

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

**ORDER NO. R2-2022-0017**

**GENERAL WASTE DISCHARGE REQUIREMENTS and WATER QUALITY  
CERTIFICATION for:**

**PROJECTS UNDER THE PETALUMA RIVER AND SONOMA CREEK LEVEE  
MAINTENANCE PROGRAM ADMINISTERED BY THE SONOMA RESOURCE  
CONSERVATION DISTRICT, SONOMA COUNTY**

The California Regional Water Quality Control Board, San Francisco Bay Region (Water Board), finds that:

- 1. Water Quality Regulation.** The Water Board regulates discharges to surface waters and controllable water quality factors to protect the physical, chemical, and biological components of aquatic ecosystems and the associated functions provided by wetlands, marshlands, diked baylands, streams, sloughs, and associated riparian areas. Levee maintenance activities may affect vegetation or the physical features of a stream, slough, wetland, or riparian area and are considered controllable water quality factors.
- 2. Levee Maintenance Regulation.** The Water Board regulates the implementation of the Petaluma River and Sonoma Creek Levee Maintenance Program (Program), administered by the Sonoma Resource Conservation District (SRCD), for routine and emergency levee maintenance activities proposed by participating landowners on a voluntary basis. Levee maintenance activities including sediment excavation from adjacent channels and/or wetlands for placement on the levee crown. The Program purpose is to facilitate maintenance of levees needed to provide flood protection for local agricultural operations, infrastructure, and important habitats in the Sonoma Creek and Petaluma River tidelands, while ensuring quality conservation practices are incorporated to protect aquatic ecosystems and their associated functions.
- 3. Order.** This Order applies to levee maintenance activities and emergency levee repair activities conducted pursuant to the approved Petaluma River and Sonoma Creek Levee Maintenance Manual (Manual), which guides landowners' implementation of levee maintenance activities. The Manual describes the methods and protocols for conducting the activities in a manner that conserves ecosystem processes while helping to mitigate flood-related hazards. In addition, the Manual includes historical context about the program area, a comprehensive list of best management practices (BMPs) and avoidance and minimization measures (AMMs), and the Program organization and reporting framework for regulatory compliance.
- 4. Authorized Manual Revisions.** The Manual and its appendices, which were approved on May 11, 2022, are considered a "living document" that may be updated or revised to

improve maintenance protocols and increase environmental protectiveness. Proposed changes will be submitted in the Annual Maintenance Report for review and approval. All changes to the Manual and its associated attachments must comply with all terms and conditions of this Order and be approved in writing by the Executive Officer before they may be implemented.

5. **Dischargers.** This Order applies to SRCD's Program and the landowners (collectively referred to as the Dischargers) within the Program area that participate on a voluntary basis. Landowners will submit notices of intent to the SRCD, which will then administer this Order, as discussed in more detail in Finding 8, Program Management.
6. **Program Specifics.** The Program was established in 1980 when the first permit was issued and the SRCD has re-applied for permit coverage every 5 years since then. The Program covers routine and emergency levee maintenance activities in two Sonoma County watersheds within the Water Board's jurisdiction, the Petaluma River watershed south of Lakeville Highway/Highway 116 and the Sonoma Creek watershed south of Highway 121, which both drain to San Pablo Bay. During the late 1800s, farmers constructed levees to "reclaim" tidelands bordering San Pablo Bay for agricultural use. Ongoing levee maintenance is required to prevent agricultural operations, infrastructure, and important habitat present within these lands from flooding. Landowners within the Program area cumulatively maintain up to 53 miles of levees adjacent to diked wetlands, tidal marsh, tidal sloughs, streams, associated riparian areas, and the San Pablo Bay shoreline.
7. **Applications.** On November 9, 2021, the SRCD submitted an application for Waste Discharge Requirements (WDRs) and Water Quality Certification (Certification) for its Program. The SRCD will submit Notice of Intent (NOI) forms, signed by participating landowners, to enroll individual maintenance projects under and comply with this Order. This Order authorizes these landowners' maintenance activities, provided they occur in the Program's jurisdiction and comply with the requirements of the Manual and this Order.
8. **Program Management.** The Manual includes guidelines for the Program's expected annual work cycle that will be used in the development of each year's maintenance work plan. On an as-needed basis, participating landowners will submit a Maintenance Report form to the SRCD by February 1<sup>st</sup> each year, to propose levee maintenance activities for the upcoming summer. The SRCD will review the maintenance proposals to ensure activities will comply with the Program, Manual, and this Order and implement all appropriate best management measures (BMPs) and avoidance and minimization measures (AMMs). The SRCD will then complete an NOI (Attachment B) for each landowner's maintenance proposal, obtain signatures, and compile the NOIs for submittal to the Water Board in the Annual Maintenance Report (AMR) due by March 15 each year. Photographs, maps, and complete descriptions of maintenance needs will be provided in the NOIs to verify why, how, where, and when the routine maintenance activities will occur. The AMR will also report emergency levee repair activities and post-maintenance work summaries by updating the Annual Maintenance Reporting Table (Appendix D of

the Manual) to track proposed and completed maintenance and emergency projects. The AMR will include post-maintenance site photographs.

## I. Levee Maintenance Program

**9. Levee Maintenance Activities.** The following maintenance activities are authorized under this Order and described in the Manual: (a) vegetation management; (b) sediment removal; (c) levee maintenance; (d) erosion protection; and (e) emergency levee repair. Activities that fall outside these five categories, which are described in more detail below, must obtain individual authorizations and are not covered under this Order.

- a. *Vegetation Management.* Vegetation management generally refers to selective trimming, thinning, mowing, and removal of vegetation for construction access. Tree removal is excluded. Vegetation management protocols include listed species avoidance measures, such as measures to avoid impacts to the salt marsh harvest mouse (SMHM). These include vegetation removal in SMHM habitat using hand tools during dry conditions, using mechanized equipment during high tide inundation, and surveying the area prior to the implementation of excavation activities to ensure SMHM are not present during sediment removal disturbances.
- b. *Sediment Removal.* Sediment removal refers to excavation of accumulated sediment and debris from adjacent channels and/or borrow areas to re-use excavated material for levee maintenance and repair. All areas requiring sediment removal for levee maintenance will have a delineation map showing the extent, location, and aquatic habitat type of jurisdictional waters of the State prior to any excavation occurring at the specific location.
- c. *Levee Maintenance.* Levee maintenance refers to placement of excavated material on damaged, failing, or impaired levees to restore their original function for flood prevention. Levee maintenance activities consist of placement of material excavated on-site on the levee crown and then mechanically compressed. Neither construction of new levees nor expansion of existing levees is covered under this by this Order.
- d. *Erosion Protection.* Erosion protection refers to activities implemented to prevent or manage erosion, to repair or enhance eroded banks and levee slopes, and to prevent turbidity impacts on marine resources and habitat from excessive siltation post-construction. Temporary or permanent erosion control devices are required to be made from biodegradable natural materials. Plastic netting, including biodegradable plastic netting, is prohibited.
- e. *Emergency Levee Repair* Emergency levee repair refers to levee maintenance activities performed to mitigate an emergency, as defined in Public Resources Code section 21060.3,<sup>1</sup> that do NOT qualify for coverage under the U.S. Army Corps of

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<sup>1</sup> Public Resources Code section 21060.3 defines an “emergency” to be “a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigation loss of, or damage to, life, health, property, or essential public services. ‘Emergency’ includes such occurrences as fire, flood, earthquake, or other soil or geologic movement, as well as such occurrences as riot, accident, or sabotage.”

