

California Regional Water Quality Control Board
North Coast Region

Order No. R1-2019-0004

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

Mendocino County

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

1. On November 20, 2013, the Regional Water Board issued a Waiver of Waste Discharge Requirements and General Water Quality Certification Order No. R1-2013-0059 (Waiver) to the Mendocino County Resource Conservation District (District) for the Mendocino Permit Coordination Program (Program). Order R1-2013-0059 expired on November 20, 2018. The District requested reauthorization of the Order for another 5-year period.

The District, in partnership with the Natural Resources Conservation Service (NRCS), developed the Program to provide technical, financial, and permitting assistance to landowners seeking to make environmental improvements on their lands. The Program promotes the implementation of high-quality conservation and restoration projects on farms, ranches, and forestland throughout the watersheds of Mendocino County. Projects implemented through the Program are designed to control erosion and sediment discharges, improve instream habitat for aquatic species, stabilize eroding streambanks, promote native vegetation growth, and enhance aquatic and terrestrial habitat that may be affecting water quality and beneficial uses.

The Program is based on a successful model¹ of coordinated, multi-agency regulatory review designed to ensure the integrity of agency mandates, while simplifying permitting for working landscapes. Since its inception in 2013, the Program has successfully implemented multiple projects in Mendocino County watersheds, including the upper Russian River, Gualala River, Garcia River, and Navarro River. Completed projects include: hydrologically disconnecting miles of road from streams, upgrading watercourse crossings, removal of barriers to fish migration through culvert removal and replacement with bridges, removal of non-native vegetation, and riparian replanting projects.

The implementation of conservation and restoration practices through the Program promotes watershed recovery by controlling sources contributing to sediment and temperature impairments, consistent with Total Maximum Daily Load (TMDL) load

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

allocations. Additionally, the proposed practices are consistent with the recommended actions included in state and federal recovery plans² for endangered salmonids.

Under Order R1-2013-0059 the District completed 10 conservation and restoration projects across 24 properties at approximately 242 sites. Through these projects the District has: treated approximately 30 miles of roads to reduce chronic sediment delivery to watercourses; decommissioned 15 miles of roads; upgraded 97 culverts to the 100-year storm event flow; restored 1,750 linear feet of stream bank; removed six fish passage barriers; and installed four bridges. Stream improvements included removal of over 500 feet of invasive *Arundo donax* with riparian restoration, installation of 11 large wood habitat structures and re-opening over seven miles of anadromous habitat in Mill Creek.

2. This Order No. R1-2019-0004 renews the Waiver. Renewal is appropriate because the Waiver is protective of beneficial uses, has proven effective in improving water quality and implementing the goals of sediment and temperature TMDLs in watersheds of Mendocino County. Projects previously enrolled in the Program under the expired Waiver shall be automatically enrolled under this new Waiver. All conditions included in the new Waiver shall apply. The Waiver will continue to apply to activities associated with the ten conservation practices implemented through the Program and identified below.
3. The Program is described in detail, along with a comprehensive list of environmental protection and species impact avoidance measures within the 2012 *Mendocino County Resource Conservation District Mitigated Negative Declaration/Initial Study for the Mendocino County Permit Coordination Program* (MND/IS).³
4. The ten standardized conservation practices were developed by the Program on the basis of numbered technical guides⁴ published by the NCRS and shown below. Each conservation practice describes a category of project that is designed to improve habitat, reduce sedimentation and erosion, and address other limiting factors while also minimizing adverse impacts on fish, wildlife, and riparian or stream habitat. Descriptions of each covered project type appear below:

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

³ The May 2012 *Mendocino County Resource Conservation District Mitigated Negative Declaration/ Initial Study for the Mendocino County Permit Coordination Program* can be found at the following web address:

https://www.waterboards.ca.gov/northcoast/board_info/board_meetings/11_2013/items/01/Final_Mendocino_Co_PCP_CEQA_doc_05-03-12--final_pm_review.pdf<http://mcrd.org/wp-content/uploads/1-Final-Mendocino-Co-PCP-CEQA-doc-05-03-12-rkl.pdf>

⁴ NCRS technical guides are located at the following address:

https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/technical/cp/ncps/?cid=nrcs143_026849

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

recommended only in unusual circumstances, or in conjunction with other bio-engineered structures.

