Comments Summary and Response
TENTATIVE Waste Discharge Requirements for the Newhall Land and Farming Company (Proposed Resource Management and Development Plan Clearing 401 Certification)
Comment due date: April 20, 2012

1. Sweetgrass Environmental Consulting, April 20, 2012
2. Heal the Bay, April 10 2012
3. Ventura CoastKeeper, April 10, 2012
4. Ventura CoastKeeper, April 20, 2012
5. County of Los Angeles, Department of Parks and Recreation, April 9, 2012
6. Newhall Land and Farming, April 9, 2012
7. Center for Biological Diversity, Friends of the Santa Clara River, Santa Clarita Organization for Planning and the Environment (SCOPE), and Sierra Club (Ventura Chapter), April 9, 2012

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1.1	Sweetgrass Environmental Consulting	The WDR permit as well as California Department of Fish and Game and County of Los Angeles respective Statements of Overriding Conditions for the Newhall Land and Farming Company development EIS/EIRs failed to address impacts to cultural resources, including and not limited to historic, ethnographic, spiritual, ethnobotanical elements. Due process through tribal consultation and representation with tribal monitoring was excluded for all proposed and planned activities. CEQA, SB18, and other requirements appear not to have been upheld during the planning and permitting processes. The entire project area of the Newhall Ranch Resource Management and Development Plan (RMDP) is rich with data confirming numerous cultural, spiritual, historic, and contemporary indigenous use sites. Many large village, ceremonial, spiritual, social, gathering, and trading sites are documented for the RMDP. All phases of development for the RMDP may result in disturbance of cultural resources. Locations identified in this project for compensatory mitigation and the extensive hydromodification work proposed in all drainages, waterways, and wetland areas host strong likelihoods of being culturally sensitive areas. Unabated disturbance without appropriate protocols will both permanently impact and	The California Department of Fish and Game is the lead agency pursuant to the California Environmental Quality Act (CEQA). The U.S. Army Corps of Engineers (Corps) is the lead federal agency under the federal National Environmental Policy Act. The two agencies prepared a joint environmental impact report/environmental impact statement (EIR/EIS). It is the responsibility of the lead agencies to evaluate and mitigate for the potentially significant environmental impacts of the project they are approving or carrying out. The Water Board is a responsible agency for purposes of CEQA. As a responsible agency, the Regional Water Board has limited authority with respect to all aspects of the project. CEQA requires that a responsible agency consider the environmental documents

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		desecrate these areas. The WDR needs to comply with state laws governing this matter. The California Native American Heritage Commission must initially be contacted whereby they can assist with the many tribal contacts. Representatives from all six tribes will then provide best representative contacts with Most Likely Descendents (MLDs). Due to the scale and intensive activity levels within the RMDP, multiple MLDs need to be identified to monitor the concurrent construction activities during each day of work. The WDR should include these provisions and requirements that address protocols when sites, cemeteries, and other culturally sensitive finds are identified through the course of any land use activity within the RMDP. Requirements must include disclosure, reporting, protection, oversight by MLDs, and repatriation.	prepared by the lead agency and reach its own conclusions on whether and how to approve the project. A responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project that it decides to approve. See 14 CCR section 15096(g). In this case, the Regional Water Board is issuing a certification under Clean Water Act section 401 and waste discharge requirements under Water Code section 13263 addressing discharges of waste to waters of the state. The Regional Board is not a land use planning agency and does not have jurisdiction with respect to the approval of the development or the management of the development. The proposed WDRs include requirements and monitoring related to the discharges of wastes subject to the WDRs. The EIR/EIS identified the presence of cultural resources and potential that there may be other cultural resources. If cultural resources are discovered during activities, the EIR/EIS requires Newhall Land to engage the assistance of the State Architect.
1.2	Sweetgrass Environmental Consulting	The RMDP is well documented for historic use by Spaniards, missionaries, Mexicans, the Westward Expansion of the North American settlement, and modern era activities and settlement. These resources were neither identified nor addressed by the WDR, California Department of Fish and Game and County of Los Angeles Statements of Overriding Conditions for the Newhall Land and	Comment noted. See response 1.1.

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		Farming Company development EIS/EIRs as required by CEQA. The WDR should include requirements for the developer to identify, document, report, and protect any significant site or area.	
1.3	Sweetgrass Environmental Consulting	Other areas designated for mitigation might be best reconsidered. For examples: 1. Castaic Creek mitigation area has been farmed in-channel. This appears to be an issue of enforcement as opposed to one whereby the developer now is able to receive credit for both the new housing development along with reparations from farming in the channel. 2. Proposed restoration methodology in the Santa Clara River channel is considered by current science as an active construction activity and not passive biological habitat enhancement. It is counterintuitive the developer should receive mitigation credit for restoring the river using planned techniques (see "Temporary Impacts below for citations).	Mitigation requirements were developed through a detailed and comprehensive evaluation of losses to gains including the value of advanced mitigation (lessening temporal losses) and large areas of conservation easement and preservation. Some areas to be restored to habitat are currently farmed lands. Taken as a whole, the mitigation required is adequate to protect water quality and ensure 'no net loss.' Restoration techniques can appropriately include construction methods when necessary to restore landform for improved hydrologic functioning. Staff has worked with the lead agencies over the past ten years on this project, in order to ensure that the design of the project and the mitigation requirements ensure the protection of water quality and beneficial uses while still consistent with the project purpose and need. Staff conducted many jurisdictional delineation site visits during the early, pre-application stages starting in 2003, in order to delineate waters of the United States and waters of the State. Staff ensured that broad delineations were applied in order to avoid, and minimize

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			impacts to waters, to the maximum extent practicable. Staff provided input during the development of project alternatives to be considered under CEQA and NEPA and the Army Corps of Engineer's 'Least Environmentally Damaging Practicable Alternative' (LEDPA) process. Early design of the project alternatives avoided many potential negative impacts such as extensive undergrounding of tributary drainages or hardening channels with concrete or riprap. During the CEQA process, Staff commented multiple times regarding many aspects of water quality including stormwater controls, hydromodification and mitigation requirements. This WDR, in addition to including the comprehensive mitigation plan now required by the Corps and Fish and Game permits, will require 80 additional acres of floodplain protection downstream of the project to offset the loss of floodplain within the project boundaries. The Regional Board will also be evaluating the mitigation and other areas of channel redesign with Hybrid Assessment of Riparian Condition (HARC) and California Rapid Assessment Methodology (CRAM) scores to determine the effectiveness and success of those areas.

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1.4	Sweetgrass Environmental Consulting	Monitoring The RMDP is vast in scale and will have concurrent activities. The permit requires a biological monitor. This project should require multiple monitors with one per activity site to ensure integrity of biological and cultural/historic resources. In order to satisfy need for accurate and comprehensive monitoring, one biological monitor and one tribal MLD need to be work along side each construction activity every day for the duration of the development.	The proposed WDRs have been modified to specify that the biological monitor shall be onsite during construction activities. "The biologist shall be available on site during construction or sediment and/or vegetation removal activities including during any vegetation clearing activities, including those activities conducted in debris/detention basins." See the WDR Provision 3.0 6, page 42. See, also, response to comment 1.1.
1.5	Sweetgrass Environmental Consulting	Review and Enforcement The reporting program requirements within the WDR should be self-sustaining, funded, and modeled for long-term accountability beyond the time the developer leaves the project.	The WDR includes a monitoring and reporting program that is the responsibility of Newhall Land to implement and fund. The WDR has been revised to require Newhall Land to provide assurance of funding or other mechanisms to maintain mitigation measures and other structural management practices to assure protection of water quality in perpetuity. See Revised Tentative WDR, Provision No. 34, page 55.
1.6	Sweetgrass Environmental Consulting	Seeding Requirements The permit states invasive plants are not to be planted within 200 feet from a natural area. Seed dispersal and volunteer propagation can occur within two miles from a parent plant. The proposed planting	The WDR has been clarified to include that invasive species not be planted within 200 feet from natural or constructed drainages.

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		restriction does not create a buffer wide enough to protect native plant communities from competitive invasive species. The 200-foot requirement should be extended at least to 1200 feet and include requirements that invasive species not be planted adjacent to natural or constructed drainages, sidewalks, or roads.	See Revised Tentative WDR, Provision No. 32, page 54.
1.7	Sweetgrass Environmental Consulting	Site Clean Up 825 acres within the project area have existing disturbance from roadways and industrial oil production. The WDR should address remediation requirements associated with the oil fields needed prior to redevelopment of that acreage.	Due to historical and continuing oil production at the Newhall site, soils underlying the site may contain petroleum hydrocarbons, which may have the potential to impact groundwaters. The Regional Board through its Site Cleanup Program oversees investigation and cleanup activities at such sites. The Site Cleanup Program is overseeing Newhall Land's actions to address soil and groundwater concerns related to oil production activities.
1.8	Sweetgrass Environmental Consulting	Subsidence The project area has one of the greatest subsidence rates in southern California as found from a joint state and federal agency investigation. The naturally occurring phenomenon is exacerbated by activities associated from multiple petroleum and groundwater wells located in the project vicinity. Environmental, ground, and surface water threats are possible from the combination of subsidence and drilling. The WDR should address this topic and require preventative measures and associated terrestrial, surface, and groundwater monitoring. (Hodgkinson, KM et al. 1996. Damage and restoration of geodetic infrastructure caused by the 1994 Northridge CA earthquake. in United States Geological Survey Open-File Report 96.517. US Government Printing Office. Menlo Park, Pasadena CA.)	The geotechnical issues associated with overpumping and subsidence would be under the purview of the Department of Water Resources or Los Angeles County Planning Division. In addition, the areas designated for development will be graded and the fills will be engineered and recompacted according to Los Angeles County grading permit requirements.

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1.9	Sweetgrass Environmental Consulting	Temporary Impacts It appears proposed bank stabilization employing buried soil concrete may be calculated as a temporary impact in this permit. Albeit revegetation with native species is proposed on these banks, the type of stabilization activity is a permanent disturbance due to the presence of soil concrete. Concrete has a propensity for producing leachate that may escape plant uptake and remediation thereby potentially contaminating waters. Compensatory mitigation requirements for riparian bank soil stabilization using buried soil concrete should thus be recalculated at the higher ratio as a permanent impact.	The buried bank stabilization structures will be designed to be keyed into the streambed at an angle below grade (streambed) and backfilled with native soils and planted with native vegetation. In some areas the channels containing this type of stabilization are either re-created, or re-aligned. In areas where channels are graded and replaced, this is calculated as a permanent impact. The materials to incorporate the soil cement mixture contain on-site sands and approximately 8% cement, to bind the soils and still have a primarily native soil makeup. The long-term maintenance of the buried bank stabilization and restored areas in perpetuity is addressed in the WDR. See Revised Tentative WDR, Provision No. 5, page 42.
1.10	Sweetgrass Environmental Consulting	Water Quality/Detention Basins Removal of large shrubs and trees should be subject to more permitting authority oversight in addition to the one WDR requirement of halting activities during bird nesting season. Constructed and natural basins that are vegetated provide many more benefits to water quality, passive water treatment, and environmental services than those devoid of plants. Returns include: lower water temperature, less algal growth, remediation through plant uptake, increased habitat and wildlife use, and aesthetic improvement.	Requirements for the project biologist have been clarified in the WDR to include the requirement for the biologist to be available on site during construction or sediment and/or vegetation removal activities including during any vegetation clearing activities, including those activities conducted in debris/detention basins. See Revised Tentative WDR, Provision No.3. 6, page 42 and 3. 29, page 53.

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			In addition, there are very specific requirements for activities conducted during bird nesting season in the California Department of Fish & Game Streambed Alteration Agreement.
1.11	Sweetgrass Environmental Consulting	Conclusion Requirements inherent in this permit are substandard. Some contemporary planning and engineering progressive stringent protocols and monitoring elements are included. However, they are eclipsed by antiquated project design and supporting permits authority that clearly avoids employing most current engineering, scientific, and planning principles. This type of 'model community' and its associated activities have not been upheld as construction industry standard for at least 20 years. Decades of engineering, scientific, and planning trials, studies, data collection, and real world utility disproved most of the types of construction and design elements proposed throughout the RMDP. Of note and particular setback is that nearly 57% of tributaries and drainages to the Santa Clara River and their headwaters will be decimated in perpetuity by conversion into engineered underground stormwater channels. This will result in evisceration of the physical and biological integrity of existing streams, hydrology, and the interdependence of all organisms living in the watershed of the project area. The US Army Corps of Engineers §404 permit justifies the loss of over 66 acres of water features with the "enhancement, restoration, and creation of 132.2 acres" of riparian values. It was understood in 2002 and 2003 when I was active on the Newhall Land and Farming project with the Regional Board the master planned community would incorporate existing wetlands, streams, and waterways into the project design. Instead, the final enterprise fully follows a 'clean palette' approach whereby the Earth and majority of geomorphic, cultural, and	Staff disagrees with the commenter's summary of impacts and mitigation. The requirements of this WDR are sufficient to ensure the protection of water quality and beneficial uses and to ensure 'no net loss.' The Army Corps of Engineers Final, Least Environmentally Damaging Practicable Alternative (LEDPA) and this WDR, specifies that there are a total of 242,061 total linear feet within major tributary drainages. 47,195 total linear feet within the LEDPA project will be converted into buried storm drains, which equates to a 19% permanent impact of all major tributary drainages. The Final Corps LEDPA included additional avoidance of impacts in Potrero Canyon (in comparison to the draft LEDPA as developed by the Corps), keeping development further from the natural wetland and allowing more of the wetland to be protected and restored. An additional 67,537 linear feet of buried bank stabilization will be installed in the major tributary drainages; which equates to a 28% temporary impact within all major tributary

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		biological features are destroyed and replaced with completely new and anthropogenically enhanced components. This type of design is currently and primarily used and suited for reurbanization projects. The existing open space natural community found throughout most of the RMDP is an extremely important and highly functioning ecosystem and watershed that provides essential and life-giving benefits to the economies and bionetworks of the local region and the many communities located downstream toward the Pacific Ocean. Functionality of the watershed, ecosystems, groundwater recharge, and agriculture all depend on the ecosystem services provided by the Santa Clara River, its many tributaries, and Castaic Creek. The proposed type of disturbance to hydrology and plant communities in the RMDP will cease to ever fully function again despite best agency efforts to require reintroduction of native plants and hydroengineering.	drainages. Once installed, the buried bank stabilization structures will be backfilled and planted with native vegetation. There is also a requirement for 39,792 linear feet of restoration within the major tributary drainages (approximately 16%). The total amount of linear footage avoided throughout the tributary drainages is 155,074 feet (64%). Once buried bank stabilization structures are installed and drainages are reconstructed and stabilized, the total acreage of jurisdictional waters will increase from the existing 188.91 acres to 216.75 acres (a net gain in jurisdictional acreage of 27.84 acres). Along Santa Clara River, 19,158 linear feet (half) of the northern bank will contain buried bank stabilization. On the southern bank, 7,693 linear feet will have buried bank stabilization (one-third of the total southern bank). While some waterways will be lost and replaced with completely new, anthropogenically-built waterways, the project does incorporate many existing wetlands, streams, and waterways. This cannot be characterized as a 'clean palette' approach.

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			In areas where restoration or re-construction takes place, Newhall Land will be required to perform monitoring and reporting utilizing the CRAM method, which will allow the Regional Board to make the determination regarding pre- and post- functions and values of these jurisdictional areas and whether they are in compliance with the WDR conditions.
1.17	Sweetgrass Environmental Consulting	Finally, it is apparent the separate Statements of Overriding Conditions for the final EIS/EIR written by California Department of Fish and Game and County of Los Angeles failed to address the following cumulative impacts of the project: cultural, historic, hydromodification. It is a travesty that will be lamented and remembered for generations to come that permitting authorities did not fully require best current science and planning practices of the developer.	Staff agrees that current science and planning practices are necessary for the implementation for this project. Regional Board staff worked extensively with the lead regulatory agencies on the Alternatives Analysis for this project from 2003 to 2010. Seven Alternatives were developed, which gradually ranged in impact to total jurisdictional waters within the project site. The Applicant originally proposed Alternative 2, which would have had a net permanent impact of 87% within jurisdictional waters. Of the total 660.1 acres of waters of the United States that occur on the site, the proposed project would avoid all impacts to approximately 87 percent (576.9 acres), compared to 80 percent avoidance under Alternative 2. In terms of the best current science, this project incorporates buried bank stabilization which would be preferred over any concrete levee structures (large riprap walls or flat concrete side panels) in the Santa Clara River or in the

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			tributary drainages. Also, the major drainage tributaries were assessed geomorphologically for the design of lower impact grade control structures. Historically, many grade control structures consisted of large blocks of concrete. There was also a significant amount of work undertaken between Los Angeles Department of Public Works and the Regional Board to consider newer (up-to-date) design criteria of these structures, which must also comply with flood control design criteria. In addition, this WDR requires Newhall Land to meet the stormwater and low impact development (LID) requirements of the Ventura County MS4 permit (for Landmark and Mission Villages) and requires implementation of the provisions of the Los Angeles County MS4 permit for future villages following the anticipated 2012 MS4 renewal when it is completed.
2.1	Heal the Bay	The Santa Clara River ("River") is the largest free-flowing river remaining in southern California. It provides crucial aquatic ecosystem functions in the region, including groundwater recharge and habitat for endangered and rare riparian species. The River is an important migration and genetic dispersion corridor for many wildlife species, including aquatic taxa, riparian obligate species (resident and migratory), and larger terrestrial animals. In addition, there are numerous animal communities that inhabit the riparian corridor including the Lawrence's goldfinch, Northern harrier, Arroyo toad, Western spadefoot toad, and San Bernardino ringneck snake. It is	Comment noted.

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		home to over 117 threatened, endangered or sensitive plant and wildlife species or communities. Of these, 18 are federally listed, two are candidates for listing and 14 are state-listed. The River is also a significant input to southern California's coastal waters at the City of San Buenaventura. In 2005, the Santa Clara River was named the "10th Most Endangered River" in the Country by the American Rivers organization in part because of the imminent threat of development.	
2.2	Heal the Bay	Slated to impact thousands of acres of natural open space along the Santa Clara River, the Newhall Ranch Development Project ("Project") is a 14,000-acre site that abuts one of the most pristine reaches of the Santa Clara River. The proposed Newhall Project severely threatens the water quality and biological integrity of this watershed. Specifically, the Project proponent proposes to remove the tops of the mountains/hills and use the sediment to create building pads for approximately 19,517 residential units and 5.45 million square feet of commercial area (WDRs Page 15). As mentioned in the WDRs and Attachment 1, the result would be to permanently fill 47.9 acres of waters of the U.S. Approximately 9 linear miles (47,195 linear feet) of tributary would be buried and converted into underground storm drain. Another 35.3 acres of waters of the U.S. (11.4 of which are wetlands) would be "temporarily" impacted. The hardening of numerous miles of the Santa Clara proposed by the Project, along with the runoff generated by new impervious areas, will devastate macroinvertebrate populations within the River and its tributaries, while causing scour and other impacts downstream. In addition, as mentioned in the WDRs, the Project requires the removal and recompaction of approximately 4.2 million cubic yards of soil material, and up to 5.8 million cubic yards of soil import from the Adobe Canyon borrow site (Page 17). This is an enormous amount of cut and fill. Numerous riparian plant communities would be destroyed as a result of these activities.	Comment noted. See responses to Heal the Bay comments, below for detailed responses to the issues raised, here. Also, see Response No. 1.17.

