lakes:**

1. When feasible, work will be performed in dry conditions above water level. Otherwise, floating open water turbidity curtains will be used to contain sediment.

2. Other erosion, sediment and turbidity control measures and procedures may be implemented to contain sediments, minimize siltation, and prevent downstream turbidity.

3. Whenever feasible, dredging will be done with an excavator from top of bank.

4. All sediments removed during dredging will be disposed of in the appropriate upland location(s).

5. Removal of riparian vegetation shall be minimized during dredging operations.

**F. The following practices will be used for pond restoration and enhancement:**

1. General pond restoration dredging will occur during dry site conditions.

18. When necessary to avoid and minimize disturbance and maintain down stream flow, water will be temporarily diverted around the work area using sand bag cofferdams, hoses, and pumps.

**B. The following BMPs will be used when performing work on natural stream crossings (fords):**

1. Natural stream crossings are annually evaluated District-wide to determine the need for maintenance.

2. Minimal grading or debris removal will be performed to make the crossing passable.

3. Stream gravels and sediments will be left within the dry portion of the stream channel rather than moved to upland areas.

4. Natural crossings (that require less intensive maintenance), through the use of culverts, will be preferred and used where feasible.

**C. The following BMPs will be used when removing and replacing culverts:**

1. Whenever feasible, the District will replace old metal-galvanized culverts with modern plastic culverts. This will minimize the need for follow-up maintenance and stream disturbance.

2. Whenever feasible, the District will install replacement culverts large enough to accommodate anticipated 25-year frequency storm events. This will minimize the need for follow-up maintenance and stream disturbance. However, a replacement culvert shall be designed to conform to sound design principles such as outlined in " SFBRWQCB's Primer on Stream and River Protection for the Regulator and Program Manager, Technical Reference Circular, W.D. 02 - #1". In addition, whenever feasible, the District will install additional culverts to drain a flood plain.

3. Replacement culverts will be installed at the existing grade to maintain natural stream gradient and minimize under cutting and erosion.

4. Whenever feasible, the District will remove culverts to restore and enhance the natural stream corridor and riparian vegetation.

5. Whenever feasible, the District will remove culverts and replace them with clear-span bridges or armored articulated fords. This will re-establish typical stream flow and reduce erosion.

5. Work within non-listed species habitat will be performed between April 15 and October 31. However, debris removal from culverts necessary to prevent flooding may be conducted at any time.

6. Debris removal during winter to unclog culverts, etc., will be performed by hand crews, or by the use of trucks with winches, and/or backhoes operated from the top of the bank.

7. As much as possible the District will avoid large woody riparian vegetation and remove only the minimum necessary to complete the project.

8. Woody debris, which does not cause a problem of bank instability, flooding, or culvert blockage, will be left in place to provide in-stream cover and habitat for California red-legged frogs, Western pond turtles, salmonids, and other aquatic species.

9. The District will avoid use of equipment in waterways, streams, ponds, and lakes as much as possible.

10. No equipment will operate in standing or flowing water, and disturbance in stream channels will be minimized as much as possible.

11. The District will avoid using heavy equipment in areas where hand tools or light equipment are capable of performing the task.

12. Whenever feasible the District will use rubber-tired vehicles as opposed to track mounted equipment to avoid soil compaction and disturbance.

13. New concrete will not be placed or poured on-site in a location that may contact any natural waterbodies.

14. Any concrete pouring will be isolated from all natural waterbodies through appropriate wrapping or water barrier equipments.

15. Prior to work, all equipment will be inspected for fuel, oil or hydraulic leaks and repaired.

16. At the work site, fueling of equipment and vehicles will only occur in upland areas and at a minimum of 100 feet from open water.

17. To avoid and minimize disturbance the District will plant riparian vegetation by hand or with a rubber-tired backhoe from above top of bank.

## ATTACHMENT B

## BEST MANAGEMENT PRACTICES (BMP's) FOR REGIONAL ROUTINE MAINTENANCE ACTIVITIES IN WATERWAYS, STREAMS, PONDS AND LAKES IN EAST BAY REGIONAL PARK DISTRICT, ALAMEDA AND CONTRA COSTA COUNTIES.

