

**California Regional Water Quality Control Board
San Diego Region**

Tentative Order No. R9-2006-0104

**Waste Discharge Requirements and Clean Water Act
Section 401 Water Quality Standards Certification**

For

**Rancho Mission Viejo, LLC
Rancho Mission Viejo Ranch Plan Planning Area 1,
Orange County**

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A. FINDINGS

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds that:

1. Waste Discharge Requirements Authority and Responsibility. Section 13260(a) of the California Water Code (Water Code) requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, which could affect the quality of the waters of the State, file a report of waste discharge (ROWD). The discharge of dredged or fill material may constitute a discharge of waste that could affect the quality of waters of the State. Water Code section 13263(a) requires that waste discharge requirements (WDRs) be prescribed as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. Such WDRs must implement any relevant water quality control plans, taking into consideration beneficial uses to be protected, the water quality objectives reasonably required for those purposes, other waste discharges, the need to prevent nuisance, and the provisions of section 13241 of the Water Code.
2. Section 401 Authority And Responsibility. Section 401 [33 U.S.C. 1341] of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) allows the California State Water Resources Control Board (State Board) and the Regional Board to regulate federally-permitted activities, including dredge and fill discharges to federal waters. Discharges of fill to non-federal waters of the State are not subject to Section 401 certification. Section 401 requires any applicant for a Federal license or permit to conduct any activity which may result in any discharge into the navigable waters, to provide the licensing or permitting agency a certification from the State water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with water quality standards and implementation plans. The regulations for California's 401 Program (CCR Title 23, Chapter 28, sections 3830 to 3869) specify the information to be included in 401 applications and Regional Board Certification Orders. The fundamental requirement of a Regional Board Certification Order is that it describes the discharge, proposed mitigation, and any conditions in adequate detail to protect beneficial uses and allow effective enforcement if necessary.
3. Authority To Require Discharger Reports. California Water Code Sections 13267(b) and 13383 contain criteria that allow the Regional Board to conduct investigations and to establish technical, monitoring, inspection, entry, reporting, and record keeping requirements from any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste in accordance with the conditions in the section.

4. Basin Plan. The *Comprehensive Water Quality Control Plan for the San Diego Basin (9) (Basin Plan)* was adopted by the Regional Board on September 8, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and approved by the State Board. The Basin Plan designates beneficial uses, narrative and numerical water quality objectives, and prohibitions which are applicable to the discharges regulated under this Order.
5. Project Description. Rancho Mission Viejo, LLC (Discharger) proposes the discharge of fill material into waters of the State, including both federal and non-federal waters, as part of the Rancho Mission Viejo Ranch Plan (Ranch Plan), Planning Area 1 project (Project) in unincorporated Orange County. The Project includes the grading of Planning Area 1 and construction of associated infrastructure (Attachment 1). The land-use plan for the 810-acre Project area includes 488 acres of gross residential, 84 acres for an urban activity center, and 238 acres of open space that are anticipated to be dedicated as habitat reserve areas. The urban activity center includes internal roadways, local streets, some residential development, retail commercial, a wellness center, local and community parks, trails, community facilities and open space uses. Affected waters of the U.S. and/or State are tributary to San Juan Creek in the Ortega Hydrologic Subarea (HSA 901.28). The Ranch Plan addresses long-term planning for the 22,815 acres owned by the Discharger. The Ranch Plan proposes up to 14,000 dwelling units, as well as retail, office, and recreational uses, within a development area of approximately 7,694 acres. The remaining 15,121 acres would be retained as open space. Infrastructure would be constructed to support all of these uses, including road improvements, utility improvements, and schools. Ranching and agricultural activities would be retained within a portion of the proposed open space area.
6. Beneficial Uses. The Basin Plan designates the following beneficial uses of surface waters in the project's hydrologic subarea: Agricultural Supply (AGR), Industrial Service Supply (IND), Contact Water Recreation (REC 1), Non-contact Water Recreation (REC 2), Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), and Cold Freshwater Habitat (COLD). Designated beneficial uses of ground waters in the project area include Domestic Supply (MUN), Agricultural Supply (AGR), and Industrial Service Supply (IND).
7. CEQA. On November 8, 2004 the County of Orange approved a final Program Environmental Impact Report (EIR) for the Ranch Plan (SCH no. 2003021141). The EIR establishes requirements for the content of final stormwater management and biological resource mitigation plans that had not been approved by the County at the time the EIR was approved. Two separate actions filed in the Orange County Superior Court challenging the approval of the EIR have been settled and dismissed. Under the terms of the settlements, the Ranch Plan was refined to reduce the amount of acreage for development activities and further concentrate development in areas with lower biological resource values.

8. Coordinated Planning Process. The EIR was prepared as part of a coordinated public planning process that includes the preparation of two other major planning and regulatory components within the Ranch Plan area. One process is the Southern Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), which is being prepared by the County of Orange in cooperation with the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS). The second major planning effort is a Special Area Management Plan/Master Streambed Alteration Agreement (SAMP/MSAA), which addresses impacts to aquatic resources subject to the requirements of the federal Clean Water Act (CWA) Section 404 and the state Fish and Game Code (Sections 1600-1603). The SAMP is a voluntary watershed-level planning and permitting process for future actions subject to Section 404 regulation by the U.S. Army Corps of Engineers (Corps). The purpose of the SAMP is to provide for reasonable economic development and the protection and long-term management of sensitive aquatic biological and hydrological resources. A draft Environmental Impact Statement for the SAMP (*Draft EIS, San Juan Creek and Western San Mateo Creek Watershed Special Area Management Plan*) was released by the Corps in November 2005. Through the coordinated planning process the Discharger has avoided and minimized impacts to waters of the U.S./State consistent with the requirements of the Basin Plan.
9. Description of Fill activities. In order to accommodate the planned development, the Discharger proposes to discharge fill material into thirteen waterbodies and portions of San Juan Creek. The total fill would cover 6.53 acres of waters of the State, of which 3.57 acres are temporary, meaning that the discharge area will be restored to conditions supportive of beneficial uses. The remaining 2.96 acres of fill (13,663 linear feet) will permanently eliminate the affected waterbodies. The discharge of fill to 6.23 of the 6.53 acres requires permitting subject to sections 401 and 404 of the federal Clean Water Act [33 USC 1342 & 1344] because the fill locations were determined by the Corps to be federal waters of the U.S. The discharge of fill to the remaining 0.30 acres of waters of the State (1,214 linear feet) was determined by the Corps to be outside of federal jurisdiction and is, therefore, subject to permitting from the State, but not the Corps. All discharges to the non-federal waters are considered permanent. The proposed fill will result from grading and construction to support general urban land uses.