Engineers (Corps) Regional General Permit 5 (RGP 5) for Emergency Repair and Protection Activities because work will avoid jurisdictional waters of the U.S. or work is deemed exempt by the Corps under federal Clean Water Act (CWA) section 404(f). Thus, generally speaking, emergency activities authorized under this Order are limited to repairs and maintenance for exempt activities or in non-federal waters needed to address sudden and unexpected levee failures or damage that could result in significant flood damage to surrounding land uses and habitat. Emergency activities involve the same actions described above in Findings 9(a) through (d), with the implementation of rainy season protective measures in accordance with Appendix C of the Manual, if work is necessary outside of the required work windows.

**10. Activities Not Covered.** The following activities are not included in the Program and therefore are not covered in this Order: capital improvement projects; projects that would significantly alter channel geometry and/or disrupt species movement and migration through the area; new or expanded levee construction; projects that would involve permanent impacts from levee expansion, rock, or other hardscape placement; projects unrelated to levee maintenance or repair; sediment removal and levee maintenance projects greater than the annual and program wide limits, specified in Finding 12.

**11. Aquatic Habitat Categories.** The Manual categorizes maintenance impacts and management by aquatic habitat type and the species and functions they support. This helps determine the timing, frequency, strategy, and need for maintenance activities. For example, permitted maintenance activities in tidally connected channels are more limited compared to maintenance activities in other aquatic habitat types due to the presence of listed fish species, such as steelhead trout, chinook salmon, and green sturgeon, that migrate through tidal channels. The Manual categorizes aquatic habitats as follows:

- a. Main Channel Vegetated Sedimentation Areas: This habitat type refers to flat areas on the main channels of Sonoma Creek, Petaluma River, Napa Slough, Second Napa Slough, Third Napa Slough, Hudeman Slough, Rush Creek, and San Antonio Creek that accumulate sediment, are subject to tidal influence and support tidal marsh and wetland riparian vegetation;
- b. Secondary Channel Vegetated Sedimentation Areas: This habitat type refers to flat areas on secondary channels (which are slough or creek tributaries to the above listed main channels) that accumulate sediment, are subject to tidal influence, and support tidal marsh and wetland riparian vegetation;
- c. Main Channel Open Water Areas: This habitat type refers to tidally influenced areas of open water (i.e., where marsh or riparian vegetation is not present) on the main channels of Sonoma Creek, Petaluma River, Napa Slough, Second Napa Slough, Third Napa Slough, Hudeman Slough, Rush Creek, and San Antonio Creek;
- d. Secondary Channel Open Water Areas: This includes tidally influenced areas of open water on secondary channels, sloughs, or creeks not listed above;

- e. *Hydrologically Isolated Borrow Areas*: This habitat type refers to areas without a defined channel and are not subject to daily tidal influence, from which sediment may have previously been excavated. Despite their hydrological isolation, these areas may support wetland habitat.

**12. Temporary Impacts.** The levee maintenance activities described in the Manual and in Finding 9(a) through (e) above will result in temporary impacts to waters of the State. These impacts include temporal loss in tidal marsh/wetland vegetation, temporary disturbance to channel bed materials and benthic organisms, and temporary increases in erosion, sedimentation, and turbidity impacts to waters of the State as a result of construction disturbances if appropriate best management practices (BMPs) and avoidance and minimization measures (AMMs) are not implemented. The Manual and Order authorizes up to 1.22 acres of temporary impacts over 5 years and does not cover activities such as new levee construction, expansion of existing levees, placement of rock, concrete, or imported fill, the use of non-biodegradable erosion control materials, nor any other activities that may result in permanent impacts. Excavation activities must be limited to 4 cubic yards (CY) of material excavated from waters of the State, per linear foot of levee maintained, not to exceed 10,000 CY or 2,500 linear feet, per parcel, per year, for each participating landowner. The total excavation volumes program-wide may not exceed 150,000 CY in any given year.

## II. Mitigation

- 13. Beneficial Uses.** Impacts to beneficial uses from covered levee maintenance activities that cannot be avoided will be minimized through implementation of the AMMs and BMPs described in the Manual
- 14. Temporal Loss.** The Manual describes BMPs and AMMs that will be implemented to restore temporarily impacted locations. Mitigation that compensates for the temporal losses in functions associated with Program's temporary impacts on waters of the State has been completed through the creation and conservation of 71 acres of wetlands in association with the [Tolay Creek Restoration Project](#) located south of the Highway 121/37 intersection in southern Sonoma County. The Water Board and all the appropriate resource agencies, including Corps, Environmental Protection Agency (EPA), and U.S. Fish and Wildlife Service (USFWS), agreed that this mitigation will compensate for temporary impacts associated with levee maintenance activities in perpetuity. Mitigation was successfully completed in 1998 and yielded the required 71 acres of wetland habitat creation.
- 15. Minimize Impacts to Beneficial Uses.** The Program has been designed to minimize impacts to beneficial uses by excluding activities with significant impacts, like building new levees, and streamlining the process for obtaining authorization for activities, like erosion control, that will improve habitat and water quality. Impacts will be avoided and minimized to the maximum extent practicable through the implementation of general and species-specific avoidance and minimization measures in accordance with Manual Sections 3.1 and 3.2. Specific BMPs and AMMs are discussed below.

**16. Vegetation Management.** Vegetation management activities must minimize vegetation disturbance to the maximum extent practicable and if necessary, must be performed in a manner designed to prevent or minimize erosion, sedimentation, and loss of habitat. Dischargers must avoid disturbance to trees or overhanging branches, and any vegetation that contains bird nests. Vegetation disturbances where SMHM avoidance procedures are required must be limited to the proposed excavation footprint and precautions must be taken to avoid other damage to existing vegetation from people and equipment outside of the work footprint.

**17. Ground-Disturbing Work Windows.** Ground-disturbing maintenance activities occurring within waters of the State must be completed during the low-flow or dry season work windows as specified in the Manual. The Manual specifies the following work windows and exceptions:

- i. Material may be excavated from the main channels of the Petaluma River, Sonoma Creek, San Antonio Creek, Napa Slough, Second Napa Slough, Third Napa Slough, and Hudeman Slough from June 1 to October 31;
- ii. Material may be excavated from tidally connected secondary channels, sloughs, or creeks, such as Steamboat Slough, Railroad Slough, Tolay Creek, and unnamed borrow areas that are subject to tidal influence, from June 1 to November 30;
- iii. Material may be excavated from areas that contain no identified channel that is not subject to tidal influence, such as tidally disconnected silted in areas that were previously borrowed but may support wetland habitat, from June 1 to November 30;
- iv. Material may be excavated along the shoreline of Sonoma Creek, Tubbs Island, and San Pablo Bay from Highway 37 downstream to the mouth of Sonoma Creek, and extending to the southwestern extent of levees along the shoreline of San Pablo Bay, from June 1 to November 30 and restricted to periods of low tide;
- v. To avoid impacts to California clapper rail and SMHM, excavation activities will be limited to daytime work only and no excavation may occur between February 1 and August 31, unless surveys by a qualified biologist indicate that clapper rails are not nesting within 500 feet of the Project area; and
- vi. Exceptions to the above work windows will only be granted for material excavation proposed in areas with no identified channel and tidal connection when it is not feasible for a discharger to conduct work within the approved work window. Dischargers are required to comply with the Rainy Season Protective Measures included in Appendix C of the Manual to perform work outside of the required construction work windows.