Waste Discharge Requirements that provide Water Quality Certification are required for routine maintenance activities in jurisdictional watershed features associated with waterways, streams, ponds, and lakes within the boundaries of the East Bay Regional Park District (District) in Alameda and Contra Costa Counties. The District will follow the normal notification process and obtain separate authorizations for all impacts that do not meet the routine maintenance activities (Attachment A) of the Waste Discharge Requirements and Water Quality Certification. In addition, the District will comply with all conditions of the Memorandum of Understanding between the California Department of Fish and Game (CDFG), the U.S. Army Corps of Engineers (ACOE) Regional Permit for Nationwide Permit Nos. 3, 13, 14, 18, 19, 31, and 37, and a Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) and the U.S. National Marine Fisheries Service (NMFS).

**A. The following BMPs will be used for all projects:**

1. Whenever feasible the District will implement the Best Management Practices identified in the California's Salmonid Stream Habitat Restoration Manual and the Federal Interagency Stream Corridor Restoration Manual.

2. All District projects are reviewed by qualified Stewardship staff who work directly with Operations staff to identify site specific BMPs and develop the appropriate protective guidelines for each project. Permitted District biologists familiar with sensitive species will closely monitor each projects.

3. No routine maintenance activity is conducted that substantially disrupts the movements of aquatic indigenous life.

4. Work within special status species habitat will be performed only between August 1 and October 31 or under dry site conditions, to avoid impacts to California red-legged frogs (*Rana aurora draytonii*), Foothill yellow-legged frogs (*Rana boylii*), California tiger salamander (*Ambystoma californiense*), Western pond turtle (*Clemmys marmorata*) and minimize adverse impacts to fish and wildlife resources and their habitats.

11. Maintenance of existing stream fords and installation of articulated concrete blocks for small stream crossings.

d. Lake Chabot Regional Park marina located at the confluence of a small ephemeral stream; and

e. Miller Knox Regional Park man-made pond, which is fed with pumped-in bay water.

4. Removal of woody and herbaceous vegetation with hand tools or hand power tools in the stream bottom in that portion of the channel from the toe of one bank to the toe of the opposite bank. Only that vegetation representing a bank erosion and/or flood threat shall be removed. All such removal shall be in the dry stream channel when there is not flowing nor standing water at the removal sites. No trees over 4 inches diameter at breast height (dbh) will be removed.

5. Removal of fallen trees, branches, rubbish, garbage and associated debris from the stream channel, banks and culverts. This is allowed only when material represents a bank erosion and/or flood threat. Wherever reasonably possible, this activity shall be restricted to and/or staged from the dry streambanks and upland areas to keep in-stream disturbance and turbidity to a minimum.

6. Removal of non-native, invasive vegetation (Arundo, tree tobacco, castor bean, pampas grass, eucalyptus, acacia, broom, etc.)

7. Repair or replacement of damaged or failed sections of rock riprap, gabion, geocell, sacked concrete, concrete wall and/or cribwall bank revetments to maintain bank stabilization. These activities shall be confined to the damaged or failed sections and immediate adjacent bank area (not to exceed an additional 30 feet total) affected by the damage failure. Routine revetment repair or replacement shall be conducted only when the channel is dry and only during the period of April 15 to October 31. Riparian trees shall be protected from damage to the greatest extent possible during revetment repair and replacement. Repair or replacement will utilize less bank hardening materials, and/or more bio-technical materials, as much as possible.

8. Routine maintenance or replacement of culverts in stream channels associated with park trails and access roads and installation of energy dissipaters, headwalls, and tailwalls on new and existing culverts. These activities shall be conducted only when the channel is dry and only during the period of April 15 to October 31.

9. Annual swim beach sand recapture and maintenance. These activities shall occur only in beach areas above lake level. Sand shall be re-spread across the beach area above water line using a bulldozer.

10. Maintenance of existing bridges and installation of clear span bridges.

## ATTACHMENT A

## ACTIVITIES THAT CONSTITUTE ROUTINE MAINTENANCE IN WATERWAYS, PONDS AND LAKES IN THE EAST BAY REGIONAL PARK DISTRICT WATERSHEDS

The following activities, with their conditional requirements, are accepted as the routine maintenance activities that may be conducted by East Bay Regional Park District (EBRPD) within all streams, channels, catchment basins, ponds, and lakes within their Alameda and Contra Costa Counties wastersheds.