Jurisdictional Waters	Proposed to be permanently filled (acres)	Proposed to be temporarily filled (acres)
Federal Waters	2.66	3.57
Non-federal Waters of the State	0.30	0.00
TOTAL ACRES	2.96	3.57

10. WDRs are Necessary to Implement the Basin Plan. The permanent discharge of fill into waters of the State to support the proposed urban land uses will eliminate beneficial uses and may contribute to conditions of contamination, pollution or nuisance downstream of the fill areas. The discharge of fill to waterbodies outside of San Juan Creek will completely eliminate those waterbodies and the beneficial uses they support. The discharge of fill to San Juan Creek to support road crossings and stormdrain infrastructure will lead to localized loss or reduction of beneficial uses within the fill area. Conceptual plans and programs to implement the water resources and biological resources mitigation measures of the EIR and SAMP are subject to refinement and clarification following adoption of the EIR as site specific development plans are produced. Waste discharge requirements and water quality certification conditions to mitigate and compensate for the loss of beneficial uses and threats to water quality resulting from the discharge of fill material to waters of the State are necessary to implement the Basin Plan.

11. Habitat Mitigation Plans. The Discharger has proposed to mitigate effects of the discharges of fill to waters of the State/U.S. through the creation and enhancement of waters of the State/U.S. in the vicinity of the Project area at a 1:1 acreage ratio. All waters of the State/U.S. receiving temporary discharges will be restored upon removal of the fill. Wetland and riparian habitat has already been created by the Discharger at the Gobernadora Ecological Restoration Area located in Canada Gobernadora (HSA 901.24), and that will serve as mitigation for discharges of fill to wetlands and vegetated, non-wetland streambeds. Mitigation for discharges of fill to non-vegetated waters of the State and/or U.S. will be achieved by implementation of the *Invasive Species Control Plan* (July 2006, Glenn Lukos Associates, Inc.) within San Juan Creek. The Discharger has prepared a functional assessment that demonstrates a net gain in water resource functions from implementation of the proposed mitigation for non-vegetated waters. In addition, the Discharger intends to fulfill commitments of the coordinated planning process for implementing the Aquatic Resource Conservation Plan and establishing a mechanism for the long-term protection of significant aquatic resources in the Ranch Plan area. The proposed mitigation plans will adequately compensate for loss of beneficial uses and habitat within waters of the U.S. and non-federal waters of the State associated with the discharge of fill material. This Order requires the discharger to proceed with the proposed mitigation plans.

12. Post-Construction Stormwater Plan. The Discharger has proposed to implement a plan for the management of stormwater discharges associated with the proposed project (*Master Area / Sub-Area Water Quality Management Plan [WQMP] for The Ranch Plan, Planning Area 1*. GeoSyntec Consultants, Inc., April 2006). Such discharges may threaten beneficial uses through the discharge of urban runoff pollutants (e.g., oil and grease, heavy metals, pathogens, nutrients, and trash) into San Juan Creek and on-site tributaries thereto. The discharge may also threaten downstream water quality and beneficial uses by altering hydrology and geomorphic processes. To mitigate the post-construction threats to water quality and beneficial uses from stormwater discharges, the discharger proposes source control, site design, and treatment control best management practices (BMPs). This Order requires the discharger to implement the proposed conceptual post-construction BMP measures and to report on design details as development plans are refined.
13. Construction Stormwater Plan. Construction activities associated with the proposed discharges of fill would threaten beneficial uses on-site and downstream. The Discharger intends to file a Notice of Intent to the State Water Resources Control Board for coverage under State Water Resources Control Board (State Water Board) Order No. 99-08-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRs) For Discharges Of Storm Water Runoff Associated With Construction Activity*. The Regional Board may conduct inspections to verify compliance with Order No. 99-08-DWQ, including, but not limited to, implementation of a storm water pollution prevention plan. This Order also requires that San Juan Creek be routinely monitored for changes in geomorphology during the construction phase.
14. This Order specifies waste discharge requirements that are necessary to adequately address effects on, and threats to, water quality standards resulting from the filling of waters of the U.S. and waters of the State, to meet the objectives of the State Wetlands Conservation Policy (Executive Order W-59-93), to be consistent with non-degradation provisions of State Board Resolution No. 68-16, and to accommodate and require appropriate changes during implementation of the Project and its construction. Through adherence to the waste discharge requirements, the Project, as described in this Order, will not result in State water quality standards being exceeded.
15. These requirements for the discharge of fill material are feasible because they have been proposed by the discharger and/or reflect mitigation conditions incorporated into the approved Environmental Impact Report.
16. The Regional Board has notified the Discharger and other interested persons and agencies of its intent to prescribe Waste Discharge Requirements and Section 401 Water Quality Certification and has provided them with an opportunity for public hearing and an opportunity to submit written comments.

17. The Regional Board, in a public meeting on October 11, 2006, heard and considered all comments pertaining to the proposed discharge.

IT IS HEREBY ORDERED that Rancho Mission Viejo, LLC (hereinafter Discharger), in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

B. PROHIBITIONS

1. The discharge of waste in a manner other than as described in the findings of this Order is prohibited unless the discharger obtains revised waste discharge requirements that provide for the proposed change prior to the discharge occurring.
2. The discharge of fill material is prohibited in a manner that has not been described in the application / report of waste discharge and for which valid waste discharge requirements are not in force.
3. The discharge of waste shall not create a condition of pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code.
4. Discharges to surface waters of wastes or pollutants that are not otherwise regulated by separate National Pollutant Discharge Elimination System (NPDES) requirements are prohibited.
5. The discharge of sand, silt, clay, or other earthen materials from any activity in quantities which cause deleterious bottom deposits, turbidity, or discoloration in waters of the State or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
6. The unauthorized discharge of treated or untreated sewage to waters of the State or to a storm water conveyance system is prohibited.
7. The dumping, deposition, or discharge of waste directly into waters of the State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board or State Water Board.

