



MEMORANDUM

DATE: 12/5/2011
TO: Chair Robinson and Members of the Public Safety Committee
FROM: Scott Collins, Assistant to the City Manager
SUBJECT: San Lorenzo River Levee

At the Public Safety Committee's (Committee) October 10th meeting, staff was given direction to research and compile the various City of Santa Cruz (City) and external agency laws and regulations that influence the San Lorenzo River Levee (levee) environment. In particular, the Committee wanted to understand how existing laws, regulations and policies apply to the levee.

The following compilation fulfills this request, starting with relevant City laws categorized by issue, followed by information about state and federal regulations and compliance requirements as they relate to the waterways in the City.

SANTA CRUZ MUNICIPAL CODE

- **MOBILE VENDING (Food Trucks)**
Chapter 5.22

Chapter Summary. A permit is required to vend on public streets. Vending is allowed in industrial and residential areas of the City only. No vending allowed within 300 feet of any school *or in or adjacent to City parks*. Stops may be for a maximum of 15 minutes, after which the vendor must move at least one block before making another stop.

The City can issue a special event permit, which could include a special food truck type festival or event. The permit can be for a one-time event or for a serial event such as the recurring Farmer's Markets across the City.

- **SMOKING**
Chapter 6.04

Public Smoking. Smoking is not regulated in parks, beaches recreational trails and other outdoor recreation areas, *except where such parks, beaches, trails and outdoor recreation areas are designated by posting as nonsmoking.* (SCMC 6.04.080)

Issue: Currently there is very limited no-smoking signage in the levee area. However, placement of additional signs should be coordinated within the context of the Wayfinding Study recommendations.

- **SOLID WASTE**
Chapter 6.12

Dumping Prohibited. Individuals are prohibited from depositing any solid waste or recyclables upon any public place except for the purpose of permitted collection. (SCMC 6.12.080)

Unacceptable Wastes. It is unlawful to place or permit placement of the following materials and unacceptable wastes in refuse containers for disposal by the city:

- (1) Volatile materials including, but not limited to, petroleum distillates, such as gasoline, and alcohol;
- (2) Hazardous wastes as defined in Section 6.12.010(h);
- (3) Infectious wastes as defined in Section 6.12.010(j);
- (4) Sludge as defined in Section 6.12.010 (s);
- (5) Toxic wastes as defined in Section 6.12.010(u).
(SCMC 6.12.180)

Issue: Public Works and Parks staff, neighborhood groups and outside agencies such as CalTrans and Fish and Game provide cleanup of the levee area within their specific regulatory scope, though often the nuisance issues return within 24 hours of cleanups.

- **PRIVIES AND CESSPOOLS**
Chapter 6.20

Privies. No person shall construct or maintain any privy, dry earth closet or other place for the deposit of human excrement except such flush closets as are connected in compliance with the plumbing regulations of the city, and except as hereinafter provided in this chapter. (SCMC 6.20.010)

- **CAMPING**
Chapter 6.36

Camping Prohibited. Camping, defined as setting up a campsite anytime or sleeping or setting-up bedding in, on or under any structure not intended for human occupancy, and in, or under any parked vehicle between the hours of 11 p.m. and 8:30 a.m. is prohibited throughout the City. (SCMC 6.36.010)

Camping Permits. Permits can be issued authorizing camping (limited to 3 nights in a 12 month period) in the San Lorenzo Park bench lands if the applicant has met various city's requirements. (SCMC 6.36.030)

Penalties. Any person who violates any section in this chapter is guilty of an infraction and shall be subject to a fine of not more than twenty dollars, with a community service alternative. (SCMC 6.36.040). Those receiving a second violation within a twenty-four hour period are guilty of a misdemeanor. (SCMC 6.36.050)

Exceptions. A person shall not be in violation of this chapter if, the winter shelter at the

Santa Cruz National Guard Armory is filled to capacity; or the person is currently on the waiting list for shelter service. (SCMC 6.36.055)

Public Nuisance Declared. Any campsite established in the city in violation of this chapter is declared to be a public nuisance, and the chief of police is authorized and empowered to remove any such campsite. If persons are occupying the campsite at the time of removal, they shall be warned and given the opportunity to vacate the campsite. (SCMC 6.36.060)

Issue: Limited resources are available to address sleeping and camping in the levee.

- **DOGS AND OTHER DOMESTICATED ANIMALS**
Chapter 8.04

Dog License. Dogs shall be licensed within thirty days of obtaining the age of four months or within thirty days of acquisition by owner, whichever occurs later. No license shall be issued unless proof of valid *antirabies vaccination* is presented. (SCMC 8.14.010)
License tags shall be securely displayed off the owner's premises. (SCMC 8.14.020)

Prohibited Public Locations. With the exception of guide, signal or service dogs (SCMC 8.14.201) dogs are not permitted within any portion of the watercourse of the San Lorenzo River, including the river and all portions of its banks up to the highest point of the bank on each side of the river; or on any portion of San Lorenzo Park. (SCMC 8.14.200)

- **SAFETY ENHANCEMENT ZONES**
Chapter 9.02

Designation Process. Out of concern for a unique and heightened public safety issue, the city council may by resolution designate a specific geographical area as a "safety enhancement zone" for a specific time. (SCMC 9.02.010)

Enhanced Fines. Any violation of the following designated provisions of the Santa Cruz Municipal Code in an established safety enhancement zone, shall be subject to an enhanced fine of three times the normal assessment. Safety enhancement zone fines shall be assessed for violations Santa Cruz Municipal Code ordinances, such as: solid waste; graffiti; possession of open containers or consumption of alcoholic beverages in public places; noise control; conduct on public property; and trespassing. (SCMC 9.02.020)

- **INTOXICATION**
Chapter 9.12

Public Consumption. It is unlawful for any person to consume any intoxicating liquor in any public place or public way as defined in Chapter 9.50 or on any school grounds, with limited exceptions, such as sanctioned events at the Civic Auditorium. (SCMC 9.12.020)

Display of Open Containers. No person shall have in his or her possession in any public place any bottle, can, or other receptacle containing any intoxicating liquor which has been opened (SCMC 9.12.030).