1. Routine removal of the minimum vegetation to insure the proper functioning and operation of stream flow measuring stations and existing water control facilities or structures necessary for public health, safety and benefit, provided that heavy equipment shall not be used in the streambed and trees over 4 inches diameter at breast height (dbh) will not be removed.

2. Planting of riparian vegetation by hand or with rubber-tired backhoe along gravel bars and banks of EBRPD lakes and banks of their tributaries, is subject to the following conditions: (a) equipment shall not be operated in standing or flowing water; (b) trenches shall be excavated, planted and backfilled on the same day; (c) fueling shall not take place in the stream channels, on lake beds nor within 100 feet of open water; and (d) access shall be by existing access ramps only.

3. The following sites may be dredged as needed to remove accumulated sediment and debris. Dredging shall be done with a crawler excavator and limited to 200 cubic yards annually per site with less than 0.05 acre of wetland or waterbody impact for each single dredging activity. Erosion, sediment and turbidity control measures and procedures shall be implemented to minimize siltation and turbidity downstream of the siltation basins during dredging operations. EBRPD shall not cause suspended solids of the water column downstream of the siltation basins to increase more than 10% of the background levels. Background level is equal to the turbidity of the stream immediately upstream of the siltation basin. Sediment that is removed shall be hauled away to a landfill or other appropriate upland site for disposal. Removal of riparian vegetation shall be minimized during dredging operations. Routinely dredged sites include:

    a. Lake Temescal Regional Park Siltation Basins located near the confluence of Caldecott Creek and Temescal Creek;

    b. Tilden Nature Area man-made ecological interpretive ponds (4) which are fed with piped-in water (EBMUD);

    c. Tilden Nature Area siltation basins (3), located in Wildcat Creek, specifically installed to protect Jewel Lake;

21. This Order expires on July 21, 2009. The Discharger must file a Report of Waste Discharge in accordance with Title 23, California Code of Regulations, not later than 180 days in advance of such date as application for reissuance of waste discharge requirements.

I, BRUCE H. WOLFE, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on July 21, 2004.

BRUCE H. WOLFE
Executive Officer

Attachments:

A: Activities that Constitute Routine Maintenance in the Discharger's Watersheds
B: Best Management Practices (BMPs)
C: Self-Monitoring Program (SMP)

c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.

d. Sampling of any discharge or surface water covered by this Order.

16. The following standard conditions apply to this Order:

a. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC Section 13330 and 23 CCR Section 3867.

b. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Section 3835(b) and that application specifically identified that a FERC license or amendment to FERC license for a hydroelectric facility was being sought.

c. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Section 3833 and owned by the Discharger.

17. An annual fee for Waste Discharge Requirements pursuant to Section 13260 of the California Water Code is required.

18. These Requirements do not authorize commission of any act causing injury to the property of another or of the public; do not convey any property rights; do not remove liability under federal, state or local laws, regulations or rules of other programs and agencies nor do these Requirements authorize the discharge of waste without appropriate permits from other agencies or organizations.

19. The Discharger shall obtain all the necessary approvals and/or permits for any project from the applicable government agencies, including the state Department of Fish and Game, U.S. Fish and Wildlife Service, and Corps prior to the commencement of any project.

20. This Order may be modified, or alternatively, revoked or reissued, prior to the expiration date to incorporate applicable amendments of the Basin Plan approved by the State Water Resources Control Board.

6. Any compensatory mitigation (restoration) activities, shall be reported in the quarterly routine maintenance project reports. In addition, the number, location, and nature of restoration sites including pre-construction and post-construction photographs of restored sites shall be submitted as part of the annual report due on February 15th each year.

7. The Discharger shall adhere to the conditions of MOU No. R3-2001-0623 entered into between the Discharger and the CDF&G regarding streambed alteration notification and routine maintenance activities in the Discharger's watersheds.

8. The Discharger shall submit separate applications for water quality certification for any single wetland impact to a waterbody or wetland fill greater than 0.05 acre and for any dredging activity of more than 200 cubic yards per site per year.

9. The Discharger shall file with the Board annual reports performed according to the SMP approved by this Order or issued by the Executive Officer.