C. PROJECT PROVISIONS

1. Standard conditions applicable to Clean Water Act Section 401 Water Quality Certification (Certification):

- a. Every Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC §13330 and 23 CCR §3867.
 - b. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR §3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
 - c. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR §3833 and owed by the dischargers.
2. The authorization to discharge fill material pursuant to this Certification is valid only for a period of five years or until the expiration of the associated U.S. Army Corps of Engineers Section 404 permits, whichever is sooner.
 3. Any proposed change in construction that may alter flow patterns and/or change the approved impact footprint is prohibited without Regional Board approval. Not later than 30 days prior to the beginning of any proposed change, the Discharger shall submit, acceptable to the Regional Board, detailed plans and specifications showing the proposed change in relationship to the approved project.
 4. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the Regional Board pursuant to CWC §13260.
 5. The Discharger shall, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
 6. The Discharger shall comply with the requirements of State Water Resources Control Board (SWRCB) Order No. 99-08-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRs) For Discharges Of Storm Water Runoff Associated With Construction Activity.
 7. The Discharger shall comply with the requirements of Regional Board Order No. R9-2001-96 NPDES No. CAG919002, General Waste Discharge Requirements For Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within The San Diego Region Except for San Diego Bay.

8. The Discharger shall comply with the requirements of State Board Water Quality Order No. 2004-0009-DWQ and Statewide General NPDES Permit for The Discharge of Aquatic Pesticides for Aquatic Weed Control in Waters of The United States, General Permit No. CAG990005 and State Board Water Quality Order No. 2004-0008-DWQ Statewide General NPDES Permit for The Discharges of Aquatic Pesticides To Surface Waters of The United States for Vector Control, General Permit No. CAG990004.
9. The Discharger shall notify the Regional Board in writing within 10 days following the initiation of discharge of fill to on-site waters of the State and U.S.
10. The Discharger shall demarcate all areas of temporary and planned disturbance to San Juan Creek prior to implementing activities within those areas such that all personnel working in those areas can clearly identify the limits of disturbance. The Discharger shall staff a qualified biologist on site during project construction of any activities within San Juan Creek to ensure compliance with the Certification requirements. The biologist shall be given the authority to stop all work onsite if a violation occurs or has the potential to occur. Records from the biologist's activities shall be kept on-site and made available for review by Regional Board inspectors.
11. No plant species on the most recent California Invasive Plant Council (Cal-IPC) List, "Exotic Pest Plants of Greatest Ecological Concern in California"¹ shall be planted in mitigation areas, waters of the State, vegetated stormwater BMP areas, or other areas used to convey urban runoff and stormwater.
12. The Discharger shall implement development design features specifically to eliminate the discharge of pathogens and indicator fecal bacteria (i.e. *e.coli*, *enterococci*, and fecal coliforms) in dry-weather urban runoff to San Juan Creek from each residential and commercial area. These features shall be implemented where feasible and shall be maintained over the life of the Project.
13. The Discharger shall implement a Stream Monitoring Program in San Juan Creek to assess changes in geomorphology and channel shape in the Planning Area 1 project area. The Program shall be based upon the proposed program described in the Program Environmental Impact Report (EIR) for the Ranch Plan. The Program shall include topographic cross-sections, visual observations of channel bank conditions, and photographs of areas of concern that appear to be changes in the natural alluvial stream system. The Program shall require that areas of concern be assessed for feasible remedies.
 - a. The Discharger shall provide a copy of the Stream Monitoring Program to the Regional Board prior to discharging fill material into any tributary to San Juan Creek; and

¹ The Cal-IPC list may be found on-line at <http://www.cal-ipc.org/>.

- b. The Discharger shall provide annual reports to the Regional Board in accordance with the Monitoring and Reporting Program in Attachment C of this Order.
14. The Discharger shall develop a Stream Stabilization Program for the Planning Area 1 project area to assess conditions of localized erosion in the vicinity of all stormdrain outfalls associated with the Planning Area 1 project. The Program shall be based upon the proposed program described in the Program EIR for the Ranch Plan. The Program shall require that areas of erosion be assessed for feasible remedies, and that a timetable be developed for remediation.
 - a. The Discharger shall provide a copy of the Stream Stabilization Program to the Regional Board prior to discharging fill material into San Juan Creek; and
 - b. The Discharger shall provide annual reports to the Regional Board in accordance with the Monitoring and Reporting Program in Attachment C of this Order.
15. Groundwater Protection. The Discharger shall implement planning, design, and maintenance measures to prevent pollutants in the stormwater conveyance system from affecting groundwater quality.
 - a. The vertical distance from the base of any infiltration structural treatment BMP (including extended detention basins, retention basins, and lakes) to the seasonal high groundwater mark shall be at least 10 feet;
 - b. The soil through which infiltration is to occur shall have physical and chemical characteristics (such as appropriate cation exchange capacity, organic content, clay content, and infiltration rate) which are adequate for proper infiltration durations and treatment of urban runoff for the protection of groundwater beneficial uses;
 - c. Pollution prevention and source control BMPs shall be implemented at a level appropriate to protect groundwater quality at sites where infiltration structural treatment BMPs are to be used;
 - d. Infiltration structural BMPs shall be located a minimum of 100 feet horizontally from any water supply wells; and
 - e. If the Regional Board determines that the Discharger fails to implement adequate design and maintenance controls over the life of the project, or monitoring demonstrates that groundwater quality is being affected by the Project, the Regional Board may require implementation of additional BMPs and/or a groundwater monitoring plan be developed for areas of, and down-gradient of, stormwater infiltration.

D. MITIGATION PROVISIONS FOR FEDERAL AND STATE WATERS

1. The Discharger shall implement the plans for mitigation as proposed in support of the 401 Certification application and Report of Waste Discharge and as may be modified following review by the Regional Board to assure compliance with this Order. The final Monitoring Plan shall be consistent with the Monitoring and Reporting Program, and future revisions thereto, in Attachment C of this Order.
2. Mitigation for temporary discharges of fill to federal and non-federal waters of the State shall be achieved by the removal of fill within one month of completion of work in the immediate area and by the implementation of measures necessary to restore conditions for the area to support beneficial uses appropriate for the waterbody. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species (where pre-project vegetation existed). The Discharger shall implement all necessary BMPs to control erosion and runoff from areas associated with temporary fills.
3. Compensatory mitigation for permanent discharges of fill to 2.96 acres of federal and non-federal waters of the State shall be achieved as follows:
 - a. Vegetated Waters: Mitigation for permanent discharges of fill into wetlands and other vegetated waters of the State and/or U.S. shall be achieved at a 1:1 ratio by the maintenance in perpetuity of no less than 2.19 acres of created waters of the State at the Gobernadora Ecosystem Restoration Area (GERA). The 2.19 acres shall serve as mitigation exclusively for this Project; and
 - b. Unvegetated Waters: Mitigation for permanent discharges of fill into unvegetated waters of the State and/or U.S. shall be achieved at a 1:1 acreage ratio and a greater than 1:1 functional ratio by implementation of the *Invasive Species Control Plan* (Glenn Lukos Associates, July 2006) for no less than 0.77 acres within San Juan Creek. For the purpose of determining mitigation credit for the removal of exotic/invasive plant species, only the actual area occupied by exotic/invasive plant species shall be quantified to comply with mitigation requirements. Monitoring shall be done consistent with the Monitoring and Reporting Program in Attachment C of this Order to document functional status of the mitigation areas.
4. The preparation of proposed mitigation areas shall be concurrent with (or prior to) the discharge of fill material into waters of the U.S. and/or State. Implementation of the *Invasive Species Control Plan* for Planning Area 1 (0.77 acres) shall be completed no later than nine months following the discharge of fill into on-site waters of the State. Delays in implementing mitigation shall result in increased mitigation requirements by 0.01 acre for each month of delay.