Possession in San Lorenzo Park. It is unlawful for any person to have in his or her possession any intoxicating liquor anywhere in San Lorenzo Park. (SCMC 9.12.050)

Penalties. Any person who violates any section in this chapter is guilty of an infraction and shall be subject to a fine of not more than twenty dollars, with a community service alternative (SCMC 9.12.060). Those receiving a second violation within a twenty-four hour period are guilty of a misdemeanor. (SCMC 9.12.070)

- **CONDUCT ON PUBLIC PROPERTY**
Chapter 9.50

Public Urination and Defecation. No person shall urinate or defecate in public except when using a urinal, toilet or commode located in a bathroom, restroom or other structure enclosed from public view. (SCMC 9.50.016)

Conduct on Public Property, Monuments and Lawns. No person, after having been notified by a police officer, public officer or downtown host that he or she is in violation of the prohibition in this section, shall: walk, stand, sit or lie upon any public lawn or planted area, public bench, monument, vase, decorative fountain, drinking fountain, bike rack, trash receptacle, median, fire hydrant, street-tree planter, berm, utility cabinet, railing, fence, planter, or upon any other public property not designed or customarily used for such purposes (SCMC 9.50.020)

Abuse or Mutilation of Tree, Plants and Lawn. Without first obtaining a permit from the director of parks and recreation, it is unlawful for any person in any public place to damage, cut, remove or harm any tree or plant or lawn. (SCMC 9.50.030)

- **BICYCLES**

Chapter 10.68 Bicycles

Bicycle License Requirement. It is unlawful for any person to operate a bicycle on any public street or sidewalk, or upon any public path set aside for the exclusive use of bicycles, without proper license. (SCMC 10.68.110)

Chapter 10.69 Abandoned or Inoperative Bicycles

Public Nuisance. The presence of an abandoned, wrecked, dismantled or inoperative bicycle or part thereof on public property is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. (SCMC 10.69.010)

- **ACCESS AND USE - PARKS AND RECREATION**

Chapter 13.04

Limitation on Access and Use of Public Property. Whenever this code or any ordinance or resolution of this city designates and describes any public property as having been withdrawn from personal access or limited as to access and use by members of the public, it is unlawful for any person to thereafter enter the property in a manner other than that prescribed. (SCMC 13.04.010)

Hours of Operation. To protect public properties, parks, etc. from vandalism and other unlawful activities, the Parks Director may establish hours which such spaces are open to general public. These provisions shall be applicable to all park properties, to include the San Lorenzo River Levee and bike path, the San Lorenzo Benchlands, the inner banks of the San Lorenzo River within the City limits. The parks and recreation commission and the San Lorenzo River committee (as appropriate) shall be consulted to obtain input on any proposed modifications to the hours of operation of parks and open spaces. Persons found to be in violation of any provision of this section are guilty of an infraction punishable by a fine of fifty dollars. Violations occurring on separate days are separate infractions. (SCMC 13.04.011)

OUTSIDE AGENCY REGULATORY SCOPE

Several state and federal agencies, including the U.S. Army Corps of Engineers and the California Department of Fish and Game, have specific regulatory roles and responsibilities for portions of the levee system, as set out by laws and policies such as the California Environmental Quality Act, the California Endangered Species Act, and the Fish and Game Lake and Streambed Alteration permit process. These laws and policies place constraints on City actions to address flood control and nuisance abatement on the levee. **Attachment A** provides a comprehensive review of the various regulations and compliances regarding the levee.

Summary of Regulations

- **THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

As administered by the City, requirement for environmental review of management plans and specific projects.

- **THE CALIFORNIA ENDANGERED SPECIES ACT**

As administered by Fish and Game, state requirement for review of management plans and specific projects so as to avoid and minimize adverse impacts to state-listed species; may require a permit for activities affecting a state-listed species.

- **THE FISH AND GAME LAKE AND STREAMBED ALTERATION PERMIT**

As administered by the Fish and Game, state requirement for landowners to obtain Lake

and Streambed Alteration Agreement prior to work in watercourses and wetlands. Permitting typically requires mitigation for impacts to riparian and wetland resources.

- **THE FEDERAL ENDANGERED SPECIES ACT**

As administered by the U.S. Fish and Wildlife Services, federal requirement for review of management plans and specific projects so as to avoid and minimize adverse impacts to federally-listed species. Currently, the City's watercourses and wetlands provides habitat for three federally-listed species.

- **THE CLEAN WATER ACT**

As administered by the U.S. Army Corps of Engineers, federal requirement for landowners to obtain permits from the Corps for placement of fill into watercourses and wetlands. Permitting requires implementation of contraction actions that prevent sediment deposition in channels and increased turbidity of water.

- **CALIFORNIA WATER RESOURCES POLICY**

As administered by the California Regional Water Quality Control Board, state requirement for landowner to obtain certification prior to work in watercourses and wetlands. Permitting requires implementation of contraction actions that prevent sediment deposition in channels and increased turbidity of water.

- **CALIFORNIA COASTAL ACT**

As administered by the California Coastal Commission and the City, state requirement for landowners to obtain a coastal permit prior to work in watercourses and wetlands within the coastal zone. Permitting requires implementation of contraction actions that prevent sediment deposition in channels and increased turbidity of water.

CALIFORNIA PENAL CODE

Santa Cruz Police Officers regularly cite the California Penal Code when responding to incidents on the levee. While littering and public intoxication (see below) are the most frequently cited code, Police Officers also cite the following sections: assault and battery (PC Section 240 - 248), sexual assault (PC Section 261 - 269), indecent exposure (PC Section 314 - 318), disturbing the peace (PC Section 415), prostitution (PC Section 647(b) and 653.2) unlawful carrying of and possession of firearms. (PC Section 12020 - 12040)

- **LITTER**

It is unlawful to litter or cause to be littered in or upon public or private property. A person, firm, or corporation violating this section is guilty of an infraction. (PC Section 374.4a)

A person, firm, or corporation convicted of a violation of this section shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction. (PC Section 374.4d)

- **PUBLIC INTOXICATION**

Public intoxication is considered a misdemeanor. The code describes public intoxication as someone who displays intoxication to liquor, drugs, controlled substances or toluene and demonstrates an inability to care for themselves or others, or interferes or obstructs the free use of streets, sidewalks or other public way. (PC Section 647f)

Attachments

Attachment A – Review of Regulatory and Environmental Compliance Information (Outside Agencies)

Additional Resources

Lower San Lorenzo River & Lagoon Management Plan <http://bit.ly/tpZkfB>

San Lorenzo Urban River Plan <http://bit.ly/slTbMF>

Ideas to Activate the San Lorenzo River <http://bit.ly/mXuG27>

City of Santa Cruz Wayfinding Program, Wayfinding Analysis <http://bit.ly/i2C3zy>

ATTACHMENT A

**REGULATORY AND ENVIRONMENTAL
COMPLIANCE INFORMATION**

REGULATORY SUMMARY

APPENDIX F

REGULATORY AND ENVIRONMENTAL COMPLIANCE INFORMATION

- THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, as administered by the City of Santa Cruz
 - Requirement for environmental review of management plans and specific projects.

- THE CALIFORNIA ENDANGERED SPECIES ACT, as administered by the California Department of Fish and Game.
 - State requirement for review of management plans and specific projects so as to avoid and minimize adverse impacts to state-listed species; may require a permit for activities affecting a state-listed species. Note: No species within the City watercourses and wetland areas are currently state-listed as threatened or endangered, however future listings may occur. (Note that the appearance of migrant adult and juvenile coho in the upper San Lorenzo watershed earlier in 2005 may require project applicants to be advised or required to apply for Incidental Take Permits from the CDFG in the waters of the San Lorenzo River or possibly its tributaries.)