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2.3	Heal the Bay	Given the sensitivity of this area and the large impact of the Project on water quality and biological resources, we oppose the issuance of 401 Certification and WDRs unless much stronger requirements are placed on the Project to drastically reduce the negative impacts. Our over-arching concern with this project is that it impinges upon the natural functioning of the River to such an extent that significant, immitigable damage will be done to water quality and sensitive habitat. Unless drastically modified, this Project will cause or contribute to violations of water quality standards and impact beneficial uses, as summarized below and explained in more detail throughout the letter. Specifically, we ask the Regional Board to consider the following concerns:	Comment noted.
2.4	Heal the Bay	There is an insufficient buffer zone (undeveloped vegetated area) provided between developed areas and the River. Significant development occurs within the 100-year floodplain of the River.	While in many areas the Santa Clara River is naturally constricted, there have been many additional constrictions to the active channel and floodplain by floodplain and river encroachment over the last several decades. And while the Newhall land project constricts the River in two additional areas, the project also preserves areas of floodplain within the project boundaries and downstream of the project boundaries so that the River will also have areas where it can flood naturally. To address the net loss of 110 acres of 100-year floodplain within the Specific Plan project area, the Regional Board staff are proposing a new requirement for additional preservation through restrictive covenants of equivalent type floodplain for a total of 110 acres downstream of the project boundary, in order to protect the

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			Santa Clara River and its hydrological flow regimes and beneficial uses. Protecting additional floodplain areas will provide numerous improvements in, and protections of beneficial uses of these reaches and also aid in groundwater recharge, provide water quality improvements, habitat buffers and the overall aesthetic of this scenic river. As a responsible agency under CEQA, the Regional Board may not approve a project as proposed if the agency finds any feasible mitigation measures within its powers that would lessen or avoid significant effects. See 14 CCR §15096(g). The tentative WDR required Newhall Land to preserve 119 acres (89 acres of which are active riverbed and 30 acres of which are floodplain) downstream of the project boundary as mitigation for constriction to the River within the project boundary. The revised tentative WDR been modified to require Newhall Land to preserve an additional 80 acres of 100-year floodplain, by placing additional floodplain downstream of the project boundary into either restrictive deed covenant or dedicating the floodplain area to a conservancy. The total required preserved floodplain is 110 acres See Revised Tentative WDR, 3.1 6, page 56.
2.5	Heal the Bay	The Project proposes extensive areas of stream bank alteration, in the	The hardening of streambank has been

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		form of hardened structures for stabilization, including buried bank stabilization, which is known to increase erosion/sedimentation problems and decrease aquatic and riparian habitat. Instead, hardened structures should be minimized and bioengineering solutions should be employed.	minimized consistent with the project purpose. Regional Board staff in conjunction with USEPA, and Army Corps of Engineers have worked over many years in many forums (under the auspices of CEQA, commenting on EIRs, and in formal meetings and informal communications) to ensure streambank hardening was minimized consistent with the project purpose. Streambank hardening with buried bank stabilization has been employed over grouted or ungrouted riprap; ungrouted riprap has been employed over grouted riprap and so forth. Commenter does not provide specifics on areas where less hard methods can be deployed. Also, see Response No. 1.17.
2.6	Heal the Bay	The Project includes an enormous increase in impervious area, which translates into higher peak discharge rates, greater runoff volumes, and higher floodplain elevations, and impacts to macroinvertebrate communities and other sensitive aquatic organisms. This could have major impacts on downstream ecosystems and species located downstream such as steelhead and the red-legged frog. The Project should be required to comply with more stringent stormwater and LID requirements than are currently required.	The proposed LID requirements are consistent with the requirements of the current Ventura MS4 order which represent the most recent MS4 requirements in the Region, which are more stringent than the existing LA MS4 requirements. For example, under the current Los Angeles MS4 (and not under this WDR), a project proponent may use flowthrough treatment to satisfy post-construction BMP requirements. With the limitation on Effective Impervious Area (EIA) and Low Impact Development (LID) requirements, there will not be a significant increase in peak discharge rates and

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			runoff volume for the most frequently occurring storm events. Sikand Engineering estimated that indirect or secondary impacts to hydrology and floodplain were limited within about four miles downstream of the project boundary at the Ventura County line. Sikand found that the predicted increases in peak flows in the Santa Clara River dissipate downstream of the project boundaries. This downstream distance varied by size of storm, with the change in the 2-year storm peak flow dissipating approximately 2.1 miles downstream and the 100-year storm peak flow at approximately 3.2 miles downstream of the Ventura County line. This WDR requires that the 100 year floodplain downstream of the project boundaries be protected to a distance of approximately 3.6 miles, overlapping with this area of predicted increases in peak flows. The EIR concluded that indirect or secondary effects to downstream floodplain areas would be less than significant. In addition, the WDR includes requirements for Newhall Land to monitor for geomorphic or hydromorphic effects to the River within and below the project boundaries and to the tributaries with in the project boundaries. Impacts to species downstream have been assessed under CEQA and under the authority

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			of the California Department of Fish and Game. This WDR protects water quality for the beneficial uses including aquatic life downstream. The WDR also includes water quality monitoring and monitoring for macroinvertebrates and provides that the WDR may be revised to require additional or modified BMPs or other requirements for the protection of water quality, in addition to additional floodplain protection. See revised WDR Provision 3.0 16, page 48.
2.7	Heal the Bay	The Project fills large areas of stream and wetland habitat with inadequate mitigation. The 401 Certification should include a 4:1 ratio for wetlands or 3:1 mitigation ratio for other riparian habitats. At a minimum, no mitigation ratio (even for temporary impacts) should be less than 2:1.	See response to comment 2.21.
2.8	Heal the Bay	The excessive stream hardening and hydromodification proposed in this Project will jeopardize the designated beneficial uses of the River. The proposed Newhall project would cause significant adverse impacts to the main-stem of the Santa Clara River and its floodplain by creating excessive hardening of the stream. The Newhall Ranch Development alternative, identified by the Army Corps of Engineers' (Corps) as the Final "Least Environmentally Damaging Project Alternative" (LEDPA), entails installing 26,851 linear feet (five miles) of buried bank stabilization along the Santa Clara River (WDRs Page 14, Attachment 3 Table 1 Page 6) and 67,537 linear feet (nearly 13 miles) of bank stabilization in tributary drainages to the Santa Clara River outside of waters of the United States (WDRs page 15).	Anytime natural processes are altered, there is the potential for substantial downstream impacts. This project has minimized potential effects to an appropriate degree consistent with the project purpose. There are different kinds of mitigation for different kinds of impacts. The bank stabilization and energy dissipaters can mitigate potential for potential flooding and scour at the dissipater site; loss of habitat due to the stabilization or dissipaters, themselves,

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		The Final Project EIR estimates that the Project will result in a 2,054 acre-feet per year increase in runoff, which equates to 1.83 million gallons per day ("MGD"), despite proposed mitigation measures (RMDP-SCP Final EIS/EIR at 4.4-88). This is a large volume of excess runoff; even small increases in flow can result in massive erosion problems over time. In order to "mitigate" the impacts of these flows, the Project includes buried soil cement bank stabilization, bridge piers and abutments, armored bank lining flood protection, and energy dissipaters (WDRs Page 23). We do not see these measures as true mitigation, as these structures or modifications will affect the hydrology of the stream even if only in localized areas. Anytime natural processes are altered, there are substantial downstream impacts. The long-term effects of stream bank/bed modifications include increased scouring, increased erosion, and increased downstream deposition of eroded material, which degrades downstream habitat. As a result, native vegetation is often washed out, eliminating the ability to remove pollutants. Also, eroding stream banks contribute fine sediment to streams. Fine sediments contribute nutrients, bacteria, and bury important spawning habitat for steelhead trout. We have witnessed firsthand the impacts of stream hardening in the Malibu Creek Watershed. Heal the Bay's Stream Team mapped 70 miles of stream in Malibu Creek Watershed between 2001 and 2003. The Stream Team found that 19.8 (28%) linear stream miles of armoring resulted in 18.7 (27%) linear miles of eroding stream banks.	can be mitigated through compensatory mitigation where other waters are created or restored. The WDR also includes a Geomorphological Monitoring Program for effects in the River and effects in tributaries such as increased scouring, increased erosion, and increased downstream deposition and provides that the WDR may be revised to require additional or modified BMPs for the protection of water quality. See revised WDR Provision 3.0 15, page 48 and 3.0 30, page 53.
2.9	Heal the Bay	Furthermore, approval of these WDRs for the Project as proposed would be in direct conflict with the Regional Board's Resolution No. 2005-002: *Reiteration of Existing Authority to regulate Hydromodifications within the Los Angeles Region, and Intent to Evaluate the Need for and develop as Appropriate New Policy or Other Tools to Control Adverse Impacts from Hydromodification on*	The WDR is not in conflict with the Hydromodification Resolution. The Hydromodification Resolution does not limit the size of a project but does re-iterate the Board's authority to regulate projects of any

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		the Water Quality and beneficial Uses of Water Courses in the Los Angeles Region ("Hydromodification Resolution"), adopted January 27, 2005. As mentioned in Resolution 2005-002 "[w]hen reviewing hydromodification projects, it is important to carefully consider whether the immediate improvements sought are designed in such a way as to avoid unintended adverse consequence on the character of the receiving water and its beneficial uses in the vicinity, and downstream of the hydromodification." It is clear by the amount of unnecessary stream hardening to the Santa Clara River and its tributaries that this consideration was not adequately given to the Project.	size in terms of hydromodification. Also, see Response No. 1.17.
2.10	Heal the Bay	According to the Hydromodification Resolution, "The Regional Board strongly discourages direct hydromodification of water courses except in limited circumstances where avoidance or other natural alternatives are not feasible. In these limited circumstances, project proponents must clearly demonstrate that a range of alternatives, including avoidance of impacts, has been thoroughly considered, hydromodification has been minimized to the extent practicable, and adequate in situ and/or off site mitigation measures have been incorporated to offset related impacts. Project proponents must also document that there will be no adverse impacts to water quality or beneficial uses." Was this demonstration made by the Project proponent? If so, we would like to see this documentation. If not, this detailed analysis must be completed and evaluated by Regional Board staff.	Newhall Land, the project proponent, working with the Army Corps of Engineers, California Department of Fish and Game, USEPA and staff of this Regional Board analyzed a range of alternatives through the CEQA/NEPA process and through development of the "Least Environmentally Damaging Project Alternative" (LEDPA). The hierarchy of avoidance, minimization and mitigation was applied. Also, see Response No. 1.17.
2.11	Heal the Bay	There are many measures that can be taken to avoid increased erosion/deposition impacts that are consistent with the Regional Board's Resolution, such as (1) keeping all structures and utilities outside the 100-year floodplain or the 500 foot riparian buffer of the River (whichever is greater) and (2) using only soft bioengineering	Development areas were very focused, concentrated into villages, in order to minimize further impacts within Santa Clara River and the 100-year floodplain.

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		techniques to stabilize stream banks—in other words, no armoring of stream banks. Bioengineering is preferable because it allows the River to maintain a natural dynamic balance. This approach also requires less maintenance over time, as there are no concrete or other hard structures to eventually fail and be replaced. Bioengineering also provides natural riparian habitat that maintains water quality and wildlife habitat. We recommend a combination of a setback, as stated above combined with a soft bioengineered approach (featuring biodegradable filter fabric planted with vegetation) with engineered techniques that bury rip-rap up to the toe of the bank as the best alternative to stabilize the bank while protecting critical endangered species' habitat on and contiguous to the site. This method would conserve in-stream sandy bottom habitat as well as riparian vegetation on the stream bank.	Newhall Land and the Regional Board coordinated on the issue of modified drainages, in order to allow for channels in some cases to be made wider or with added drop structures, which avoid extensive concrete walls or riprap structures. The project is 'setback' from the River for the most part. When utilized, buried bank stabilization is at the 100 year floodplain edge except for two parcels part of Landmark Village and Homestead South which will be built up to be above the 100 year floodplain (and the buried bank stabilization will be at the new floodplain edge). Above the buried bank stabilization, there will be walking trails and grassy swales providing additional buffer to the River. Also, the Regional Board has required additional floodplain protection. See Response 2.4, 2.11 and Revised Tentative WDR, Provision No. 6, page 56. This Regional Board's experience with riprap in the very flashy rivers of our Region, has been that a significant amount of riprap that is installed ends up downstream of the installation areas. Substituting buried riprap for buried soil concrete would not be more protective of the downstream areas.
2.12	Heal the Bay	A minimum 500-foot riparian buffer should be required for all development activities.	See Response 2.4, 2.11 and Revised Tentative WDR, Provision No. 6, page 56.

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		In order to protect the federally listed aquatic species that may be present at the Project site or downstream, a minimum 500 foot buffer, as measured from the outside edge of the riparian canopy, or a restriction to not build in the floodplain (whichever is greater), should be required for this project due to its size and the nature of the River. This sizable buffer is necessary for many reasons, including that a number of studies have found that the more riparian-dependent wildlife species also require adjacent upland habitat. For instance, Arroyo toads have been found in agricultural fields and occur within portions of the site outside of the proposed riparian setback zones. In general, the purpose of the buffer is to protect the riparian areas from filling, devegetation, and encroachment by human development. In addition to the environmental benefits of including buffer zones, there are economic benefits to the project. For instance, sufficient buffer zones protect developed property from flooding, add hedonic value to those parcels located adjacent to buffers, and have lower costs associated with operation and maintenance. Grading, development, and BMPs should not be allowed in the buffer.	
2.13	Heal the Bay	The Project inappropriately places a portion of the development in the floodplain. Components of the Newhall Ranch Development impinge upon the 100-year floodplain of the River. The Project's floodplain impact analysis performed by the Army Corps of Engineers (within the Final EIS/EIR) focuses on managing flooding impacts by providing levees around the proposed development and by elevating homes above the base flood level with soil taken from leveled hilltops redistributed into the floodplain. Placing structures within the floodplain constitutes a significant modification to the River that would constrict high flows into the narrow path, thereby increasing flow speed, scour, energy head, sheer stress, down cutting, head cutting, decreasing	While permitting some development in the floodplain, this project includes substantial floodplain protection. See Response 2.4, 2.11 and Revised Tentative WDR, Provision No. 6, page 56. When developing the LEDPA, the Corps considered the need to meet the project purpose and practicality in light of costs. The LEDPA evaluation found that the alternative which avoided all build out of current floodplain areas to be impracticable due to a substantial increase in the development cost.

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		channel/bank stability and disrupting the sediment diet of the Santa Clara River and its tributaries. There is absolutely no reason why housing should be placed in the 100-year floodplain, thus necessitating stream bank stabilization measures (i.e. stream bank hardening) to then protect those homes in the floodplain. Any development in the Santa Clara River watershed must occur well outside the 100-year floodplain or outside of the 500 foot riparian buffer (whichever is greater), and as discussed above, the Project must maintain vegetated buffers in order to protect the water quality and ecosystem functions of the River. Key reports show cumulative impacts to the Santa Clara River and the need for floodplain preservation. For instance, the Corps' Los Angeles District Planning Division contracted Stillwater Sciences to complete a geomorphic assessment of the Santa Clara River (2011). The assessment found that throughout much of the River active channel widths have been reduced by floodplain and river encroachment over the last several decades. The report stated that "these width reductions and flow constrictions have the potential to create an unstable condition in the River's morphology, which could result in accelerated channel bed level changes and/or bank failure and create additional hazards to the population and infrastructure." Likewise, the Ventura County Historical Ecology Study found "The lateral extent of the river corridor has decreased dramatically in some reaches from the 19th century to the 21st. Different land uses have encroached on the former river corridor, claiming many of the less frequently flooded bottom land surfaces. The River currently occupies only a small portion of its former area; almost 50% of its former area has been lost. What remains is largely the much more dynamic active river channel." These reports underscore the significant impacts that have already occurred due to floodplain loss and the importance of preserving the remaining floodplain.	

TENTATIVE Waste Discharge Requirements for the Newhall Land and Farming Company (Proposed Resource Management and Development Plan Clearing 401 Certification)

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2.14	Heal the Bay	The WDRs should require compliance with more stringent LID and stormwater requirements. The Project proposes 35 new storm water inlets into the River. According to the WDRs, the Project must comply with the stormwater requirements set out in the general construction permit, the LA MS4 Permit that is in effect when the Project water quality technical report ("WQTR") is prepared, and the Newhall Ranch LID Performance Standard. The adoption of the revised LA MS4 Permit is not expected to occur until September, which means if a WQTR is finished in the near future, it could fall under the current MS4, which is over 10 years old and lacks LID (infiltration and capture for reuse) requirements. The Newhall Ranch LID Performance Standard attempts to compensate for this uncertainty by providing additional LID requirements based on some of the LID requirements included in the latest Ventura MS4 Permit. However, the LID requirements should be stricter for a Project of this scale and scope, and should apply to every individual parcel and common area within the entire development due to the potential for detrimental impacts to the River, the sensitive nature of the water body, and the lack of spatial constraints on this completely green field construction.	The WDR establishes LID requirements that are equivalent to those adopted in 2010 by the Regional Board for the Ventura County MS4 Permit. These LID requirements apply to the entire NRSP development. To the extent that the requirements are more stringent than the soon-to-be reissued Los Angeles County MS4 Permit, the LID requirements contained in the WDR will apply. Where the requirements of the reissued Los Angeles County MS4 Permit are stricter than those in the WDR, the stricter requirements will apply to future villages that do not currently have approved project level EIRs or WQTRs. Additionally, in 2007, the Regional Board established a three-tiered approval process for the NRSP storm water management measures, which provides opportunities for continued review and approval of village-level WQTRs by the Regional Board Executive Officer. These three levels include the NRSP Sub-regional Storm Water Mitigation Plan, which is a programmatic level storm water management plan that applies to the entire Newhall Ranch Specific Plan area (Tier 1); the Project Water Quality Technical Report (WQTR), which establishes the village-level storm water management plan (Tier 2); and the final village-level SUSMP, which will be prepared prior to the final recordation of any final subdivision map or the issuance of any grading

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			or building permit (Tier 3). The first tier was the review and approval of the *Newhall Ranch Specific Plan Sub-regional Storm Water Mitigation Plan*. The Regional Board Executive Officer reviewed and conditionally approved this plan in 2007-08. This plan commits Newhall Ranch to incorporating LID practices that promote retention of storm water runoff within the five villages. Newhall developed a revised LID Implementation Plan in 2011, during finalization of its programmatic EIR for the RMDP, which is equivalent to the LID requirements of the Ventura County MS4 Permit. This revised plan applies to all project phases unless the Regional Board subsequently adopts more stringent LID performance standards through the Los Angeles County MS4 Permit, as previously stated. The second tier of approval is a village-level review of the applicable WQTR. Regional Board staff evaluates compliance with the LID performance standard for each village as part of the Tier 2 WQTR approval process. The village-level WQTR is included as a technical appendix to the project-level EIR and details the required storm water mitigation measures for the village. The Regional Board Executive Officer has approved two of the five village-level WQTRs. The WQTRs that have been