5. All mitigation areas shall be protected in perpetuity from land-use and maintenance activities that would threaten water quality or beneficial uses within the mitigation area. Within one year following the discharge of fill material to waters of the U.S./State, the Discharger shall provide the Regional Board with a plan and timetable for establishing a permanent protection mechanism (e.g., conservation easement or deed restriction) that prohibits development, dredging, mowing, and/or other non-emergency activities that would result in permanent or temporary disturbance of the mitigation area.
6. Within five years from the initial discharge of fill to waters of the State, the Discharger shall establish a program to provide for maintenance in perpetuity of all mitigation areas subject to the *Invasive Species Control Plan* to ensure that invasive species do not re-colonize the mitigation areas and that mitigation activities do not reduce the ability of the waters to support beneficial uses (e.g., excessive sediment erosion or accumulation).
7. Responsible Party Updates: The Discharger shall provide the name and contact information of any third party accepting responsibility for implementing the mitigation requirements of this Certification. The notification shall be submitted to the Regional Board within 30 days of the transfer of responsibility. The notification shall include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification.
8. Mitigation areas shall not receive untreated urban runoff or stormwater from the proposed development during the construction or post-construction phases.
9. Within five years following enhancement activities, mitigation areas in San Juan Creek shall closely resemble the expected functional success scores in the *Hybrid Wetland Functional Assessment* (Glenn Lukos Associates, Inc., July 2006) prepared for the project. If mitigation areas fail to meet their expected functional success criteria, the Discharger shall prepare remedial measures, acceptable to the Regional Board, to be implemented within one year following the determination that success criteria were not reached.
10. If at any time during the implementation and establishment of planted or graded mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, the Discharger shall be responsible for repair and replanting of the damaged area(s).

11. For purposes of this Order, creation is defined as the creation of vegetated or unvegetated waters of the U.S./State where they have never been documented or known to occur (e.g., conversion of nonnative grassland to freshwater marsh). Restoration is defined as the creation of waters of the U.S./State where they previously occurred (e.g., removal of fill material to restore a streambed). Enhancement is defined as modifying existing waters of the U.S./State to enhance functions and values (e.g., removal of exotic plant species from jurisdictional areas and replacing with native species).

E. POST-CONSTRUCTION STORMWATER TREATMENT PROVISIONS

1. All storm drain inlet structures within the project boundaries shall be stamped and/or stenciled with appropriate language prohibiting non-storm water discharges.
2. Best management practices (BMPs) shall be implemented to treat stormwater runoff from all roofs, roads, parking areas, and other impervious areas where activities are expected to generate pollutants that can be conveyed by stormwater to the storm drain system and/or waters of the State and/or U.S. Post-construction stormwater BMPs shall be designed to mitigate (infiltrate, filter, and/or treat), prior to discharging to receiving waters, the volume of runoff produced by all storms up to and including the 24-hour, 85th percentile storm event for volume-based BMPs and/or the 1 hour, 85th percentile multiplied by a factor of two for flow-based BMPs, as determined from the local historical rainfall record.
3. Post-construction BMPs shall be implemented in accordance with the *Master Area / Sub-Area Water Quality Management Plan (WQMP) for The Ranch Plan, Planning Area 1*. GeoSyntec Consultants, Inc., April 2006. Post-construction BMPs must be installed and functional prior to occupancy and/or planned use of developed areas.
4. The Discharger shall submit a conceptual post-construction stormwater treatment plan for all proposed roads within the Project Area that were not considered in the *Master Area / Sub-Area WQMP*. This plan shall be submitted prior to the discharge of fill associated with any of those roads other than discharges associated with geotechnical surveys. The plan shall include maps depicting the drainage areas, BMPs, and receiving waters. The plan shall also include preliminary, or final, design criteria.
5. The Discharger shall submit copies of project-specific WQMPs, as required in the Ranch Plan EIR, to the Regional Board as they are prepared to allow the Regional Board to assess them for consistency with this Order and to provide comments to the County of Orange.
 - a. Project-specific WQMPs shall describe and map the site design and treatment BMPs to be used within the project;

- b. Project-specific WQMPs shall identify the entity responsible for long-term operations and maintenance of the treatment BMPs; and
 - c. Project-specific WQMPs shall identify stormwater and dry-weather BMPs for indicator bacteria for each project.
6. The Discharger shall provide each lot purchaser with a lot map that clearly distinguishes the location and purpose of stormwater site design, pollution prevention, and treatment BMP features for the Sub-Area. Each lot purchaser shall also be educated regarding pollution prevention activities.
7. All post-construction structural treatment BMPs, including, but not limited to, the extended detention basins, retention basins, vegetated swales, media filters, etc. shall be regularly inspected and maintained for the life of the project per manufacturers' specifications for proprietary structural devices and at frequencies no less than recommended by the California Stormwater Quality Association (CASQA)² guidance for non-proprietary measures, including the vegetated swale and the detention basins.
 - a. Final maintenance plans for the vegetated swales shall be developed and implemented based on CASQA guidance;
 - b. A copy of a Final Plan for operations and maintenance for all post-construction stormwater treatment BMPs shall be submitted to the Regional Board prior to initiation of post-construction discharges to receiving waters;
 - c. Inspections: Flow-based treatment BMPs (e.g., media filters and vegetated swales) shall be inspected at a minimum monthly from October through April and at least twice from May through September each year. The detention basins shall be inspected at least once during the summer, once between November and March, and after every rain event in excess of one inch;
 - d. Basins shall be maintained as necessary to prevent nuisance conditions, including those associated with odors, trash, and disease vectors. Nuisance maintenance shall not compromise the ability of the basins to perform water quality treatment required by this Order.
 - e. Records shall be kept regarding inspections and maintenance in order to assess the performance of the systems and determine whether adaptations are necessary to protect receiving waters;