**18. Sediment Removal.** Sediment removal activities are required to be conducted with the minimum amount of soil disturbance to prevent downstream sedimentation. No excavation may occur within 10 feet of the toe of the waterborne side of the levee. Dischargers must avoid excavating material from the same location more than once every two years in

tidally connected wetted areas. Best management practices (BMPs) to control turbidity must be implemented to protect marine resources and habitats from excessive siltation in the general vicinity of the project and downstream. Tracked or wheeled equipment must avoid waters of the State and be staged at the top of bank with an excavator arm reaching into the channel from above.

- 19. Levee Maintenance.** No excavated material proposed for re-use on levees may consist of unsuitable materials, such as trash and debris, and material discharged must be free of toxic pollutants exceeding allowable levels. The use of rock, concrete, imported soil materials, and other hardscape materials is prohibited under this Order. All construction related waste materials and debris must be removed from the work site and disposed of off-site at an approved facility. Invasive species management measures, such as cleaning/disinfection procedures on equipment and gear, will be implemented to prevent the spread of notable invasive species, such as the New Zealand mudsnail.
- 20. Erosion Protection.** The use of plastic netting, including biodegradable plastic netting, rock, concrete and other hardscape materials for erosion control is prohibited. If work is proposed outside of allowable construction work windows, the Rainy Season Protective Measures must be complied with in accordance with Manual Appendix C. This includes implementing a Rain Event Action Plan with additional BMPs that will ensure site stability through winter storm events during the rainy season.
- 21. Emergency Levee Repair.** Emergency work activities may only be conducted if the situation meets the CEQA definition of an “emergency.” Emergency repairs must involve the minimum amount of work and disturbance needed to address the immediate emergency. If emergency work is proposed outside of allowable construction work windows, the Rainy Season Protective Measures must be complied with in accordance with Appendix C of the Manual. This includes implementing a Rain Event Action Plan with additional BMPs that will ensure site stability through winter storm events during the rainy season.

### III. Monitoring and Reporting

- 22. Annual Maintenance Report.** This Order requires submittal of an Annual Maintenance Report (AMR), acceptable to the Executive Officer, by the SRCD, by March 15 of each year. The AMR will describe the maintenance activities to be conducted during the upcoming maintenance season and maintenance activities conducted during the previous maintenance season, as described in the Manual. The AMR will include the following: (1) completed and signed NOIs (Attachment B) for work proposed for the upcoming maintenance season with location maps, pre-project photographs, and required signatures; (2) emergency levee repair notifications; (3) an updated Annual Maintenance Reporting Table (Manual Appendix D) to track proposed and completed maintenance and emergency projects; (4) a description of any work deviations from what was reported in the pre-maintenance NOIs; (5) Post-maintenance site photographs; and (6) description of lessons learned and recommendations to update the Manual, as needed.

- 23. Emergency Levee Repair Notification(s):** This Order requires the submittal of Emergency Levee Repair Notifications, acceptable to the Executive Officer, for any emergency levee repair work that: (1) meets the CEQA definition of an “emergency”; (2) is deemed by the Corps to be outside of federal jurisdiction waters of the U.S. or is CWA section 404(f) exempt; and (3) will comply with the required ground-disturbing work windows as described in Finding 17. Emergency Levee Repair Notifications will include documentation of initial agency notifications and Water Board approval, a completed and signed NOI with location maps, pre-project photographs, and required signatures, photo documentation of Rain Event Action Plan implementation, if needed, and post-construction photographs.
- 24. Lessons Learned.** This Order requires that, after 4 years of maintenance, the SRCD will meet with Water Board staff to discuss the performance of the Program, review lessons learned from the prior maintenance seasons, and determine the need to improve any levee maintenance techniques and BMPs. The Dischargers will implement all levee maintenance techniques and BMPs deemed necessary under this Program performance review and update the Manual accordingly.

#### IV. Regulatory Framework

- 25. Waste Discharge Requirements (WDRs).** Pursuant to Water Code section 13263 and California Code of Regulations (CCR) Title 23, sections 3857 and 3859, the Water Board is issuing WDRs for discharges associated with routine levee maintenance activities and emergency levee repair activities in waters of the State within the Program area. In accordance with CWC sections 13263(a) and 13241, the Water Board, after considering this matter at a public hearing, has prescribed requirements as to the nature of the proposed discharge. These requirements implement the Water Board's relevant water quality control plans and policies and take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, and the need to prevent nuisance.
- 26. Water Quality Certification (Certification).** Pursuant to CWA section 401 (33 USC § 1341), the Water Board is issuing a Certification imposing state conditions on discharges of dredge or fill material that occur during routine levee maintenance activities and emergency levee repair activities in waters of the United States. The CWA (33 USC §§ 1251-1387) was enacted “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters” (33 USC § 1251(a)). CWA Section 401 requires every applicant for a federal license or permit that 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 specified provisions of the CWA, including water quality standards and implementation plans promulgated pursuant to CWA section 303 (33 USC § 1313). CWA section 401 directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the CWA and with any other appropriate requirement of state law. CWA section 401 further provides that state certification conditions shall become conditions of any federal license or permit for the project.

**27. Basin Plan.** The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters. It also includes implementation plans to achieve water quality objectives. The beneficial uses of any water body identified in the Basin Plan generally apply to that water body's tributaries. The Basin Plan was duly adopted by the Regional Water Board and approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law, and U.S. Environmental Protection Agency, where required.

The Basin Plan lists the following existing and potential beneficial uses for surface waters within the Program area:

- a. Commercial and Sport Fishing;
- b. Estuarine Habitat;
- c. Cold Freshwater Habitat;
- d. Fish Migration;
- e. Preservation of Rare and Endangered Species;
- f. Water Contact Recreation;
- g. Noncontact Water Recreation;
- h. Fish Spawning;
- i. Warm Freshwater Habitat;
- j. Wildlife Habitat; and
- k. Navigation.

**28. Listed Species.** The following California- and Federally-listed species and designated critical habitat are present at the project location:

- a. Steelhead trout (*Oncorhynchus mykiss* – Federal Threatened);
- b. Chinook salmon (*Oncorhynchus tshawytscha* – Federal Threatened);
- c. Green sturgeon (*Acipenser medirostris* – Federal Threatened);
- d. California clapper rail (*Rallus obsoletus* – Federal Endangered, California Fully Protected);
- e. California black rail (*Laterallus jamaicensis coturniculus* – California Fully Protected); and
- f. Salt marsh harvest mouse (*Reithrodontomys raviventris* – Federal Threatened, California Fully Protected).