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

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

sediment delivery, temporary reductions in shade and associated increases in water temperatures, impacts to instream habitat conditions, and the effects of pesticide applications and heavy equipment or tool use. The environmental protection and mitigation measures identified in the IS/MND, include: temporal limitations on construction; limitations on earthmoving and construction equipment; guidelines for removal of plants and revegetation; conditions for erosion control; limitations on work in streams and permanently ponded areas; and limitations on use of pesticides, herbicides, and fertilizers. These environmental protection and mitigation measures have been developed in coordination with state and federal regulatory agencies to prevent or reduce the environmental impacts of restoration under the Program and provide the minimum standards by which all projects activities conducted under the Program must follow to maintain coverage under this Order.

Framework of the Mendocino County Permit Coordination Program

6. The intent of the Program and the associated conservation and restoration practices is to reduce erosion and sedimentation, and to enhance habitat values in the watersheds of Mendocino County. To assist landowners with regulatory compliance, the District seeks to streamline permitting and to assist landowners who agree to work under the guidance of the District to achieve water quality and habitat conservation and restoration goals.
7. The District proposed that the Program be permitted for 10 years beginning on November 20, 2013 with a full evaluation of the program and summary report submitted to the regulatory agencies after each five years of operation. The District proposes to implement up to 25 projects – each consisting of one or more conservation practice – per year under the Program with up to 250 restoration projects completed over a ten-year period. Projects that may adversely affect listed salmonids will be limited to 3-5 per year in each sub-watershed, depending on watershed size and predicted work focus.
8. Annually, the District will be responsible for securing or complying with permits, agreements, or authorizations from the local, state, and federal agencies with jurisdiction over one or more of the conservation practices prior to implementation:
 - a. North Coast Regional Water Quality Control Board – Waiver of Waste Discharge Requirements and Clean Water Act §401 General Certification.
 - b. California Department of Fish and Wildlife – California Fish and Game Code §1602 Streambed Alteration Agreement and California Endangered Species Act (CESA) Consultation.
 - c. U.S. Army Corps of Engineers – Clean Water Act §404 Nationwide Permits or Regional General Permits.

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

Regulatory Framework

Water Code

11. The Regional Water Board has a statutory obligation to prescribe waste discharge requirements except where it finds that a waiver of waste discharge requirements for a specific type of discharge is in the public interest pursuant to Water Code section 13269.
12. Water Code section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Regional Water Board a Report of Waste Discharge (ROWD) containing such information and data as may be required.
13. Under Water Code section 13269, the Regional Water Board may waive the requirements of Water Code section 13260 for specific types of discharge if the waiver is consistent with the Basin Plan and in the public interest. Relevant factors in determining whether a waiver is in the public interest include the following: whether the discharger is implementing reasonable practices to minimize the deleterious effects of the discharge; whether a feasible treatment method or set of management practices exist to control the pollutants in the discharge; and whether waiving ROWDs and/or WDRs will adequately protect beneficial uses while allowing the Water Board to focus its limited resources to conduct field oversight, public outreach, and, where necessary, enforcement.
14. Under Water Code section 13269, any waiver is conditional and may be terminated at any time. A waiver should include monitoring requirements to verify the adequacy and effectiveness of the waiver's conditions. This Order conditionally waives the requirement to file a ROWD for activities and associated discharges described in finding 4.
15. The Water Board may include as a condition of a waiver of WDRs the payment of an annual fee established by the State Water Board. (Wat. Code § 13269, subd. (a)(4)(A).)
16. Pursuant to Water Code section 13263(i), the Water Board may prescribe general WDRs and/or waivers of WDRs for a category of discharges if the discharges are produced by the same or similar operations, involve the same or similar types of waste, require the same or similar treatment standards, and are more appropriately regulated under general WDRs or waivers than individual WDRs. Regulating these discharges and activities under a general waiver order simplifies and streamlines the regulatory process, thereby allowing the Regional Water Board and District to focus limited resources in a coordinated manner. Further, Regional Water Board staff recognizes the

technical and financial challenges facing landowners who need to conduct improvements on their land. Staff anticipates landowner participation in the Program because of the technical expertise, permit coordination, and potential for public funding assistance that it provides.