² California Stormwater Quality Association (*California Stormwater BMP Handbook, New Development and Redevelopment 2003*), available on-line at: <http://www.cabmphandbooks.org/>

- f. The Discharger shall be responsible for inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to the local homeowners association or other entity;
 - g. At the time maintenance responsibility for post-construction BMPs is legally transferred, the Discharger shall submit to the Regional Board a copy of such documentation; and
 - h. At the time maintenance responsibility for post-construction BMPs is legally transferred, the Discharger shall provide the transferee with a copy of a long-term BMP maintenance plan that, at a minimum, complies with manufacturer specifications and CASQA guidance.
8. The Discharger shall comply with the Monitoring and Reporting Program, and future revisions thereto, in Attachment C of this Order.

F. STANDARD PROVISIONS

1. The Discharger shall notify the Regional Board by telephone within 24 hours whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC §13267(b), a written notification of the adverse condition shall be submitted to the Board within one week of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to the modifications of the Regional Board, for the remedial actions.
2. The discharge of any hazardous, designated or non-hazardous waste as defined in Title 23, Division 3, Chapter 15 of the California Administrative Code, shall be disposed of in accordance with applicable state and federal regulations. Sediment shall not be removed or disposed in a manner that will cause water quality degradation.
3. This Order is not transferable to any person except after notice to the Regional Board. In accordance with CWC §13260, the dischargers shall file with the Regional Board a report of any material change or proposed change in the ownership, character, location, or quantity of this waste discharge. The notice must include a written agreement between the existing and new dischargers containing a specific date for the transfer of this Order's responsibility and coverage between the current dischargers and the new discharger. This agreement shall include an acknowledgment that the existing discharger is liable for violations up to the transfer date and that the new discharger is liable from the transfer date on.

4. Any proposed material change in operation shall be reported to the Regional Board at least 30 days in advance of the proposed implementation of any change. This shall include, but not be limited to, all significant new soil disturbances, all proposed expansion of development, or any change in drainage characteristics at the project site. For the purpose of this Order, this includes any proposed change in the boundaries of the wetland/waters of the United States fill sites. The Regional Board may require modification or revocation and reissuance of this Order to change the name of the dischargers and incorporate such other requirements as may be necessary under the California Water Code.
4. The Discharger shall maintain a copy of this Order at the project site so as to be available at all times to site operating personnel and agencies.
5. The Discharger shall permit the Regional Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept;
 - b. Access to copy any records required to be kept under the terms and conditions of this Order;
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order; and
 - d. Sampling of any discharge or surface water covered by this Order.
6. This Order does not authorize commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws, regulations or rules of other programs and agencies, nor does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.
7. The Regional Board will consider rescission of this Order upon notification of successful completion of mitigation for all creation, restoration, and enhancement projects required or otherwise permitted now or subsequently under this Order, completion of project construction, and the Regional Board's acceptance of these notifications. Determination of mitigation success will be based on the provisions discussed in Section C of this Order and in the Monitoring and Reporting Program in Attachment C of this Order.

8. The Discharger must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for (a) enforcement action; (b) termination, revocation and reissuance, or modification of this Order; and/or (c) denial of a report of waste discharge in application for new or revised waste discharge requirements.
9. The Discharger shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the Regional Board within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Regional Board, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
10. The Dischargers shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.
11. In an enforcement action, it shall not be a defense for the dischargers that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this Order. Upon reduction, loss, or failure of the treatment facility, the dischargers shall, to the extent necessary to maintain compliance with this Order, control production or all discharges, or both, until the facility is restored or an alternative method of treatment is provided. This provision applies for example, when the primary source of power of the treatment facility is failed, reduced, or lost.
12. This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:
 - a. Violation of any terms or conditions of this Order;
 - b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts; or
 - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
13. The filing of a request by the dischargers for the modification, revocation and reissuance, or termination of this Order, or notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

G. REPORTING AND RECORD KEEPING REQUIREMENTS

1. The Discharger shall submit copies of all necessary approvals and/or permits for the project and mitigation projects from applicable government agencies, including, but not limited to, the California Department of Fish and Game, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers, prior to the start of clearing/grading.
2. The Discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board.
3. The Discharger shall furnish to the Regional Board, within a reasonable time, any information which the Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Dischargers shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.
4. Where the Discharger becomes aware that they failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to the Regional Board, it shall promptly submit such facts or information.
5. All reports or information submitted to the Regional Board shall be signed and certified as follows:
 - a. Reports of Waste Discharge shall be signed as follows:
 - i. For a corporation – by a principal executive officer or at least the level of vice-president.
 - ii. For a partnership or sole proprietorship – by a general partner or the proprietor, respectively.
 - iii. For a municipality or other public agency – by either a principal executive officer or ranking elected official.
 - b. All reports required by this Order and other information required by the Regional Board shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person. An individual is a duly authorized representative only if:

- i. The authorization is made in writing by a person described in paragraph (a) of this provision; and
 - ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
 - iii. The written authorization is submitted to the Regional Board.
- c. All reports required by this Order and other information required by the Regional Board shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person. Any person signing a document under this Section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

6. The Discharger shall submit reports required under this Order, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Program; File No. WPN:18-2006047:haasj
9174 Sky Park Court, Suite 100
San Diego, California 92123

H. NOTIFICATIONS

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
2. This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the dischargers from liability under federal, state or local laws, nor create a vested right for the dischargers to continue the waste discharge.

3. These requirements have not been officially reviewed by the United States Environmental Protection Agency and are not issued pursuant to Section 402 of the Clean Water Act.
4. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.
5. The adoption of these waste discharge requirements constitutes certification of water quality certification for the project as described in this Order pursuant to Section 401 of the Clean Water Act. The Regional Board hereby certifies that the proposed discharge from **The Ranch Plan Planning Area 1 Project** (401 project no. 06C-047) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act.