- THE CALIFORNIA DEPARTMENT OF FISH AND GAME LAKE AND STREAMBED ALTERATION PERMIT process, as administered by the California Department of Fish and Game.
 - State requirement for landowners to obtain Lake and Streambed Alteration Agreement (pursuant to Fish and Game Codes 1601-1603) prior to work in watercourses and wetlands; permitting requires implementation of construction actions that prevent sediment deposition in channels and increased turbidity of water. Permitting typically requires mitigation for impacts to riparian and wetland resources, such as revegetation of disturbed riparian areas at a 3:1 habitat replacement ratio.

- THE FEDERAL ENDANGERED SPECIES ACT, as administered by the U.S. Fish and Wildlife Service and National Marine Fisheries Service.
 - Federal requirement for review of management plans and specific projects so as to avoid and minimize adverse impacts to federally-listed species; where another federal permit is required (i.e., U.S. Army Corps of Engineers wetland permit) and action requires consultation under Section 7 for activities affecting a federally-listed species. Federal permit under Section 10 of Act is required for other projects that may result in take of a listed species or its habitat. Currently the City's watercourses and wetlands provides habitat for three federally-listed species, the California red-legged frog, tidewater goby and steelhead, however future listings may occur.

- THE CLEAN WATER ACT, as administered by the U.S. Army Corps of Engineers.
 - Federal requirement for landowners to obtain a Section 404 permit from U.S. Army Corps of Engineers prior to placement of fill into watercourses and wetlands; permitting requires implementation of construction actions that prevent sediment deposition in channels and increased turbidity of water. Permitting typically requires mitigation for impacts to Waters of the U.S., such as re-establishment of the creek channels and re-establishment of disturbed wetlands at a minimum of a 1:1 habitat replacement ratio.

- **STATE OF CALIFORNIA WATER RESOURCES POLICY, as administered by the California Regional Water Quality Control Board**
 - State requirement for landowners to obtain a Section 401 Water Quality Certification from the State Board prior to work in watercourses and wetlands (for projects that require a 404 permit from the ACOE); permitting requires implementation of construction actions that prevent sediment deposition in channels and increased turbidity of water. Permitting typically requires mitigation for impacts to state waters, such as re-establishment of creek channels and re-establishment of disturbed wetlands at a minimum of a 1:1 habitat replacement ratio.

- **STATE OF CALIFORNIA COASTAL ACT, as administered by the California Coastal Commission and the City of Santa Cruz**
 - State requirement for landowners to obtain a coastal development permit from the State Coastal Commission prior to work in watercourses and wetlands within the coastal zone, unless an management plan has been adopted as part of the local government's Local Coastal Program; permitting requires implementation of construction actions that minimize impacts to coastal zone watercourses and wetlands. Permitting typically requires mitigation for impacts to state waters, such as re-establishment of creek channels and re-establishment of disturbed wetlands at a minimum of a 1:1 habitat replacement ratio. Coastal Act also regulates activities within 100-feet of a creek centerline or edge of wetland, when in the Coastal Zone.

CALIFORNIA FISH AND GAME

FISH AND GAME CODE

SECTION 1600-1616

1600. The Legislature finds and declares that the protection and conservation of the fish and wildlife resources of this state are of utmost public interest. Fish and wildlife are the property of the people and provide a major contribution to the economy of the state, as well as providing a significant part of the people's food supply; therefore their conservation is a proper responsibility of the state. This chapter is enacted to provide conservation for these resources.

1601. The following definitions apply to this chapter:

- (a) "Agreement" means a lake or streambed alteration agreement.
- (b) "Day" means calendar day.
- (c) "Emergency" has the same definition as in Section 21060.3 of the Public Resources Code.
- (d) "Entity" means any person, state or local governmental agency, or public utility that is subject to this chapter.

1602. (a) An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

(1) The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:

- (A) A detailed description of the project's location and a map.
- (B) The name, if any, of the river, stream, or lake affected.
- (C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.
- (D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.
- (E) A copy of any other applicable local, state, or federal permit or agreement already issued.
- (F) Any other information required by the department.

(2) The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.

(3) The entity pays the applicable fees, pursuant to Section 1609.

(4) One of the following occurs:

(A)

(i) The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(ii) Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.

(B) The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.

(C) A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.

(D) The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(b) (1) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:

(A) The work described in the agreement has substantially changed.

(B) Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.

(2) This subdivision applies only if notice to, and agreement with, the department was attained prior to January 1, 1977, and the department has been provided a copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.

(c) It is unlawful for any person to violate this chapter.

1603. (a) After the notification is complete, the department shall determine whether the activity may substantially adversely affect an existing fish and wildlife resource. If the department determines that the activity may have that effect, the department shall provide a draft agreement to the entity within 60 days after the notification is complete. The draft agreement shall describe the fish and wildlife resources that the department has determined the activity may substantially adversely affect and include measures to protect those resources. The department's description of the affected resources shall be specific and detailed, and the department shall make available, upon request, the information upon which its determination of substantial adverse effect is based. Within 30 days of the date of receipt of the draft agreement, the entity shall notify the department whether the measures to protect fish and wildlife resources in that draft agreement are acceptable. If the department's measures are not acceptable, the entity shall so notify the department in writing and specify the measures that are not acceptable. Upon written request, the department shall meet with the entity within 14 days of the date the department receives the request for the purpose of resolving any disagreement regarding those

measures. If the entity fails to respond, in writing, within 90 days of receiving the draft agreement, the department may withdraw that agreement, and require the entity to resubmit a notification to the department before commencing the activity.

(b) If mutual agreement is not reached at any meeting held pursuant to subdivision (a), the entity may request, in writing, the appointment of a panel of arbitrators to resolve the disagreement. A panel of arbitrators shall be appointed within 14 days of receipt of the written request. The panel of arbitrators shall be comprised of three persons, as follows: one representative selected by the department; one representative selected by the affected entity; and a third person mutually agreed upon by the department and the entity, who shall serve as the panel chair. If the department and the entity cannot agree on the third person within that 14-day period, the third person shall be appointed in the manner provided by Section 1281.6 of the Code of Civil Procedure. The third person shall have scientific expertise relevant to the fish and wildlife resources that may be substantially adversely affected by the activity proposed by the entity and to the measures proposed by the department to protect those resources. The authority of the panel of arbitrators is limited to resolving disagreements regarding the measures specified in subdivision (a), and subdivisions (b) and (g) of Section 1605, and, in the case of an extension, whether or not the agreement needs to be modified to protect fish and wildlife resources. Any decision by the panel of arbitrators shall be issued within 14 days from the date the panel was established, shall be binding on the department and the affected entity, shall be based on the best scientific information reasonably available at the time of the arbitration, and, except for a decision to extend an agreement without modification, shall be made in the form of a final agreement. The final agreement issued by the panel shall also include, without modification, all measures that were not subject to arbitration. Each party shall pay the expenses of their selected representative and pay one-half the expenses of the third person.