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			prepared thus far include LID performance standards equivalent to the Ventura County MS4 Permit. Three of the five villages must still undergo this village-level review and approval by the Regional Board Executive Officer. Additionally, LID controls are required at the parcel level. The WDR includes a provision requiring that "[r]unoff from roofs, patios, and walkways in single family residential parcels shall be discharged over landscaped areas designed to fully retain the volume of runoff from the 0.75 inch storm event." (Provision 3.12, page 44.)
2.15	Heal the Bay	The Newhall Ranch LID Performance Standard allows for both biofiltration and offsite regional BMPs, if infiltration and capture BMPs prove infeasible. This "off-ramp" does not provide for the reduction of storm water pollutant discharges from the Project to the MEP. As this is a new development, there should be little potential for technical infeasibility for traditional LID practices, if these elements are taken into consideration during the project design. Also, biofiltration should not be considered a viable LID alternative because it is not as effective at reducing offsite runoff. While we don't believe that biofiltration should be considered as a LID alternative for this Project, at a minimum, the Regional Board should require a 1.5 multiplier to be applied to the volume that would have been required to be retained onsite, or a volume to reach the equivalent in pollutant load reduction, whichever is greater.	Even in a new development there is potential for infeasibility of traditional LID practices, principally where soil infiltration rates are found to be low. Whether considered "LID" or not, biofiltration can be an effective part of reducing stormwater impacts. There is not a technical necessity for using a 1.5 multiplier. The modeling conducted to demonstrate sufficient pollution control was not based on using a multiplier.
2.16	Heal the Bay	In addition, LID elements should be designed to handle 100% of the	The language in the WDR regarding the 85th

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		85th percentile or 0.75 inch 24-hour design storm, whichever is greater, on the Project site. The final Project description states "Under the LID Performance Standard, LID project design features will be selected and sized to retain the volume of stormwater runoff produced from a 0.75 inch storm event to reduce percentage of Effective Impervious Area (EIA) to 5 percent or less of the total project area within the Newhall Ranch Specific Plan" (WDRs Page 43 and Attachment 1 Page 36). However, the 0.75 inch storm is not equivalent to the 85th percentile storm in this area. The isohyetal map in Appendix C of the LA County Department of Public Works, Water Resource Division, Hydrology Section Report shows that the 85th percentile 24 hour rainfall depth is 1.1 inches for the Newhall site. Instead, we propose the Regional Board require the project to retain on-site the Stormwater Quality Design Volume (SWQDv) proposed in the latest draft of the LA MS4 which is defined as the runoff from: (a) The 0.75-inch, 24-hour rain event or (b) The 85th percentile, 24-hour rain event, as determined from the Los Angeles County 85th percentile precipitation isohyetal map, whichever is greater.	percentile storm was, in fact, taken from the current Proposed Working Draft of the Los Angeles MS4which has not yet been adopted and is still in active discussions. The 85th percentile 24 hour rainfall depth is 1.1 inches for the Newhall site. If the Los Angeles MS4 does include a requirement for the 0.75 inch *or* 85% *whichever is greater* then, in fact, the three Villages which have not completed project-level CEQA (Homestead Villages South and North, Potrero Village and the utility corridor), will have to comply with those terms. The 5% EIA standard must be met for each village. The village boundaries do not include the dedicated open space areas in the High Country and Salt Creek, so these areas will not be part of the calculation for the EIA.
2.17	Heal the Bay	<u>The WDRs should include end of pipe numeric effluent limitations.</u> As discussed above, the Project proposes 35 new storm water inlets into the River. The inclusion of numeric effluent limits for storm water discharges from the site is appropriate and was upheld by the State Water Resources Control Board ("State Board") on December 13, 2006 in State Board Order WQ 2006-0012. As upheld by the State Board, the Regional Board has full authority to establish effluent limits for discharges consisting entirely of storm water. The presumption under the Clean Water Act is that numeric effluent limits	The purpose of the WDR is to issue Clean Water Act section 401 certification with conditions with respect to a Clean Water Act section 404 permit issued by the U.S. Army Corps of Engineers and associated activities. It includes conditions to address the impacts caused by the actions subject to the section 404 permit and related activities, including requirements for low impact development to preserve pre-project conditions regarding

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		will be the tools used to limit the discharge of pollutants, particularly toxic ones. Section 101(a) of the Clean Water Act ("CWA") sets forth a national objective "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33 U.S.C § 1251(a)). Furthermore, permits that result in storm water discharges must meet all applicable provisions of Sections 301 and 402 of the CWA. These provisions require controls of pollutant discharges that utilize best available technology economically achievable (BAT) for toxic pollutants and non-conventional pollutants and best conventional pollutant control technology (BCT) for conventional pollutants. Additionally, these provisions require controls of pollutant discharges to reduce pollutants and any more stringent controls necessary to meet water quality standards. Thus, the WDR should include end of pipe numeric effluent limitations that apply to all discharge from all outfalls from the Project into the Santa Clara River and its tributaries. These effluent limits should be consistent with the Basin Plan and the California Toxics Rule requirements. In addition, the BMP performance analysis included in the Newhall EIR that indicates estimated annual average pollutant concentration of developed conditions with Project Design Features (PDFs) and LID BMPs will achieve for the Project's stormwater discharges into the Santa Clara River and its tributaries (Table 1) should serve as an effluent limit, if it is less than other applicable standards.	stormwater. It is not, however, a Clean Water Act section 402 permit authorizing discharges of pollutants from point sources. Discharges through the storm drains will be addressed in stormwater permits issued under Clean Water Act Section 402, including construction and municipal stormwater permits. Those permits may include numeric effluent limits Discharges from the storm drains are not authorized until subject to the appropriate NPDES permit issued pursuant to section 402 of the Clean Water Act. Please note that the LA MS4 permit, including any required monitoring, will apply to Newhall Land, also. The WDR requires in Provision 3.1 "...compliance with the Basin Plan (and water quality standards therein..." (page 41) If monitoring demonstrates that Newhall Land is not meeting water quality standards, additional mitigation including additional or modified BMPs may be required, see Provision 4. 2, (page 62). In addition, the WDR has been modified to include that required reporting shall include comparison to estimates of average annual pollutant concentrations as published in the EIR, as well as comparison to Water Quality Standards. Provision 3.14 (page 47)

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		Table 4.4-41 **Estimated Average Annual Pollutant Concentrations for the Specific Plan, VCC, and Entrada Planning Areas** **Parameter** / **Units** / **Existing Conditions** / **Developed Conditions w/out PDFs** / **Developed Conditions w/ PDFs** / **Change w/PDFs** TSS / mg/L / 313 / 103 / 72 / -241 Total Phosphorus / mg/L / 0.69 / 0.33 / 0.26 / -0.43 Nitrate-N + Nitrite-N / mg/L / 3.4 / 0.8 / 0.7 / -2.7 Ammonia-N / mg/L / 0.49 / 0.48 / 0.45 / -0.04 Total Nitrogen / mg/L / 5.9 / 3.1 / 2.3 / -3.6 Dissolved Copper / µg/L / 7.9 / 9.5 / 8.3 / 0.4 Total Lead / µg/L / 8.3 / 7.4 / 6.3 / -2.0 Dissolved Zinc / µg/L / 80 / 64 / 39 / -41 Total Aluminum / µg/L / 834 / 845 / 591 / -243 Chloride / mg/L / 16 / 15 / 15 / -1 Source: Geosyntec, 2008. Source: Newhall Ranch Final EIR Page 4.4-150	
2.18	Heal the Bay	In addition, outfall monitoring should take place during at least four wet-weather events per season. Outfalls should be monitored if any dry weather discharge is noted, with a minimum of two dry-weather storm channel/drain outfall monitoring events conducted twice per year at every project outfall. The end of pipe storm drain/channel outfall monitoring conducted during the first rain event of every wet season should be performed during the first hour of the storm in which sampling takes place so as to capture the concentrations of pollutants discharged from the Newhall Project during the first flush.	In the proposed WDR, water quality samples are required to be taken at least four times a year to include at least twice in wet weather and once in dry weather. This is comparable to the four events, three wet, one dry required by the Ventura MS4 permit. To address the first flush, the storm drain monitoring requirement has been modified to include a requirement to sample the first storm of the wet season that produces at least 0.25 inches of rain Provision 3. 15 (page 47)
2.19	Heal the Bay	The WDRs should include BMP performance requirements. One of the most effective ways to ensure the success of stormwater management and the attainment of water quality standards is to require performance-based criteria. The Regional Board must include scientifically supported, performance-based design criteria in the	Newhall project proponents are required to use BMP designs consistent with those prescribed in the current Ventura County MS4 LID technical Guidance Manual, which are consistent with the leading designs in the

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		WDRs to help ensure the Project attains water quality standards for receiving waters. The recent Geosyntec analysis of the ASCE/USEPA stormwater BMP database paves the way for the development of scientifically sound water quality performance criteria. This analysis contains effluent concentration percentiles for certain parameters and BMPs. The Board should require that BMPs installed in the Project perform as well or better than 75% of the BMPs in the ASCE/EPA database. We recognize that the Project proponent did their own evaluation of BMP performance. If these numbers are more protective, these should be set as the standards. Of note, this concept was adopted in the Ventura MS4.	ASCE/USEPA BMP database.
2.20	Heal the Bay	In summary, we urge the Regional Board to include the following requirements in the Permit: • That there be a prohibition on dry weather discharges; • That discharges contain enforceable numeric effluent limits (as discussed in further detail below); • That full on-site retention/evapotranspiration/infiltration of the 85th percentile or 0.75 inch storm (whichever is greater) be required; • That the use of green street elements for all residential and commercial roads be required; • The use of rain barrels, cisterns, and other methods to capture and reuse stormwater • That the use of permeable pavement for all school, public and commercial parking lots be required; • That the ultimate post-development hydrograph mimic the natural hydrograph and that the erosion potential of the streams on-site and in the Santa Clara River does not exceed one.	The WDR has been modified to prohibit unauthorized stormwater discharges into the MS4 system. See Prohibition 2.0 7 (page 41). For numeric effluent limits, 85% or 0.75 inch storm, and biofiltration, response to comments 2.16, above. Green street elements, rain barrels, permeable pavement are all design elements which can be used to meet the LID standards required. Greenstreet elements are specifically required in this WDR Provision 3.12 states that *"Runoff from roadways shall be retained or biofiltered in retention or biofiltration BMPs sized to capture the design storm volume or flow, per the guidance in US EPA's Managing Wet Weather with Green Infrastructure: Green Streets".* (page 44).

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		• The use of bio-filtration is not an acceptable method for treating storm water and should be prohibited or at a minimum a 1.5 multiplier and equivalent pollutant load reduction be employed. • The inclusion of BMP performance standards to ensure BMPs are actually working.	The ultimate post-development hydrograph does not exceed one. Biofiltration and the inclusion of BMP performance standards to ensure BMPs are actually working are addressed in response to comment 2.16 and 2.19. In summary, the proposed LID requirements are consistent with the requirements of the current Ventura MS4 order which are as stringent as any MS4 LID requirements in the State of California.
2.21	Heal the Bay	Mitigation projects should include a higher mitigation ratio and stronger monitoring requirements. The mitigation proposed does not adequately compensate for the functions and values lost from the permanent impacts proposed on-site and should be dramatically increased. For instance, the Project appears to consider the filling of tributary channels to be part of restoration and mitigation. Newhall's Final Mitigation and Monitoring Plan states, "The restoration strategies for the Long Canyon drainage channel include (l) complete fill of the stream channel, (2) reconstruction of the stream channel on compacted soil fill, (3) incorporation of stream channel stabilization, and (4) newly created stream channel." These actions do not constitute proper mitigation. The plan lacks detailed site-specific mitigation plans and performance standards.	Regional Board staff agree that sufficient mitigation for impacts to jurisdictional waters, wetlands and riparian habitat is warranted in order to ensure "no net loss." For tributary drainages that are impacted by the installation of buried bank stabilization, restoration will be required. Mitigation credit is only assessed in those tributaries where there is a gain in jurisdictional waters (acreage) over what previously existed in the drainage. The WDR will be revised to clarify the difference between restoration and mitigation within the major tributary drainages. In terms of ecological functions, the mitigation areas will provide functions and services that

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		Moreover, it fails to show how the mitigation proposed at Long Canyon and other locations will compensate for lost ecological functions. To compensate for these inadequacies, the WDRs should propose mitigation requirements that are more protective than the 1:1 minimum mitigation ratio currently proposed for both temporary and some permanent impacts. A higher mitigation ratio is necessary to ensure that, given the stresses on the restoration project, a 1:1 ration is actually achieved in the long term. At a minimum, a mitigation ratio of 3:1 should be employed for disturbance to habitat that can absolutely not be avoided, with an even higher ratio of 4:1 for impacts to wetlands.	equal or exceed the functions and services lost in the impacted waters, as measured by the Hybrid Assessment of Riparian Condition (HARC) average-weighted (AW) scores for the impacted areas and mitigation areas. The HARC method is a quantitative tool to evaluate and characterize the functional quality of waters, and riparian areas. The methodology was developed by URS Corporation, in cooperation with the Army Corps of Engineers, for the Santa Clara River basin. The HARC methodology adapts and combines elements from three widely used functional assessment methodologies: the California Rapid Assessment Methodology, the Hydrogeomorphic Classification, and the Landscape Level Functional Assessment. The HARC method was developed specifically for the assessment of the Santa Clara River. Mitigation requirements were not developed using 'rule of thumb' mitigation ratios, but, instead were developed using more detailed and comprehensive evaluations of losses to gains including the value of advanced mitigation (lessening temporal losses) and large areas of conservation easement and preservation.
2.22	Heal the Bay	Specifically, the WDRs should clearly outline strong requirements for mitigation of impacts to wetlands. Destruction of wetlands in this Project should be a very last resort. In situations where wetland	Regional Board staff finds that this project, with the required mitigation, meets the goal of "no net loss". See Response 2.21

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		destruction is unavoidable, a minimum mitigation ratio of 4:1 should be established in the WDRs to ensure that adequate area is set aside to mitigate wetland impacts. The Project should meet the goals of the "No-net loss" Federal policy goal and the California Wetlands Conservation Policy which calls for "no overall loss." Nationwide, methods to replace wetlands have largely proven unsuccessful in fully recreating the biodiversity and habitat lost in areas where the wetlands have been impacted or destroyed. In addition, the WDRs should require in-kind wetland mitigation projects, if possible, to ensure that the created wetlands are similar in structure and habitat to wetlands within the same basin area in order to adequately mimic lost habitat for indigenous species and wetland function (i.e. freshwater marsh to freshwater marsh wetlands). It is also important that the created wetlands are placed in the same subwatershed, if possible.	Because of the recognized importance of wetlands, the final LEDPA (compared to the draft LEDPA) avoided an additional 3.5 acres of slope wetland in Potrero Canyon and the avoided slope wetland will be restored.
2.23	Heal the Bay	In addition, the Regional Board should require a Restoration and Monitoring Plan to be prepared by a qualified restoration ecologist to ensure mitigation efforts will be monitored frequently in order to evaluate the success of the created wetlands and other mitigated habitat. This plan must include a thorough baseline assessment of the proposed mitigation site, an extensive "as built" monitoring plan and criteria by which "success" will be judged. As part of this monitoring, regular species (flora and fauna) enumerations and indexes of biological integrity analyses should be performed. We recommend that monitoring persist in perpetuity to ensure the quality of a wetland's conditions, as a created wetland may need many years to begin maturation. All monitoring plans and annual monitoring reports should be provided to the Regional Board and be made available to the public for review.	The WDR has been revised to include more specific language regarding the qualifications of any person(s) to perform project monitoring. See Provision 3.0 6, page 48. In addition, the Mitigation and Monitoring Plan spells out the required qualifications of the Project Biologist: "*The project biologist will possess specific knowledge and project-level experience with wetlands restoration and enhancement projects. The project biologist must demonstrate an understanding of local plant community ecology, habitat restoration, and weed control and have expertise in plant and wildlife identification. The project biologist will possess at least 5 years of wetlands restoration experience in southern California".*

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			Success will be determined by utilizing HARC scores: before, during and after construction activities or any restoration efforts. In addition, Newhall Land will provide California Rapid Assessment Method (CRAM) scores which can be used to evaluate Newhall Land areas in comparison to other watersheds and can also be used to assess success. See WDR Provision 3.1 2., page 55.
2.24	Heal the Bay	The WDRs should provide additional requirements to control invasive aquatic species. Recent aquatic invertebrate surveys in the Malibu Creek watershed have confirmed the presence of the New Zealand mudsnail, an insidious exotic invasive species that could potentially wreak havoc on the watershed's native organisms. The mudsnail has also been found in Piru Creek in the Santa Clara River watershed. The WDRs describe various construction activities that will take place in the River. In addition to provisions listed in the WDRs, other measures are necessary to avoid the spread of this exotic species. Anyone having contact with the River during the Project should complete and implement a Hazard Analysis & Critical Control Points ("HACCP") to prevent the possible spread of the mudsnail further into the watershed. We agree with the WDR provisions requiring equipment inspections to check for mud snails. However, washing is not an effective measure to control the spread of mud snails. Equipment that has been in mudsnail impacted areas should be required to dry out in the sun for 48 hours prior to use in other portions of the waterways.	The WDR has been revised to include more detailed language to address mudsnail concerns. See Revised Tentative WDR, Provision No. 19, page 49.
2.25	Heal the Bay	Miscellaneous concerns:	These WDRs also function as the Clean Water

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		• The WDRs should not cover the entire Newhall Ranch Project, and should instead be issued for the various phases after their respective EIR is approved. The WDRs mention that the EIR for Homestead is not complete, nor has the tract map been completed. Hence, it is inappropriate to cover this phase of the Project under the WDRs as the environmental impacts have not been fully evaluated.	Act Section 401 Water Quality Certification for the project. A 401 certification certifies that a project which receives a federal permit (in this case, an Corps' CWA Section 404 permit) will comply with applicable sections of the Clean Water Act and State water quality standards. Clean Water Act section 401 requires that any applicant for a federal permit, in this case a Clean Water Act section 404 permit, must provide a certification from the state agency with jurisdiction over the affected waters. In this case, Newhall Ranch applied for a section 404 permit to conduct dredge or fill activities in jurisdictional waters of the United States. They sought section 401 certification for those activities. The Regional Board has jurisdiction over the affected waters and can either grant certification with or without conditions, or deny certification for the activities related to the section 404 permit. The proposed WDRs would grant certification with significant conditions to protect water quality, including significant mitigation. The Section 404 permit, the Department of Fish & Game streambed alteration agreement, and the WDRs include conditions, requirements, and mitigation to address impacts to water quality. There are conditions which articulate when the WDRs will need to be re-opened to assure that water quality is protected into the future.