This Order becomes effective on the date of adoption by the Regional Board.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on October 11, 2006.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer

- Attachment A – Project Description
- Attachment B – Project Area
- Attachment C – Monitoring and Reporting Program
- Attachment D – Fact Sheet

ATTACHMENT A TO TENTATIVE ORDER NO. R9-2006-0104

PROJECT DESCRIPTION

Applicant: Laura Coley Eisenberg
Rancho Mission Viejo, LLC
P.O. Box 9
San Juan Capistrano, CA 92693
949-240-3363
Fax: 949-248-1763

Applicant
Representatives: Tony Bomkamp
Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, CA 92630
949-837-0404
Fax: 949-837-5834

Project Name: The Ranch Plan, Planning Area 1

WDID Nos. 9 000001486 (WDR for non-federal fill)
9 000001487 (401 certification for federal fill)

Project Location: The proposed project is located in unincorporated southern Orange County. The project site lies north and south of San Juan Creek, east of the City of San Juan Capistrano in the vicinity of Antonio Parkway and Ortega Highway and immediately south of the Ladera Ranch Planned Community
Lat / Long (approximate): 33° 31' 42" N / -117° 37' 09" W

Type of Project: Residential, commercial, open space, and transportation development.

Project Description: **The proposed project begins implementation of the Ranch Plan, which is the long-term land-use plan for the Rancho Mission Viejo area. Planning Area 1 would convert 810-acres into 488 acres of gross residential, 84 acres for an urban activity center, and 238 acres of open space that is anticipated to be dedicated as habitat reserve area. The urban activity center includes internal roadways, local streets, some residential development, retail commercial, a wellness center, local and community parks, trails, community facilities and open space uses. Subarea plans further define land uses in five separately defined areas.**

To support the planned land uses, the proposed project would discharge fill into all waterbodies within the development area footprints outside of San Juan Creek. Minor discharges of fill

to San Juan Creek are proposed to support infrastructure such as storm drain outfalls and roads.

The applicant proposed to discharge fill material into both waters of the U.S./State subject to Sections 404 and 401 of the Clean Water Act (CWA) and non-federal waters of the State subject to waste discharge requirements under the California Water Code, but exempt from Sections 404 and 401 of the CWA.

The larger Ranch Plan project is part of a coordinated planning process that includes long-term watershed-based planning for natural resources led by the U.S. Army Corps of Engineers, California Department of Fish and Game, and the County of Orange. The proposed Planning Area 1 project was designed to be consistent with those resource agency plans.

Federal Agency/Permit: U.S. Army Corps of Engineers §404 Permits. Most proposed fills to federal waters are proposed to be authorized by Letters of Permission and/or a Regional General Permit consistent with the Special Area Management Plan (SAMP) developed for the San Juan and Western San Mateo Watersheds. Discharges of fill within Sub-Area 1.1, however, are proposed to be authorized under existing Nationwide Permit Nos. 7 and 39. A draft SAMP and the Public Notices for the proposed Section 404 permitting structure have been released, but the SAMP has not yet been approved.

Other Required Regulatory Approvals: California Department of Fish and Game (CDFG) Streambed Alteration Agreement. Similar to the Corps procedure, the applicant is seeking a Streambed Alteration Agreement for Sub-Area 1.1 and expects the rest of the streambed alterations to be authorized by a master agreement. The CDFG has released a draft EIS for a master Streambed Alteration Agreement that would resemble the SAMP issued by the Corps.

California Environmental Quality Act (CEQA) Compliance: **On November 8, 2004 the County of Orange approved a final Program Environmental Impact Report (EIR) for the general plan of the Ranch Plan Project (SCH no. 2003021141).**

Receiving Water: San Juan Creek, tributaries, and non-federal waterbodies within HSA 901.28 (Ortega HSA).

Discharges of Fill to Waters of the United States: Temporary: 3.57 acres (470 linear feet) total
Wetland: 0.79 acres
Riparian (identified as vegetated streambed): 2.76 acres
Streambed (identified as unvegetated streambed): 0.02 acre

Permanent: 2.66 acres (13,193 linear feet) total
Wetland: 0.14 acres
Riparian (identified as vegetated streambed): 1.93 acres
Streambed (identified as unvegetated streambed): 0.59 acre

Discharges of Fill to Non-Federal Waters of the State: Temporary: None
Permanent 0.3 acre
Wetland: 0.09 acre
Riparian (identified as vegetated streambed): 0.03 acre
Streambed (identified as unvegetated streambed): 0.18 acre

Dredge Volume: none

Related Projects Implemented/to be Implemented by the Applicant(s): The applicant proposes to develop the entire Ranch Plan within 20 to 25 years. Additional 401 certification and/or waste discharge requirements will be necessary.

Compensatory Mitigation: All temporary impacts will be fully restored. Mitigation for permanent impacts is proposed at a 1:1 ratio as follows: Impacts to vegetated waters (streambed and wetlands) will be mitigated through wetland and riparian creation at the Gobernadora Ecosystem Restoration Area owned by the applicant. That mitigation has already occurred. Impacts to unvegetated waters will be achieved by enhancement within San Juan Creek within the Planning Area vicinity.

Wetland: 0.25 acres
Riparian: 1.96 acres
Streambed: 0.77 acre

Mitigation Plan for Enhancement: *Rancho Mission Viejo Invasive Species Control Plan* (Glenn Lukos Associates, Inc., July 2006).

Best Management
Practices (BMPs):

Treatment BMPs will be implemented for all discharges from the proposed stormwater conveyance system. Treatment BMPs for the Planning Area include dry extended detention basins, retention basins, vegetated swales, and media filtration. Lakes may be used in place of retention basins or extended detention basins. Treatment BMPs for the roads subject to Caltrans and County jurisdiction have not been finalized.