17. The Water Board, in compliance with Water Code sections 13269 and 13263, has reviewed the contents of Waiver, the adopted mitigated negative declaration (SCH No. 2012052019) for the Program, written public comments and testimony and determined that it should be renewed. The Regional Water Board finds that the adoption of this Order is consistent with the Basin Plan, and is in the public interest, as explained further below:
- a. Authorizes conservation practices that are intended to reduce or prevent pollution and nuisance and protect the beneficial uses of the waters of the state.
 - b. Authorizes conservation practices that will help to achieve compliance with sediment TMDLs in the covered watersheds.
 - c. Provides a more efficient and more timely mechanism of complying with water quality objectives than other regulatory options.
 - d. Provides for an efficient and effective use of limited District and Water Board resources; and simplifies the permitting process for landowners.
 - e. Enhances the beneficial uses of water and the sustainability and resilience of stream habitat as well as infrastructure in the area.

Antidegradation

18. State Water Board Resolution No. 68-16 Statement of Policy with Respect to Maintaining High Quality of Water in California (Resolution No. 68-16) requires the Regional Water Boards, in regulating the discharge of waste, to maintain high quality waters of the state, requires that any discharge not unreasonably affect beneficial uses, and not result in water quality less than that described in the Regional Water Board's policies. This Waiver is consistent with Resolution No. 68-16 because it does not authorize degradation. Implementation of covered conservation practices will result in a net benefit to water quality, and adherence to mitigation measures designed to avoid or minimize impacts to water quality. The activities permitted under this Order have been determined to have a low potential impact to water quality when conducted pursuant to the terms of the Order, resulting in compliance with applicable water quality control plans, including water quality objectives, and protection of beneficial uses. Additionally, this Order requires monitoring of and reporting on the implementation of covered activities to ensure full implementation and effectiveness of BMPs and mitigation measures.

California Wetlands Conservation Policy

19. The goal of the California Wetlands Conservation Policy (Wetlands Policy)⁶ is to achieve a long-term increase of wetlands acreage, function and values in California. Per design, conservation practices implemented through the Program are expected to be implemented in a manner consistent with the Wetlands Policy goals. Projects implemented through the Program are expected to result in a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values as a result of project implementation.

Nonpoint Source Implementation and Enforcement Policy

20. The State Water Board 2004 *Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy) requires nonpoint source discharges of waste to be regulated by waste discharge requirements (WDR), waiver of waste discharge requirements, or prohibitions to ensure compliance with the Regional Water Boards' Water Quality Control Plans. This renewed Waiver complies with the NPS Policy by regulating the nonpoint sources of sediment resulting from implementation of Program conservation practices.

California Environmental Quality Act

21. This Conditional Waiver involves the renewal of the 2013 Waiver for the Program, authorizing continued implementation of conservation practices designed to improve habitat, reduce sedimentation and erosion, and address other limiting factors while also minimizing adverse impacts on fish, wildlife, and riparian or stream habitat. On June 12, 2012, the IS/MND (SCH No. 2012052019) was adopted for the Program to comply with the California Environmental Quality Act (CEQA). The renewal does not authorize expansion of covered activities, the scope of the Program, or the geographic area originally covered by the 2013 Waiver. The Regional Water Board has reviewed and considered the environmental document and determined that renewing the Waiver will not cause any additional environmental impacts beyond those identified in the IS/MND. The mitigation measures identified in the IS/MND will continue to be required, and monitoring and reporting are incorporated, as conditions of approval below.