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			As noted in response to comment No. 1.1, the Corps and the DFG are the lead agencies under CEQA and NEPA and have prepared an EIR/EIS for the activities subject to the section 404 permit. The County of Los Angeles is the lead agency under CEQA for purposes of evaluating impacts associated with future phases of the Newhall Land development. The Regional Board is not a land use planning agency and does not have jurisdiction or authority with respect to the land use approval for those future phases and is not the lead CEQA agency. However, if those future phases require any approvals by the Regional Board, it will be a responsible agency and can condition any of its approvals as necessary to protect water quality. Any future actions by the Regional Board will be subject to public notice. The proposed WDRs include significant conditions with respect to the activities associated with the section 404 application, including for actions that will occur in the areas of the future phases.
2.26	Heal the Bay	• The Santa Clara River has numerous beneficial use impairments, and thus, multiple TMDLs have been developed, including the Santa Clara River Bacteria TMDL, Santa Clara River Chloride TMDL, and Santa Clara River Nutrients TMDL. The Project should be given a zero waste load allocation to ensure that further degradation does not occur.	The Project is required to comply with the TMDLs as a stormwater discharger. It is impractical to require that the Project not discharge *any* stormwater..
2.27	Heal the Bay	• The WDRs should contain requirements that ensure BMPs are	Regarding Financial Assurance and

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		maintained and monitored in perpetuity. Some of the proposed water quality BMPs will be maintained by homeowner associations. This does not ensure ongoing water quality protection because there is no regulatory oversight of these associations. All water quality protection measures should be the responsibility of the developer. Alternatively the homeowners associations should at least be required to sign binding agreements with such government agencies requiring the homeowners associations to perform specific maintenance, monitoring and reporting requirements, depending on the BMP.	Responsibility, see Revised Tentative WDR, Provision No. 34, page 55.
2.28	Heal the Bay	• Page 59 states that any changes in the Project will be brought to the Executive Officer for review and approval. Please confirm that any additional information will also be made available to the public for a comment period.	Note that Water Code section 13263(e) states that upon application by any affected person, or on its own motion, the regional board may review and revise waste discharge requirements and that the regional board will review waste discharge requirements periodically. In this case, the tentative WDRs also provide for specific reopeners. Also, if the project changes from that subject to the application for 401 certification, Newhall Land would be required to apply for new 401 certification that would be subject to public comment.
2.29	Heal the Bay	The Newhall Ranch Project has a huge footprint within the Santa Clara River watershed and, thus, enormous potential to create impacts within the watershed by generating increased runoff volumes and encroaching into the floodplain. Both traits serve to create flooding issues (adding more volume and decreasing capacity) yet the Project has no obligation to address these issues other than to protect its own investment. We oppose the 401 Certification and WDRs as proposed.	Comment noted.

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		We urge the Regional Board to ensure that the issues described above are addressed to ensure water quality protection. Without sufficiently protective requirements, the proposed Project will severely degrade one of the most critical habitats in our region. Please contact us if you have any questions.	
3.1	Ventura CoastKeeper	In 2005, the Santa Clara River was named the "10th Most Endangered River" in the Country by American Rivers due to anthropogenic impacts, such as land use changes and pollution. Flowing approximately 116 miles from the headwaters of the San Gabriel Mountains to the Pacific Ocean through a 1,600 square mile watershed, the Santa Clara River is southern California's last naturally flowing major river system. In addition to being the largest wild river remaining in southern California, the Santa Clara River provides crucial aquatic ecosystem functions in the region, including groundwater recharge and riparian habitat for endangered and rare species. It is home to as many as 17 species listed as threatened or endangered by state and federal governments, and includes critical habitat for many species including the endangered Southern California Steelhead, Santa Ana Sucker, Tidewater Goby, Unarmored Threespine Stickleback, Pacific Lamprey, California Red-Legged Frog, Arroyo Toad, and Least Bell's Vireo. A ecologically healthy unpolluted Santa Clara River from Santa Clarita through Piru, Fillmore, Santa Paula, Saticoy, Ventura, and Oxnard provides unmatched recreational, cultural, aesthetic, and spiritual opportunities and resources in the region. In addition, the ecosystem services provided by the Santa Clara River, as recognized by the Regional Board's Water Quality Control Plan for the Los Angeles Region ("Basin Plan") include agriculture supply, groundwater recharge, freshwater replenishment, water contact recreation, non-contact water recreation, cold freshwater habitat,	Comment noted. Beneficial uses of surface waters in the Project area and downstream and beneficial uses of ground waters are included in the WDR in Tables 1a and 1b (pages 66 and 67).

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		warm freshwater habitat wildlife habitat, rare, threatened, or endangered species, wetland habitat, estuarine habitat, migration of aquatic organisms, and spawning, reproduction and development. *See* Basin Plan, pp. 2-1 - 2-5. For all these reasons, it is imperative that Santa Clara River's water quality, cultural uses, aesthetics, and aquatic ecosystem functions are adequately protected through the conditions in the Newhall WDR and Clean Water Act §401 Water Quality Certification.	
3.2	Ventura CoastKeeper	VCK opposes the tentative Newhall WDR and Clean Water Act §401 certification, and requests that the Regional Board deny the issuance of the Clean Water Act §401 Certification and Newhall WDR unless stronger requirements are placed on the Project to adequately protect the ecological integrity and water quality of the Santa Clara River and its tributaries as outlined in this letter. We thus respectfully request the following modifications to the Newhall WDR and Clean Water Act §401 certification to ensure that the beneficial uses of the Santa Clara River are protected, to ensure that the Project does not cause or contribute to violations of water quality standards, and to prevent the ecological, physical, and chemical degradation of the Santa Clara River:	Comment noted.

TENTATIVE Waste Discharge Requirements for the Newhall Land and Farming Company (Proposed Resource Management and Development Plan Clearing 401 Certification)

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3.3	Ventura CoastKeeper	1.) Low Impact Development Performance Standards While the Newhall Ranch development subject to the Newhall WDR ("Project") lies in Los Angeles County, the project lies in the Santa Clara River watershed, abutting the Santa Clara River immediately upstream from Ventura County line. Thus, we request that the Region Board condition the Newhall WDR to contain LID and hydromodification provisions that are at least as protective of water quality and the ecological integrity of the Santa Clara River as the Ventura County Ms4 Municipal Stormwater Permit ("Ventura County Ms4 Permit"). At the very least, the Project should abide by the LID performance standards and hydromodification standards for new green field developments in the Ventura County Ms4 Permit, as the Ventura County Ms4 permit was designed to protect the Santa Clara River from new development, and §401 of the Clean Water Act requires the Regional Board to condition the Army Core's §404 permit to ensure that the beneficial uses of the Santa Clara River are maintained and protected from the Project.	The LID requirements included in this WDR are consistent with the requirements of the current Ventura MS4 permit which are as stringent as any MS4 LID requirements in the State of California.
3.4	Ventura CoastKeeper	As detailed in the August 31, 2011 U.S. Army Corps of Engineer ("ACOE") Record of Decision pages 21-22, Newhall Land agreed to LID measures that exceed current requirements of the Los Angeles County stormwater permit. However, these new measures, and the measures contained in the Newhall WDR, fall short of the ecological protections needed to protect the ecological integrity and water quality of the Santa Clara River.	This WDR requires LID measures consistent with the requirements of the current *Ventura* MS4 order. When the Los Angeles County MS4 permit is updated, the upcoming Villages will be required to implement the LID measures of the Los Angeles County MS4 permit.
3.5	Ventura CoastKeeper	We thus request that the Newhall WDR includes the following additional LID and hydromodification requirements that will provide the Santa Clara River with at least the protections in the Ventura Ms4	The proposed LID requirements are consistent with the requirements of the current Ventura MS4 order.

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		Permit and the minimal protections needed to protect and maintain the ecological integrity and water quality of the Santa Clara River: a.) The Newhall WDR currently provides that infiltration BMPS (including bioretention (without an underdrain), permeable pavement, infiltration galleries, infiltration basins or trenches, or an equivalent infiltration BMP) are infeasible, and thus shall not be required to be used, if soil infiltration rates are at least 0.5 inches per hour for the runoff produced from the 0.75 inch storm from the developed area, if fill depth is less than 10 feet, and no other technical infeasibility concerns exist. However, the Ventura County Ms4 Permit and its Ventura County LID Manual (See Attached) to implement the Ventura County Ms4 permit for the Santa Clara River watershed specifically provides that for Greenfield developments, like the Newhall Project,: Technical infeasibility may result from conditions including the following: 1) Locations where seasonal high groundwater or mounded groundwater beneath an infiltration BMP is within 5 feet of the bottom of the infiltration BMP. 2) Locations on the project site where soils are mapped with Ventura Hydrology Manual Soil Numbers 1-2 or site-specific analyses show that the soils have an infiltration rate less than 0.3 inches per hour. 3) Locations where soils are mapped with Ventura Hydrology Manual Soil Number 3, or where a site-specific analyses show that the soils have an infiltration rate of 0.3 to 0.5 inches per hour, and no other infiltration-related infeasibility criteria apply, shall use a Bioinfiltration BMP or Rainwater Harvesting (if feasible) to achieve the 5% EIA requirement. Accordingly, VCK requests that paragraph 12.a. of section 3.0 is modified to read: a. If it is feasible to infiltrate all of the runoff produced from the 0.75	Although the WDR allows for consideration of infeasibility constraints when considering the ability to retain stormwater on each parcel, it mandates retention (without consideration of feasibility) within the overall RMDP boundary. The required LID BMPs will retain stormwater flows before discharging to the Santa Clara River and tributaries. These BMPs will minimize direct hydromporphic impacts to the Santa Clara River. For the multiplier 1.5, see response to comment 2.15.

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		inch storm from the developed area (i.e., soil infiltration rates are at least **0.3** inches per hour; **locations where seasonal high groundwater or mounded groundwater beneath an infiltration BMP is within 5 feet of the bottom of the infiltration BMP;** and no other technical infeasibility concerns exist), infiltration BMPs shall be used. Infiltration BMPs include bioretention (without an underdrain), permeable pavement, infiltration galleries, infiltration basins or trenches, or an equivalent infiltration BMP. VCK's requests that "if fill depth is less than 10 feet" is not included as a determinant of infeasibility because its inclusion would seemingly provide a loophole that impermissibly excuses the implementation of infiltration BMPs needed to protect the Santa Clara River from the Project. In addition, supportable and reliable findings do not exist that demonstrate that infiltration BMPs are infeasible in areas where fill depth is less than 10 feet. LID with infiltration BMPs should be required in the portions of the Project area where fill is occurring, and the filling of Project area should not serve as a mechanism to avoid implementing infiltration BMPs.	
3.6	Ventura CoastKeeper	b.) To ensure water quality and ecological protections that are at least on par with the requirements of the Ventura County Ms4 Permit, like the Ventura County Ms4 Permit, if the Newhall WDR permits biofiltration3 to be utilized to achieve the 5% EIA standard if infiltration BMPs are technically infeasible, the biofiltration BMPs must include enhanced design storm sizing requirements for volume retention and pollutant load reduction that require the biofiltration BMPs to be sized to treat 1.5 times the volume and pollutant loads as infiltration BMPs would.	As described in response to comment 2.14, the proposed LID requirements are consistent with the requirements of the 2010 Ventura County MS4 Permit. Specifications for determining technical infeasibility and for designing biofiltration BMPs are provided in the Ventura County Technical Guidance Manual (TGM), which was approved by the Regional Board Executive Officer in 2011. The Regional Board expects that Newhall Ranch will rely upon the

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		Accordingly, VCK requests that paragraphs 12.b. and 12.c. of section 3.0 of the Newhall WDR are modified to read: 12.b. If it has been demonstrated in the Project WQTR and Drainage Concept Report that the BMP strategy of a., above, is infeasible, and if the parcel has low soil infiltration rates or the seasonal high groundwater table is too high (i.e., the soil infiltration rate is less **than 0.3 inches per hour or high groundwater or mounded groundwater beneath an infiltration BMP is within 5 feet of the bottom of the infiltration BMPs**, but no other technical infeasibility concerns exist), bioinfiltration BMPs shall be used, **and the bioinfiltration BMPs must be sized to treat 1.5 times the volume not retained using infiltration BMPs**. Bioinfiltration facilities are similar to bioretention facilities with an underdrain, but they include storage below the underdrain to maximize the volume infiltrated. These facilities shall retain a portion of the runoff from the 0.75 inch design storm, then biofilter the remaining runoff from the 0.75 inch design storm. While VCK feels that biofiltration and bioinfiltration BMPs should not qualify as infiltration BMPs for purposes of achieving 5% EIA, and should not be allowed to be utilized for purposes of achieving 5% EIA unless a showing of infeasibility is demonstrated pursuant to the infeasibility determinations set forth Ventura County Ms4 Permit and its implementing LID Guidance manual, if the Newhall WDR allows biofiltration and/or bioinfiltration then VCK requests that the **volume-based biofiltration and bioinfiltration BMPs are required to be sized to treat 1.5 times the volume not retained using infiltration BMPs**. 12.c. If it has been demonstrated in the Project WQTR and Drainage Concept Report that the BMP strategies of a. and b., above, are	Ventura County TGM, or any technical guidance on BMP design that is included in, or developed as a result of, the reissued Los Angeles County MS4 Permit.

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		infeasible, and if infiltration is technically infeasible due to geotechnical hazards or a high ground water table, then biofiltration BMPs shall be used. These BMPs shall biofilter the runoff produced from the 0.75 inch design storm. **Volume-based biofiltration BMPs shall be sized to treat 1.5 times the volume not retained using infiltration BMPs.**	
3.7	Ventura CoastKeeper	c.) The Newhall WDR must require discharges from EIA to meet the specific pollutant reduction standards contained in Attachment C Ventura Ms4 Permit for constituents such as copper, lead, and zinc. Because the Project is greater than 50 acres, the storm water runoff from the Project's EIA and developed pervious surfaces must also be required to be mitigated using Treatment BMPs and Control Measures that are properly sized to retain and treat, in accordance with the permit's specified pollutant removal performance standards in Attachment C, 80% of the average annual runoff volume as calculated using an appropriate public domain continuous flow model.	The WDR states, "Runoff from all EIA shall be treated with effective treatment control measures that are selected to address the pollutants of concern and are sized to capture and treat 80 percent of the average annual runoff volume." The Ventura MS4 Attachment C relies on a presumptive design-based approach. Treatment devices are to be selected to address pollutants expected to be discharged from the influent in the WDR.
3.8	Ventura CoastKeeper	d.) The Newhall WDR must preclude the 5% EIA standard for the development to be artificially achieved by allowing portions of the Project Area not planned for development, such as the Salt Creek Area already designated as permanent open space, to contribute to the achievement of the 5% EIA performance standard;	The impacts of EIA are mitigated by pervious cover whatever the reason for its existence.
3.9	Ventura CoastKeeper	e.) The Newhall WDR must contain at least as stringent Hydromodification (Flow/ Volume/ Duration) Control Criteria as the Ventura County Ms4 permit to protect the stream habitat of the Santa Clara River, tributaries, and drainages within the Project Area from erosion, incision, and sedimentation impacts that can occur as a result of flow increases from the Project's impervious surfaces. (Ventura Ms4 Permit Part 4. E. III., Attachment C).	The NRSP *Sub-Regional Storm Water Mitigation Plan* was developed by Newhall Land in cooperation with Los Angeles County, consistent with the requirements of the Los Angeles County MS4 Permit and the Standard Urban Stormwater Mitigation Plan (SUSMP). It sets forth the urban runoff management

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			program that will be implemented for the NRSP subregion. Newhall developed a revised Sub-regional LID Implementation Plan in 2011, which includes LID performance standards equivalent to those in the Ventura County MS4 Permit. The plan identifies the site design, source control, low impact development, treatment control, and hydromodification control BMPs that will be incorporated into each development area within the NRSP subregion to protect beneficial uses in the Santa Clara River and its tributaries. The NRSP Sub-Regional SWMP was approved by the Los Angeles Regional Water Quality Control Board in May 2008. Additionally, as described in response to comment 2.14, the Regional Water Board has established a tiered approval process for the NRSP area. Tier 2 includes review and approval of a Drainage Concept Report, which is prepared in close collaboration with the WQTR, such that the final reports describe the hydromodification control BMPs for the village-level projects to ensure protection of the river and its beneficial uses from any hydromodification impacts.
3.10	Ventura CoastKeeper	In lieu of these specific requests for these additional LID and hydromodification requirements to be included in the Newhall WDR, if the LID requirements contained in the current tentative LA County permit to retain and infiltrate 100% of the 85th percentile storm is	See response to comment 2.16.

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		adopted in the LA County permit, VCK requests that the Newhall WDR adopts either the LID and hydromodification performance standards set forth in this letter as consistent with the Ventura County Ms4 Permit or the LID and hydromodification performance standards set forth the final LA County Permit (if the final permit requires the retention and infiltration of the 100% of the 85th percentile storm), whichever is more protective of the Santa Clara River's water quality and ecological integrity.	
3.11	Ventura CoastKeeper	2.) Newhall WDR Prohibitions We respectfully request the following modifications to Prohibition provisions of the Newhall WDR found in section 2.0 of the Newhall WDR to adequately protect the Santa Clara River from the Project. a. Prohibition four should be modified to also prohibit unauthorized discharges. Thus, instead of just providing "This Order does not authorize the discharge by the Newhall Land for any other activity than specifically described in this WDR" discharge prohibition four should also provide that: "Discharges of water, materials, thermal wastes, elevated temperature wastes, toxic wastes, deleterious substances, or wastes other than those authorized by this Order to a storm drain system, the Santa Clara River, or other waters of the State, are prohibited."	The WDR has been modified to include an additional prohibition for unauthorized discharges, see Prohibition 2.0 6, page 41.
3.12	Ventura CoastKeeper	b. Discharge prohibition five should be modified to include trash and debris. Ventura Coastkeeper's monitoring data has documented extensive quantities of trash in the Santa Clara River and along side its banks from the Project area to the Estuary.4 Municipal areas constitute significant sources and threats of trash pollution in inland and coastal waterways.	The WDR has been modified to include the additional prohibition language for trash, see Prohibition 2.0 5, page 41.