**29. TMDLs.** The Basin Plan also identifies water bodies that are impaired on the CWA section 303(d) list (303(d) list) and lists the sources of impairment. The Manual discusses how the SMP supports the goals and objectives of the Total Maximum Daily Loads (TMDLs) that have been developed for impaired water bodies. This Order authorizes

routine maintenance activities and emergency repair activities on the following water bodies listed on the 303(d) list as impaired, or on waters tributary to the listed water bodies:

- a. Sonoma Creek is listed as impaired by nutrients, pathogens, and sedimentation/siltation. The Water Board adopted a resolution on February 12, 2014, to delist the non-tidal portion of Sonoma Creek for nutrients (Resolution No. R2-2014-0006);
- b. The Petaluma River is listed as impaired by diazinon, nutrients, pathogens, sedimentation/siltation, and trash. The tidal portion of the Petaluma River is also listed for nickel;
- c. San Antonio Creek, a tributary to the Petaluma River, is listed as impaired by diazinon; and
- d. The Petaluma River and Sonoma Creek drain into San Pablo Bay, which is listed as impaired by chlordane, dichloro-diphenyl-trichloroethane (DDT), dieldrin, dioxin compounds, furan compounds, invasive species, mercury, polychlorinated biphenyls (PCBs), and selenium.

**30. Antidegradation Policy.** State Water Board Resolution No. 68-16, “Statement of Policy with Respect to Maintaining High Quality of Waters in California” (Antidegradation Policy), which incorporates the federal antidegradation policy where it applies, states that discharges to existing high quality waters will be required to meet WDRs that will result in the best practicable treatment or control of the discharge necessary to assure that (a) a condition of 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. This Order is consistent with Resolution No. 68-16 because implementation of the proposed activities in accordance with the Order’s requirements and the Manual should not lead to degradation of water quality or beneficial uses. To the contrary, the Dischargers’ adherence to the prohibitions and provisions in this Order, and the BMP requirements in their Manual, is expected to maintain water quality and tidal marsh wetland and in-stream habitat.

**31. No Net Loss Policy.** The California Wetlands Conservation Policy (“No Net Loss Policy;” Executive Order W-59-93) was adopted to “ensure no overall net loss and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship, and respect for private property.” Implementation of the Program is consistent with the No Net Loss Policy because it is anticipated to preserve existing and potential beneficial uses of waters of the State and mitigated wetland habitat disturbance through the creation of 71 acres of wetlands with the Tolay Creek Restoration Project.

**32. California Environmental Quality Act.** The California Environmental Quality Act (CEQA) requires all discretionary projects approved by public agencies to be in full compliance with CEQA and requires a lead agency to prepare an appropriate environmental document for such projects. The SRCD determined that the Program is categorically exempt from review under CEQA pursuant to CEQA Guidelines Section

15304, Minor Alternations to Land, and filed a Notice of Exemption with the State Clearinghouse on November 13, 2017 (State Clearinghouse (SCH) No. 2017118215). The Water Board concurs with this determination.

- 33. Nonpoint Source Enforcement Policy.** State Water Board's 2004 Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program (Nonpoint Source Enforcement Policy) requires that all nonpoint source pollution, including discharges from grazing lands, be regulated through WDRs, waivers of WDRs, or discharge prohibitions. This Order is consistent with the Nonpoint Source Enforcement Policy because it requires implementation of BMPs described in the Manual to control nonpoint source pollution from erosion and agricultural runoff. In particular, the protocols for erosion management projects will reduce nonpoint source pollution from damaged or failing levees.
- 34. Public Notice.** The Water Board has notified the Dischargers and interested parties of its intent to issue WDRs and Certification for the activities proposed in the Program. Pursuant to 23 CCR section 3858, the Water Board provided public notice of the SRCD's application on March 16, 2022, and posted information describing the project on the Water Board's website.
- 35. Public Hearing.** The Water Board, in a public meeting, heard and considered all comments pertaining to this Order.

IT IS HEREBY ORDERED that the Water Board certifies that the Program described herein complies with CWA sections 301, 302, 303, 306, 307, and 401, and with applicable provisions of State law, provided that the Discharger complies with the following terms and conditions:

**A. Discharge Prohibitions**

1. The direct or indirect discharge of wastes, as defined in Water Code section 13050(d), within or outside of the active project site, to surface waters or surface water drainage courses is prohibited, except as authorized in this Order.
2. The discharge shall not cause degradation of any water supply.
3. All Program activities that could result in the runoff of pesticides (which category includes pesticides, herbicides, insecticides, rodenticides, and fungicides), that are not registered for aquatic use into waters of the State are prohibited.
4. Program activities that could result in long-term adverse impacts, such as destabilization of stream banks or a deleterious increase in sediment input into waters of the State, are prohibited.
5. Excavated sediment shall remain within designated disposal areas unless it is determined appropriate for beneficial reuse. Designated disposal areas are: (1) any off-site, authorized temporary, or permanent location maintained in compliance with federal and State regulations, (2) any on-site, authorized temporary, or permanent location, provided material shall be isolated and contained to prevent impacts to waters of the State and their beneficial uses, or (3) a permitted landfill.

6. The discharge of sediment and runoff or decant water from excavated materials disposed of at any temporary or permanent disposal, to waters of the State, is prohibited.
7. Maintenance activities subject to these requirements shall not cause a condition of pollution or nuisance as defined in Water Code section 13050.
8. Groundwater beneficial uses shall not be degraded as a result of activities conducted under this Order.
9. No unauthorized construction-related materials or wastes shall be allowed to enter into or be placed where they may be washed by rainfall or runoff into waters of the State. When construction is completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be discharged to waters of the State.

### **B. Discharge Specifications**

1. Appropriate soil erosion control measures shall be implemented and maintained to prevent the discharge of sediment to surface waters, including surface water drainage courses.
2. Excavated material shall be fully contained to prevent any wind transport, surface runoff, or erosion into waters of the State.
3. In accordance with Water Code section 13260, the Dischargers shall file with the Water Board a report of any material changes in the character, location, or quantity of this waste discharge that is beyond the scope of this Order. Any proposed material change in the discharge or activities covered by the Program requires approval by the Water Board after a hearing under Water Code section 13263.
4. The Dischargers shall immediately, and in all cases within 24 hours, notify the Water Board staff by telephone or e-mail of an adverse condition that results from a discharge. An adverse condition includes, but is not limited to, a violation or threatened violation of the conditions of this Order, spill of petroleum products or toxic chemicals, or damage to control facilities that could affect compliance. A written notification of the adverse condition shall be submitted to the Water Board within five days of its occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to approval by the Executive Officer, for any necessary remedial actions.

### **C. Receiving Water Limitations**

1. Program activities shall not cause the following conditions to exist in any waters of the State:
  - a. Waters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.
  - b. Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.