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https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wrapp2008/executive_order_w5993.pdf

Basin Plan and TMDLs

22. The Water Quality Control Plan for the North Coast Region (Basin Plan) is the Regional Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives to protect waters of the state, including surface waters and groundwater. The Basin Plan also incorporates total maximum daily loads (TMDLs) and programs of implementation to achieve water quality objectives.
23. The Program supports the implementation of conservation practices that are consistent with the objectives of the Regional Water Board's Temperature Implementation Policy (Resolution R1-2014-0006) and Policy in Support of Restoration in the North Coast Region (Resolution R1-2015-0001).
24. Pursuant to the Basin Plan and State Water Board plans and policies, including State Water Board Resolution No 88-63, entitled *Sources of Drinking Water*, the existing and potential beneficial uses of Program targeted watersheds in Mendocino County.
25. This Order does not allow for the take, or incidental take, of any special status species under the federal or state Endangered Species Act. The District shall use the appropriate protocols, as approved by CDFW, USFWS and NOAA-NMFS, to ensure that Program activities do not impact the beneficial use of the Preservation of Rare and Endangered Species.
26. The federal Clean Water Act section 303(d) requires the states to determine waterbody compliance with water quality objectives and to develop a list of impaired waterbodies. Federal regulations require that a TMDL analysis be conducted for 303(d) listed water bodies for each pollutant of concern.
27. The Basin Plan includes TMDLs for sediment and temperature in the following watersheds where the Waiver applies: Albion River, Big River, Eel River-Upper Main, Eel River-Middle Main, Eel River-Middle Fork, Eel River-South Fork, Eel River-North Fork, Garcia River, Gualala River-North Fork, Mattole River, Navarro River, Noyo River, Upper Russian River⁷, and Ten Mile River. Currently, the Garcia River is the only watershed in Mendocino County for which a sediment TMDL implementation plan has been developed and adopted into the Basin Plan. The Regional Water Board has also adopted temperature TMDL Action Plans for the Navarro and Eel Rivers.
28. The Program is designed to promote conservation and restoration projects to control sources of sediment and temperature impairments, which will help implement the TMDLs in the covered watersheds.

⁷ There currently is not a completed TMDL for the Upper Russian River

29. As set forth in the Sediment TMDL Implementation Policy, Resolution No. R1-2004-0087, the implementation of a sediment and/or temperature TMDL typically consists of three separate water quality goals which, when implemented together, can provide the elements required to achieve TMDL compliance across a property:
- 1) Address *existing water quality problems* (e.g., controllable sediment discharges, stream diversions, deficient stream shade, lack of instream habitat, displacement of native organisms by invasive species, damage caused by riparian grazing, etc.);
 - 2) Prevent *new water quality problems* that may result from different land use activities by adhering to a variety of BMPs (e.g., riparian setbacks for agricultural activities, heavy equipment use restrictions, timber harvest watercourse protection zones, riparian fencing, gravel mining and construction stormwater BMPs, etc.); and;
 - 3) Establish a long-term monitoring and maintenance strategy to ensure that *future water quality problems* are addressed over time (e.g., plugged or rusting culverts, aging fences, damaged/compromised road drainage features, stream diversions, etc.).
30. The Program provides an efficient and effective process for addressing *existing water quality problems* by inventorying, prioritizing, and remediating current sources contributing to sediment and temperature impairments. For some landowners, participating in the Program may address all *existing water quality problems* if actions are taken to inventory, prioritize, and remediate sources across their entire property. Often, these activities are included in erosion control plans, ranch plans, or other similar planning documents.
31. The Program meets the water quality protection needs of the Regional Water Board and is consistent with the goals of the Sediment TMDL Implementation Policy, Resolution No. R1-2004-0087.
32. At any time, the Executive Officer of the Regional Water Board retains the discretion to approve or deny projects under the Program, or any other waste discharge requirement permits, waiver of waste discharge requirement permits, or water quality certifications, and to make the determination of compliance with an existing sediment and/or temperature TMDL within the North Coast Region.

