

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

CLEANUP AND ABATEMENT ORDER NO. R4-2012-0003
REQUIRING THE CITY OF LONG BEACH
TO TAKE REMEDIAL ACTION TO REDUCE COPPER LOADING TO
EL DORADO PARK LAKES
PURSUANT TO CALIFORNIA WATER CODE SECTION 13304
IN ORDER TO IMPLEMENT A
TOTAL MAXIMUM DAILY LOAD FOR COPPER

This Order is issued to the City of Long Beach (hereafter Discharger) based on provisions of California Water Code (CWC) section 13304, which authorizes the Regional Water Quality Control Board, Los Angeles Region (hereafter Regional Board) to issue a Cleanup and Abatement Order (hereafter Order). This Order requires the Discharger to monitor, cleanup the waste, and abate the effects of the discharge resulting from the mis-application and/or over-application, of copper-based aquatic pesticides, resulting in discharges of copper into El Dorado Park Lakes and, specifically, the Nature Center North and Nature Center South lakes, located in the City of Long Beach, California.

The Regional Board finds that:

1. The El Dorado Park Lakes are currently listed on the 2008 federal Clean Water Act (CWA) section 303(d) impaired waters list as impaired due to algae, ammonia, copper, eutrophic conditions, lead, mercury (in tissue), and pH. The lakes were listed as impaired based on an assessment in the Regional Board's 1996 Water Quality Assessment and Documentation Report.
2. The CWA requires states to establish a priority ranking for impaired waters and to develop and implement Total Maximum Daily Loads (TMDLs) to resolve impairments. A TMDL specifies the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and allocates pollutant loadings to point and non-point sources. The elements of a TMDL are described in 40 Code of Federal Regulations (CFR) sections 130.2 and 130.7 and CWA section 303(d), as well as in guidance developed by the U.S. Environmental Protection Agency (USEPA). A TMDL is also required to account for seasonal variations and include a margin of safety to address uncertainty in the analysis.
3. A consent decree between USEPA, Heal the Bay, Inc. and Santa Monica BayKeeper, Inc. was approved on March 22, 1999, which resolved litigation between those parties relating to the pace of TMDL development in the Los Angeles Region. The court order directs the USEPA to ensure that TMDLs for all 1998-listed impaired waters in the Los Angeles Region be established within 13 years of the consent decree. The consent decree

combined waterbody pollutant combinations in the Los Angeles Region into 92 TMDL analytical units.

4. This Order addresses the copper listing for El Dorado Park Lakes and contains all of the required elements of a TMDL. According to the State Water Resources Control Board (State Water Board)'s "Water Quality Control Policy for Addressing Impaired Waters" (State Water Board Resolution No. 2005-0050, p.5), "[w]hen an implementation plan [TMDL] can be adopted in a single regulatory action, such as a permit, a waiver, or an enforcement order, there is no legal requirement to first adopt the plan through a basin plan amendment. The plan [TMDL] may be adopted directly in that single regulatory action." This Order acts as a single regulatory action to implement a TMDL for copper in the El Dorado Park Lakes (Copper TMDL). This Copper TMDL addresses a portion of the waterbody-pollutant combinations identified in Analytical Unit 42 (El Dorado Lakes-copper) of the consent decree. The other 303(d) listings for the El Dorado Park Lakes will be addressed through the Los Angeles Area Lakes TMDLs established by USEPA.

Environmental Setting

5. The Discharger owns and operates the El Dorado Park Lakes, which are a chain of six small lakes located in the San Gabriel River Basin. The El Dorado Park Lakes are comprised of two hydraulically separate systems. The northern four lakes (Coyote, Alamo, Large, and Horseshoe) are hydraulically connected to each other and separate from the system comprised by the southern two lakes (Nature Center North and Nature Center South), which are hydraulically connected to each other. The park borders the San Gabriel River for approximately two miles and Coyote Creek for three-quarters of a mile. The lakes were created on what was formerly San Gabriel River floodplain but are not hydraulically connected via surface water to the river at this time. The northern four lakes have a combined surface area of 30.1 acres, and the southern two lakes have a combined surface area of 5.2 acres.
6. The northern four lakes receive supplemental water additions from a groundwater well that pumps into Coyote Lake at a rate of approximately 110 acre-foot per year (ac-ft/yr). The southern two lakes receive supplemental water from a potable water source. On average, 105 ac-ft/yr are pumped into Nature Center North Lake; this potable water represents approximately 93% of the annual water budget for the southern two lakes. Parklands surrounding both systems are irrigated with reclaimed water; some of which may reach the lakes due to irrigation runoff. Reclaimed water is applied to 221 acres surrounding Coyote and Alamo Lakes and 179 acres surrounding Large and Horseshoe Lakes. At the Nature Center where the two southern lakes are located, 91.1 acres are irrigated. The applied average annual volumes to these respective areas (based on utility bills) are 244 ac-ft, 280 ac-ft, and 64.7 ac-ft. According to hydrologic modeling performed by USEPA, approximately 3.9 percent of the total irrigation volume is assumed to reach the lakes. This results in 2.5 ac-ft/yr of irrigation runoff that reaches