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		Thus, we request discharge prohibition five to be modified to read: "The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; e) adversely affect any designated beneficial uses; f.) cause or contribute to trash or debris pollution."	
3.13	Ventura CoastKeeper	c. In addition, as consistent with other waste discharge requirements issued by the Regional Board these other discharge prohibitions need to be added to the Newhall WDR's list of Prohibitions to adequately protect the Santa Clara River from the Project: d. i. Neither the treatment nor the discharge of pollutants shall create pollution, contamination, or a nuisance as defined by Section 13050 of the Water Code. ii. Wastes discharged shall not contain any substances in concentrations toxic to human, animal, plant, or aquatic life. iii. Any discharge of wastes at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.	Staff finds these additional prohibitions to be largely repetitive of prohibitions 5 and 6..
3.14	Ventura CoastKeeper	3.) End of Pipe Effluent Limitations / Pollutant Reduction Standards. a. As requested above in the LID performance standards section of this letter: i. The Newhall WDR must require discharges from EIA and the	The WDR states, "Runoff from all EIA shall be treated with effective treatment control measures that are selected to address the pollutants of concern and are sized to capture and treat 80 percent of the average annual

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		project's developed pervious surfaces to meet the specific pollutant reduction standards contained in Attachment C Ventura Ms4 Permit for TSS, nitrate - nitrogen, copper, lead, and zinc;	runoff volume." The Ventura MS4 Attachment C relies on a presumptive design-based approach. Treatment devices are to be selected to address pollutants expected to be discharged from the influent in the WDR.
3.15	Ventura CoastKeeper	ii. The Newhall WDR must require that the Project's Treatment BMPs and Control Measures to achieve these specified pollutant reduction standards for TSS, nitrate - nitrogen, copper, lead, and zinc as set forth in Attachment C Ventura Ms4 to be sized to treat 80% of the average annual runoff volume as calculated using an appropriate public domain continuous flow model;	See response to comment 3.15.
3.16	Ventura CoastKeeper	b. The WDR must also include end of pipe numeric effluent limitations that apply to all discharge from all outfalls from the Project into the Santa Clara River and its tributaries. In addition, at the very minimum, these numeric limits must be equivalent to the specific pollutant reduction standards contained in Attachment C Ventura Ms4 Permit for TSS, nitrate - nitrogen, copper, and zinc and to the California Department of Fish and Game Resource Management and Development Plan and Spineflower Conservation Plan EIR's ("Newhall EIR") forecasted and promised concentrations of these constituents after the Project's implementation of BMPs and PDFs. i. Thus, as provided for in Attachment C of the Ventra Ms4 Permit, the maximum effluent limit for total copper should be 15.9 micrograms per liter, the maximum effluent limit for total zinc should be 58.7 micrograms per liter, the maximum effluent limit for nitrate - nitrogen should be .66 micrograms per liter, and the maximum effluent limit for total suspended solids should be 27 milligrams per liter;	See Response to Heal the Bay comment 2.17.

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		ii. In addition, as the Newhall EIR indicates that the Project's PDF's and LID BMPs will achieve for the concentrations of pollutants in the Project's stormwater discharges into the Santa Clara River and its tributaries: 1. the maximum effluent limit for dissolved copper should be 8.3 micrograms per liter; 2. the maximum effluent limit for dissolved zinc should be 39 micrograms per liter; 3. the maximum effluent limit for total lead should be 6.3 micrograms per liter; 4. the maximum effluent limit for total aluminum should be 591 micrograms per liter; 5. the maximum effluent limit for chloride should be 15 milligrams per liter; 6. the maximum effluent limit for total phosphorous should be .26 milligrams per liter; 7. the maximum effluent limit for nitrogen should be 2.3 milligrams per liter; The Newhall WDR's maximum effluent limit for dissolved copper also should not exceed 8.3 micrograms per liter, and should not exceed 15.9 micrograms per liter for total copper, as the Newhall EIR presented data that existing observed concentrations of dissolved copper in the Santa Clara River during storm events within the Project Area range between 3.3 to 22.6 micrograms per liter6, which exceeds the steelhead smolt sub-lethal toxicity thresholds of .75 - 2.1 micrograms per liter as documented by a National Oceanic and Atmospheric Administration ("NOAA") published study. (See attached study.) iii. In addition: 1. a numeric effluent limit for trash of 0 pieces of trash should be included in the Newhall WDR.	

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		2. In addition, the end of pipe - outfall effluent limitations should include numeric limits for COD at 120 milligrams per liter, BOD at 30 milligrams per liter, and Oil & Grease at 15 milligrams per liter to reasonably protect the Santa Clara River from the Project.	
3.17	Ventura CoastKeeper	4.) Reduction in number of storm water outfalls to the Santa Clara River and its Tributaries The Newhall WDR states that Newhall Land is authorized to construct 35 outlets to and in the Santa Clara River. This quantity of outlets presents enormous monitoring and end of pipe treatment control challenges that would be overcome by limiting the number of outfalls to the Santa Clara River and its tributaries. VCK requests that the WDR limit the amount of outlets/outfall from the Project to the Santa Clara River to a maximum of 10 outfalls.	Staff disagree. The number of stormwater outfalls is more properly dictated by the need to distribute the stormwater flows over a greater number of discharge points than for ease of monitoring.
3.18	Ventura CoastKeeper	5.) Project Biologist and Restoration Biologist: VCK requests that the non-profit public interest community commenting on the WDR nominate and select the Project and Restoration Biologists as provided for in paragraphs four and five of the Provisions section of the Newhall WDR, and that the Regional Board Executive Officer retains the authority to approve the selection of these biologists. The WDR should also provide that Newhall Land Co. will be responsible for funding the biologists according to current market rates.	See response to comment 1.10 and 2.23. In addition, each report submitted by Newhall Land to the Regional Board is required to include a signed statement "*...the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information..."*
3.19	Ventura CoastKeeper	6.) Storm Drain and Receiving Water Quality Monitoring a. VCK requests that the Newhall WDR requires: i. That end of pipe storm drain/channel outfall monitoring is conducted from every storm drain/channel from the Project to the Santa Clara River and its tributaries by Newhall during two storm events per wet season, as defined as from September 1 to June 1;	See response to comment 2.18.

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		ii. That end of pipe storm drain/channel outfall monitoring is conducted during the first rain event of every wet season, and during the first hour of the storm in which sampling takes place so as to capture the concentrations of pollutants discharged from the Newhall Project during the first flush; iii. That the two dry weather storm channel/drain outfall monitoring events are conducted twice per year at every project outfall; iv. That visual observations are conducted at all outfalls during all monitoring events and at least during one storm event per month, and that the visual observations record the presence of trash, debris, floatables, sewage, odors, discoloration, or other visible pollutants in discharges from the Project's outfalls to the Santa Clara River.	
3.20	Ventura CoastKeeper	7.) Reporting a. VCK requests that the annual reports, monitoring reports, reports of violations of the Newhall WDR, and reports of exceedences of the WDR effluent limits or discharge prohibitions include the monitoring information/results listed in section 6.) above for all the constituents mentioned; b. VCK requests that the results of the visual observations are included in all annual reports, monitoring reports, reports of violations of the Newhall WDR, and reports of exceedences of the WDR.	The required content of the Annual Reports is detailed in Provision 3.2 3, page 57.
3.21	Ventura CoastKeeper	8.) Enforceability a. VCK requests that a clause be inserted in the Newhall WDR that clarifies that a violation of the Newhall WDR is a violation of the Clean Water Act and Porter- Cologne Water Quality Control Act.	The Regional Board has authority to enforce violations of the WDR pursuant to the Porter-Cologne Water Quality Control Act, including Water Code section 13385 which provides for enforcement of water quality certifications. Clean Water Act section 505 provides for citizen suits in certain circumstances.

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3.22	Ventura CoastKeeper	Please note that VCK concurs with the positions in the joint Newhall WDR letter submitted by Friends of the Santa Clara River, SCOPE, and Center for Biological Diversity. In addition, VCK concurs with the requests in Heal the Bay's ("HTB") Newhall WDR letter including: - The enhanced hydromodification mitigation measures requested in the HTB letter; - That a 500-foot riparian buffer should be required for all portions of the Newhall development; - That a mitigation ratio of 3:1 should be employed for disturbance to habitat caused by the Project that can absolutely not be avoided; and a mitigation ratio of 4:1 should be employed for the Project's impacts to wetlands; - Additional requirements to control invasive aquatic species as set forth in the HTB letter should be implemented; - The WDR should not cover the entire Newhall Ranch Project, and should only be issued for the various phases after their EIRs are approved; - BMPs should be maintained and monitored in perpetuity.	Comments noted. Please see previous responses.
3.23	Ventura CoastKeeper	VCK opposes the Newhall WDR as proposed, and requests that the Regional Board deny the Clean Water Act §401 Water Quality Certification unless the changes to the WDR and §401 Water Quality Certification that are suggested and requested in this letter are adopted. These modifications are needed to adequately protect the ecological integrity and water quality of the Santa Clara River from this Project.	Comment noted.
4.1	Ventura CoastKeeper #2	As stated in VCK's first letter, we feel it is imperative that Santa Clara River's water quality, cultural uses, aesthetics, and aquatic ecosystem functions are adequately protected through the conditions in the	Comments noted.

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		Newhall WDR and Clean Water Act §401 Water Quality Certification. VCK opposes the tentative Newhall WDR and Clean Water Act §401 certification as written, and requests that the Regional Board deny the issuance of the Clean Water Act §401 Certification and Newhall WDR unless stronger requirements are placed on the Project to adequately protect the ecological integrity and water quality of the Santa Clara River and its tributaries as outlined in VCK's WDR/§401 Water Quality Certification letter dated April 10, 2012. VCK would like to clarify, that in regards to the LID requirements, it is VCK's position and request that the Newhall WDR and CWA §401 Water Quality Certification contains LID requirements that mandate the Newhall Project, in post development conditions, retains for evaporation, reuse, or infiltration, 100% of the precipitation up to and from an 85th percentile storm.	
5.1	LA County Parks & Rec	We only have information on the public and private parks required for the subdivisions mentioned in the project. The document uses combined figures which also include acreages of other open space and public service uses that we do not track. Thus, it is not possible to know for certain whether RWQCB have the correct park acreages as required by this Department. Pg 15. Item 3 The document indicates that the project will include 90 acres of parks and recreational areas. Our records show a total of 105.4 acres of public and private parkland for Landmark Village, Mission Village, and Homestead Village combined. Pg 16. Item E.1 Landmark Village This project is required to provide a total of 18.8 acres of parkland: 9.74 public and 9.06 private.	Comments noted. The WDR requires open space and conservation easements to protect areas in perpetuity but does not track Los Angeles County park space. Staff do not dispute the Los Angeles County figures.

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		Pg 18. Item E.2 Mission Village This project is required to provide a total of 70.2 acres of parkland: 25.2 public and 45 private. Pg.25. Item E.4 Homestead South Village The Homestead subdivision (we do not differentiate between South and North Villages) is required to provide a total of 16.4 acres of parkland (all public). Pg.28. Item E. 5 Homestead North Village The Homestead subdivision (we do not differentiate between South and North Villages) is required to provide a total of 16.4 acres of parkland (all public).	
6.1	Newhall Land & Farming	The Newhall Land and Farming Company (Newhall Land) appreciates the opportunity to comment upon the proposed Clean Water Act section 401 water quality certification and waste discharge requirements (WDR) in connection with the Newhall Ranch Resource Management and Development Plan (RMDP). The draft WDR will complement the extensive requirements of the Clean Water Act section 404 permit issued on August 31, 2011 by the United States Army Corps of Engineers (Army Corps). By law, the federally-issued Clean Water Act 404 permit is contingent upon the Regional Water Quality Control Board, Los Angeles Region (Regional Board) approval of the section 401 certification/WDR. The Newhall Ranch Specific Plan and the RMDP were developed to guide the long-term, master planning and permitting through the course of the build-out of Newhall Ranch. Newhall Land is committed to environmental stewardship and protection of natural resources and water quality, while meeting long-term housing needs, creating jobs,	Comment noted.

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		building valuable resources such as schools, parks and open space, hiking trails, and libraries and improving overall infrastructure. For over a decade, Newhall Land has worked with the Regional Board, U.S. Army Corps of Engineers (Corps), U.S. Environmental Protection Agency (U.S. EPA), the California Department of Fish and Game (CDFG), the U.S. Fish and Wildlife Service (FWS), and Los Angeles County (County) to study and mitigate anticipated and potential impacts of the RMDP. Working cooperatively, Newhall Land and these agencies have engaged in studies to determine whether, and how, the RMDP may impact waters of the State of California and United States, tributaries to those waters, critical habitat and endangered or threatened species. We appreciate the efforts of staff throughout this process, and in particular note the extraordinary focus and commitment shown by Regional Board staff over this period of time. Regional Board staff has toured the site numerous times, commented during CEQA reviews, and participated during the CDFG and Army Corps permitting processes. The proposed WDR is the result of many years of review and careful environmental analysis by multiple agencies including the Regional Board in addition to the public and interested stakeholders. The agency actions will ensure that the RMDP will be developed in a manner that protects water quality and ensures compliance with the numerous permits applicable to Newhall Land. The administrative record supporting this draft WDR has been available on the Regional Board website for the duration of the public comment period and has a voluminous record of environmental agency requirements and regulatory history. The majority of the administrative record is comprised of studies and supporting documents that have been public and subject to comment for number of years. Newhall Land is not attaching the pertinent documents submitted along with the WDR permit application (Report of Waste Discharge or ROWD) to this comment letter, but notes their public availability and incorporate	

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		them by reference. During the development of the WDR, Regional Board staff carefully reviewed the RMDP and related requirements to ensure that the WDR met the rigorous standards of the Regional Board. Environmental groups and interested stakeholders have been extremely active through the various stages of agency approval and have also participated in reviews by other regulatory agencies and the County of Los Angeles. The final project as reflected in the WDR, has benefited by the lengthy and extensive public process and will be protective of water quality and natural resources. Under the proposed WDR, Newhall Land will preserve and protect in perpetuity approximately 612 acres of waters of the United States, including 272 acres of wetlands. The Santa Clara River flows through the proposed development and will be protected in perpetuity by conservation easements and management plans. In addition, the major tributaries that flow into the Santa Clara River will be protected and enhanced. Newhall Land will obtain conservation easements or deed restrictions to preserve, in perpetuity, over 1,172 acres of high quality wildlife habitat in the Santa Clara River and tributaries. The coordinated efforts of Newhall Land and local, state and federal resources agencies have resulted in a plan that avoids permanent or temporary impacts to 87 percent of the waters of the United States existing on the RMDP site. For the remaining 13 percent of those waters, Newhall Land will mitigate at an average ratio of 2.4 acres of water for every 1 acre permanently impacted and will restore all areas impacted by the RMDP. Overall, impacts have been significantly reduced from more than 93 acres in the County approved project to less than 48 in the Corps approved project. The proposed WDR also reflects Newhall Land 's obligation to set aside over 8,567 acres of natural open space and recreation areas, including 199 acres of preserve for the endangered/threatened spineflower within the RMDP project site. Moreover, Newhall Land will protect the Salt Creek wildlife movement corridor by placing 5,722 acres of the Salt Creek watershed and Newhall Ranch High	

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		Country into a permanent conservation easement. Proposed mitigation also includes restoration and enhancement lower Salt Creek. Of note, in order to protect habitat functions and services during construction, the WDR requires Newhall Land to implement 54.9 acres of compensatory mitigation *before* any development impacts occur, including creation of 35.2 acres of wetlands in Lower Potrero Canyon and the Santa Clara River at Mayo Crossing and 19.7 acres of habitat enhancement in portions of the Salt Creek watershed. Throughout the development process, Newhall Land will protect water quality by complying with all applicable permits and waste discharge requirements in effect pursuant to state and federal law. During construction, Newhall Land will be subject to the General NPDES Permit for Construction Stormwater Discharges (Order No. 2009-0009-DWQ; NPDES No. CAS000002). As such, it will implement Best Management Practices (BMPs) to prevent and/or reduce erosion and the transport of sediment and other potential pollutants from the project site during construction. Newhall Land will also create and implement a Stormwater Pollution Prevention Plan (SWPPP) to identify, implement and maintain appropriate BMPs to reduce or eliminate pollutants in stormwater discharges and authorized non-stormwater discharges during construction. Following construction, water quality will be protected both by requirements of the Newhall Ranch Specific Plan, and requirements described by the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit in effect. To further protect water quality, Newhall Land has also agreed to incorporate Low Impact Development (LID) measures for each development within the RMDP that are more stringent than those currently required. The LID Performance Standard is similar to the LID requirements in the Ventura County MS4 Permit. LID measures will be selected and sized to retain the volume of stormwater runoff produced from a 0.75 inch storm event to reduce the percentage of Effective Impervious Area (EIA) to 5 percent or less of the total	

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		project area within the Newhall Ranch Specific Plan. Runoff from all EIA will be treated with effective treatment control measures that are selected to address the pollutants of concern and are sized to capture and treat 80 percent of the average annual runoff volume. The LID measures will include infiltration, bioretention and biofiltration to keep stormwater out of waterways and on its originating properties. Where direct discharges to waters of the United States are anticipated, Newhall Land will use design measures and BMPs to limit impervious area and disconnect imperviousness to avoid and minimize hydromodification impacts. Overall, these measures will help minimize continued impacts from the developments once built and will ease the amount of runoff affecting tributaries and other waters. For the duration of the WDR Newhall Land is required to submit 5-year reports to the Executive Officer for review. These requirements, in addition to the village-level specific review of the Project Water Quality Technical Reports (WQTRs) will ensure permit compliance and a continuing emphasis on long- term planning and protection of water quality. The WDR requirements reflect the Regional Board process developed for this WDR with the approval of requirements through the Los Angeles MS4 sub-regional approach since 2008. Regional Board staff vigilance and preparation has resulted in coordinated permits and state of the art LID requirements in advance of the LA MS4 permit. Regional Board staff should be acknowledged for their level of effort and vision.	
6.2	Newhall Land & Farming	After Newhall Land has implemented the RMDP, responsibility for storm drain and receiving water quality monitoring at outfalls will fall under the Los Angeles County MS4 permit requirements for MS4 permittees or owner/operators of the storm drain system. Newhall Land would appreciate the final WDR to clarify this understanding by an addition to the current permit language that facilitates the transfer of outfall monitoring responsibility. This responsibility shift would	The WDR has been modified to include a new Provision, 3.0 34, page 55.