10. No equipment shall be operated in stream channels where there is flowing or standing water.

11. The Discharger shall implement bioengineering methods as the preferred methodology for bank stabilization projects; consequently, a rationale for each instance of utilizing an alternate more hardened bank stabilization method must be stated and discussed in the annual report due by February 15th annually.

12. Temporary road crossings primarily for emergency use such as for the passage of heavy equipment for fire suppression shall be graded carefully to preclude the discharge of rock into flowing or standing water. The rock and gravel being graded shall not be removed from the streambed.

13. The Discharger shall ultimately dispose of dewatered dredged material at a permitted landfill or approved upland silt disposal site.

14. The Discharger is considered to have full responsibility for correcting any and all problems, which arise in the event of a failure resulting in an unauthorized release of waste or wastewater.

15. The Discharger shall permit the Board or its authorized representative, upon presentation of credentials:

    a. Entry on to the premises on which wastes are located or in which records are kept.

    b. Access to copy any records required to be kept under the terms and conditions of this Order.

3. Turbidity of the waters of the State, as measured in NTUs shall not increase above background levels by more than the following:

| Receiving Waters Background | Incremental Increase |
|---|---|
| < 50 units | < 5 units |
| ≥ 50 units | 10% of background, maximum |

4. The groundwater shall not be degraded as a result of maintenance activities or sediment disposal.

**C. Provisions**

1. The Discharger shall comply with all the Prohibitions, Receiving Water Limitations, and Provisions of this Order immediately upon adoption of this Order or as provided below. Requirements prescribed by this Order supersede the requirements prescribed by Order No. 98-063. Order No. 98-063 is hereby rescinded upon the effective date of this Order.

2. The Discharger shall be restricted to maintenance activities summarized in Attachment A that are related to the following NWPs for the purpose of this Order:

- NWP 3, Maintenance
- NWP 13, Bank Stabilization
- NWP 14, Linear Transportation Projects
- NWP 18, Minor Discharges
- NWP 19, Minor Dredging
- NWP 31, Maintenance of Existing Flood Control Facilities
- NWP 37, Emergency Watershed Protection and Rehabilitation

The description of the type of work considered for each NWP listed above is provided in the June 7, 2000 U.S. Army Corps of Engineers document entitled: "Final Notice of Issuance, Re-issuance, and Modification of Nationwide Permits."

3. The Discharger shall submit separate water quality certification applications for activities that do not meet the criteria for the regional maintenance activities summarized in Attachment A, as well as, the NWPs listed in Provision C.2.

4. The Discharger shall comply with all applicable Best Management Practices (Attachment B) while conducting the various maintenance activities.

5. The Discharger shall comply with all applicable items of the Self Monitoring Program (Attachment C).

4. The discharge of silt, sand, clay or other earthen materials from any vicinity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters or to unreasonably impact or threaten to impact beneficial uses is prohibited.

**B. Receiving Water Limitations**

1. The discharge of waste shall not cause the following conditions to exist in waters of the State at any place:

   a. Floating, suspended or deposited macroscopic particulate matter or foam in concentrations that cause nuisance or adversely affect beneficial uses.

   b. Alteration of temperature, turbidity, or apparent color beyond present natural background levels;

   c. Visible floating, suspended, or deposited oil or other products of petroleum origin; and

   d. Toxic or other deleterious substances to be present in concentrations or quantities which will cause deleterious effects on wildlife, waterfowl, or other aquatic biota, or which render any of these unfit for human consumption, either at levels created in the receiving waters or as a result of biological concentration.

2. The discharge of waste shall not cause the following limitations to be exceeded in waters of the State at any place within 1 foot of the water surface:

   a. Dissolved Oxygen: 5.0 mg/l minimum. When natural factors cause lesser concentrations, then this discharge shall not cause further reduction in the concentration of dissolved oxygen.

   b. Dissolved Sulfide: 0.1 mg/l, maximum.

   c. pH: A variation of natural ambient pH by more than 0.5 pH units.

   d. Unionized Ammonia: 0.025 mg/l as Nitrogen, annual median; and 0.16 mg/l as Nitrogen, maximum.

   e. Nutrients: Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.