the southern two lakes. The remaining water inputs to the southern two lakes are rainfall that falls directly onto the lakes and runoff resulting from rainfall that falls on the surrounding park areas. The amount of rainfall was calculated using nearby rain gages and the resulting runoff was estimated using the hydrologic model. The total annual water budget for the southern two lakes is shown in the following table:

Annual Water Budget for the Two Southern Lakes

Input	Volume (ac-ft)	Percent of Total (%)
Supplemental Water Additions (Potable Water)	105	93%
Parkland Irrigation	2.5	2.2%
Runoff	0.31	0.3%
Rainfall (to the lake surface)	5.1	4.5%
Total	113	100%

7. The subwatershed draining to the northern four lakes is comprised of 185 acres, and the subwatershed draining to the southern two lakes is comprised of 33.8 acres. Neither subwatershed contains an organized storm drain network or a permitted point source. Although both subwatersheds are in the City of Long Beach incorporated area, which is covered by the Long Beach Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permit, there are no major storm drains that convey runoff directly to any of the lakes. A few small culverts pass water beneath walking paths and park roads. To maintain water level, the lakes are actively pumped into the Los Angeles County Flood Control District's (LACFCD) storm drain network during heavy rain events.

Problem Identification

8. The beneficial uses established for El Dorado Park Lakes in the *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (Basin Plan) include water contact recreation (REC1), non-contact water recreation (REC2), warm freshwater habitat (WARM), wildlife habitat (WILD), and wetland habitat (WET).¹ The above designated beneficial uses are impaired by copper.
9. As stated in the Basin Plan, water quality objectives (WQOs) are intended to protect the public health and welfare and to maintain or enhance water quality in relation to the designated existing and potential beneficial uses of the water. The narrative toxicity objective in the Basin Plan states that *All 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.* The Regional Board's narrative toxicity objective reflects and implements national policy set by Congress. The CWA

¹ El Dorado Park Lakes are also conditionally designated with the MUN beneficial use, as indicated by an asterisk in Table 2-1 of the Basin Plan. Conditional use designations are not recognized under federal law and are not water quality standards requiring TMDL development at this time. (See letter from Alexis Strauss [USEPA] to Celeste Cantú [State Board], Feb. 15, 2002.)

states that, "it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited."

10. In 2000, USEPA promulgated water quality criteria for priority toxic pollutants applicable to California in the California Toxics Rule (CTR). The CTR contains numeric aquatic life criteria for 23 priority toxic pollutants and numeric human health criteria for 92 priority toxic pollutants. These criteria are established to protect human health and the environment and are applicable to inland surface waters, enclosed bays and estuaries. The CTR includes short-term (acute) and long-term (chronic) aquatic life criteria for metals in both freshwater and saltwater. The acute criterion, defined in the CTR as the Criterion Maximum Concentration (CMC), is the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time without deleterious effects. The chronic criterion, defined in the CTR as the Criterion Continuous Concentration (CCC), is the highest concentration of a pollutant to which aquatic life can be exposed for an extended period of time (4 days) without deleterious effects. Whenever a pollutant is present in a surface waterbody at a concentration in excess of a CTR criterion, the surface waterbody is toxic. To protect all designated beneficial uses of the receiving water, the most protective copper criterion, which is the CCC, is the applicable water quality objective for the El Dorado Park Lakes. The CTR defines numeric criteria for copper based on the dissolved fraction and the criteria are hardness-dependent. Hardness can reduce or increase the toxicity of copper. The CTR provides hardness-dependent equations to calculate the freshwater aquatic life metals criteria using site-specific hardness data.
11. The Basin Plan sets forth narrative, non-numeric WQOs for sediment quality, but does not provide numeric WQOs for sediment quality. The Regional Board applied best professional judgment to define elevated values for metals in sediment during the water quality assessments conducted in 1996, which formed the basis of the 1998, 2002, 2006, and 2008 303(d) lists. For the Copper TMDL, the assessment of sediment for metals used the sediment quality guidelines taken from the National Oceanic and Atmospheric Administration (NOAA) Screening Quick Reference Tables², which are recommended as assessment thresholds in the State Water Board's "Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy)." The Probable Effect Concentration (PEC) value (149 ppm) was used to determine the impairment for copper in freshwater sediment.
12. The original listing for copper in El Dorado Park Lakes was based on dissolved copper samples collected from the north end of Alamo Lake as part of the 1992-1993 Urban Lakes Study.³ The 45 samples collected ranged in concentration from less than 10 µg/L to 99 µg/L. However, copper levels were analyzed at a relatively high detection limit (10