- c. Waters shall not contain biostimulatory substances in concentrations that promote aquatic growth to the extent that such growth cause nuisance or adversely affect beneficial uses.
  - d. Waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life.
  - e. The natural receiving water temperature of inland surface waters shall not be altered unless it can be demonstrated to the satisfaction of the Executive Officer that such alteration in temperature does not adversely affect beneficial uses.
  - f. The temperature of any cold or warm freshwater habitat shall not be increased by more than 5°F (2.8°C) above the natural receiving water temperature.
2. Program activities shall not cause the following limits to be exceeded in waters of the State at any point:
- a. Dissolved Oxygen: 5.0 (WARM) or 7.0 (COLD) mg/l minimum. When natural factors cause lesser concentrations, then discharges under this Order shall not cause further reduction in the concentration of dissolved oxygen.
  - b. Dissolved Sulfide: All water shall be free from dissolved sulfide concentrations above natural background levels. Concentrations of only a few hundredths of a milligram per liter can cause a noticeable odor or be toxic to aquatic life. Violation of the sulfide objective will reflect violation of dissolved oxygen objectives as sulfides cannot exist to a significant degree in an oxygenated environment.
  - c. pH: A variation of natural ambient pH by more than 0.5 pH units.
  - d. Toxicity: All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms.
  - e. Un-ionized Ammonia: 0.025 mg/L as N, annual median; and 0.16 mg/L as N, maximum.
  - f. Salinity: Maintenance activities shall not increase total dissolved solids or salinity to a degree that the increase adversely affects beneficial uses.
  - g. Turbidity: Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases from normal background light penetration or turbidity relatable to waste discharge shall not be greater than 10 percent in areas where natural turbidity is greater than 50 NTU.
3. Program activities shall not cause a violation of any water quality standard for receiving waters adopted by the Water Board or the State Water Board as required by the CWA and regulations adopted thereunder. If more stringent applicable water quality standards are promulgated or approved pursuant to CWA section 303, or amendments thereto, the

Water Board may revise and modify this Order in accordance with more stringent standards.

#### **D. Provisions**

1. The Dischargers shall implement all BMPs identified in and comply with the Manual and corresponding appendices. Any proposed changes to the Manual or appendices shall be submitted via the Annual Maintenance Report for review and approval. All changes to the Manual or appendices must comply with all terms and conditions of this Order and be approved in writing by the Executive Officer before they may be implemented.

#### **Vegetation Management**

2. Vegetation management activities shall be conducted, as described in the Manual, in a manner that minimizes vegetation disturbance to the maximum extent practicable and if deemed necessary, it is required to be performed in a manner designed to prevent or minimize erosion, sedimentation, and loss of habitat.
3. Vegetation management activities associated with SMHM avoidance procedures shall be conducted in accordance with the Manual and California Department of Fish and Wildlife's (CDFW's) guidance included in Manual Section 3.2.4. Vegetation removal shall be limited to the footprint of proposed excavation disturbance and precautions shall be taken to avoid other damage to existing vegetation from people and equipment outside of the work footprint.
4. Tree removal is prohibited under this Order.
5. Prior to conducting maintenance, Dischargers shall identify whether widgeon grass (*Ruppia* spp.) and/or Sago Pondweed (*Stuckenia* spp.) are present in the work area. To the extent practicable, Dischargers shall avoid disturbance to areas that contain these species and shall follow the notification and documentation requirements as described in the Manual.

#### **Sediment Removal**

6. Sediment removal activities shall be conducted with the minimum amount of soil disturbance to prevent downstream sedimentation. No excavation shall occur within 10 feet of the toe of the waterborne side of the levee. Dischargers shall not excavate material from the same location more than once every two years in tidally connected wetted areas. Sediment removal activities shall be conducted in accordance with the Manual and shall not exceed the following limits, as specified in the Manual:
  - a. No more than 4 CY of material excavated from waters of the State, per linear foot of levee maintained;
  - b. No more than 10,000 CY of material excavated from waters of the State or 2,500 linear feet of levee maintained per parcel per year for each participating landowner;

- c. Total excavation volumes Program-wide shall not exceed 150,000 CY in any given year;
  - d. The total area of disturbance Program-wide to waters of the State shall not exceed 1.22 acres during each 5-year cycle of this Order.
7. Sediment removal activities shall not result a substantial disruption of the movements of wildlife and aquatic species. The Dischargers shall ensure that excavated areas in waters of the State are graded to a smooth transition between the existing channel both upstream and downstream of maintained areas, to prevent any passage barriers or blockages from limiting wildlife movement and/or potentially causing erosion once flows are restored.
8. In the AMR, the Dischargers shall include documentation of how proposed and completed sediment removal activities comply with the Manual and the provisions of this Order. This shall include: (1) the area, linear feet, and CY of sediment removed from waters of the State; (2) maps of the location, disturbance footprint, and aquatic habitat type; (3) list of BMPs and AMMs; and (4) pre- and post-maintenance site photographs.

### **Levee Maintenance**

9. No excavated material proposed for re-use on levees may consist of unsuitable materials, such as trash and debris, and the material discharged must be free of toxic pollutants exceeding allowable levels.
10. The use of fill materials imported from off-site, rock, concrete, and other hardscape materials are prohibited under this Order.
11. Levee maintenance activities shall be conducted in accordance with the Manual and shall be documented and reported each year in the AMR. Each Discharger shall describe: (1) the reason that maintenance is needed; (2) the linear feet of levee work proposed or completed; (3) location and length of levee maintenance shown on maps and figures; (4) list of BMPs and AMMs; and (5) pre- and post-maintenance site photographs.

### **Erosion Protection**

12. The Dischargers shall follow the guidelines described in the Manual for implementing erosion control BMPs. If work is proposed outside of the allowable construction work windows (See Provision D.17), Dischargers must comply with the Rainy Season Protective Measures in accordance with Manual Appendix C. This includes implementing a Rain Event Action Plan with additional BMPs that will ensure site stability through winter storm events during the rainy season. Erosion protection activities shall be reported in the AMR with the list of BMPs and AMMs and demonstrated through post-maintenance site photographs.
13. The use of plastic netting, including biodegradable plastic netting, rock, concrete, and other hardscape materials for erosion control is prohibited under this Order.

**Emergency Levee Repair**

14. Dischargers may perform emergency levee repair activities, in accordance with the Manual, to address a sudden and unexpected levee failure or impairment that could result in significant flood damage to surrounding land uses and habitat, if the following criteria are met:
- a. The situation meets the CEQA definition of an “emergency,” which is defined as, “*a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigation loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movement, as well as such occurrences as riot, accident, or sabotage.*”;
  - b. The emergency work does **NOT** qualify for coverage under the Corps RGP 5 for Emergency Repair and Protection Activities because work will avoid jurisdictional waters of the U.S. or work is deemed exempt under CWA section 404(f) by the Corps;
  - c. The emergency work does **NOT** involve disturbance to tidally connected waters of the State outside of the required work windows (See Provision D.17);
  - d. The proposed work activities are the minimum necessary to address the immediate emergency situation and the Discharger(s) shall comply with the Rainy Season Protective Measures in Manual Appendix C, if work is proposed outside of the required work windows (Provision D.17).
15. Emergency levee repair activities shall comply with Provisions D.1-13 above and shall be reported to the Water Board in accordance with the Manual and the following:
- a. The SRCD shall work with the Discharger(s) to notify the Water Board and the Corps with an email description of the emergency situation (with photographs, if possible), how the situation meets the CEQA definition of an emergency, and the emergency work proposed to address the emergency. This notification shall also include a description of: 1) the construction methodology; 2) the impacts to waters of the State/ U.S., as well as the area and linear feet of disturbance; 3) the habitat type(s) to be disturbed; and 4) the BMPs & AMMs that will be implemented to minimize impacts;
  - b. Following review of the Notification, if the Corps determines the proposed emergency work is outside of their jurisdiction or is CWA section 404(f) exempt and the Water Board determines that emergency work could impact waters of the State, but qualifies for coverage under this Order, the emergency work may proceed following written or verbal authorization from Water Board staff;
  - c. The SRCD shall work with the Discharger(s) to complete an NOI with the correct impact quantities, project work descriptions, and signatures, then email it to the Water Board no later than 3 business days following the date emergency work was completed; and
  - d. The SRCD shall work with the Discharger(s) to compile an Emergency Levee Repair Notification for inclusion in the next AMR submittal. The Emergency Levee Repair Notification shall include: (1) documentation of initial agency notifications and Water

Board approval; (2) a completed and signed NOI with location maps and pre-project photographs; (3) photo-documentation of Rain Event Action Plan implementation, if needed; and (4) post-construction photographs of the site. The impact totals associated with emergency work shall be included in the Annual Maintenance Reporting Table (Appendix D of the Manual) in the next AMR update to be counted towards the overall Program impact totals.