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		occur with the transfer of the drainage facilities accompanied by the appropriate funding mechanism as reflected in the RMDP Appendix A (RMDP Maintenance Manual). This would in turn allow for continuity of monitoring, reporting and long-term analysis to ensure compliance with the MS4 requirements beyond the duration of the WDR.	
6.3	Newhall Land & Farming	In addition to that change, it may make sense to modify the specificity of the storm drain outfall and receiving water monitoring parameters in the draft WDR. Monitoring parameters ideally are designed to be adaptable and able to change in accordance with evolving permit and Total Maximum Daily Load (TMDL) requirements. For example, the current list may be too large or too small for the future needs of watershed managers. Newhall Land proposes that the monitoring parameters be established by and through the same process of approval for the monitoring plans that will be submitted to the Executive Officer.	The WDR has been modified to clarify that the list of parameters are to be "considered." This change has been made so that the determination of *which* organochloride pesticides, or pyrethroid pesticides, for example, can be determined when the plan is developed and modified as necessary. See WDR provision 3.0 16, page 47.
6.4	Newhall Land & Farming	The Newhall Ranch Specific Plan and RMDP have undergone a long and detailed regulatory agency and public review, including more than 20 public hearings and 700 meetings. As a result, over 68 percent of the available land within the Specific Plan areas is being protected as natural open space. In addition, impacts to the vast majority of waters of the State and United States wil1 be completely avoided and impacts fully offset. Newhall Land will protect and preserve waters and wetlands, and through the completion of this draft WDR process will embark upon a stringent program to implement the mitigation requirements designed to protect water quality, while also working to bring environmentally responsible development to the region.	Comment noted.
7.1	Friends of the Santa Clara	We are writing to you regarding Newhall Ranch, the major development project in Los Angeles (LA) County that, if it goes	Regional Board Resolution 2005-002, adopted on January 27, 2005, "*Reiteration of Existing*

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	River	forward as planned, would likely cause significant harm to water quality and endangered wildlife and plant species. We thank you and your staff for meeting with us, listening to our concerns and for all the work your staff has done over the last several years on this project. We are writing to ask that the Los Angeles Regional Water Quality Control Board take the actions we have outlined in our letter, in accordance with its duties under the Clean Water Act, and as outlined in the Board's Resolution regarding Hydromodification (#2005-002) to ensure that Newhall Ranch does not cause or contribute to the impairment of water quality and the ecological integrity of the Santa Clara River. As we begin this discussion we especially direct your attention to the findings of the Hydromodification Resolution approved by your Board. *Section 2 of the Resolution describes its purpose, one that is particularly relevant to the Santa Clara River and the project before you, that it "…sets forth a process to achieve one of the Regional Board's highest priorities, which is to maintain and restore, wherever feasible, the physical and biological integrity of the Region's water courses. Secondarily, maintaining the natural functions of water courses maximizes opportunities for stormwater conservation and groundwater recharge, which is very important in the semi-arid Los Angeles region where groundwater makes up half of the Region's water supply." And section 3 "…The Regional Board also strongly supports preservation efforts geared toward ensuring long-term protection for the Region's remaining natural water courses." Section 14 acknowledges the Santa Clara as one of the few watercourses with sections remaining in a natural state, (including the reaches affected by the permit before you), and thus able to "provide immeasurable benefits to the Region. These benefits include high quality warm and cold-water aquatic habitat, spawning habitat, migratory pathways, wildlife corridors, wildlife and riparian habitat, wetland habitat,*	*Authority to Regulate Hydromodifications within the Los Angeles Region, and Intent to Evaluate the Need for and Develop as Appropriate New Policy or Other Tools to Control Adverse Impacts from Hydromodification on the Water Quality and Beneficial Uses of Water Courses in the Los Angeles Region"* is not a regulation nor a policy but does re-iterate the Regional Board's authority to regulate hydromodification. The Resolution 2005-002 is discussed in Finding G.2 of the draft WDR. This WDR does address hydromodification in requirements, mitigation and monitoring. Both the January 22, 2007 comment letter from the Regional Board on the Landmark Village EIR and the January 4, 2011 comment letter on the Mission Village EIR addressed hydromodification concerns. The concerns have been addressed in the responses to those letters, changes to the EIRs and in the requirements of the Newhall Ranch specific Plan Sub-Regional Stormwater Mitigation Plan current and future *Water Quality Technical Report and Drainage Concept Report* and the provisions of this WDR. Provision 3.10, *Post-Construction* Measures, of the draft WDR requires a *Water Quality Technical Report and Drainage Concept Report* for each development area with site-

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		recreational and aesthetic enjoyment, and groundwater recharge." *Section 19 further states: "The Regional Board strongly discourages direct hydromodification of water courses except in limited circumstances where avoidance or other natural alternatives are not feasible. In these limited circumstances, project proponents must clearly demonstrate that a range of alternatives, including avoidance of impacts, has been thoroughly considered, hydromodification has been minimized to the extent practicable, and adequate in situ and/or off site mitigation measures have been incorporated to offset related impacts. Project proponents must also document that there will be no adverse effects to water quality or beneficial uses. This approach is consistent with the California Environmental Quality Act (CEQA), federal regulations and State and federal anti-degradation policies.* We assert as we have in all public process forums for this project, that further avoidance of the natural waterways is both feasible and practicable and that the range of alternatives, including avoidance was not thoroughly considered. We believe the Board's own correspondence on this project in a variety of public forums, upholds this viewpoint. We attach the Board's previous correspondence to this letter and include it for the record. Further, as particularly required in the resolved section 4 of this resolution, we assert that this project does not include "adequate analysis of a range of alternatives, where an alternatives analysis is required, has been performed consistent with the Porter-Cologne Water Quality Control Act, CEQA and anti-degradation requirements."	specific information about the water quality measures to be implemented in that development area, including low impact development and hydromodification control BMPs. Provision 3.12, *LID Standards*, includes the specific requirements to implement hydromodification controls to prevent accelerated stream erosion and to protect stream habitat in more detail. This WDR also includes, in Provision 3.15, *Downstream Effects Monitoring*, a requirement for Newhall Land to specifically analyze downstream effects within Santa Clara River (downstream of project tributaries and in reaches between project tributaries). The monitoring program will include annual monitoring before and after storm seasons (including first flush) to analyze river contours, elevations, aggradation and erosional areas, and any downstream impairments or changes to the Santa Clara River flow regimes or 100-year floodplain. The Board's own correspondence on this project shows staff did continue to analyze and consider potential hydromodification from the project. The WDR has been modified to include a new condition of preservation of additional

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			downstream floodplain will assure that the hydrologic conditions will not be limited. The August 25, 2009 and August 3, 2010 letters sent by this Regional Board on the final EIS/EIR and Least Environmentally Damaging Project Alternative (LEDPA) discussed preferable alternatives to maintain habitat and limit hydromodification. The letters were responded to by the CEQA/NEPA leads, California Department of Fish and Game and US Army Corps of Engineers wherein concerns were addressed and sufficient changes made in the EIS/EIR and draft LEDPA (including the additional avoidance in Potrero Canyon after the draft LEDPA) which, along with the provisions of this WDR, for staff to recommend adoption of the WDR at this time. Overall, in the evaluation of the alternatives, staff found that the analysis of a range of alternatives was adequate, consistent with the Porter-Cologne Water Quality Control Act, CEQA and anti-degradation requirements.
7.2	Friends of the Santa Clara River	Of specific importance to the proposed project permit before you is section 10, 11 and 12 of the in the findings of the resolution: *"10.Many hydromodifications were undertaken with laudable goals often for public safety and welfare, but have later been shown to de-stabilize and enlarge stream channels as well as degrade habitat and reduce species abundance and diversity. As a result, when reviewing*	Comment noted. Degradation to existing riparian habitats and water quality, both in the project area and downstream are addressed in the responses to specific Friends of the Santa Clara River comments in more detail, below.

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		Resolution No. 2005-002 hydromodification projects it is important to carefully consider whether the immediate improvements sought are designed in such a way as to avoid unintended adverse consequence on the character of the receiving water and its beneficial uses in the vicinity, and downstream of the hydromodification. *11.Activities that alter natural stream flows may include increasing the amount of impervious land area within the watershed, altering patterns of surface runoff and infiltration, and channelizing natural watercourses. Activities that alter the natural stream channel include but are not limited to human-induced straightening, narrowing or widening, deepening, lining, piping/under-grounding, filling or relocating (i.e. channelization); bank stabilization; instream activities (e.g. construction, mining, dredging); dams, levees, spillways, drop structures, weirs, and impoundments.* *12. Hydromodifications may impair beneficial uses such as warm and cold water habitat, spawning habitat, wetland habitat, and wildlife habitat in a variety of ways. Modifications to stream flow and the stream channel may alter aquatic and riparian habitat and affect the tendency of aquatic and riparian organisms to inhabit the stream channel and riparian zone. As a result of these hydromodifications, the biological community (aquatic life beneficial uses) may be significantly altered, compared to the type of community that would inhabit an unaltered, natural stream."* In section 21, the Resolution re-states the Board's authority to deny. *"In the event that a project will not comply with applicable water quality standards, even with all conditions proposed, then the certification may be denied. (Cal. Code Regs., tit. 23, § 3837, subd. (b).)"*	

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		We assert that this project cannot and will not comply in the future with applicable water quality standards. Its approval will result in irreversible degradation to existing riparian habitats and water quality, both in the project area and downstream as a result of the permit approval.	
7.3	Friends of the Santa Clara River	I. Introduction: Section I. of this letter includes an introduction describing the resource(s) at risk, major project impacts, an overview of water quality issues raised by USEPA, and a description of the broad authority your agency has to control proposed impacts. Section II. of this letter includes our detailed concerns and respective recommendations--organized into the following parts: 1. The Accuracy and Adequacy of the Water Quality Modeling; 2. Need to further Avoid and Minimize Impacts to Water Quality via Floodplain/Riparian Buffer Protection; 3. The Need to Minimize Chloride Impacts via Reverse Osmosis Treatment Plant; 4. The Need to Minimize Impacts Associated with Storm Water: Low Impact Development, Hydro modification, and MS4 issues are covered here; 5. Compensatory Mitigation Section III of this letter covers our recommendations regarding the permit process organized into the following parts: 1. LA and/or Ventura MS4 permits Are Not Appropriate for Newhall Ranch: 2. State General Construction Permit Is Not Appropriate for Newhall Ranch 3. Enforceability 4. Tiered Permitting	Comments noted and are addressed in specific responses below.

TENTATIVE Waste Discharge Requirements for the Newhall Land and Farming Company (Proposed Resource Management and Development Plan Clearing 401 Certification)

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7.4	Friends of the Santa Clara River	1. Resource Description: Newhall Ranch is a 12,000-acre site that abuts one of the most pristine reaches of the Santa Clara River (SCR), in the northwest corner of LA County, California. The SCR is the last major river system in Southern California that remains in relatively natural, free-flowing condition. It is home to over 117 threatened, endangered or sensitive plant and wildlife species or communities. Of these, 18 are federally listed, two are candidates and 14 are state- listed. These include steelhead trout, California condor, mountain yellow-legged and California red-legged frogs, arroyo and western spade-foot toads, coast horned lizard, southwestern pond turtle, tidewater goby, arroyo chub, Santa Ana sucker, unarmored threespine stickleback, California least tern, western snowy plover and least Bell's vireo. 2. Project Description: The proposed Newhall project development severely threatens the water quality and biological integrity of this watershed. Specifically, the project proponent proposes to remove the tops of the mountains/hills and use the sediment to create building pads for 19,812 residential units and 5.4 million square feet of commercial area on 2,587 (of the 12,000) acres. This consists of 208 million cubic yards of mountain top removal/valley fill, (which would fill enough dump trucks to stretch over 3 times around the earth's circumference.) The result would be to permanently fill 20.8 linear miles of tributary creeks (66 acres of waters of the U.S., including 8 acres of wetlands). More specifically, 10.6 linear miles of tributary would be buried and converted into underground storm drain. The remaining 10.2 linear miles of tributary, which are too large to put into storm drains, would be buried under 30 feet of compacted soil taken from the mountain/hill tops. On top of the valley fill new channels would be constructed, lined with levees on both sides, and would contain drop structures bisecting the channel (these are small dams) about every 15 feet (up to	The tentative WDR, in fact, includes the total impact on wetlands and waters of the U.S. that would result from approval of this WDR in Findings D 1- 5 which precede the more detailed Village-level project descriptions (pages 14-16). Encroachment into 100 year floodplain include primarily agricultural fields within Landmark Village and Homestead Village South. The Project proposes to fill and raise the lands above the 100 year floodplain. This loss of flood plain is mitigated for by additional floodplain protection. In addition to compensatory mitigation plan for loss of waters and habitat required by the WDR, the WDR has also summarized the conservation easements or deed restrictions that Newhall Land must provide to mitigate for impacts associated with the RMDP. See Provision 3.1 4 and 5, page 55 and 56. In addition to these preservation covenants, the WDR requires an additional 80 acres of floodplain protection. See WDR Provision 3.1 6, page 56 and see response to comment 2.4.

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		15 feet tall)-eliminating the potential for wildlife movement. Another 32 acres of waters of the U.S. (11.4 of which are wetlands) would be "temporarily" impacted. Rather than include the total impact on wetlands and waters of the U.S. that would result from approval of this WDR, the document oddly includes only an individual project description for each "village" in the project. This approach substantially diminishes the magnitude of the impacts that would occur to the watershed should this permit be granted. We believe that such diminution gives your board an inaccurate, subjective view of the project before them. We therefore request that the project description be re-written to include a total of impacted acreage in the initial paragraph so that decision makers and others understand the magnitude of the impacts that would occur under this 401 certification, even with mitigation. The proposed Newhall project would also cause significant adverse impacts to the main-stem of the Santa Clara River and its floodplain. The project would straighten, widen, and levee at least 3.2 linear miles of the Santa Clara River main-stem including destroying 110 acres of the river's floodplain to allow construction of a new mini-city (called Landmark "Village", just the first phase of this permit) in the river's floodplain. In addition to destroying vital floodplain functions, we are concerned this would increase the risk of flooding to communities downstream and place the residents of the new mini-city directly in harm's way. As EPA has noted, filling in 110 acres of floodplain is inconsistent with the Floodplain Executive Order (11988). It is also inconsistent with Clean Water Act section 404 public interest review regulations. The enclosed photo shows the river flowing in the exact location of the proposed homes during the 1983 (30-year) flood event.	

TENTATIVE Waste Discharge Requirements for the Newhall Land and Farming Company (Proposed Resource Management and Development Plan Clearing 401 Certification)

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7.5	Friends of the Santa Clara River	Additional errors in the project description involve the approval status of various projects. For example, the Landmark project only obtained final approval from the County of Los Angeles on Feb 21st. 2012, not Oct 4th where it received only tentative approval. The Mission Village tract has not yet received final approval and received only tentative approval on Oct. 25th . County approvals for other tracts in this project have advanced no further than a Notice of Preparation (Entrada) or have not even proceeded that far. These facts should be noted in the project description in order to give a more accurate view of the actual project status.	The Revised Tentative WDR has been corrected to reflect a date of February 21, 2012 for the County of Los Angeles final approval and issuance of the map conditions for the Landmark Village EIR. The Revised Tentative WDR has been corrected to reflect that October 25, 2011 is the date that the - County of Los Angeles certified the Mission Village EIR and final map conditions were issued on May 15, 2012. See Revised Tentative WDR, Background/History Nos. 12 and 13, page 12 and CEQA, Nos. 9 and 12, page 38.
7.6	Friends of the Santa Clara River	While the Record of Decision for the USACOE 404 permit was indeed released, it is our understanding that this permit cannot become final until your Board approves a 401 certification for the project.	The commenter is correct, the USACOE CWA Section 404 permit cannot become final until the Board approves a 401 certification for the project. Finding C.8 says *The Corps issued a provisional Section 404 permit for the Final LEDPA on August 31, 2011. The provisional permit becomes the final Corps permit upon Regional issuance or waiver of water quality certification.* (page 10)
7.7	Friends of the Santa Clara River	A project description that implies all permits have been approved gives the false impression that there is unanimous public agency support for this massive proposal. We do not believe that is the case, and that in fact granting this permit now for all the tracts may pre-empt a more thorough public process at the County level. Further, it should be noted that several organizations have challenged the	The project description included in the WDR describes the project and the approvals that have been granted. The project cannot commence until issuance of the WDR and CWA Section 401 Water Quality Certification.

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		legitimacy of the CFGD River Alteration permit, filing legal objections on Jan. 3, 2011. Public interest groups also filed a complaint against the County approval of the Landmark tract for various disclosure problems and inadequate mitigation on March 22nd, 2012.	No permit or approval by the Regional Board preempts a County process. It is not clear on what basis litigation was filed. Note, however, that as a responsible agency, the Regional Water Board is required to presume that the CEQA document is valid for its purposes unless the CEQA document is finally adjudged in a legal proceeding not to comply with CEQA or a subsequent EIR is made necessary by Section 15162 of the CEQA guidelines. See Title 14 CCR Section 15231.
7.8	Friends of the Santa Clara River	3.Water Quality Concerns raised by USEPA: In a letter dated September 17, 2009 and attached, EPA found that the project *"will have substantial and unacceptable impacts"* to the Santa Clara River, which EPA designated as an Aquatic Resource of National Importance. While some of the originally proposed impacts have been reduced in the modified proposal (in Potrero Creek), these minor alterations--while moving in the right direction--are not enough to negate EPA's prior findings. As EPA stated in their final letter to the Corps dated August 9, 2011: *"As you know, we remain concerned that there is currently not an implementable plan for ensuring that wastewater discharges from the project will not contribute to degradation of water quality in the Santa Clara River, which is already listed as impaired for chlorides under Section 303(d) of the CWA. The applicant's current plans to pump sewage to a treatment plant that has been out of compliance with existing water quality requirements is troubling."*	EPA's September 17. 2009 letter, along with two others letter in August and September of 2009, detailed EPA's concerns with the project and concluded that there was insufficient information for EPA to make a conclusion about the project. Since September of 2009, negotiations between EPA and the Corps, and including Regional Board staff, lead to the development of further information and changes to the draft 404 permit which culminated in EPA's August 9, 2011 letter to the Corps. EPA's final letter to the Corps dated August 9, 2011, informed the Corps that because of the specific changes to address EPA concerns to the draft Corps 404 permit, EPA would not seek a higher level of review of the draft 404 permit, enabling the revised draft 404 permit

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		In fact, this issue represents a failure to adequately mitigate in a manner that will protect the Santa Clara River, comply with the Chloride TMDL and address the excess of salty brine produced by any reverse osmosis treatment facility. The original Specific Plan and 404 permit stated that Newhall Ranch would provide a reverse osmosis treatment plant (described in NPDES Permit #CA0064536) issued by the Regional Board in 2007). Brine disposal was proposed for abandoned oil wells (since no brine line to the ocean exists from the Santa Clarita Valley). To our knowledge, no oil well disposal permit has been granted by EPA due to the proximity of other wells that had not been abandoned and the subsequent concern over pollution of the deep ground water aquifer (the Saugus Aquifer) with salt leakage through fractured rock. Now, rather than addressing the substantial issue of how the brine will be disposed for this massive added load, the problem has been off-loaded and illegally deferred to the Sanitation District. (see their current NOP, attached), and to the taxpayers of Santa Clarita, rather than the developer. The County of Los Angeles also illegally deferred this problem to the Sanitation District, when, in its final approval (dated Feb 21st, attached) required per Condition 89 B.: *"At the permittee's sole cost, and for purposes of further treating wastewater that will be sent to the Valencia WRP from Newhall Ranch to a chloride concentration level of less than 100 mg/I for up to 6,000 equivalent dwelling units, the permitee shall complete the construction of interim chloride and demineralization facilities to the satisfaction of the Santa Clarita Valley Sanitation District, which facilities shall consist of, at a minimum: (1) a 1.2-acre demineralization facility to be*	and mitigation plan to go forward. Regional Board staff shares EPA's concerns regarding chloride and will assure through separate permits that this issue will be addressed. Staff agree that a path to compliance is emerging, and as this project moves forward over many years to come, it will be critical that the federal and state governments *and Newhall Land and concerned stakeholders* to work together to integrate CWA actions and solutions to protect public health and the environment. The WDR has been modified to include an additional finding on chloride. See Finding no B 10, page 5. Regional Board will require that the chloride issue be addressed per TMDL requirements, whether Newhall builds a separate plant or joins into an existing plant.