General Water Quality Certification

33. Projects described in finding 4 that involve construction, restoration, and other work in waters of state, may also be considered federally jurisdictional waters of the United States (below ordinary high water) and will likely require a permit from the Army Corp of Engineers pursuant to section 404 of the Clean Water Act. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act, and other appropriate requirements of state law (33 U.S.C. §1313). The Regional Water Board Executive Officer may issue a decision on a water quality certification application (Cal. Code Regs. Tit. 23, §3838, subd. (b)). State water quality certifications shall become conditions of any federal license or permit for the project.
34. The Regional Water Board may issue a general water quality certification for a class or classes of activities that are the same or similar, or involve the same or similar types of discharges and possible adverse impacts to water quality if it determines that these activities are more appropriately regulated under a general certification rather than individual certifications (Cal. Code Regs. Tit. 23, §3861). General certifications must be conditioned to require subsequent notice to the Regional Water Board at least 21 days prior to commencement of the activity, and include appropriate monitoring and reporting requirements.
35. This Order includes a General Water Quality Certification for covered activities detailed in finding 4 which may require a federal permit. General certification conditions, in addition to waiver conditions, are provided for in a separate section of this Order. This Order will provide Clean Water Act section 401 certification for the federal permit that is required for that project *unless* the Regional Water Board determines that the project or activity does not meet the specified criteria for coverage under the General Water Quality Certification. Projects that do not meet the criteria for coverage under the general certification must apply for individual certification.
36. The District must provide written notification and fee to the Regional Water Board at least 21 days prior to commencement of any activity, or activities, to be authorized under this General Water Quality Certification. This notification of upcoming project commencement can be provided concurrent with submittal of the annual workplan as discussed in finding 9 above, so long as 21 days have passed before commencement of the activity.

37. Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, section 3833, subdivision (b)(3). Annual Fee Schedules for general certification orders are detailed in the California Code of Regulations, title 23, section 2200. The fee schedule can be found on the State Board website at the following web address under waste discharge requirement fees, dredge and fill fee calculator:
<https://www.waterboards.ca.gov/resources/fees/>
38. The District is required to submit one individual fee for each annual workplan that includes project(s) requiring General Water Quality Certification. The current application fee is *Category D, Ecological Restoration and Enhancement Projects*, fees change periodically and should be verified prior to submittal of annual workplans. The fee schedule can be found at the following web address on the Regional Water Board's website:
https://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification/.
39. The District may proceed with activities associated with the proposed workplan for the year if the Regional Water Board does not respond in writing to the District within 30 days of receipt.

Monitoring

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

IT IS HEREBY ORDERED that pursuant to Water Code sections 13263, subdivision (a), 13267, and 13269, the Regional Water Board waives the requirement to submit a report of waste discharge and the requirement to establish waste discharge requirements for activities described in finding 4 pending compliance with the following conditions:

1. Each project must be designed and implemented in accordance with the conservation and restoration practices and minimum protection measures and mitigations listed in the *Initial Study/Mitigated Negative Declaration for the Mendocino County Permit Coordination Program* (State Clearinghouse No. 2012052019). CEQA mitigation measures shall constitute enforceable conditions under this Order.

2. **By May 15 of each year of operations**, the District must submit to the Regional Water Board an annual workplan that includes the following information for each individual project proposed for the coming year:
 - a. Project identification location; ownership will not be identified on public review documents.
 - b. Nature of work and description of need.
 - c. Approved practices to be installed.
 - d. Location of work to be performed by subwatershed.
 - e. Project dimensions (volume, length and area, if applicable).
 - f. Approximate volume of discharge below the ordinary high water mark.
 - g. Total area of disturbance to be affected by the project.
 - h. Quantitative assessment of temporary impacts on native vegetation, including number and size of trees, approximate species diversity, approximate coverage of herbaceous species and revegetation plans.
 - i. Environmental setting – surrounding habitat, adjacent land use.
 - j. Potential presence of listed species.
 - k. Applicable environmental protection and mitigation measures to be used during project implementation.
 - l. Type, method, and duration of project monitoring as discussed in the Monitoring and Reporting Program associated with this Order.