1604. Any party affected by a decision made by an arbitration panel pursuant to this chapter may petition a court of competent jurisdiction for confirmation, correction, or vacation of the decision in accordance with Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

1605. (a) (1) Except as otherwise provided in this section, the term of an agreement shall not exceed five years.

(2) Notwithstanding paragraph (1), after the agreement expires, the entity shall remain responsible for implementing any mitigation or other measures specified in the agreement to protect fish and wildlife resources.

(b) Any entity may request one extension of a previously-approved agreement, if the entity requests the extension prior to the expiration of its original term. The department shall grant the extension unless it determines that the agreement requires modification because the measures contained in the agreement no longer protect the fish and wildlife resources that the activity may substantially adversely affect. In the event the department makes that determination, the department shall propose measures intended to protect those resources.

(c) If the entity disagrees with the department's determination that the agreement requires modification to protect fish and wildlife resources or with the measures proposed by the department, the disagreement shall be resolved pursuant to the procedures described in subdivision (b) of Section 1603.

(d) The department may not extend an agreement for more than five years.

(e) (1) An original agreement shall remain in effect until the department grants the extension request, or new measures are imposed to protect fish and wildlife resources by agreement or through the arbitration process.

(2) Notwithstanding paragraph (1), an original agreement may not remain in effect for more than one year after its expiration date.

(f) If the entity fails to submit a request to extend an agreement prior to its expiration, the entity shall submit a new notification before commencing or continuing the activity covered by the agreement.

(g) Notwithstanding paragraph (1) of subdivision (a), the department may issue an agreement, that otherwise meets the requirements of this chapter, for a term longer than five years if the following conditions are satisfied:

(1) The information the entity provides to the department in its notification meets the requirements of paragraph (1) of subdivision (a) of Section 1602.

(2) The entity agrees to provide a status report to the department every four years. The status report shall be delivered to the department no later than 90 days prior to the end of each four-year period, and shall include all of the following information:

(A) A copy of the original agreement.

(B) The status of the activity covered by the agreement.

(C) An evaluation of the success or failure of the measures in the agreement to protect the fish and wildlife resources that the activity may substantially adversely affect.

(D) A discussion of any factors that could increase the predicted adverse impacts on fish and wildlife resources, and a description of the resources that may be adversely affected.

(3) The department shall review the four-year status report, and conduct an onsite inspection to confirm that the entity is in compliance with the agreement and that the measures in the agreement continue to protect the fish and wildlife resources. If the department determines that the measures in the agreement no longer protect the fish and wildlife resources that are being substantially adversely affected by the activity, the department, in consultation with the entity, and within 45 days of receipt of the report, shall impose one or more new measures to protect the fish and wildlife resources affected by the activity. If requested to do so by the entity, the department shall make available the information upon which it determined the agreement no longer protects the affected fish and wildlife resources. If the entity disagrees with one or more of the new measures, within seven days of receiving the new measures, it shall notify the department, in writing, of the disagreement. The entity and the department shall consult regarding the disagreement. The consultation shall be completed within seven days after the department receives the entity's notice of disagreement. If the department and entity fail to reach agreement, the entity may request, in writing, the appointment of a panel of arbitrators to resolve the disagreement. The panel of arbitrators shall be appointed within 14 days of the completed consultation. The panel of arbitrators shall issue a decision within 14 days of the date it is established. All other provisions of subdivision (b) of

Section 1603 regarding the panel shall apply to any arbitration panel established in accordance with this subdivision. If the entity fails to provide timely status reports as required by this subdivision, the department may suspend or revoke the agreement.

(4) The agreement shall authorize department employees to conduct onsite inspections relevant to the agreement, upon reasonable notice. Nothing in this section limits the authority of department employees to inspect private or public sites.

(5) Except as provided in paragraph (3), subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and the time periods to process agreements specified in this chapter do not apply to agreements issued pursuant to this section.

(h) Each region of the department shall log the notifications of activities for which a long-term agreement is being considered pursuant to subdivision (g). The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this paragraph may be renewed annually.

1606. The department shall not condition the issuance of an agreement on the receipt of another local, state, or federal permit.

1607. Any time period prescribed in this chapter may be extended by mutual agreement.

1608. The department shall provide any entity that submits a notification pursuant to Section 1602 with all of the following information:

(a) The time period for review of the notification.

(b) An explanation of the entity's right to object to any measures proposed by the department.

(c) The time period within which objections may be made in writing to the department.

(d) The time period within which the department is required to respond, in writing, to the entity's objections.

(e) An explanation of the right of the entity to arbitrate any measures in a draft agreement.

(f) The procedures and statutory timelines for arbitration, including, but not limited to, information about the payment requirements for arbitrator fees.

(g) The current schedule of fees to obtain an agreement.

1609. (a) The director may establish a graduated schedule of fees to be charged to any entity subject to this chapter. The fees charged shall be established in an amount necessary to pay the total costs incurred by the department in administering and enforcing this chapter, including, but not limited to, preparing and submitting agreements and conducting inspections. The department may adjust the

fees pursuant to Section 713. Fees received pursuant to this section shall be deposited in the Fish and Game Preservation Fund.

(b) (1) The fee schedule established pursuant to subdivision (a) may not impose a fee that exceeds five thousand dollars (\$5,000) for any agreement.

(2) The fee limitation described in paragraph (1) does not apply to any agreement issued pursuant to subdivision (g) of Section 1605.

1610. (a) Except as provided in subdivision (b), this chapter does not apply to any of the following:

(1) Immediate emergency work necessary to protect life or property.

(2) Immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in an area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(3) Emergency projects undertaken, carried out, or approved by a state or local governmental agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, within the existing right-of-way of the highway, that has been damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. Work needed in the vicinity above and below a highway may be conducted outside of the existing right-of-way if it is needed to stop ongoing or recurring mudslides, landslides, or erosion that pose an immediate threat to the highway, or to restore those roadways damaged by mudslides, landslides, or erosion to their predamage condition and functionality. This paragraph does not exempt from this chapter any project undertaken, carried out, or approved by a state or local governmental agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide. The exception provided in this paragraph does not apply to a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code.

(b) The entity performing the emergency work described in subdivision (a) shall notify the department of the work, in writing, within 14 days of beginning the work. Any work described in the emergency notification that does not meet the criteria for the emergency work described in subdivision (a) is a violation of this chapter if the entity did not first notify the department in accordance with Section 1602.

1611. (a) An entity that submits a timber harvesting plan in accordance with Section 4581 of the Public Resources Code or directly to the department is deemed to have given the notification required by Section 1602, as long as the following information is included in the plan:

(1) The volume, type, and equipment to be used in removing or displacing any one or combination of soil, sand, gravel, or boulders.