² Buckman, M. F., 2008, NOAA Screening Quick Reference Tables, NOAA OR&R Report 08-1, Seattle, WA, Office of Response and Restoration Division, National Oceanic and Atmospheric Administration.

³ Lund, I. J. and M.A. Anderson. 1994. Evaluation of Water Quality for Selected Lakes in the Los Angeles Hydrologic Basin. Prepared for California Regional Water Quality Control Board Los Angeles Region.

µg/L) compared to the current detection limit (0.4 µg/L). In addition, no hardness data were collected as part of the study; thus, the results cannot be compared to the hardness-based WQOs.

13. USEPA, Regional Board and local agencies sampled lake water at El Dorado Park Lakes seven times between February 2009 and September 2010; including one wet weather sampling event, to evaluate recent water quality conditions. During these sampling events, the agencies collected 38 water column samples (26 samples for the northern four lakes and 12 samples for the southern two lakes). Dissolved copper concentrations were detected between 0.4 µg/L and 6.7 µg/L. Two of 38 samples exceeded the CTR criterion for dissolved copper based on site-specific hardness values. Both exceedances occurred in the southern two lakes. USEPA also collected eight sediment samples during two sampling events between August and September 2010 to further evaluate lake conditions. Four of the eight samples exceeded the freshwater sediment PEC value for copper. All sediment and water column exceedances occurred in the southern two lakes during recent sampling events. The water column exceedances and the sediment exceedances surpass the allowable exceedance frequency in the Listing Policy. Therefore, the Copper TMDL is required to address the water column and sediment impairments in the southern two lakes. No TMDL is required for copper in the northern four lakes.

Numeric Targets

14. The water column numeric target for dissolved copper in the southern two lakes is 7.8 µg/L. This number was calculated based on the freshwater copper criteria in the CTR. The CTR numeric criteria are expressed in terms of dissolved metals because the dissolved forms are the most bioavailable to aquatic organisms. The freshwater aquatic life criteria for copper in the CTR are expressed as a function of hardness of the receiving water. Based on an analysis of 2009-2010 sampling data, the freshwater median hardness value for the southern two lakes was 85 mg/L. The chronic criterion (i.e., CCC) is the most protective criterion for copper, and therefore is used as the basis for developing the numeric target and waste load allocation (WLA) for the Copper TMDL.
15. To develop this Copper TMDL, it is necessary to translate the Basin Plan's narrative objectives into numeric targets that identify the measurable endpoint and represent attainment of applicable numeric and narrative WQOs. The NOAA sediment quality guidelines (SQGs) are used in evaluating waterbodies within the Los Angeles Region for development of the 303(d) list. SQGs are also used to translate the narrative objectives for sediment into numeric targets. SQGs were developed from field and laboratory studies to predict the toxicity of pollutants on sediment-dwelling organisms. The PEC is the concentration at which harmful effects on sediment-dwelling organisms are expected to occur, whereas the freshwater threshold effect concentration (TEC) describes the level of a pollutant that is not expected to have harmful effects on sediment-dwelling organisms. The PEC (149 ppm) value was used to assess the sediment copper impairment, while the TEC (31.6 ppm) value is the more appropriate target to ensure full

protection of beneficial uses and is therefore used as the sediment numeric target for copper in the southern two lakes.