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		constructed adjacent to the existing Valencia WRP; (2) a 1.6-acre brine disposal well facility located within the Valencia Commerce Center, north of Castaic Creek; and (3) associated lines to and from the Valencia WRP to be constructed in existing road rights-of-way primarily within the project's utility corridor. For purposes of this Condition and Condition No. 90, "equivalent dwelling units" shall represent a wastewater equivalency determination based on an equivalency formula used by the Santa Clarita Valley Sanitation District" We note that this statement is merely a "condition" that can be changed by a majority of the Board of Supervisors at any time. It is NOT an enforceable mitigation requirement of the EIR. Further, correction of this problem has been deferred to the Sanitation District, an agency that has already received Notices of Violation at its two Santa Clarita treatment plants for failure to meet the TMDL for chlorides in their releases. (Notices of Violation issued for the Saugus and Valencia Treatment Plants on May 27th, 2011) Thus, although a path to compliance may be emerging, many steps must be completed before the Valencia facility will be in a position to accept wastewater from Newhall Ranch. As this project moves forward over many years to come, it will be critical that the federal and state governments work together to integrate CWA actions and solutions to protect public health and the environment."	
7.9	Friends of the Santa Clara River	4. Authority To Require Minimizing Water Quality Impacts from Uplands--Cumulative Federal Control and Responsibility Over Newhall Ranch The USACE has properly defined the Scope of Analysis (the cumulative federal control and responsibly over the project) to be the entire project foot print--not just the Waters of the U.S.	The CWA Section 401 Water Quality Certification certifies the entire project as complying with the relevant sections of the Clean Water Act. "Avoid, minimize, mitigate" is the approach of

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		This means that when applying the requirements of the federal Clean Water Act, the Water Board has a great deal of control and authority over the project's impacts. The Clean Water Act 404b1 guidelines require that impacts to Waters of the U.S. be first avoided, then minimized and lastly compensated for. Given the large scope of analysis taken, the Water Board has extensive legal authority and responsibility under the Clean Water Act to require mitigation measures in the upland areas of the project that would minimize water quality impacts to jurisdictional water bodies. Impacts to Waters of the U.S. are minimized by control over post development design features such as LIDs, riparian buffers, the Reverse Osmosis Treatment plant, and the on-going management of sediment from the debris basins.	the Regional Water Boards when assessing proposed dredge or fill projects. This project was delineated in a joint effort by Regional Board staff, Department of Fish & Game and Corps. The delineations include the entire bed area of the channels and river and was not solely based on the much smaller area within the ordinary high water mark (OHWM).
7.10	Friends of the Santa Clara River	II. Detailed Comments and Recommendations: 1. Concerns Regarding the Accuracy and Adequacy of the Water Quality Modeling: We share the concerns raised by the your agency's letter dated January 4, 2011 regarding unsupported conclusions and the inadequacies of the methods used in the Sub-Regional Water Quality Mitigation Plan (SWMP) for Mission Village. Furthermore, we believe that the Water Board is in agreement with us that all the points raised by the board, regarding the Mission Village part of Newhall Ranch, apply to the entire Newhall Ranch. In addition, we would like to point out the following additional items regarding the SWMP: A. Design Storm Event for Treatment BMPs: A single design storm cannot adequately capture the variability of rain and how that translates into runoff or pollutant loadings, and thus is not suitable for addressing the multiple objectives of storm water management. Of particular importance to the types of problems associated with urbanization is the size of rain events. The largest and most infrequent rains cause near-bank-full conditions and may be most responsible for	Staff share the understanding of the importance of the Sub-Regional Water Quality Mitigation Plan, SWMP.... Our comments and concerns on the Mission Village EIR as expressed in the January 4, 2011 letter, have been answered adequately by the response from the County of Los Angeles, additions or changes to the EIR, in subsequent meetings with Newhall and in the conditions of this WDR. The standards for treatment BMPs are based on consideration of the entire range of rainfall events in the Newhall rainfall gage record. The Sub-Regional Stormwater Mitigation Plan (approved by the Regional Board in May 2008) states (page 102):

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		habitat destruction; these are the traditional "design storms" used to design safe drainage systems. However, moderate-sized rains are more likely to be associated with most of the annual mass discharges of storm water pollutants, and these can be very important to the eutrophication of lakes and near-shore waters. Water quality standards for bacterial indicators and total recoverable heavy metals are exceeded for almost every rain in urban areas. Therefore, the whole distribution of storm size needs to be evaluated for most urban receiving waters because many of these problems coexist." http://www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf	"Stormwater treatment facilities for the NRSP projects will be designed to meet or exceed the sizing standards contained in the SUSMP Manual. Volume-based treatment control BMPs will be sized to capture and treat 80 percent of the annual runoff volume, with a drawdown time of 48 hours. Flow-based BMPs will be sized using a minimum rainfall intensity of 0.3 inches per hour." This sizing standard, was assessed using continuous modeling methods (as opposed to single design storm methods), and is also included in the LID Performance Standard Se Provision 3. 12 of the Tentative WDR : BMPs are most efficient when they target small, frequent storm events that over time produce more total runoff than the larger, infrequent storms targeted for design of flood control facilities.
7.11	Friends of the Santa Clara River	i. Page 138 of the SWMP states that the design storm event for treatment BMPs is the 0.75 inch of rain in a 24 hour period. However, the isohyetal map in Appendix C of the LA County Department of Public Works, Water Resource Division, Hydrology Section Report shows that the 85th percentile 24 hour rainfall depth is 1.1 inches for the Newhall site. Thus we are concerned that the 0.75 inch/24 hours period design storm event would be inadequate to mitigate hydromodification and water quality impacts from the proposed project.	See response to comment 2.16.

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		Recommendation: We recommend evaluating the projects impacts to water quality, hydromodification, and the erosion potential of the tributaries on-site and the Santa Clara River for a variety of storm design events. Should the Water Board ultimately choose the 85th percentile storm design event, then we recommend requiring BMPs be designed to retain the volume from the 85th percentile storm event which is 1.1 inch/24 hours for the area of Newhall Ranch --not 0.75 inch/24 hours which is the average 85th percentile storm event for all of LA County.	
7.12	Friends of the Santa Clara River	B. Baseline: Page 118 of the SWMP shows the assumption that the pre-development baseline condition of the open space agricultural area contains 1-2% impervious surfaces, which is equal to 120-240 acres. This assumption appears to overestimate the amount of impervious surface for the pre-project conditions and thus the net change in on-site runoff from pre to post conditions is likely underestimated. Therefore, the net increase in total storm water runoff, and respective pollutant loads, is likely larger than the model outputs have predicted. Recommendation: We recommend that the Water Board independently assess the extent of the baseline impervious cover, and then use the correct baseline conditions in the model to determine the net change from pre-project to post-project water quality metrics to more accurately assess how the proposed project would impact water quality.	The Regional Board staff worked with Newhall Land to prepare the SWMP and in May 2008,reviewed and approved the SWMP including the estimates of impervious areas.
7.13	Friends of the Santa Clara River	C. Overland Runoff: We are concerned that the SWMP underestimates the pollution loads that would be discharged from the project because: i) it appears that the modeling was done using a two-dimensional as opposed to a full three-dimensional surface area. If the post development surface area is underestimated, then it would have the result of underestimating the amount of pollution from storm water runoff that would be produced on-site; ii) it appears that the	The Regional Board staff worked with Newhall Land to prepare the SWMP and in May 2008,reviewed and approved the SWMP. Staff was satisfied that assumptions made to develop the model used were sufficiently conservative and that the scale of the modeling was appropriate for the scope of the SWMP.

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		model was run assuming porous sand for the entire site; we are concerned that this is inaccurate as there are likely to be varying types of soils on-site. Also, it appears that the applicant proposes to highly compact the soils on-site so post development soil conditions would be highly modified. We are concerned that the pre and post development hydrologic conditions may not be modeled accurately and thus storm water impacts could be underestimated. iii) It appears that the water impacts were not modeled on the sub-watershed scale (called the village map scale for this project). Instead, it appears as if the storm water impacts from developing approximately 3000 acres of Newhall Ranch, were dispersed over the entire 12,000 acre site. By including the entire 12,000 acre in the storm water model, it appears that the model improperly included entire sub-watersheds that would not be impacted by the project, and would not contribute any filtering capacity for the proposed pollutant loads. These unimpacted sub-watersheds would provide no pollutant loading reduction functions to mitigate storm water impacts from the proposed development. Thus by including the entire 12000 site in the model, the model would have the result of grossly underestimating the storm water impacts to the Santa Clara River. Recommendation: We recommend that the Water Board require, and independently review, water modeling conducted in a manner that includes the three-dimensional surface area with differing porosity/infiltration capacity at the sub-watershed (village) scale for pre and post-development conditions.	Further and more detailed plans will follow in the WQTRs.
7.14	Friends of the Santa Clara River	D. Modeling Assumptions Regarding the BMP Volume Based Pollutant Load Reduction: It appears that only two kinds of BMPs were modeled; these are extended detention basins, bio-filtration (storm drain filter inserts). They were not modeled based on treatment performance but instead were based on a generalized assumption that, when storm water enters the detention basin and vegetated strips, 20-	The regional infiltration/biofiltration basins were designed and modeled to capture the standard SUSMP design volume of 80% of annual average runoff volume. Regional Board staff reviewed the modeling approach used. For an appropriately sized detention basin, the

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		25% of the polluted water infiltrates into the ground or evapotranspirates, thus reducing the volume of storm water runoff and pollutant load ultimately discharging to the Santa Clara River by 20-25%. It appears that the SWMP derived these estimates from the 2003 International Stormwater BMP Database. These pollutant volume reduction estimates appear to be quite high and may have been overestimated. Additionally, the SWMP does not identify or explain which reference site from the 2003 Database was used to estimate these pollutant volume reductions. Since 2003, a great deal has changed regarding the data gathered on BMP effectiveness with regard to site specific hydraulic and soil conditions. The assumption that, because pollutant loads enter a detention basin, these pollutants are then just completely removed from the system, is incorrect and results in a failure to identify and analyze the impacts. In all likelihood, when the storm water enters the detention basins, the volume of storm water that infiltrates into the basin will carry with it the aqueous phase pollutants which will then migrate back into the base flows of the Santa Clara River and into the ground water wells. These impacts are not assessed. Moreover, the non-aqueous phase pollutants will adhere to the sediments --which are proposed to be trucked and dumped into the Santa Clara River at unidentified locations. These impacts are not assessed. Recommendation: We recommend that the Water Board require, and then independently review, proper storm water modeling to assess the likely impacts from this proposed project. The most updated BMP treatment performance data, with the most comparable reference sites in terms of soils, and hydraulic conditions should be used, not outdated volume reduction data taken from unknown reference sites. We further recommend that prototypes for a home, business building and street with the LID BMPs we mentioned above, be modeled in specific locations along specific proposed three-dimensional flow	modeling approach of volume reduction and associated pollutant removal is an accepted practice. While not accounted for in the water quality model, additional site level, distributed LID practices will also be installed throughout each village. Therefore, pollutant reductions will likely be greater than the model results suggest.

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		paths (from an approved Drainage Concept Report) in the context of underlying hydrological and soil characteristics of the location on- site where they would be situated Moreover, as noted in the following section, use of source control LIDs should be used instead of detention basins and storm water inserts.	
7.15	Friends of the Santa Clara River	2. Need to further Avoid and Minimize Impacts to Water Quality via Floodplain/Riparian Buffer Protection Natural floodplains protect the public's interest—bringing floodplains into development harms the public interest. The chemical, physical and biological integrity of our waters depend on floodplains[i] [ii]. Yet the USACE floodplain impact analysis (within the FEIS and ROD) fails to recognize this, and instead focuses on managing flooding impacts by providing levees around the proposed development and by elevating homes above the base flood level with soil taken from grading hilltops and dumping it into the floodplain. These are significant modifications to the river that would constrict river flows into a narrower channel, increase flow velocity, scour, energy head, shear stress, down cutting, head cutting, decrease channel/bank stability and disrupt transport of sediment and organic matter.	See Response 2.4 and Revised Tentative WDR, Provision No. 6, page 55.
7.16	Friends of the Santa Clara River	Key Reports Showing Cumulative Impacts to SCR and Need for Floodplains Preservation: Ironically, the USACE' Los Angeles District Planning Division contracted Stillwater Sciences to complete a geomorphic assessment of the Santa Clara River (2011). The assessment found that throughout much of the river, active channel widths have been reduced by floodplain and river encroachment over the last several decades. They stated that "these width reductions and flow constrictions have the potential to create an unstable condition in the river's morphology,	See Response 2.4 and Revised Tentative WDR, Provision No. 6, page 55.

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		which could result in accelerated channel bed level changes and/or bank failure and create additional hazards to the population and infrastructure."[iii] Likewise, the Ventura County Historical Ecology Study found " The lateral extent of the river corridor has decreased dramatically in some reaches from the 19th century to the 21st. Different land uses have encroached on the former river corridor, claiming many of the less frequently flooded bottom land surfaces. The river currently occupies only a small portion of its former area; almost 50% of its former area has been lost. What remains is largely the much more dynamic active river channel."[iv] These reports underscore the significant impacts that have already occurred due to floodplain loss, the subsequent instability of the river, and the importance of preserving the remaining floodplain.	
7.17	Friends of the Santa Clara River	Modeling Used in the FEIS Is Flawed and Underestimates Impacts: The USACE addendum to the FEIS continues to assert that the 5.5 miles of cement levees and the loss of 110 acres of 100-year floodplain would not result in impacts downstream. The Ventura County Watershed Protection District, and Stillwater Sciences have reviewed the hydraulic modeling, which were prepared by PACE Engineers, Inc. and presented in the FEIS/R as sections 4.1: Surface Water Hydrology and Flood Control, and 4.2: Geomorphology and Riparian Resources. We have enclosed their comments for your review. These comments show that the model assumptions and results are not accurate and suggest that the impacts disclosed in the FEIS are underestimated. Recommendation: A) Review the detail comments by Stillwater Sciences (August 2011) that we have enclosed. B) Work with Stillwater Sciences, the California Coastal Conservancy and the	Staff has reviewed the PACE hydraulic modeling report and Stillwater report (Technical Memorandum) and find that the hydraulic modeling performed by PACE is acceptable and reasonable. The data set used in PACE report is based on the data adopted on May 3, 1994 by the United States Army Corps of Engineers and Stillwater used more current 2006 data. But it should be noted that the difference of flow rate between two data set at downstream of project site is 10% difference (60,000 cfs and 66,000 cfs respectively) and PACE has proposed bank stabilization to prevent flooding for 100-year flood case. As such, even the flow rate for 100-year storm is underestimated, it has been taken into account in the impact assessment measures.

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		Ventura County Watershed Protection District to insure the correct hydraulic analysis is being conducted. Future Conditions Underscore the Need to Preserve the Floodplain: i. Urbanization: Foreseeable future urbanization's impacts on the Santa Clara River have not been addressed in the analysis[v]. Increases in population and urbanization throughout the watershed, and in particular in the area immediately upstream of Newhall Ranch, are likely to have negative effects on the geomorphic processes in the river corridor—this underscores the importance of preserving floodplains to buffer these effects[vi]. Recommendation: In order to properly evaluate the foreseeable future cumulative impacts: 45% (131,000 acres) of the Eastern Sub-basin – the area upstream of Newhall-should be modeled as urbanized[vii].	In general, Stillwater's comments focused on geomorphology and riparian resources not on hydraulic modeling.
7.18	Friends of the Santa Clara River	ii. Climate Change: Likewise, The 2009 California Climate Change Adaptation Strategy warns that the adaptive capacity of riparian ecosystems to deal with climate change has been reduced as a result of past land use decisions that have separated streams and rivers from their historical floodplains through construction of levees, development on floodplains, or both."[viii] Taxpayers are the Harmed Party: This project will place a long-term significant liability on the taxpayers. We have enclosed photos of the Santa Clara River flooding in the same location as proposed for Landmark Village. "Some records show that the SCR gets 60,000cfs of flow during a 100-year storm event in particular reaches, while downstream reaches may experience far greater levels. Allowing this area to be developed would place humans and natural resources at risk. We have seen	Comment noted.

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		countless examples of areas that were brought into development by construction of levees that would supposedly protect homes from floods. The resultant lasting effect is cost to human life and a billions of taxpayers' dollars. 2011's flooding damages due to levee failure along the Missouri and Mississippi Rivers alone cost approximately $4 billion [ix] [x]. Long after the short-term economic gains of the original development have disappeared and the land developer has run off with the profits, the long-term costs are paid for by the taxpayer.	
7.19	Friends of the Santa Clara River	The Santa Clara River is such a rare ecological treasure that the California Coastal Conservancy—along with other state, local and federal government agencies' --has spent approximately 29 million in taxpayer dollars to purchase and preserve the Santa Clara River floodplain[xi]. The CCC and Ventura County's Watershed Protection District have voiced grave concerns about this project's failure to properly analyze and mitigate impacts[xii]. The aforementioned discussion shows that it is in the public's interest to avoid impacting 110 acres of floodplain. Recommendation: When evaluating whether or not issuing a permit is in the public's interest and considering cost/economic factors, analyze the lifecycle and real costs to taxpayers—not just short term economics. Moreover, consider the investments that taxpayers have already made that would be put at risk by impacting the floodplain.	Comment noted.
7.20	Friends of the Santa Clara River	Further, no need for additional housing in the Santa Clarita Valley exists at this time. According to the recently approved General Plan update (EIR, p. 3.19-3, Chapter attached) for the area, as many as 39,500 units have already been approved in the area, but remain unbuilt. These include thousands of units in half built projects such as	The proposed RMDP project Specific Plan was approved by the County of Los Angeles. The development is scheduled to be built out over the next 20 years and will be based on market demands.

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		the West Creek and Riverpark developments, owned by the same permit applicant, developer Newhall Land. According to recent real estate data, approximately two thousand houses are currently in foreclosure.	Although all impacts from the proposed development are being considered upfront, the developments will occur in phases and as the market demands increase over time. In addition, the WDR may be re-opened to address proposed changes to the project.
7.21	Friends of the Santa Clara River	Failure to Demonstrate Why Avoidance of Floodplain is Impracticable: At issue is the applicant's/USACE rejection of a land use alternative (FEIS Alternative 7) that would avoid all floodplain impacts of Landmark Village without proper analysis. The FEIS contends that such avoidance would not be practicable in light of costs. Specifically, the applicant claimed Alternative 7 was impracticable because it would cause a reduction of 286 dwelling units and 828,000 square feet of commercial space, making this alternative impractical when compared to the LEDPA. This claim is unsubstantiated given: (a) comparing the "additional" cost to the baseline of another alternative, rather than an independent and reasonable market standard, is not appropriate; (b) the applicant failed to demonstrate why any of the 286 dwelling units or commercial space need be lost considering the flexibility they have to reconfigure the layout within the 292 acre footprint for Landmark Village or the 2,800-acre footprint for Newhall Ranch as a whole; and (c) the applicant failed to explain why the alleged 1.4% reduction in residential units (from 19,517 to 19,231) renders the Newhall Ranch project as a whole impracticable from a cost perspective. Similarly, the applicant/USACE had contended that avoidance of	The landuse decision to convert the agricultural lands, oil and gas lands and open space to housing was made by the County of Los Angeles. For the CWA Section 404 permit, the Corps, with oversight from the USEPA, determined the LEDPA for the housing project, and in part, considered costs of the viability of the project. As noted in response to comment 2.25, the Regional Board is a responsible agency under CEQA and may not approve the project as proposed if it finds feasible alternatives or mitigation measures within its powers that would lessen or avoid significant environmental effects of the project. The Regional Board is not a land use planning agency and does not have power to define alternatives related to the land use decisions. The Regional Board, consistent with its powers under the Water Code, has required conditions and mitigation to avoid significant effects on water quality.