(2) The volume of water, intended use, and equipment to be used in any water diversion or impoundment, if applicable.

(3) The equipment to be used in road or bridge construction.

(4) The type and density of vegetation to be affected and an estimate of the area involved.

(5) A diagram or sketch of the location of the operation that clearly indicates the stream or other water and access from a named public road. Locked gates shall be indicated and the compass direction shall be shown.

(6) A description of the period of time in which operations will be carried out.

(b) Notwithstanding subdivision (a), the department is not required to determine whether the notification is complete or otherwise process the notification until the timber harvesting plan and the proper notification fee have both been received by the department.

(c) Nothing in this section requires the department to issue an agreement fewer than 60 days from the date the notification is complete.

(d) The date on which the term of an agreement issued pursuant to this section begins shall be the date timber operations first commence, unless the agreement specifies a later beginning date.

1612. The department may suspend or revoke an agreement at any time if it determines that an entity is not in compliance with the terms of the agreement or fails to provide timely status reports as required by subdivision (g) of Section 1605. The department shall adopt regulations establishing the procedure for suspension or revocation of an agreement. The procedure shall require the department to provide to the entity a written notice that explains the basis for a suspension or revocation, and to provide the entity with an opportunity to correct any deficiency before the department suspends or revokes the agreement.

1613. If, after receiving a notification, but before the department executes a final agreement, the director of the department informs the entity, in writing, that the activity described in the notification, or any activity or conduct by the entity directly related thereto, violates any provision of this code or the regulations that implement the code, the department may suspend processing the notification, and subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and the timelines specified in Section 1603 do not apply. This section ceases to apply if any of the following occurs:

(a) The department determines that the violation has been remedied.

(b) Legal action to prosecute the violation is not filed within the applicable statute of limitations.

(c) Legal action to prosecute the violation has been terminated.

1614. If the entity is required to perform work subject to this chapter pursuant to a court or administrative order or notice, the entity shall include the measures proposed by the department to protect fish and wildlife resources in the agreement. Those measures are not subject to arbitration.

1615. (a) A person who violates this chapter is subject to a civil

penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

(b) The civil penalty imposed pursuant to subdivision (a) is separate from, and in addition to, any other civil penalty imposed pursuant to this section or any other provision of the law.

(c) In determining the amount of any civil penalty imposed pursuant to this section, the court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, the court may consider the degree of toxicity and volume of the discharge, the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and, with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines that justice may require.

(d) Every civil action brought under this section shall be brought by the Attorney General upon complaint by the department, or by the district attorney or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

(e) (1) In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding any of the following:

(A) That irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued.

(B) That the remedy at law is inadequate.

(2) The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this chapter without the allegations and without the proof specified in paragraph (1).

(f) All civil penalties collected pursuant to this section shall not be considered fines or forfeitures as defined in Section 13003, and shall be apportioned in the following manner:

(1) Fifty percent shall be distributed to the county treasurer of the county in which the action is prosecuted. Amounts paid to the county treasurer shall be deposited in the county fish and wildlife propagation fund established pursuant to Section 13100.

(2) Fifty percent shall be distributed to the department for deposit in the Fish and Game Preservation Fund. These funds may be expended to cover the costs of any legal actions or for any other law enforcement purpose consistent with Section 9 of Article XVI of the California Constitution.

1616. Any agreement or any memorandum of understanding executed by the department pursuant to this chapter prior to January 1, 2004, shall be subject to, and shall be governed by, the provisions of this chapter that were in existence prior to that date. This section does not apply to paragraph (2) of subdivision (b) of Section 1602, requiring an entity to provide a copy or other satisfactory evidence of an agreement attained prior to January 1, 1977, upon the request of the department.

DEPARTMENT OF FISH AND GAME

[Home](#) → [Habitat Conservation Planning](#) → [Environmental Review and Permitting](#) → [Lake and Streambed Alteration](#) → [Q&A](#)

Lake and Streambed Alteration Program

Questions and Answers

1. [When must I notify DFG?](#)
2. [How do I notify DFG?](#)
3. [What happens after I notify DFG?](#)
4. [Does DFG need to comply with the other state laws or regulations before it issues a Lake or Streambed Alteration Agreement?](#)



Culvert Work
DFG photo by JoAnn Dunn

5. [Should I contact other governmental agencies regarding my proposed activity?](#)
6. [Do I need to notify DFG for emergency work?](#)

1. When must I notify DFG?

Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify DFG before beginning any activity that will do one or more of the following:

1. substantially divert or obstruct the natural flow of any river, stream or lake;
2. substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake; or
3. deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

Fish and Game Code section 1602 applies to all perennial, intermittent, and ephemeral rivers, streams, and lakes in the state. If you are not certain that your proposed activity requires notification, DFG recommends that you notify.

2. How do I notify DFG?

In order to notify DFG, a person, state or local governmental agency, or public utility must submit a complete notification package and fee to DFG regional office that serves the county where the activity will take place. The [notification package is available for download](#) or from any DFG regional office. The fee schedule (Title 14 section 699.5 of the California Code of Regulations) is included in the notification package. DFG's regional offices and the counties they serve are listed in the notification package and on the DFG's [Region page](#).

3. What happens after I notify DFG?

After you notify DFG, DFG will determine whether your notification package is complete. DFG will make this determination within 30 calendar days of receiving the notification package if you are applying for a regular agreement (i.e., term of five years or less). If the notification package is incomplete, DFG will contact you and specify the information you need to provide to make it complete. DFG will not process your notification package until it receives the additional information. If your notification package is complete, DFG will process it as described below. The 30-day time period does not apply to notifications for long-term agreements (i.e., term greater than five years).

CALTRANS

1.07.3 Handling of Privately Owned, Lost, Discarded, Wrecked, Abandoned and Stolen Property on the State Right of Way.

The District Maintenance Division will provide a reasonable lost and found service to the public. Employees are to turn in, to their supervisor, all items of value found in the course of their employment along highways or in facilities such as Safety Roadside Rest Areas, vista points, Maintenance stations, and other locations within Caltrans rights of way.

Maintenance employees shall not claim items found on or along highways or in State facilities. This is never permitted. Employees who take possession of items found on or along highways or in State facilities are subject to disciplinary action, up to and including dismissal.

Civil Code 2080 provides that a person who finds property shall inform the owner within a reasonable time and return the property to the owner.

Civil Code 2080.1 provides direction regarding property with a value of more than \$100 when the owner of such property is unknown. The property shall be turned over to the city police department if found within the city limits, or to the sheriff's department if found outside the city limits.

Civil Code Section 2080.3 provides that if the owner of property cannot be located, the person who finds the property takes title "*unless the property was found in the course of employment by an employee of any public agency, in which case the property shall be sold at public auction.*" (Emphasis added.)