### **Best Management Practices**

16. The Dischargers shall implement the BMPs and AMMs described in the Manual (or alternative BMPs of comparable effectiveness) to prevent pollutants from draining, being washed, or otherwise discharging into waters of the State during Program activities.
17. The Dischargers shall comply with ground-disturbing work windows for maintenance activities occurring within waters of the State. Work activities shall be completed during the low-flow or dry season work windows as specified in the Manual. The Manual specifies the following work windows and exceptions:
  - a. Material may be excavated from the main channels of the Petaluma River, Sonoma Creek, San Antonio Creek, Napa Slough, Second Napa Slough, Third Napa Slough, and Hudeman Slough from June 1 to October 31;
  - b. Material may be excavated from tidally connected secondary channels, sloughs, or creeks, such as Steamboat Slough, Railroad Slough, Tolay Creek, and unnamed borrow areas that are subject to tidal influence, from June 1 to November 30;
  - c. Material may be excavated from areas that contain no identified channel and that are not subject to tidal influence, such as tidally disconnected silted-in areas that were previously borrowed, but may support wetland habitat, from June 1 to November 30;
  - d. Material may be excavated along the shoreline of Sonoma Creek, Tubbs Island, and San Pablo Bay from Highway 37 downstream to the mouth of Sonoma Creek, and extending to the southwestern extent of levees along the shoreline of San Pablo Bay, from June 1 to November 30 and restricted to periods of low tide;
  - e. To avoid impacts to California clapper rail and SMHM, excavation activities will be limited to daytime work only and no excavation may occur in known California Clapper Rail areas between February 1 and August 31, unless surveys by a qualified biologist indicate that clapper rails are not nesting within 500 feet of the Project area; and
  - f. Exceptions to the above work windows shall only be granted for material excavation proposed in areas with no identified channel and tidal connection when it is not feasible for a Discharger to conduct work within the approved work window. Dischargers shall to comply with the Rainy Season Protective Measures included in Manual Appendix C to perform work outside of the required construction work windows.
18. The Dischargers shall operate tracked or wheeled equipment above the top of bank and equipment access within waters of the State is prohibited under this Order.

19. The Dischargers shall avoid disturbing vegetation that contains bird nests until consulting and obtaining approval to proceed from CDFW.
20. The Program area is potentially inhabited by species listed under the Federal Endangered Species Act and/or the California Endangered Species Act, including steelhead trout (Federal Threatened), Chinook salmon (Federal Threatened), green sturgeon ((Federal Threatened), California clapper rail (Federal Endangered, California Fully Protected), California black rail (California Fully Protected) and salt marsh harvest mouse (Federal Threatened, California Fully Protected). This Order does **NOT** allow for the relocation or take of any endangered species, species of special concern, candidate species or federally listed, threatened, or endangered species that are discovered in work sites covered by these permits. If CDFW determines, or the Discharger finds there are threatened or endangered species on the work site, the SRCD or Discharger shall notify the Water Board, CDFW, U.S. Fish and Wildlife Service (USFWS), Corps, and/or National Marine Fisheries Service (NMFS), as appropriate. The landowner shall immediately cease work at that location until CDFW deems that the concerns over special status species have been resolved.
21. The Dischargers shall halt work activities if fish, amphibians, or other aquatic organisms are exhibiting stress or are dead within 1,000 feet of a work activity or discharge. The Dischargers shall immediately assign a qualified biologist to investigate the cause of the problem, develop an acceptable corrective action plan, and determine if the cause is related to Program activities. The Dischargers shall immediately report all incidents involving stressed or dead aquatic organisms, as well as prescribed action plans, to the Water Board and other regulatory agencies as appropriate.
22. The Dischargers shall comply with the Manual's Invasive Species Management Plan. The Rush Creek and Novato Creek watersheds in Marin County have been identified as contaminated with New Zealand mudsnail, a highly invasive species. The SRCD and Dischargers within the Rush Creek and Novato Creek watersheds shall implement cleaning/disinfection procedures on all equipment and gear that comes into contact with contaminated or potentially contaminated waterway, such as Rush Creek and Novato Creek. Cleaning/disinfection procedures shall be conducted in accordance with the following guidance document: *DiVittorio, J., M. Grodowitz, and J. Snow, 2012. Inspection and Cleaning Manual for Equipment and Vehicles to Prevent the Spread of Invasive Species. U.S. Department of the Interior, Bureau of Reclamation, Technical Memorandum No. 86-68220-07-05.* This document can be downloaded and or viewed on the U.S. Forest Service's website at:  
[https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb5374537.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5374537.pdf).
23. Any observed contamination during maintenance activities, as evidenced by chemical odors, oily sheens, or irregularly colored sediment shall be immediately reported to the Water Board. The Dischargers shall work with Water Board staff, and other regulatory agencies as appropriate, to conduct additional follow-up actions, including investigating potential sources of contamination, corrective actions, and appropriate disposal of contaminated sediment.

24. The Dischargers shall have equipment and supplies on-site (or readily available nearby) that shall be quickly deployed to provide additional filtration if turbidity is observed.
25. The Dischargers shall comply with Rainy Season Protective Measures as described in Manual Appendix C, if work is proposed outside of the ground-disturbing work windows required by Provision D.17. This includes implementing a Rain Event Action Plan with additional BMPs in accordance with Appendix C, that will ensure site stability through winter storm events during the rainy season.
26. The disposal of any hazardous, designated, or non-hazardous waste as defined in 27 CCR Division 2, Subdivision 1, Chapter 2, shall be conducted in accordance with applicable State and federal regulations.
27. The Dischargers shall clean up, remove, and relocate any wastes that are discharged in violation of this Order.