Source Analysis

16. As of the issuance of this Order, there are no NPDES permitted discharges in the El Dorado Park Lakes watershed that discharge to the northern or southern lakes. This includes MS4 permittees, general industrial storm water permittees, general construction storm water permittees, individual NPDES permits, and general NPDES permits.
17. During the sampling events between February 2009 and September 2010, the only visible discharge to the southern two lakes was from the potable water added to the upper lake (Nature Center North). The potable water supply was sampled on July 15, 2009; the dissolved copper concentration was 0.5 µg/L. Reclaimed water is used at the park for irrigation. This source was sampled on December 1, 2009; the dissolved copper concentration of the reclaimed water was 6.6 µg/L. These two discharges comprise 95 percent of the annual water budget of the southern two lakes. Neither the potable or reclaimed water sources had copper concentrations above the hardness-adjusted CTR chronic criterion.
18. The Discharger uses aquatic pesticides to control aquatic weeds in the lakes. Aquatic pesticides including Cutrine® Plus Liquid, Reward®, and AquaMaster® are used in the lakes from mid-May to October. Cutrine® Plus Liquid is a copper-based pesticide used to control algal and aquatic plant growth. Reward® is a diquat-based pesticide used to control aquatic weeds. AquaMaster® is a glyphosate-based pesticide used to control weeds in emerged vegetation. In 2011, the Discharger started to use Green Clean® pesticide instead of the above-mentioned pesticides to control weeds and algae. Green Clean® is a biodegradable, non-copper based granular pesticide. However, a copper-based pesticide is used when weather conditions trigger a bloom that cannot be solely controlled with the Green Clean®.
19. The southern two lakes are actively treated with Cutrine® Plus Liquid, and the copper concentrations in all other potential sources are well below the applicable CTR criterion. Furthermore, the results of a comprehensive aquatic pesticide monitoring program (APMP) funded by the State Water Board confirmed toxicity in applying copper-based aquatic pesticides.⁴ Therefore, the over-application and/or mis-application of Cutrine® Plus Liquid containing copper complexes, is the only likely cause of copper impairment in the southern two lakes. The copper pollution associated with aquatic pesticide application can result from over-applied and misdirected pesticide product and pesticide residues. Pesticide residues are pesticide byproducts, breakdown products, or pesticide products that are present after the use of the pesticide for controlling the target weeds.

⁴ State Water Board. 2004. Water Quality Order No. 2004-0009-DWQ. Fact Sheet.

Over time, the copper pesticide residues have the potential to settle and accumulate in lake bottom sediment.

Linkage Analysis, Allocations and Margin of Safety

20. The data assessment and source analysis show that: (a) all exceedances of the applicable copper criteria occur in the southern two lakes; (b) the copper concentrations in the potable water used to fill the southern two lakes and the reclaimed water used to irrigate the land surrounding the lakes are below the applicable copper criterion; and (c) the only significant source of copper in the southern two lakes is the direct application of a copper-based aquatic pesticide. It is expected that reductions in loading of copper to the water column from pesticide over-application and mis-application will lead to reductions in sediment concentrations over time. The copper concentrations in sediment will be reduced as it is mixed with cleaner sediment.
21. The Regional Board finds that a TMDL for copper in the water column and sediment can be implemented by reducing the copper loaded to the southern two lakes from the mis- and/or over-application of aquatic pesticides. The Regional Board finds, based on the technical documentation, that a single regulatory action through a cleanup and abatement order can be used to establish and implement the Copper TMDL.
22. As a result of the application of aquatic pesticides to El Dorado Park Lakes, a WLA is assigned to the discharge of copper, and applies in the receiving water. The WLA is equal to the numeric targets (7.8 µg/L and 31.6 ppm) to ensure that the numeric target is attained. The dissolved copper concentration in the water column shall not be above 7.8 µg/L. The sediment copper concentration shall not be above 31.6 ppm. This conservative choice constitutes an explicit margin of safety. By directly applying the CTR chronic criterion for dissolved copper and the TEC sediment quality guideline as the TMDL, there is little uncertainty about whether meeting the Copper TMDL will meet water quality standards. The receiving water includes: (1) anywhere outside of the aquatic pesticides treatment area at any time, and (2) anywhere inside the aquatic pesticides treatment area after completion of the treatment event.
23. In addition, all loads associated with the surrounding drainage areas are assigned load allocations (LAs). The LAs are equal to existing loading rates of copper; no reductions are required to attain numeric targets. The WLAs and LAs apply year-round.