Treatment BMP Plan: (*Master Area / Sub-Area Water Quality Management Plan [WQMP] for The Ranch Plan, Planning Area 1.* GeoSyntec Consultants, Inc., April 2006)

Public Notice:

On June 28, 2006 receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

Fees:

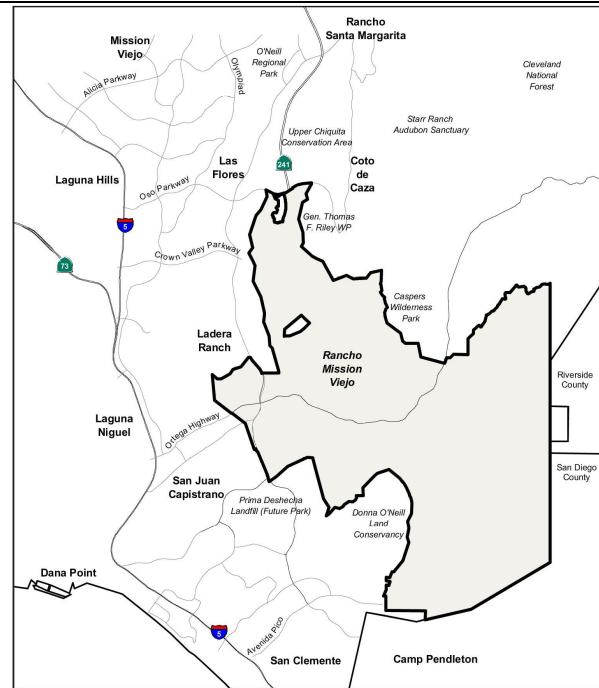
Total Due: \$40,500
Total Paid: \$40,500 (check No. 20673 and 22006)

ATTACHMENT B TO TENTATIVE ORDER NO. R9-2006-0104

PROJECT AREA

The Ranch Plan addresses long-term planning for the Rancho Mission Viejo in unincorporated southwest Orange County.

The proposed project is Planning Area 1 (PA 1) of the larger Ranch Plan and is located adjacent to State Route 74 (Ortega Highway) east of the City of San Juan Capistrano.



Local Vicinity

The Ranch Plan

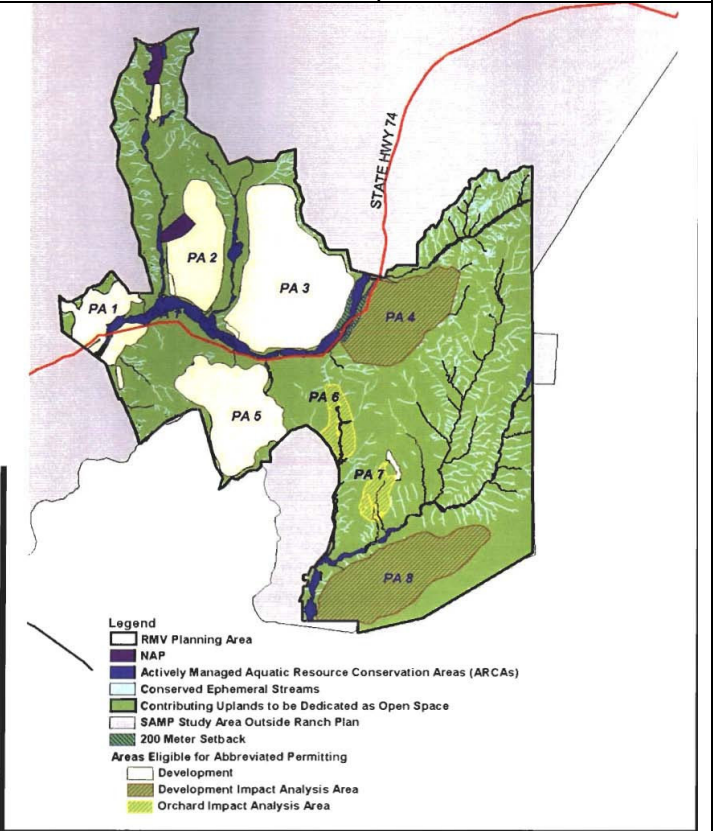
Exhibit 3-2

1" = 9000'



Source: ED&W, Inc. 2004

R:\proj\dm\RMV\K009Ex3-2_EV_061104.pdf



Aquatic Resources Conservation Areas

Not to Scale

San Juan Creek and Western San Mateo Creek Watersheds SAMP EIS

Figure: 8-10

Source: USACE, 2005



Date: Nov. 2005

ATTACHMENT C - MONITORING AND REPORTING PROGRAM

1. Responsible Party Updates. Rancho Mission Viejo, LLC (Discharger) shall provide the name and contact information of any third party accepting responsibility for implementing the requirements of this Monitoring and Reporting Program. The notification shall be submitted to the Regional Board within 30 days of the transfer of responsibility. The notification shall include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of this Program and the related conditions of Regional Board Order No. R9-2006-0104.
2. Construction Monitoring. Construction best management practices (BMPs) shall be visually monitored throughout each construction phase of the project. Monitoring shall occur, at a minimum, at all detention and retention basins and all storm drain outfall structures to receiving waters. Failures of BMP performance that result in discharges of toxic materials or significant quantities of sediment to waters of the State and/or United States, or that result in erosion of waters of the State/U.S., shall be reported to the Regional Board within 24 hours of discovery. A description of remediation efforts that were implemented shall be reported to the Regional Board within five business days of discovery.
3. As-Built Mitigation Report. The Discharger shall submit an as-built report within 60 days after complete implementation of the Invasive Control Plan mitigation. The as-built report shall contain a report of mitigation activities conducted and maps of mitigation activities, planted areas and palette, areas designated for natural plant recruitment, and any areas subject to fuel modification management. The As-Built report shall include photographs, sampling plot locations, plant species lists, site plans, and include a description of any deviations from the Habitat Mitigation Plan.
4. Invasive Species Control Plan Monitoring. The Discharger shall conduct mitigation monitoring and reporting in accordance with *The Rancho Mission Viejo Invasive Species Control Plan*, July 2006, prepared by Glenn Lukos Associates, Inc., (Invasive Control Plan), except as modified to meet the conditions of this Monitoring and Reporting Program and Regional Board Order R9-2006-0104.
 - a. Mitigation monitoring as outlined in the Invasive Control Plan shall occur, at a minimum, monthly for the first year following invasive species eradication, every two months during the second year, and quarterly during years three, four, and five. Mitigation monitoring required by the Regional Board after five years shall be conducted semi-annually until mitigation is deemed successful by the Regional Board; and
 - b. Functional assessments of the mitigation areas shall be conducted every two years following initiation of mitigation activities in order to determine

status and progress toward achievement of functional benefits estimated in the *Draft Hybrid Wetland Functional Assessment* (July 2006) prepared by Glenn Lukos Associates, Inc. in support of the Planning Area 1 Project application. The biannual functional assessments shall be conducted using the same methodology as in the *Draft Hybrid Wetland Functional Assessment*.