### **Monitoring and Reporting**

28. The Dischargers shall submit an Annual Maintenance Report (AMR), acceptable to the Executive Officer, by March 15 of each year. The AMR shall describe the proposed maintenance activities to be conducted during the upcoming maintenance season and maintenance activities conducted during the previous maintenance season, as described in the Manual. The AMR shall include the following: (1) completed and signed NOIs (Attachment B) for work proposed for the upcoming maintenance season with location maps, pre-project photographs, and required signatures; (2) emergency levee repair notifications; (3) an updated Annual Maintenance Reporting Table (Manual Appendix D) to track proposed and completed maintenance and emergency projects; (4) a description of any work deviations from what was reported in the pre-maintenance NOIs; (5) Post-maintenance site photographs; and (6) description of lessons learned and recommendations to update the Manual, as needed.
29. The Dischargers shall submit Emergency Levee Repair Notifications, acceptable to the Executive Officer, for any emergency levee repair work that: (1) meets the CEQA definition of an “emergency”; (2) is deemed by the Corps to be outside of federal jurisdictional waters of the U.S. or CWA section 404(f) exempt; and (3) shall comply with the required ground-disturbing work windows in accordance with Provision D.17. Emergency notifications shall comply with the requirements of Provisions D.14 & 15. Emergency Levee Repair Notifications shall be submitted with the AMR and shall include documentation of initial agency notifications and Water Board approval, a completed and signed NOI with location maps, pre-project photographs, and required signatures, photo documentation of Rain Event Action Plan implementation, if needed, and post-construction photographs.
30. After four years of Program implementation, the Dischargers shall review the Program and Manual with the Water Board and other regulatory agencies, as appropriate, to evaluate its overall effectiveness. The review shall include an assessment of maintenance activities conducted to date, adequacy of the program BMP and AMM implementation,

data management, adaptive updates and revisions of their Manual, and overall program coordination and communication among the Dischargers and the regulatory agencies. The Manual may be revised or updated based on this review. The Executive Officer may extend this Order's authorization administratively, and the Water Board may consider issuing Water Quality Certification and WDRs for additional five-year periods to allow continuation of Program implementation.

### **Fees**

31. In accordance with 23 CCR section 2200, the Dischargers shall pay an annual fee to the Water Board each fiscal year (July 1 – June 30) until Project construction activities are completed. If monitoring is required, the Dischargers shall pay an annual fee to the Water Board until monitoring activities are completed.
32. This Order is conditioned upon total payment of the full fees, including annual fees, required in State regulations (23 CCR sections 2200(a)(3) and 3833(b)(3) and owed by the Dischargers. Extension of this Order's authorization may require payment of a fee. The Dischargers paid the Application fee, \$22,465, for this Project in full on June 7, 2021, calculated as "Category A – Fill & Excavation Discharges" with the 2020/2021 dredge and fill fee calculator.

### **Records Provisions**

33. The Dischargers shall maintain a data management system to monitor levee maintenance activities, emergency levee repair activities, natural resources in the Program areas, and permitting requirements.
34. The Executive Officer may request that information regarding the Program be provided to the Water Board at times outside of the reporting requirements specified in this Order.
35. The Dischargers shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Executive Officer at any time.
36. The Dischargers shall submit electronic versions of any submitted reports or documents.

### **General Provisions**

37. All provisions in this Order apply to all levee maintenance and emergency levee repair activities identified in the Manual.
38. The following activities are not included in the Manual and, therefore, are not covered in this Order: capital improvement projects; discharge of decant water from dredged sediments back to receiving waters; construction of new levees; projects that would alter the conveyance capacity of a channel; and large sediment removal or dredging projects greater in length than the limits established in Provision D.6 of this Order.

39. The Dischargers shall comply with all the Prohibitions, Discharge Specifications, Receiving Water Limitations, and Provisions of this Order immediately upon adoption of the Order or as otherwise provided in the Order.
40. This Order does not allow for the take, or incidental take, of any special status species.
41. The Dischargers shall implement the Program in accordance with the methods described in the Manual and the requirements of this Order and shall comply with all applicable water quality standards.
42. Ground-disturbing maintenance activities occurring below top-of-bank shall only occur during the low-flow or dry season work windows as specified in the Manual and Provision D.17. Exceptions to the require work windows shall only be granted for material excavation proposed in areas with no identified channel and tidal connection when it is not feasible for a discharger to conduct work within the approved work window. Exceptions may be made on a project-by-project basis with advance approval by the Executive Officer and federal and State regulatory agencies, as appropriate.
43. Disturbed soil related to Program activities shall be stabilized and winterized.
44. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, Program activities shall cease immediately until corrective actions have been implemented. Corrective actions shall include (1) implementing adequate BMPs to eliminate the discharge, and (2) clean up and remediate any recoverable pollutants. The Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
45. This Water Quality Certification and issuance of WDRs is subject to modification or revocation upon administrative or judicial review, including review and/or reconsideration pursuant to Water Code section 13330 and 23 CCR section 3867.
46. This Water Quality Certification 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 23 CCR 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.
47. The Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans, such as new or revised total maximum daily load requirements adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or CWA section 303.
48. The Dischargers shall maintain a copy of this Order and all relevant plans and BMPs at levee maintenance work sites, so as to be available at all times to site operating personnel.

49. The Dischargers shall correct any and all problems that arise from a Program activity, including a failure to meet the conditions of this Order that results in an unauthorized release of pollutants, including sediment.
50. The Dischargers shall permit Water Board staff or their authorized representatives, upon presentation of credentials,
- a. to enter areas where maintenance activities are planned or under way, wastes are located, or records are kept;
  - b. Access to copy any records required to be kept under the terms and conditions of this Order;
  - c. Access to inspect any treatment equipment, monitoring equipment, or monitoring method required by this Order; and
  - d. Access to sample any discharge or surface water covered by this Order.
51. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under applicable State or federal law. For the purposes of CWA section 401(d), the applicability of any State law authorizing remedies, penalties, process or sanctions constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition in this Order, the Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions in this Order, the Water Board may add to or modify the conditions in this Order as appropriate to ensure compliance.
52. This Order authorizes Program activities until authorization expires on May 13, 2027. That authorization may be extended for periods of up to five years by the Executive Officer following a review of the Program by the Dischargers and Water Board staff, submittal of a comprehensively updated Manual to address the results of the review, and acceptance of that Manual by the Executive Officer, as described in the Provisions. Any monitoring requirements that extend beyond the term of this Order are not subject to the Order's expiration date outlined above and remain in full effect and are enforceable.

I, Thomas Mumley, Interim Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region on, and effective on, May 11, 2022.

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Thomas Mumley  
Interim Executive Officer

Attachment A: Petaluma River and Sonoma Creek Levee Maintenance Manual

Attachment B: NOI

# **Attachment A**

## **Petaluma River and Sonoma Creek Levee Maintenance Manual**

**ORDER NO. R2-2022-0017,  
WASTE DISCHARGE REQUIREMENTS AND  
WATER QUALITY CERTIFICATION  
for:**

**Sonoma Resource Conservation District,  
Petaluma River and Sonoma Creek  
Levee Maintenance Program,  
Sonoma County**

**\*\*\*To access Attachment A, go to:**

**<https://ftp.waterboards.ca.gov/>**

**Login by entering the following information:**

**Username: rb2-ftp**

**Password: SanF@rb2**

**Go to folder entitled**

**“2022May\_Item5B\_LeveeMaintenance\_TO”**

# **Attachment B**

## **Notice of Intent (NOI)**

**ORDER NO. R2-2022-0017,  
WASTE DISCHARGE REQUIREMENTS AND  
WATER QUALITY CERTIFICATION  
for:**

**Sonoma Resource Conservation District,  
Petaluma River and Sonoma Creek  
Levee Maintenance Program,  
Sonoma County**