Seasonal Variations and Critical Conditions

24. TMDLs must include consideration of critical conditions and seasonal factors. The copper concentration in both the water column and sediment is a concern in El Dorado Park Lakes due to long-term mis- and/or over-application of aquatic pesticides and copper accumulation effects in the sediment. The pesticides are applied in May to October and this period is considered the critical condition. Wet-weather events may

produce sediment redistribution and transport sediment back to the water column and the CTR-based water column target is protective of this condition. However, the effects of copper are manifest over long periods of time. Therefore, short-term variations (e.g., annual wet and dry seasons) are not likely to cause significant variations in impairment in the sediment. The Copper TMDL is established in a manner that accounts for the longer time periods in which ecological effects may occur.

Implementation

25. On March 12, 2001, the Ninth Circuit Court of Appeals held that discharges of pollutants from the use of aquatic pesticides in waters of the United States require coverage under an NPDES permit.⁵
26. Clean Water Act (CWA) section 301(a) broadly prohibits the discharge of any pollutant to waters of the US, except in compliance with an NPDES permit. Biological and residual pesticides discharged into surface waters may constitute pollutants within the meaning of the CWA even if the discharge is in compliance with the registration requirements of the Federal Insecticide, Fungicide, and Rodenticide Act. The discharge of biological and residual pesticides to surface waters from the use of aquatic pesticides may impact existing and potential beneficial uses of waters of the United States if not properly controlled and regulated.
27. On May 20, 2004, the State Water Board adopted the *Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Aquatic Pesticides for Aquatic Weed Control in Waters of the United States* (General Permit No. CAG990005), Water Quality Order No. 2004-0009-DWQ (Weed Control permit). The Weed Control permit contains (1) a receiving water limitation for copper equal to the hardness-dependent chronic criterion, (2) a narrative effluent limitation to protect beneficial uses, (3) a requirement to prepare an Aquatic Pesticides Application Plan (APAP), including a monitoring plan, and (4) record keeping requirements among other standard provisions. The Discharger is currently not enrolled in the Weed Control permit.
28. This Order requires the Discharger to enroll in and comply with the Weed Control permit, State Water Board Order No. 2004-0009-DWQ. Pursuant to Water Code section 13383, this Order also requires monitoring, including sediment chemistry and sediment toxicity monitoring, to ensure that reducing copper loaded to the water column will result in reduced copper in the sediment and the protection of beneficial uses over time.
29. This Order is an action taken for the protection of the environment and, as such, is exempt from the provisions of the California Environmental Quality Act in accordance with California Code of Regulations, title 14, section 15321.

⁵ *Headwaters, Inc. v. Talent Irrigation District* (9th Cir. 2001) 243 F.3d 526.

30. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

AUTHORITY - LEGAL REQUIREMENTS

31. Section 13304(a) of the California Water Code provides that:

“Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts... Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”

32. Section 13304(c)(1) of the California Water Code provides that:

“... the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), are liable to that government agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions...”

33. This Order requires the Discharger to take action to cleanup waste and abate the effects of the discharge of waste pursuant to Water Code section 13304. The discharge of copper to El Dorado Park Lakes as a result of mis-application and/or over-application of copper-based aquatic pesticides constitutes the discharge of waste as set forth in Water Code section 13050. As described in this Order, the discharge of copper has resulted in exceedances of water quality objectives in El Dorado Park Lakes, which constitutes

pollution as set forth in Water Code section 13050. As described in this Order, the Discharger has caused or permitted, and continues to cause or permit, waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance.

34. This Order also requires the Discharger to conducting monitoring and reporting pursuant to California Water Code section 13383, which provides that:

“(a) The state board or a regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements, as authorized by Section 13160, 13376, or 13377 or by subdivisions (b) and (c) of this section, for any person who discharges, or proposes to discharge, to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates, or proposes to own or operate, a publicly owned treatment works or other treatment works treating domestic sewage, or any person who uses or disposes, or proposes to use or dispose, of sewage sludge.

(b) The state board or the regional boards may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required.

(c) The state board or a regional board may inspect the facilities of any person subject to this section pursuant to the procedure set forth in subdivision (c) of Section 13267.”