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		impacts to Potrero Creek were impracticable with regard to costs. However, with pressure from the EPA, the applicant finally admitted to being able to avoid important waters of the US in the Potrero Canyon Village area of Newhall Ranch. The result was to relocate the dwellings proposed to be constructed along the banks of Potrero Creek further into the uplands, and locating the golf course and open space in their place. By doing this, the applicant was able to forgo bank stabilization that would have resulted in significant impacts to waters of the U.S. The applicant has failed to do a similar analysis of alternatives for Landmark Village (with regard to avoiding the floodplain). We believe that further floodplain avoidance for Landmark Village is truly practicable and is imperative in protecting water quality. Avoidance of floodplain is supported by: 1) Floodplain Executive Order 11988, which requires all federal agencies to "evaluate the potential effects of any actions it may take in a floodplain," and "to consider alternatives to avoid adverse effects and incompatible development in the floodplains"; 2) Research indicates that wide riparian buffer strips (this includes floodplain preservation) are critically important in protecting water quality. The USACE's technical memorandum on buffers suggests maintaining a 100-meter buffer strip on each side of streams in order to protect water quality; 3) The public interest review regulations at 33 CFR 320.4(l)(2) which require that "whenever practicable the natural and beneficial values served by floodplains are restored and preserved"; 4) The requirements in the 404b1 guidelines that a) only allows the	The project alternative and LEDPA has, however, significantly avoided other areas of the Santa Clara River and 100-year floodplain and those areas will be preserved in perpetuity.

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		Least Environmentally Damaging Practicable Alternative to be authorized and b) requires that all impacts to the aquatic environment be avoided which can practicably be avoided. Environmental impacts to be assessed include those to floodplains[xiii] and aquatic habitats [xiv] as well as waters of the U.S.; In sum, many policies support avoiding the floodplain because it is in the public's interest to do so. Given that the cumulative federal control and responsibility of this project is the entire project footprint, there is a great deal of control your agency has over this project. The Clean Water Act's 404b1 guidelines requires avoidance and minimization of impacts to waters of the U.S. and it also requires that only the Least Environmental Damaging Practical Alternative be permitted. We strongly urge the Water Board to take a hard look at avoidance of the floodplain as a buffer area to protect water quality. Recommendation: Specifically, we recommend taking a hard look at floodplain avoidance alternatives that: (a) increase density elsewhere on-site, (b) reconfigure the site layout to avoid impacting the floodplain, and (c) assess how an outright 1.4% reduction in residential units might be practicable with regard to costs compared to an independent reasonable market standard (not compared to costs of another project alternative).	
7.22	Friends of the Santa Clara River	3. Minimize Chloride Impacts via Reverse Osmosis Treatment Plant As the Board is aware, and EPA has pointed out, the project seriously threatens the ability to recover the SCR from chloride impairments. Recommendation: before any grading occurs and homes are built, that Newhall be required to, by special conditions of a 402 permit, to either commit to build the Reverse Osmosis treatment plant as required by the Specific Plan to immediately service any County permitted tracts,	The implementation of the chloride TMDL is a high priority for the Regional Board. The WDR has been modified to include an additional finding on chloride. See Finding no B 10, page 5.

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		and/or to upgrade the existing Valencia Water Treatment Plant with an RO system that would be capable of handling the existing and increased pollutant loads.	
7.23	Friends of the Santa Clara River	4. The Need to Minimize Impacts Associated with Storm Water: Low Impact Development, Hydromodification, and MS4 issues. After all direct impacts to waters have been avoided, under the 404b1 guidelines, the applicant and responsible permitting agencies are required to next minimize the impacts to waters. Furthermore, the agencies responsible cannot permit a project that would either cause or contribute to a water quality violation, and/or cause a significant degradation of waters of the U.S. Moreover, permits that result in storm water discharges must meet all applicable provisions of Sections 301 and 402 of the CWA. These provisions require controls of pollutant discharges that utilize best available technology economically achievable (BAT) for toxic pollutants and non-conventional pollutants and best conventional pollutant control technology (BCT) for conventional pollutants. Additionally, these provisions require controls of pollutant discharges to reduce pollutants and any more stringent controls necessary to meet water quality standards. These statutes and provisions, in combination with the cumulative control and responsibility under the Clean Water Act applying to the entire project footprint, gives the Water Board the authority to implement our recommendations. There are a plethora of studies available that have demonstrated both the effectiveness and the economic feasibility (and often times cost savings) of using the source control Low Impact Development (LID) BMP techniques we have outlined below that will help minimize impacts to waters on Newhall Ranch.	The proposed LID requirements are consistent with the requirements of the current Ventura MS4 order which are as stringent as any MS4 LID requirements in the State of California. Any sediment from debris/detention basins or structures that is excavated will not be discharged into Santa Clara River. The sediment must be placed in a sediment placement site, which is outside of any jurisdictional waters and within a legal point of disposal, such as for land re-use or in a landfill. The WDRs have been revised to clarify sediment discharge. See Revised Tentative WDR, Provision No. 6, page 3. The WDR has been modified to prohibit unauthorized stormwater discharges into the MS4 system. See Prohibition 2.0 7 (page 41). For infiltration and greenstreets, cistern permeable driveways see response to comment and 2.16 and 2.20.

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		Recommendations: • That there be a prohibition on dry weather discharges; That wet weather discharges contain enforceable numeric effluent limits; • That full on-site retention/evapotranspiration/infiltration be required; • That the use of green streets for all residential and commercial roads be required. Green streets contain a notched curb and gutter that collect all runoff into bioswales that line the streets which allow for full infiltration/ \evapotranspiriation; • That the use of permeable pavement for all driveways, residential roads and school, public and commercial parking lots be required; • That the installation and use of cisterns on every building structure be required; • That all on-single family homes, the use of green roofs, permeable pavement, water cisterns, to collect stormwater runoff on-site be required; • That all structures have no more than 3% EIA; and • That the ultimate post-development hydrograph mimic the natural hydrograph and that the erosion potential of the streams on-site and in the Santa Clara River does not exceed one. • Sediment management plans must include specific sites where sediment would be trucked and dumped to in the Santa Clara River because without this information the Water Board has no way to assess how the project would impact the Santa Clara River. Furthermore, we find it likely that some of the pollutants from the storm water that is directed to these detention basins, will be adhered to the sediments and therefore it is unlikely that they would be clean enough to truck and dump into the Santa Clara River. Therefore, we recommended prohibiting the placement of sediment, taken from the basins, in area(s) that could enter the river and/or beaches. • Further, as described in the appendix, the use of bio-filtration and storm water inserts are not acceptable methods for treating storm	

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		water and should be prohibited.	
7.24	Friends of the Santa Clara River	5. Compensatory Mitigation: As detailed below, there is enough evidence to conclude that the compensatory mitigation proposed for Newhall Ranch would fail to compensate for the functions and values lost from the permanent impacts proposed on-site. Failure of Wetlands Mitigation This permit proposes restoration and creation of offsite wetlands in order to mitigate for the loss of wetlands in the Newhall Ranch area. We object to this proposal, since recent studies have shown that wetlands mitigation is not working. A recent report by Richard Ambrose (Ambrose, et.al., UCLA, August, 2006, attached) studied 129 wetlands mitigation projects and found that "despite relatively high permit compliance, the vast majority of mitigation sites were not optimally functioning wetlands…In comparison to reference sites, only 19% of the mitigation files were classified as optimal, with just over half sub-optimal and approximately one-quarter marginal to poor." (Reference 1, page iii). Given the high reliance placed on wetlands mitigation to offset project impacts, we must conclude that wetlands loss, in general, is not being adequately mitigated. Thus, we urge that a thorough review of project mitigation be carried out along with the establishment of sufficiently high mitigation ratios and adequate monitoring to ensure there is no net loss of wetlands in the project area. Further, offsite mitigation sites would not support existing onsite wildlife and migration corridors. A. Mitigation Credit for Filling in Stream Channels i. The mitigation plan:	See Response No. 1.11 and 2.4.

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		Newhall's Final Mitigation and Monitoring Plan states, "The restoration strategies for the Long Canyon drainage channel include (l) complete fill of the stream channel, (2) reconstruction of the stream channel on compacted soil fill, (3) incorporation of stream channel stabilization, and 4) newly created stream channel." This plan lacks detailed site-specific mitigation plans and performance standards for each of the individual mitigation projects. Moreover, it fails to show how the mitigation proposed at Long Canyon will compensate for lost ecological functions. Newhall's Final Mitigation and Monitoring Plan fails to meet federal minimum requirements. ii. EPA's positions: EPA's wetland scientists had commented (in letters dated 8/24/09 and 8/6/10) that EPA does not support the USACE decision to provide "mitigation credit" for burying natural steams and replacing them with engineered drainages that would be straightened, bound by levees on both sides, intersected by mini-dams at short intervals, and reconstructed on top of up to 30 feet of compacted fill material above the original stream bed. EPA's earlier letters noted that there is no evidence to suggest that these engineered channels will replace the functions provided by natural streams. Moreover, in EPA's letter they cited the Ohio Valley Environmental Coalition v. USACE, 479 F. Supp. 2d 607, 65 ERC 1234 (S.D.W.V. 2007) that held the Corps was arbitrary and capricious to conclude that the mitigation plan --that would replace filled stream with artificial streams--called for a finding of no adverse impacts where they had no science or prior experience to support the conclusion that artificial streams constructed out of abandoned sediment ditches would replace the functions and values of the headwaters systems being destroyed. iii. Precedent and Undermining of the Law: Allowing 1:1 mitigation credit for reconstructed flood control facilities means that the federal government confidently believes that the functions and values	

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		provided by natures streams can be replaced by burying streams under as much as 30 feet of compacted fill material. As noted above, there is absolutely no evidence to support reaching such a conclusion. Allowing this mitigation credit incentivizes filling in natural streams and greatly undermines the intent and letter of the Clean Water Act's goal of impact avoidance. Recommendation: The 23.4 acres of mitigation credit for the reconstructed drainage should be eliminated from Newhall's mitigation plan.	
7.25	Friends of the Santa Clara River	B. Need for Buffers: There is a plethora of research available that indicate wide riparian buffer strips (this includes floodplain preservation) are critically important in protecting water quality. The USACE's technical memorandum on buffers suggests maintaining a 100-meter buffer strip on each side of streams in order to protect water quality. Traditional structural water quality BMPs (like the detention basins proposed for use on Newhall Ranch) do not adequately protect receiving waters from accelerated channel bed and bank erosion, do not address post development increases in runoff volume, and do not mitigate the decline in benethic macroinvertebrate communities in the receiving waters. This indicates that structural BMPs are not as effective in protecting aquatic communities as are continuous riparian buffers of native vegetation. This is supported by the findings of Zucker and White, where in-stream biological metrics were correlated with the extent of forested buffers. Recommendation: Require 100-meter buffer strips on both sides of all streams, starting from each of the Ordinary High Water Marks as recommended in the USACE's paper on buffer strips.	See Response 2.4 and 2.11 and Revised Tentative WDR, Provision No. 6, page 55.

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7.26	Friends of the Santa Clara River	C. Floodplain Mitigation: The EPA negotiated what was thought to be mitigation for impacts to the floodplain--see EPA letter dated July 2011. However, the way the mitigation agreement is worded actually allows the "mitigation site" in Ventura County to be developed. Moreover, the majority of it is located in the floodway. Preservation of this area is pointless as development in floodways is prohibited. Recommendations: A) Avoid--not compensate--floodplain impacts; B) For any mitigation site that is acquired, do not allow mitigation in a floodway; C) Word the mitigation conditions in a manner that does not allow for development, or mineral/gas exploration/extraction and instead preserves the site in perpetuity. The on-site river floodplain area would have most likely gone back to full function with no further assistance. Recommendation: Do not allow mitigation credit for this area.	See Response 2.4 and Revised Tentative WDR, Provision No. 6, page 55.
7.27	Friends of the Santa Clara River	III. Permit Process: 1. LA and/or Ventura MS4 permits Are Not Appropriate for Newhall Ranch: As noted below, and in the Ventura MS4 permit's findings, the LA MS4 permit is deficient at regulating storm water and is thus not a proper tool to control proposed storm water discharges that would occur from Newhall Ranch. Furthermore, we understand that the updated LA MS4 permit will likely be weaker than-not stricter than--the Ventura MS4 permit. Lastly, the Ventura MS4 permit was not designed to deal with regulating large scale greenfield developments like Newhall Ranch and there are several off-ramps contained in the Ventura MS4 permit which Newhall should not be allowed to use.	The current Los Angeles County MS4 has not been used to inform requirements of the Newhall Land WDR. For 402 permit question see response to comment 2.17.

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		Recommendation: Require an individual 402 permit for Newhall Ranch to properly regulate storm water runoff that would include all the requirements outlined in our aforementioned minimization recommendations--and to prohibit Newhall Ranch from regulation under either a current or future LA and/or Ventura MS4 permit.	
7.28	Friends of the Santa Clara River	2. The Use of the State General Construction Permit Is Not Appropriate for Newhall Ranch During our last meeting, a question arose as to the ability of a construction permit to apply to post-development construction BMPs. Construction permits can and should require post-development BMPs such as LIDs. On page 37-45 of the current State General Construction Permit, it details the impacts that typically occur to receiving waters from the change in hydrological processes on development sites. The permit requires that developers replicate pre-project run-off water balance with the use of storm water reuse, interception, evapotranspiration and infiltration non-structural controls and conservation design measures (e.g., downspouts disconnection, soil quality preservation/enhancement, interceptor trees). Construction permits are not just for regulating the direct grading activities, in-fact the State General Construction Permit does an excellent job of describing why post development requirements (such as the LIDs in our aforementioned recommendations) are, and should be required in construction permits. While the State General Construction permit does provide room for post development controls such as LIDs, it is deficient in its ability to regulate large-scale multi-phase projects such as Newhall. The National Academy of Sciences NRC Report to EPA specifically cited Newhall Ranch as an example of how deficient the current State	The Statewide General Construction Permit is as stringent as any other in the Country, in fact more stringent than the USEPA Construction Permit, The Construction Permit requirements, in combination with additional requirements in this WDR that address post development requirements equivalent to the Ventura MS4, including LID, provide the for the protections that would be included in an individual permit.; therefore,an individual construction permit is not necessary. The General Construction permit has sufficient construction BMPs and is, in any case, overseen and inspected by this Regional Board. If experience showed that the General Construction Permit was inadequate to the requirements of Newhall Land project an individual construction permit could be developed, at that time. If the Newhall project is assigned a Risk 3 level which is likely given the scope of the

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		General Construction permitting system is for regulating the pollution from large projects that have a high likelihood to contribute significant storm water pollution. The report goes on to recommend that large projects, multiphase projects like this, be regulated by an individual 402 NPDES permit. Recommendation: Post development requirements--such as green streets, cisterns, permeable pavement, green roofs, etc. as detailed in the aforementioned minimization recommendation—be required in an individual construction permit for Newhall, and that Newhall not be authorized under the State General Construction Permit.	project, the project proponents are subject to the following numeric action levels and effluent limits: Risk Level 3 dischargers are subject to a pH NAL of 6.5-8.5, and a turbidity NAL of 250 NTU. In addition, Risk Level 3 dischargers are subject to a pH NEL of 6.0-9.0 and a turbidity NEL of 500 NTU In addition, Risk Level 3 dischargers shall apply linear sediment controls along the toe of the slope, face of the slope, and at the grade breaks of exposed slopes. The discharger shall ensure that a Qualified SWPPP Practitionaer (QSP) develop a Rain Event Action Plan (REAP) 48 hours prior to any likely precipitation event. A likely precipitation event is any weather pattern that is forecast to have a 50% or greater probability of producing precipitation in the project area.
7.29	Friends of the Santa Clara River	3. Enforceability It is imperative that anything Newhall commits to, and/or that the Water Board requires of Newhall, be clearly stated as requirements in a 402 permit which are enforceable by third parties. It is our understanding that the LA Water Board has never taken out a formal enforcement action regarding violations of the LA MS4 permit. Furthermore it is our understanding that the LA Regional Water Quality control board had sent out approximately 14 letters of violation regarding non-compliance with the LA MS4 permit but that these violations only happened to be discovered during random	For the 402 permit question see response to comment 2.17. Staff note that there has been at least 1 Formal enforcement action against a facility for violations of the LA MS4 Permit, and several informal enforcement actions. The tentative WDR is not a section 402 permit under the Clean Water Act; it includes Clean Water Act section 401 certification. Newhall

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		compliance checks with the State General Construction Permit and that there was never any formal follow-up with MS4 alleged violators. This fact set does not give us a great deal of confidence that Newhall's proposed storm water discharges would be sufficiently regulated under the existing or future LA MS4 permit. MS4 permits are not directly enforceable by a member of the public. We find it imperative that Newhall Ranch be required to obtain an individual 402 permit because these –unlike the MS4 permits—are enforceable by the public/third parties. Moreover, an individual 402 permit gives the public the opportunity to participate in a public process. Recommendations: • That all permitting regarding Newhall Ranch be made a public process, especially the five year review periods required by this permit; • That all requirements and commitments be made enforceable by third parties (citizens) by including them in an individual 402 permit; and • That Newhall Ranch be required to obtain an individual 402 NPDES permit in place of the State General Construction permit, the 401 certification and the MS4.	Land will be required to comply with Clean Water Act section 402 permits, including construction stormwater and municipal stormwater permit requirements. Citizen suits are authorized by federal law; it is not within the authority of the Regional Board to determine whether the WDRs are subject to citizen suits. Clean Water Act section 505 provides for citizen suits in certain circumstances
7.30	Friends of the Santa Clara River	4. Tiered Permitting: The entire project must be evaluated upfront as one single and complete project. It is not appropriate to allow a piece-mealed analysis of project impacts. While we are in support of analyzing all the impacts from the proposed project upfront, we are requesting that the permits be authorized in phases. This is due to the fact that the project is extremely large, and would take place over several decades. A great deal could change over this time period, and so to allow the Water Board the greatest amount of flexibility in adaptive management of	See response to comment 2.25. In addition, staff note that the River Islands permits were issued in phases by the Corps so the 401 certifications also were issued in phases.

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		regulating these activities in the mission of protecting water quality, we suggest a tiered approach be used. The USACE and Water Board have done this before (please refer to the River Islands project--near the city of Lathrop in the Sacramento Delta). Recommendation: We recommend that the Water Board require all impacts from the entire project be evaluated upfront, that the water board independently review all data and modeling input, processes, and results for accuracy before any permit is issued and that no piece-mealing is allowed in the analysis. • We also recommend a tiered permitting approach, like the one used on River Islands, be used for this project. Conclusion The above correspondence details serious problems and concerns that remain unaddressed by this WDR. Therefore, we urge the Board not to issue this permit until the recommendations and other issues in this letter have been addressed.	