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

3. The District cannot proceed with activities associated with the proposed workplan for the upcoming year until the Regional Water Board determines that the workplan is complete and may proceed. Within 30 days of receiving the annual workplan, the Regional Water Board will contact the District in writing to take any of the following actions: (1) request additional information for a project or projects included in the workplan; (2) request an inspection of one or more of the proposed projects; (3) notify the District that the application is complete and projects are eligible for coverage under this Order as proposed; or (4) notify the District that the workplan, or specific elements relative to one or more of the projects, is incomplete or inconsistent with the requirements of this Order and may not proceed without securing the appropriate individual water quality permits and/or certifications.
4. The District may proceed with activities associated with the proposed workplan for the year if Regional Water Board do not respond in writing to the District within 30 days of receipt.

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

11. This Order does not preclude the need for permits which may be required by other governmental agencies, including necessary certification and permitting for the application of pesticides and herbicides.
12. Compliance with Order conditions will ensure that no significant environmental impact to water quality occurs from an activity covered by this Order. Activities that have potentially significant impacts to water quality that cannot be reduced to less than significant levels are not eligible for coverage under this Order and the District will need to submit a Report of Waste Discharge to the Regional Water Board and obtain individual authorization for that activity.
13. The District and any projects enrolled on private lands under the Order shall comply with all applicable water quality standards, requirements and prohibitions specified in the Basin Plan as modified, and policies adopted by the State Water Board.
14. Projects covered under this Order shall not discharge to waters of the state any substances in concentrations toxic to human, plant⁸, animal or aquatic life. Projects covered under this Order shall not discharge waste classified as "hazardous" as defined in California Code of Regulations, title 22, section 66261 and Water Code section 13173.
15. The District shall not cause pollution, contamination, or nuisance as defined by Water Code section 13050.
16. Water Code section 13269 provides that any such waiver of waste discharge requirements shall be conditional, enforceable and may be terminated at any time by the Regional Water Board. The Executive Officer or Regional Water Board may terminate the applicability of this Order to the District at any time, if the Program has not been adequately implemented or is not achieving its goals to restore sediment and temperature impaired watersheds.
17. This Order does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the Water Code.

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

⁸ Projects that include the point-source discharge of aquatic herbicides into Waters of the United States are required to obtain separate permit authorization through the U.S. EPA's National Pollutant Discharge Elimination System (NPDES). These projects are currently permitted through the State Water Resources Control Board, Division of Water Quality, and are not otherwise covered by this Order.

18. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
19. The Applicant is prohibited from discharging waste to waters of the state, unless explicitly authorized by this certification. For example, no debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this certification, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the state. When operations are completed, any excess material or debris shall be removed from the work area.
20. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
21. Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, section 3833, subdivision (b)(3). Annual Fee Schedules for general orders are detailed in the California Code of Regulations, title 23, section 2200. The fee schedule can be found on the State Board website at the following web address under waste discharge requirement fees, dredge and fill fee calculator:
https://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification
22. The District is required to notify the Regional Water Board at least 21 days prior to initiation of an activity that requires certification under this Order. The notification, in the form of the annual workplan, must include project details outlined above in finding 9, and appropriate fee.
23. The authorization of this certification for any General Water Quality Certification or dredge and fill activities expires on February 21, 2024, five years from the date the activity commences.
24. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a

limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

25. The General Water Quality Certification portion of the Order may be modified as needed by the Executive Officer of the Regional Water Board.

Certification:

I, Matthias St. John, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California North Coast Regional Water Quality Control Board, on February 21, 2019.

Matthias St. John
Executive Officer