(A) Based on the above, the following procedure shall be used for items found by employees in the course of their work:

(1) Value less than ten dollars:

When the value of the item found is estimated at less than ten dollars, the employee will assume custody and turn it in to his or her supervisor. The items will be retained at the Maintenance Region Manager's or Area Superintendent's office.

If the owner of the item can be identified by means of identification, a reasonable effort shall be made to notify the owner of its finding and location, so arrangements can be made to return the property. Such property is generally personal property such as keys, billfolds, pocketbooks, important papers, jewelry, and luggage.

If ownership cannot be determined, or no one claims the property, the item shall be destroyed or donated to any charitable organization after three (3) months. A Form MTC-900 (Lost and Found Report) of each incident, whether the item was returned or disposed of, must be kept in the region office files for 24 months.

(2) Value of ten dollars or more:

When the value (purchase or replacement price) of the found item found is estimated at ten dollars or more, the employee will assume custody and turn the item in to his or her supervisor. The item shall be held in the Maintenance Region Manager's or Area Superintendent's office for not less than five (5) days or more than 15 days, pending claim by the owner.

Bulky items may be held at the most convenient crew supervisor or Area Superintendent station. If ownership can be determined, a reasonable attempt will be made to notify the owner of its finding and location.

If no one claims the property within the above time frames, the property shall be turned over to either the police department if found within city limits, or the sheriff's department if found in an unincorporated area.

A signature from the person receiving the item should be obtained on the Form MTC-900 and should be filed in the region office.

In jurisdictions where the law enforcement agency will not accept the item found from Caltrans, such property shall be retained at the Maintenance Region Manager's office for at least three (3) months. If the property is still unclaimed, the property shall be turned over to the District Property Controller, who will make arrangements for its disposition.

Items found on State right of way shall not be retained by an employee under any circumstances.

(B) Miscellaneous Items and Materials

- (1) Many materials and junk type items that are found along the State highways such as hubcaps, pipe, and tire chains, have scrap or junk value. Such items, when picked up or salvaged are to be added to the accumulations of salvage material as described previously under 1.07.2. They shall be disposed of as State property.**
- (2) The separation of recyclable litter such as aluminum cans or returnable bottles from other litter cannot normally be justified on a cost benefit basis. Such items are to be picked up and disposed of as trash under normal disposal procedure.**

Private individuals may collect items such as aluminum cans from along conventional roadsides, but not from freeways. They may also collect aluminum cans or returnable bottles from trash barrels at Safety Roadside Rest Areas.

Any separation of such items from routine litter must be authorized in writing by the Maintenance Region Manager. Such authorization will generally be associated with special public relations or volunteer projects.

MAINTENANCE POLICY DIRECTIVE	NUMBER 0901	PAGE 1 OF 4
STEVE TAKIGAWA, DIVISION CHIEF (SIGNATURE)	DATE ISSUED 11/10/09	EFFECTIVE DATE 11/10/09
SUBJECT Illegal Encampments	<input type="checkbox"/> All District Directors <input checked="" type="checkbox"/> All Deputy District Directors - Maintenance <input type="checkbox"/> All Deputy District Directors <input type="checkbox"/> All Deputy District Directors - Traffic Operations <input type="checkbox"/> All District Directors - Construction <input type="checkbox"/> All District Directors - Design <input type="checkbox"/> All District Directors - Trans. Planning <input type="checkbox"/> Chief, Division of Engineering Services <input type="checkbox"/> Chief Counsel, Legal Division <input type="checkbox"/> Publications (California supplement Web site) <input type="checkbox"/> All Division of Maintenance Office Chiefs <input type="checkbox"/> Headquarters Division Chiefs for:	
DOES THIS DIRECTIVE AFFECT OR SUPERSEDE ANOTHER DOCUMENT?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, DESCRIBE Maintenance Manual, Volume 1, Chapter 7
WILL THIS DIRECTIVE BE INCORPORATED IN THE MAINTENANCE MANUAL?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, DESCRIBE Maintenance Manual, Volume 1, Chapter 7, Section 1.07.03

DIRECTIVE

Illegal Encampment Removal Policy

As a matter of departmental policy, Caltrans discourages illegal encampments on its right of way. The goal is the removal of illegal encampments and the mitigation of health, safety, access and concealment issues while respecting the rights of the occupants and informing them of alternatives within the community.

The guidelines listed below must be followed to protect the Fourth Amendment rights of those persons whose personal property remains at illegal encampments. There is recent federal legal precedence governing the actions that must be performed before the removal of personal property from an encampment. Additionally, there exist health and safety issues for employees and other workers at the subsequent clean up of illegal encampments, as well as recommended landscape maintenance measures to discourage the further illegal use of the right of way.

Required Actions	Helpful Information
<p>I. Actions that MUST be completed by district Maintenance personnel before cleanup of site and/or removal of personal property:</p> <p>A. Adequate prior notice must be posted, however, any health or safety hazard may be removed immediately. California Highway Patrol (CHP) shall be present to help post the notice. Also, the District Hazmat Coordinator or representative shall be present to evaluate the site for public health hazards that may either (1) require immediate remediation or abatement, or (2) require disinfection of the area prior to cleanup. The "Notice to Vacate" allows 72 hours (three days) to give adequate notice for occupants to get the message and leave with their personal property. It states that abandoned personal property may be disposed of after the date indicated. Items with some apparent value shall be collected and stored for no less than thirty days as per provisions of the Maintenance Manual, Volume 1, Ch. 1.07.3 (revised 2009). A time/date image of the posted notice must be recorded for the file created for this site.</p> <p>B. District Landscape personnel shall be on site to evaluate the best approach to mitigate concealment issues and plan to return as soon as is possible after the cleanup to perform any needed site remediation.</p> <p>C. The "Notice to Vacate" is a template that allows districts to add information as to where social services and shelter may be obtained in the community in the form of a list of service providers with addresses and telephone contact numbers. It also notifies occupants how and by when any stored property must be reclaimed, including a contact phone number.</p>	<p>These actions are in response to a federal court decision in which Caltrans was a co-defendant.</p> <p>After inspection, the District Hazmat Coordinator or his designee may require the site be disinfected prior to cleanup. A bleach/water solution is typically used. Experience in some districts has shown that 72 hours allows enough time for the occupants to learn of the impending cleanup and leave with the items they value, which typically reduces the amount of abandoned materials that require removal. Districts may choose to leave a quantity of "Adopt-A-Highway litter bags for use by occupants of the site. Items with "apparent value" are personal belongings that are not obvious trash or fouled with human waste. They include clothing, camping gear, electronics, personal items (glasses, photos medicine, books, strollers, etc.). These items shall be collected and stored until claimed but for no less than thirty (30) days in a secure location. Items may be bagged for convenience and clearly marked as to the date and location collected. Bulky items should be tagged with the same information. Items should be disposed of after the thirty-day period has passed. See Maintenance Manual Volume 1, Chapter 1.07.3 for more information. Records retention schedule is four (4) years, with archiving thereafter. Landscape remediation activity may need to occur on a semi-annual or annual basis to prevent further occupation. District maintenance forces shall address any illegal access issues as soon as is possible after site cleanup, with periodic inspection to prevent further access.</p> <p>Local laws, regulations, ordinances, etc., should be listed in addition to the State statutes provided on the template. The indigent resources listed may be government provided, religious outreach, or private in nature. State statutes provide programs for indigent families, mentally disabled individuals, and at-risk youth. Your district Public Information Officer may help to locate local resources. Templates have been created in English and Spanish that contain required information in a format that allows for adding local specifics are attached. Versions in other languages will be produced upon request.</p>