5. Habitat Mitigation Monitoring Reports. The Discharger shall submit mitigation monitoring reports annually for at least five years and until the Regional Board provides written concurrence to the Discharger for report termination based on achievement of functional criteria. Monitoring reports shall be submitted by **March 1** each year and cover the period from January 1 through December 31 of the previous year. Monitoring reports shall include, but not be limited to, the following:
 - a. Names, qualifications, and affiliations of the persons contributing to the report;
 - b. A description of the progress, with a timetable for future steps, toward establishing program to provide for maintenance in perpetuity of all mitigation areas subject to the Invasive Species Control Plan pursuant to section C.6 of Order No. R9-2006-0104;
 - c. A status report of the mitigation area at the Gobernadora Ecosystem Restoration Area designated as mitigation for Regional Board Order no. R9-2006-0104;
 - d. Results of the annual mitigation monitoring program described in the Invasive Control Plan and results from the biannual functional assessments;
 - e. Tables and an analysis of the raw quantitative and qualitative data collected in the field, including at a minimum comparisons to the functional metrics used in the *Draft Hybrid Wetland Functional Assessment* and others as described herein;
 - i. Detritus cover;
 - ii. General topographic complexity characteristics at each mitigation site;
 - iii. General upstream and downstream habitat and hydrologic connectivity; and
 - iv. Source of hydrology to the mitigation areas;
 - f. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;
 - g. Photodocumentation from established reference points;

- h. Qualitative comparison to adjacent preserved streambed areas;
 - i. Survey report documenting boundaries of mitigation area; and
 - j. Other items specified in the Invasive Control Plan.
6. Long-term Protection Mechanism. Within one year following the discharge of fill material to waters of the U.S./State, the Discharger shall provide the Regional Board with a plan and timetable for establishing a permanent protection mechanism (e.g., conservation/open space easement or deed restriction) that prohibits development, dredging, mowing, and/or other non-emergency activities that would result in permanent or temporary disturbance to beneficial uses of the mitigation area.
7. Annual Bioassessment. The Discharger shall implement a bioassessment monitoring program using the latest protocol available from the State of California Surface Water Ambient Monitoring Program (SWAMP)³. The monitoring frequency shall be no less than one event per year. A long-term bioassessment monitoring station shall be located at least 100 meters downstream of Ortega Highway within the Planning Area 1 boundary. Bioassessment monitoring shall be conducted for five years beginning in 2008. Reports shall be submitted annually within 120 days of sampling and shall describe the bioassessment procedures, provide the raw data, provide a summary of the data, include a map of the sampling location, and describe the status of the Planning Area 1 project.
8. Stream Monitoring Program The Discharger shall implement a Stream Monitoring Program in San Juan Creek to assess changes in geomorphology and channel shape in the Planning Area 1 project area. The Program shall be based upon the proposed program described in the Program Environmental Impact Report (EIR) for the Ranch Plan. The Program shall include topographic cross-sections, visual observations of channel bank conditions, and photographs of areas of concern that appear to be changes in the natural alluvial stream system. The Program shall require that areas of concern be assessed for feasible remedies.
 - a. The Discharger shall provide a copy of the Stream Monitoring Program to the Regional Board prior to discharging fill material into any tributary to San Juan Creek; and
 - b. The Discharger shall provide annual Program monitoring reports to the Regional Board by July 1 each year that cover the period from May 1 of the previous year through April 30 of the current monitoring year.

³ SWAMP Information and templates are available on-line at <http://www.waterboards.ca.gov/swamp/>.

9. Stream Stabilization Program. The Discharger shall develop a Stream Stabilization Program for the Planning Area 1 project area to assess conditions of localized erosion in the vicinity of all stormdrain outfalls associated with the Planning Area 1 project. The Program shall be based upon the proposed program described in the Program EIR for the Ranch Plan. The Program shall require that areas of erosion be assessed for feasible remedies, and that a timetable be developed for remediation.
 - a. The Discharger shall provide a copy of the Stream Stabilization Program to the Regional Board prior to discharging fill material into San Juan Creek; and
 - b. The Discharger shall provide annual Program monitoring reports to the Regional Board by July 1 each year that cover the period from May 1 of the previous year through April 30 of the current monitoring year.

10. Annual Post-Construction BMP Effectiveness Monitoring. The Discharger shall conduct annual water quality monitoring of the “seasonal first-flush storm” (first storm of the rainy season) effluent from at least one storm drain to assess BMP performance against expectations and water quality objectives. Water quality data shall be collected during the first few hours of the storm event. The results shall be reported to the Regional Board within 90 days of the monitoring event for five years.
 - a. Each report shall contain raw and summary data, an assessment of performance against the expectations presented in the EIR, and assessment of concentrations relative to water quality objectives in the adjacent receiving water, and an assessment of the effects of the stormwater treatment BMP(s). Each report shall include data in tabular and graphical form, and electronic data shall be submitted to the Regional Board upon request. Each report shall identify the sample collection procedures, including whether data was collected by grab or composite samples. A certified contract laboratory or municipal staff certified to conduct the specific analyses shall perform all sampling, laboratory, quality assurance, and analytical procedures;
 - b. Monitoring locations shall include the effluent of one storm drain that discharges treated stormwater from a detention basin, if available; otherwise another BMP outfall may be selected. If the first storm of the rainy season cannot reasonably be monitored (e.g., safety or mobilization impracticality), then the next storm shall be sampled;

- c. Water quality data may be obtained by grab or composite samples and reported for the following constituents:

Parameter	Reporting Unit
Dissolved Oxygen	mg/L
Total Organic Carbon	mg/L
Fecal Coliform	MPN or CFU /100ml
<i>E. Coli</i> or Enterococcus	MPN or CFU /100ml
Total Hardness	mg/L
Nitrate Nitrogen	mg/L
Ammonia Nitrogen	mg/L
Reactive Phosphorus	mg/L
Nickel	µg/L
Zinc	µg/L
Copper	µg/L
Cadmium	µg/L

Note: mg/L = milligrams per liter µg/L = micrograms per liter
MPN and CFU refer to most probable number and colony forming units, respectively, and refer to different methods for quantifying concentrations of bacteria.

CERTIFICATION STATEMENT

Each monitoring and technical report submitted to the Regional Board shall include the following certification statement signed by the principal executive officer, ranking elected official, or duly authorized representative of that person:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person(s) directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NOTIFICATIONS

1. California Water Code (CWC) sections 13267(b) and 13383 authorize the Regional Board to require technical and monitoring reports.
2. Pursuant to CWC section 13268, any person failing or refusing to furnish technical or monitoring program reports as required by section 13267, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs
3. All Monitoring Reports shall be submitted to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
401 Certification; File No. WPN:18-2006047:haasj
9174 Sky Park Court, Suite 100
San Diego, Ca 92123