- Section 15301 for the operation, repair maintenance, or minor alteration of existing structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use;
- Section 15302 for the replacement or reconstruction of existing structures and facilities on the same site having substantially the same purpose and capacity;
- Section 15303 for new construction of limited to small new facilities including installation of small, new equipment and facilities in small structures, and conversion of the use of small existing structures;
- Section 15304 for minor alterations in the condition of the land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry or agricultural purposes. This includes grading on land with a slope of less 10 percent, except in a waterway, wetland, officially designated scenic area, or officially mapped areas of severe geological hazard. This also includes new gardening, landscaping, minor trenching and filling, maintenance dredging and filling of earth into previously excavated land with compatible material; and
- Section 15311 for the construction or placement of minor structures accessory to existing facilities.

16. Pursuant to Title 23, California Code of Regulations Sections 3857 and 3859, the Board is issuing WDRs.

17. The Board has notified the Discharger and interested agencies and persons of its intent to prescribe WDRs and WQC for this discharge.

18. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that the East Bay Regional Park District (Discharger), in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

**A. Discharge Prohibitions**

1. The direct discharge of wastes (including dredged sediment) to surface waters or their tributaries is prohibited.

2. Dredged material shall remain within designated upland disposal areas at all times.

3. Any maintenance or dredge and disposal activity subject to these requirements shall not cause a nuisance as defined in Section 13050(m) of the California Water Code.

b. NWP 13, Bank Stabilization
c. NWP 14, Linear Transportation Projects
d. NWP 18, Minor Discharges
e. NWP 19, Minor Dredging
f. NWP 31, Maintenance of Existing Flood Control Facilities
g. NWP 37, Emergency Watershed Protection and Rehabilitation

The description of the type of work considered for each NWP listed above is provided in the June 7, 2000 U.S. Army Corps of Engineers document entitled: "Final Notice of Issuance, Re-issuance, and Modification of Nationwide Permits."

10. The U.S. Fish and Wildlife Service (USFWS) in a correspondence date August 7, 1998 (File No. 1-1-98-I-1647) concurred with the Army Corps of Engineers' (File No. 23394S) determination that the Discharger's regional maintenance activities are not likely to adversely affect the federally threatened California red-legged frog (Rana aurora draytonii). The USFWS further finds that unless new information reveals effects of the proposed activities that may affect listed species in a manner or to the extent not considered, or new species or critical habitat is designated that may affect the proposed activities, no further action pursuant to the Endangered Species Act of 1973, as amended, is necessary.

11. Wetlands associated with creeks, streambeds, basins and stock ponds will be temporarily impacted in some cases, and will require appropriate mitigation.

12. The goals of the California Wetlands Conservation Policy (Governor's Executive Order W-59-93, signed August 23, 1993) include ensuring no "overall loss", and achieving a "long-term net gain in the quantity, quality, and permanence of wetlands acreage and values...".

13. Senate Concurrent Resolution No. 28 states that, "It is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and multiple resources which depend on them for the benefit of the people of the State".

14. Section 13142.5 of the California Water Code requires that "Highest priority shall be given to improving or eliminating discharges that adversely affect ... Wetlands, estuaries, and other biologically sensitive areas".

15. The Discharger has certified in a correspondence dated April 10, 2003, that the proposed maintenance activities are categorically exempt from the California Environmental Quality Act (CEQA) Guidelines.

The action to adopt WDRs and WQC for the regional maintenance activities is exempt from the provisions of CEQA, in accordance with the following:

4. The majority of the Discharger's routine maintenance activities projects consists of improving existing conditions and enhancing habitat for aquatic species such as cattail removal from choked out water bodies, removing and replacing dysfunctional culverts, and removing stream obstructions and barriers. These activities will be accomplished in conjunction with the implementation of the various BMPs (Attachment B) and monitored in accordance with the Self-Monitoring Program (Attachment C). Overall, this proposal represents a "self-mitigating" plan for habitat enhancement.

5. For the duration of the five-year permit, the District will restore 12-15 currently dry pond sites. These proposed restoration sites are within the current distributional range of the California red-legged frog, California tiger salamander and/or Western pond turtle and will be enhanced to provide additional permanent habitat for these special status species. In addition, restored sites will provide long-term habitat for a variety of other aquatic species. Restoring and/or creating permanent aquatic habitat will more than compensate for the small-scale temporary cumulative impacts associated with the various routine maintenance projects.