Required Actions	Helpful Information
<p>II. Before commencing cleanup of the encampment, the following precautions shall be taken:</p> <p>A. CHP shall be present to perform an initial sweep that determines all inhabitants have left, to remove or arrest remaining inhabitants, and to help verify the condition of the area and remaining property. It is required by the federal court that any remaining occupants not detained by CHP be allowed to remove possessions before any cleanup begins to avoid Fourth Amendment issues regarding illegal seizure of personal property. Items abandoned that are of no apparent value or are clearly trash should be disposed of immediately. Any personal property of some apparent value shall be collected and labeled as per Maintenance Manual Volume I, Chapter 1.07.3. Items belonging to occupants that are arrested by CHP are typically collected by them at the time of arrest and remain in CHP or possession until claimed.</p> <p>B. In order to avoid any harassment claims against Caltrans and its employees, no one shall be permitted to begin work while encampment occupants are still present. Personnel must be trained to handle hazardous materials and wastes, including the use of personal protective equipment and clothing. Review of the Code of Safe Practices for Homeless Encampment Cleanup (Appendix N) is mandatory.</p>	<p>Presence of the CHP and or local law enforcement helps Caltrans establish the condition of the camp and the nature of the remaining property. Information such as officer's name and badge number should be recorded for future reference. Items of personal property collected by CHP at the time of the arrest are not the responsibility of Caltrans. To minimize the expense of Hazmat contractors, it is recommended that Caltrans' forces load any materials to be disposed of as hazardous on a contractor's vehicle for transport to a landfill. It is suggested that if multiple encampments exist, that they be scheduled for action within a short timeframe to maximize effect and reduce effort.</p> <p>In order to eliminate any claims of harassment from remaining occupants and to emphasize employee safety, CHP should verify that the camp has been vacated. CHP or local law enforcement shall be the authority on site that gives commands to or takes action against remaining occupants.</p>
<p>III. When commencing action:</p> <p>A. Video or still images must be made to document the general condition of the camp and of any abandoned property remaining on site.</p> <p>B. Items of apparent value remaining on site will be collected as per Maintenance Manual Volume I, Chapter 1.07.3. See Items I.A., and II. A., above.</p> <p>C. Video or photo images must be made of the site after cleanup.</p> <p>D. Records retention schedule is four (4) years, with archiving thereafter.</p>	<p>A file started for each illegal encampment should contain a site photo of the posted "Notice to Vacate," CHP participant information, video or pictures, written information on actions taken, Caltrans and other participants present, and actions planned to mitigate against future occupation (including Hazmat and landscape). Collected personal property becomes the responsibility of Caltrans until either claimed by the owner or disposed of after the thirty (30) day waiting period. Persons attempting to reclaim personal property must be able to describe where and when it was last possessed (the illegal campsite location and a date prior to the site cleanup) and a description of the item(s). A copy of the numbered inventory sheet shall be signed and dated by the claimant and serve as a receipt.</p>

Required Actions	Helpful Information
<p>E. Workers are not to sift through the encampment to find specific items of apparent value, for obvious health and safety reasons. Items of apparent value that require collection must be readily seen, and not searched for under potentially hazardous cover. Items belonging to occupants that are arrested by CHP are typically collected by them at the time of arrest and remain in CHP possession until claimed.</p>	<p>Former occupants should be able to make arrangements to reclaim property within a reasonable time frame after contacting local Caltrans Maintenance forces, at least within the thirty (30) day period that items are held.</p> <p>Workers must be aware of the potential hazards from human waste, hypodermic needles, etc., and what actions to take if hazards are uncovered during cleanup action. For proper precautions, see item II.B. For Hazmat vendor use, see item II.C. Consideration should be given to instituting a permanent vegetation control policy that discourages reuse of illegal campsites by increasing visibility, and/or limiting access.</p> <p>Such work is ideally performed the day of, and not more than two weeks after the initial cleanup to avoid re-use of the illegal encampment.</p>
<p>IV. Post cleanup recommendations:</p> <p>A. Regular monitoring of an area by local maintenance representatives should be scheduled to affirm that the mitigating concealment and access actions taken have produced the desired results.</p> <p>B. Local landscape policy may need to add seasonal inspections and/or regularly scheduled work at prior illegal encampments to ensure that vegetation growth does not again provide ready concealment.</p> <p>C. Local maintenance forces should confirm that any actions taken to eliminate access are inspected regularly for integrity. Lack of access and increased visibility reduce the chances of future violations.</p> <p>D. Districts may find it to their advantage to participate in meetings or proceedings regarding homeless policy at the local governmental level in order to raise awareness to our issues.</p>	<p>Local maintenance supervisor or representative.</p> <p>District Landscape Specialist or designee.</p> <p>District Maintenance Supervisor or designee.</p> <p>New opportunities for partnership, cooperation and coordination in illegal encampment removal efforts may result. Districts determine who will represent their interests.</p>

Tom,

Here is what I put out to our officers. I hope your crews notice a positive change. Let me know if any issues come up so I can address them.

Thanks for all you do,
Colleen



**MEMORANDUM
POLICE DEPARTMENT**

DATE: August 16, 2010

TO: Roll Call

FROM: Lieutenant McMahon #109

SUBJECT: Caltrans Operations

Caltrans has stepped up their maintenance operations for the state highway properties that are in and around the city of Santa Cruz. The increase of activity is a direct result of citizen complaints of camping and trash accumulation.

Caltrans personnel post signs notifying people that their presence is a violation of 647(e) PC and that they can be arrested for their activities. After the signs have been posted for 72 hours (and photos are taken of the posted signs), clean up crews come in and haul the debris away. From time to time, they encounter a subject who refuses to move along while they are cleaning up. Caltrans then calls dispatch to have an officer arrive and tell the person to move along. If they refuse to leave, Caltrans personnel can sign a citation so we can arrest them for 647(e) PC. Since there is a likelihood for the behavior to continue based upon the person's refusal to leave, booking them into CJ may be an appropriate resolution. John Barisone has reviewed and approved this course of action. Since Caltrans is signing the citizen's arrest, there is no requirement that the person be inside a sleeping bag or even sleeping. Merely being on highway property in violation of the posted signs after being told to leave by Caltrans rises to the level

necessary for this arrest and Caltrans personnel will be in court to establish their jurisdictional parameters and actions related to the crime.