THEREFORE, IT IS HEREBY ORDERED, pursuant to California Water Code section 13304, that the City of Long Beach shall comply with the following:

- A. The Discharger shall take remedial action to cleanup waste and abate the effects of the actual and threatened discharges of copper from copper-based aquatic pesticides at the El Dorado Park Lakes. Such action shall include:
1. Immediately cease all unauthorized discharges of pollutants associated with the mis- and/or over-application of aquatic pesticides.
 2. As soon as possible and no later than 30 days from issuance of the final CAO, enroll under the Weed Control permit, State Water Board Order No. 2004-0009-DWQ by filing a Notice of Intent (NOI), which includes an Aquatic Pesticides Application Plan (APAP), a vicinity map, and an annual fee, with the Regional Board.
 3. As soon as possible and no later than 30 days from issuance of the final CAO, take measures to abate the ongoing threat of pollutant discharges associated with the mis- and/or over-application of aquatic pesticides by developing and implementing an APAP. The APAP must be submitted to the Regional Board to

the attention of Ms. Jenny Newman, Chief, TMDL Unit 3, with the NOI application for approval by the Executive Officer. The APAP shall contain the elements identified in Section D.5 of the Weed Control permit, and shall generally describe the project, the need for the project, what will be done to reduce water quality impacts, and how those impacts will be monitored. The APAP shall also include a monitoring and reporting plan (MRP) consistent with the monitoring and reporting program, including the report schedule, contained in Attachment C of the general permit. In addition, pursuant to Water Code section 13383, the MRP for El Dorado Park Lakes shall include annual monitoring and reporting to evaluate copper concentrations in sediment. When results indicate concentrations of copper in sediment have reached levels at or below the target PEC value, the Discharger shall conduct concurrent sediment chemistry monitoring and sediment toxicity tests within 60 days of receipt of the annual sediment chemistry results. The first round of the additional sediment chemistry and toxicity monitoring results shall be reported by July 10, 2012. Thereafter, the additional sediment chemistry and toxicity monitoring results shall be reported annually per the reporting schedule in the general permit, with the first report due on May 10, 2013. Once approved by the Executive Officer, the APAP, including the MRP, shall become a part of this Order.

- B. This Order is not intended to stop or redirect any investigation, cleanup, and/or remediation programs ordered by the Regional Board or any other agency.
- C. This Order in no way limits the authority of the Regional Board, as contained in the California Water Code, to institute additional enforcement actions or to require additional investigation and cleanup. The Executive Officer may revise this Order as additional information becomes available. Upon request by the Discharger, and for good cause shown, the Executive Officer may defer, delete, or extend the date of compliance for any action required of the Discharger under this Order.
- D. Consistent with California Water Code Section 13304, the Regional Board's authorized representative(s) shall be allowed to:
- During business hours, enter Discharger's premises where a regulated facility or activity is located, conducted, or where records are kept;
 - During business hours, inspect and photograph any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order;
 - During business hours, access and copy any records that must be kept under the conditions specified in the Weed Control permit; and
 - During business hours, sample or monitor any substances or parameters at any location, for the purposes of ensuring permit compliance or as otherwise authorized by the CWA or the Porter-Cologne Water Quality Control Act.

- E. The Discharger shall submit a 30-day advance notice to the Regional Board of any planned changes in name, ownership, or control of the El Dorado Park Lakes, and shall provide 30-day advance notice of any planned physical changes to the Park that may affect compliance with this Order. In the event of a change in ownership or operator, the Discharger shall also provide 30-day advance notice, by letter, to the succeeding owner/operator of the existence of this Order, and shall submit a copy of this advance notice to the Regional Board.
- F. All reports, notifications, and other documents the Discharger submits pursuant to this Order shall be accompanied by a statement from the Discharger stating: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- G. Failure to comply with the terms or conditions of this Order may result in imposition of civil liabilities, imposed either administratively by the Regional Board or judicially by the Superior Court, in accordance with sections 13268, 13308, and/or 13350, of the California Water Code and/or referral to the Attorney General of the State of California.
- H. None of the obligations imposed by this Order on the Discharger are intended to constitute a debt, damage claim, penalty or other civil action which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the Police Powers of the State of California intended to protect the public health, safety, welfare, and the environment.

Ordered by: Samuel Unger
Samuel Unger, P.E.
Executive Officer

Date:

January 10, 2012