6. Any unused restoration credits that accrue can be used for future routine maintenance projects determined to have temporary impacts.

7. The Board, on June 21, 1995, adopted, in accordance with Section 13240 et. Seq. of the California Water Code, a revised Water Quality Control Plan, San Francisco Bay Basin (Basin Plan). The State Water Resources Control Board and the Office of Administrative Law approved this updated and consolidated revised Basin Plan on July 20, 1995, and November 13, 1995, respectively. A summary of revisions to regulatory provisions is contained in 23 CCR §3912. The Basin Plan defines beneficial uses and water quality objectives for waters of the State, including surface waters and groundwaters. This Order is in compliance with the Basin Plan.

8. The Discharger has contacted the California Department of Fish and Game (CDF&G) concerning the proposed maintenance activities. A Memorandum of Understanding (MOU) No. R3-2001-0623 dated July 31, 2001has been created between CDF&G and the Discharger regarding streambed alteration notification and routine maintenance activities subject to State Fish and Game Code Section 1601.

9. The Army Corps of Engineers issued a Regional General Permit (RGP) No. 23394S on August 28, 1998 to the Discharger authorizing various maintenance activities associated with the following Nationwide Permits (NWP):

   a. NWP 3, Maintenance

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

ORDER No. R2-2004-0057

WASTE DISCHARGE REQUIREMENTS and WATER QUALITY CERTIFICATION FOR:

**EAST BAY REGIONAL PARK DISTRICT**
**REGIONAL MAINTENANCE ACTIVITIES, ALAMEDA AND CONTRA COSTA COUNTIES**

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

1. The East Bay Regional Park District (hereinafter Discharger) proposes to conduct maintenance activities in at least 65 regional parks that involve culvert replacement, maintenance of existing structures, road crossings, bank stabilization, maintenance dredging and minor discharges of fill material. On April 10, 2002 and with subsequent submittals of May 29, 2003, July 23, 2003, January 30, 2004, and April 7, 2004, the Discharger applied to the Board for Water Quality Certification under Section 401 of the Clean Water Act. The purpose of the maintenance activities is to provide safe access by the public and emergency vehicles, and to restore and maintain natural resources. Obtaining timely regulatory agency approval for identified maintenance needs is critical especially in heavy rainfall years.

2. The issuance of Waste Discharge Requirements (WDRs) and Water Quality Certification (WQC) serves to govern the Discharger's various maintenance activities for the purpose of alleviating local flood damage problems, protecting fish and wildlife, and addressing public safety concerns in an environmentally responsible manner.

3. The need for specific projects covered by this Order is normally the result of stormwater related erosion, channel down-cutting and sedimentation problems resulting from high stream flow events. Generally, some 30-50 maintenance projects covered by this Order are completed annually. Activities that constitute routine maintenance activities are summarized in Attachment A and consist of the following main categories:

    - Natural stream crossings
    - Removing and replacing culverts
    - Stabilizing creek banks
    - Maintenance dredging of ponds and lakes
    - Pond restoration and enhancement

# California Regional Water Quality Control Board
## San Francisco Bay Region

**Terry Tamminen**
*Secretary for Environmental Protection*

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
http://www.swrcb.ca.gov/rwqcb2

**Arnold Schwarzenegger**
*Governor*


Certified Mail No.: 70032260000212621802
Return Receipt Requested

**Date:** JUL 2 8 2004
**File No.:** 2199.9229(MYM)

Mr. Steven Bobzien
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605-0381

Dear Mr. Bobzien:

**NOTICE:** The Item(s) indicated by an "X" are enclosed herewith:

[x] **A.** One certified copy of an Order adopted by the Board on the date shown therein.

[ ] **B.** Attachment to Order containing Requirements and Recommendations of other agencies.

[ ] **C.** One copy of Executive Officer Summary Report, which was considered by the Board on the date shown therein. The Motion(s) recommended therein was (were) adopted by the Board on that date.

[ ] **D.** Other –

Please contact Martin Musonge of my staff at (510) 622-2396 or e-mail to mym@rb2.swrcb.ca.gov. if you have any questions regarding this matter.

Sincerely,

BRUCE H. WOLFE
Executive Officer

Attachment: Order No. R2-2004-0057