# California Regional Water Quality Control Board San Francisco Bay Region

Watershed Management Division  
1515 Clay Street, Suite 1400, Oakland, CA 94612

## NOTICE OF INTENT TO APPLY FOR ENROLLMENT UNDER THE GENERAL WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION FOR PROJECTS UNDER THE PETALUMA RIVER AND SONOMA CREEK LEVEE MAINTENANCE PROGRAM ADMINSTERED BY THE SONOMA RESOURCE CONSERVATION DISTRICT SONOMA COUNTY ORDER No. R2-2022-00XX

### I. PROJECT and APPLICANT INFORMATION

Project Title:			
Applicant Name:			
Business/Agency:			
Street Address:			
City, State, Zip:			
Telephone:		Fax	
E-mail:			

### II. PROPERTY OWNER

Check box if same as above

Name:			
Street Address:			
City, State, Zip:			
Telephone:		Fax	
E-mail:			

### III. PROJECT LOCATION

A. Address or description of project location.				
B. Check box to verify that a map of at least 1:24000 (1" = 2000') detail of the proposed project site (e.g., USGS 7.5 minute topo map) is enclosed:			<input type="checkbox"/> Project Map Enclosed	
D. Assessor's Parcel No.:				
E. Coordinates (If available, provide at least latitude/longitude or UTM coordinates. Check appropriate boxes)				
Latitude/Longitude:	Latitude:		Longitude:	
	Degrees/Minutes/Seconds		Decimal Degrees	
UTM coordinates:	Easting:		Northing:	
Datum or UTM:	NAD 27		NAD 83 or WGS 84	
F. River(s), stream(s), slough(s), shoreline(s), tidal marsh(s), or wetland(s) affected by the project:				

### IV. PROJECT CATEGORY

Select the covered activity or activities being implemented for this project ( <i>check one or more boxes below</i> ).	
Levee Maintenance	Emergency Levee Repair

### V. PROJECT INFORMATION

A. Estimated Project Term:	Beginning (Month / Year)		Ending (Month / Year)	
B. Seasonal Work Period:				
C. Estimated Total Number of Work Days:				
D. Describe the project purpose, existing levee conditions that trigger maintenance or repairs, and work proposed to achieve that purpose in detail. Enclose photographs and/or maps that provide all of the following: impaired levee conditions at the site; the linear feet of levee to be maintained; the area and linear extent of the work in jurisdictional aquatic habitat; where equipment will enter or exit the area, if applicable; and a project overview showing the location and extent of each levee and adjacent jurisdictional waters proposed to be impacted by				

excavation activities, and calculations at each site of the area of disturbance (*Attach additional sheets as needed*).

**Project Purpose:**

**Existing Levee Conditions:**

**Linear feet of levee to be maintained** \_\_\_\_\_

**Aquatic habitat type(s) to be impacted** \_\_\_\_\_

**Estimated acres of impact** \_\_\_\_\_ **linear feet** \_\_\_\_\_

**Describe proposed work activities (construction methods, access, etc.):**

E. Specify the equipment (if any) that will be used to complete the project. Describe in detail the measures that will be taken to prevent discharges and spills of oil, grease, and other petroleum products.

F. Will work comply with the approved work windows for excavation in main channels (June 1 – October 31) and/or in tidally connected secondary channels (June 1 – November 30)?

yes                  no

G. If you selected no in Section F, above, maintenance work is limited to borrow areas that have no identified channel and are not subject to daily tidal influence. Describe the Rain Event Action Plan BMPs and avoidance measure(s) that will be implemented in accordance with the Rainy Season Protective Measures in Appendix C of the Manual.

H. Verify that the project will **not** use soils imported from off-site, rock, or other hardscape materials.

I verify this to be true.

I. Verify that the project will complete a pre-dredging presence/absence survey for sago pondweed and widgeon grass between June 1 – October 31, and if the species cannot be avoided, the required monitoring will be implemented.

I verify this to be true.

J. Will the project disturb vegetated Salt Marsh Harvest Mouse (SMHM) habitat? By checking yes, you are confirming attendance of an education presentation on the SMHM and that work will comply with avoidance measure(s) as described in Section 3.2.4 of the Maintenance Manual.

yes                  no

## VI. DISCHARGE INFORMATION

A. Below, identify the aquatic habitat type(s) existing at the location where sediment material is proposed to be excavated from waters of the State as a part of the project.

Excavation of vegetated flat sedimentation areas subject to tidal influence on the main channels of Sonoma Creek, Petaluma River, Napa Slough, Second Napa Slough, Third Napa Slough, Hudeman Slough, Rush Creek, Novato Creek, and/or San Antonio Creek. By checking this box, you are confirming that work will be performed within the required work window from June 1 to October 31.

Excavation of sediment from open water areas of the main channels of Sonoma Creek, Petaluma River, Napa Slough, Second Napa Slough, Third Napa Slough, Hudeman Slough, Rush Creek, Novato Creek, and/or San Antonio Creek. By checking this box, you are confirming that work will be performed within the required work window from June 1 to November 30.

Excavation of sediment from open water areas of other secondary channels, sloughs, or creeks not listed above (i.e., non-main channels). By checking this box, you are confirming that work will be performed within the required work window from June 1 to October 31.

Excavation of vegetated flat sedimentation areas subject to tidal influence on secondary channels, sloughs, or creeks not listed above (i.e., non-main channels). By checking this box, you are confirming that work will be performed within the required work window from June 1 to November 30.

Excavation of areas where there is no identified channel and the area is not subject to daily tidal influence. This may include silted-in areas that were previously borrowed.

Other:

B. For each of the material source type(s) identified above, identify the volume of material that is intended to be excavated from waters of the State. In accordance with the Manual and Order, no more than 4 cubic yards of material may be excavated from jurisdictional waters per foot of levee maintained, no more than 10,000 cubic feet of material may be excavated from no more than 2,500 linear feet of jurisdictional waters per parcel per year.

<u>Material Source</u>	<u>Volume</u>
1.	
2.	
3.	
4.	
5.	

C. Below, describe the appropriate best management practices (BMPs) and avoidance and minimization measures (AMMs) that will be implemented to prevent impacts to water quality and aquatic habitat to the maximum extent practicable, during and after construction:

--

**VII. PROJECT SIZE**

A. For each of the applicable water body type(s) listed below, indicate the area(s) in ACRES and LINEAR FEET that will be affected by the project. Permanent impacts are not authorized under this Order.		
Water Body Type	Temporary Impact	
	Acres	Linear Feet
Wetland/Tidal Marsh		
Streambed/Open Water		
<b>TOTAL AREA AFFECTED:</b>		

**VIII. SIGNATURE / CERTIFICATION**

<p>I certify under penalty of law that I own or have indefeasible right to possession of the described property(s) and that this document and all attachments were prepared under my direction using information I provided to the Sonoma Resource Conservation District in accordance with a system designed to ensure 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/or imprisonment.</p>	
<p>_____</p> <p>Applicant Signature</p>	<p>_____</p> <p>Date</p>
<p>_____</p> <p>Printed Name</p>	

This certifies that the property described in this document and all attachments is enrolled and participating with the Sonoma Resource Conservation District to plan, design, and implement voluntary levee maintenance activities within the Petaluma River and Sonoma Creek Levee Maintenance Program for compliance with San Francisco Bay Regional Water Quality Control Board

(Water Board) General Waste Discharge Requirements and Water Quality Certification – Order No. R2-2022-017

\_\_\_\_\_  
Sonoma Resource Conservation District Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title