If Caltrans merely needs the person moved along based upon the posting of the signs, please do whatever you can to enforce the posted signs and help Caltrans do their job safely. They are doing our community a great service by dedicating as many resources as they can to our very local problem.

Let me know if you have questions about this process.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

NOTICE TO VACATE ILLEGAL CAMPSITE

Every person who camps or lodges or stores property on State property without permission of the owner is guilty of a misdemeanor violation of California law.

POSTING DATE:

TIME:

LOCATION:

INSTRUCTIONS TO OCCUPANTS

1. ALL PERSONAL PROPERTY AND CAMP DEBRIS IS TO BE REMOVED BY THE TIME AND DATE NOTED BELOW.
2. ANY PERSONAL PROPERTY LEFT AT THIS SITE AFTER THIS TIME WILL BE CONSIDERED ABANDONED.
3. ANY PERSONAL PROPERTY NOT DISPOSED OF WILL BE STORED FOR THIRTY (90) DAYS. TO RECLAIM PROPERTY CALL: _____ FAILURE TO RECLAIM BY ____ (DATE) _____ WILL RESULT IN IT'S DISPOSAL.
4. CONTINUED VIOLATIONS WILL RESULT IN CITATION AND/OR ARREST.

VACATE DATE:

TIME:

VIOLATIONS NOTED AT THIS TIME:

- CALIFORNIA PENAL CODE 647(e). Unlawful camping or lodging. Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor, who: (j) lodges in any building, structure, vehicle, or place, whether public or private, without permission of the owner or person entitled of he possession or in control of it.
- CALIFORNIA VEHICLE CODE 23112. (b). Depositing litter, debris or garbage on State Right of Way: No person shall place, deposit, or dump, or cause to be placed, deposited, or dumped, any rocks, refuse, garbage, or dirt in or upon any highway, including any portion of the right of way thereof, without the consent of the state or local agency having jurisdiction over the highway.

COMMUNITY SERVICE ASSISTANCE IS AVAILABLE AT:

Local law enforcement- (831) 471-1131

County Emergency Shelter- (831) 457-0511

EATADO DE CALIFORNIA
Departamento de Transportacion

AVISO: Si usted esta acampando ilegalmente tiene que ecacuar este sitio

Cualquier persona qua acampa, se aloja o almacena su propiedad personal en propiedad estatal sin permiso del dueño (Estado de California) es culpable de una violación de delito menor de acuerdo a la ley del Estado de California.

FECHA DEL AVISO:

HORA:

LUGAR:

INSTRUCCIONES A LOS RESIDENTES:

- 1. SE TIENEN QUE LLEVAR A TODA SU PROPIEDAD PERSONAL Y BASURA POR LA FECHA Y LA HORA INDICADA ABAJO DE ESTA PAGINA.**
- 2. CUALQUIERA PROPIEDAD PERSONAL DEJADA EN ESTE SITIO DESPUES DE LA FECHA Y HORA INDICADA ESTARA CONSIDERADA COMO ABANDONADA.**
- 3. CUALQUIERA PROPIEDAD PERSONAL NO TIRADA ESTARA EN ALMACEN POR TREINTA (90) DIAS. PARA RECLAMAR SU PROPIEDAD, LLAME AL: _____ FALTA DE RACLAMAR POR LA FECHA DE _____ RESULTARA EN TIRAR SU PROPIEDAD COMA BAURA.**
- 4. SI CONTINUA CON ESTAS VIOLACIONES RESULTARA EN MULTAS Y HASTA ARRESTO**

FECHA PARA DESOCUPAR:

HORA:

VIOLACIONES:

- SECCION 647(e) DEL CODIGO PENAL DE CALIFORNIA. Acuera de acampar o alojarse ilegalmente. Cualquier persona que cometa uno de los siguientes actos es culpable de mala conducta o delito menor. Si se aloja en cualquier edificio, estructura, vehiculo o lugar no importando que sea público o privado, sin el permiso de dueño o de la persona encargada de la propiedad.**
- SECCION 23112(b) DEL CODIGO DE CALIFORNIA PARA VEHICULOS. Acerca de los escombros o basura depositada que ensucien a cualquier propiedad del Estado de California. Ninguna persona debera colocar, depositar, descargar o ser responsanble de que se coloquen, depositen o decarquen piedras, bascura o tierra en cualquier lugar de la carretera incluyendo cualquier parte que sea propiedad del Estado de California sin el consentimiento del Estado de California o de la agencia local que tiene la jurisdicción sobre la carretera.**

AYUDA DE SERVICIO COMUNITARIO ESTA DESPONIBLE EN:
Sub-estación local para la ley o la oficina de su vecindad.

Las autoridades locales- (831) 471-1131
Refugio de emergencia de su condado- (831) 457-0511

* EXAMPLE OF POSTING*

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION
NOTICE TO VACATE ILLEGAL CAMPSITE
 Any person who camps or lodges on State property without permission of the owner is guilty of a misdemeanor violation of California law.

POSTING DATE: 9-12-11 TIME: 10:30 AM
 LOCATION: NIB 001 @ OCEAN ST EXT. BEHIND CEMETARY

INSTRUCTIONS TO OCCUPANTS

1. ALL PERSONAL PROPERTY AND CAMP DEBRIS IS TO BE REMOVED BY THE TIME AND DATE NOTED BELOW.
2. ANY PERSONAL PROPERTY LEFT AT THIS SITE AFTER THIS TIME WILL BE CONSIDERED ABANDONED.
3. ANY PERSONAL PROPERTY NOT DISPOSED OF WILL BE STORED FOR THIRTY (30) DAYS TO RECLAIM PROPERTY CALL: FAILURE TO RECLAIM BY (DATE) 12-15-11
4. CONTINUED VIOLATIONS WILL RESULT IN CITATION AND/OR ARREST.

VACATE DATE: 9-16-11 TIME: 8:00 AM

VIOLATIONS NOTED AT THIS TIME

1. CALIFORNIA PENAL CODE 647(a) Unlawful camping or lodging. Every person who commits any of the following acts is guilty of a misdemeanor, to-wit: lodges in any building, structure, vehicle, or place, whether public or private, without permission of the owner or person in charge of the possession or in control of it.
2. CALIFORNIA VEHICLE CODE 23112 (b) Depositing litter, debris or garbage on State Right of Way. No person shall place, deposit, or cause to be placed, deposited, or dumped, any rocks, refuse, garbage, or other material on any highway, including any portion of the right of way thereof, without the consent of the state or local agency having jurisdiction over the highway.

COMMUNITY SERVICE ASSISTANCE IS AVAILABLE AT:
 * Local Law Center - (818) 477-1133
 * Family Emergency Shelter - (818) 477-4533



CLEAN FIRE SEPT 16 COMPLETED
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