

EXECUTIVE OFFICER SUMMARY REPORT
December 13, 2017

- ITEM: 8
- SUBJECT: WDR Issuance: Waste Discharge Requirements for Baldwin and Sons, Village Two South Project, San Diego County (Tentative Order No. R9-2017-0179). (*Lisa Honma*)
- PURPOSE: To consider adoption of Tentative Order No. R9-2017-0179 (Tentative Order).
- RECOMMENDATION: Adoption of the Tentative Order (**Supporting Document No. 1**) is recommended.
- KEY ISSUES: The Tentative Order authorizes 0.15 acre (4,921 linear feet) of permanent impacts to waters of the State within the Village Two South Project (Project) site. Compensatory mitigation comprised of 1.8 acres stream channel re-establishment and 0.23 acres wetlands establishment is proposed to offset these impacts. Baldwin and Sons (Discharger) has taken a sequence of appropriate steps in the Project design to first avoid, then minimize, and lastly mitigate for permanent adverse impacts to existing waters of the State.
- PRACTICAL VISION: Tentative Order No. R9-2017-0179 implements the San Diego Water Board's Practical Vision entitled *Healthy Waters, Healthy People* by requiring the Discharger to first avoid and then minimize adverse impacts of the Project on aquatic resources to the maximum practicable extent. The Tentative Order also includes compensatory mitigation requirements sufficient to offset unavoidable adverse impacts to aquatic resources from the Project. The compensatory mitigation required in the Tentative Order implements the aspirational goals of the *Recovery of Stream, Wetlands and Riparian Systems* chapter of the Practical Vision to attain no overall net loss and a long term net gain in the quantity, quality and sustainability of aquatic resources.
- DISCUSSION: **Project Setting**
The Project is located south of Olympic Parkway, west of La Media Road, east of the Otay Landfill, and north of Wolf

Canyon in the City of Chula Vista, San Diego County, California (**Supporting Document No. 2**). The proposed Project is a housing development on a 327 acre site. Approximately 250 acres of the 327 acre site will be disturbed for grading to allow for the construction of 1,400 single and multifamily for-sale housing and rental apartments, 33 acres of industrial land, public facilities, and infrastructure improvements. Additional construction areas include paved road and haul routes, materials storage areas, and utilities. Land use in the Project area is a mixture of undeveloped vacant land, the Otay Landfill, and recently developed residential communities.

The Project adds approximately 90 acres of impervious surfaces. Post-construction best management practices (BMPs) to manage and control the effects of resulting runoff increases will be designed, constructed, and maintained to comply with the BMP Design Manual for the City of Chula Vista.

The Project site contains a total of 1.27 acres and 10,210 linear feet of surface waters of the State that are tributary to Wolf Canyon Creek. The Project site lies within the Otay Hydrologic Unit, Otay Valley hydrologic area (HA) (910.20).

Proposed Discharge Impacts

The Discharger submitted a Report of Waste Discharge (ROWD) in application for waste discharge requirements (WDRs) to construct the Project, on February 29, 2016. The Discharger proposes to discharge fill material associated with Project construction activities into the unnamed tributary of Wolf Canyon Creek. The placement of fill material into the unnamed tributary will adversely impact 0.15 acre (4,921 linear feet) of waters of the State. Project impacts to the main channel of Wolf Canyon Creek will be avoided.

Compensatory Mitigation

The Discharger reports that compensatory mitigation to offset permitted Project impacts will be achieved off-site through re-establishment of 1.8 acres of stream channel waters of the United States and/or State and establishment of 0.23 acre of wetland waters of the United States and/or State. Mitigation for discharges of fill material to waters of the State will be completed by the Discharger at the Otay River Restoration Project (Restoration Project) site located in the Otay hydrologic sub-area (HSA 910.20) at a minimum

compensation ratio of 13.53:1 (area mitigated:area impacted) for stream channel impacts. The proposed mitigation will adequately compensate for the loss of beneficial uses and habitat within waters of the State attributable to the Project.

Tentative Order

Tentative Order No. R9-2017-0179 will, if adopted, serve as WDRs for the discharge of waste attributable to the Project to waters of the State, pursuant to Water Code section 13260 et. seq. The Tentative Order allows reasonable use of private property for housing, and associated infrastructure development, and growth of the economy, while offsetting the adverse Project impacts to waters of the State. The Tentative Order serves to authorize unavoidable direct adverse impacts to tributaries of Wolf Canyon Creek, attributed to the Project and requires the Discharger to implement compensatory mitigation sufficient to offset the permitted Project impacts.

The San Diego Water Board typically relies upon its authority under Clean Water Act (CWA) section 401 to regulate discharges of dredged or fill material to waters of the United States and/or State through the issuance of water quality certifications. The San Diego Water Board has delegated this function to the Executive Officer and the issuance of water quality certifications is not typically scheduled for consideration by the Board unless the project is very large or controversial. However, the U.S. Army Corp of Engineers has determined that no waters of United States are present within the Project's impact area. Therefore, the Project discharges are to waters of the State outside of CWA jurisdiction and the water quality certification regulatory process does not apply. The San Diego Water Board is relying upon its authority under the Porter-Cologne Water Quality Control Act to regulate the Project discharges under WDRs and Board action is required to adopt the Tentative Order.

The Tentative Order was released for public review and comment pursuant to Water Code section 13167.5 on November 9, 2017 for a period of 30 days (**Supporting Document No. 3**). The deadline for submission of written comments on the Tentative Order is December 11, 2017. The San Diego Water Board is not anticipating any written comments will be submitted on the Tentative Order. A copy

of any comments submitted by the December 11 deadline will be provided to San Diego Water Board members.

LEGAL CONCERNS: None

SUPPORTING DOCUMENTS:

1. Tentative Order No. R9-2017-0179
2. Location Map
3. Notice of Public Hearing and Written Comment Period

PUBLIC NOTICE: On November 9, 2017 the San Diego Water Board provided public notice of the release of the Tentative Order for public review and comment and today's public hearing to the Discharger and other interested parties via e-mail. The public hearing notice, written comment period and Tentative Order were also posted on the San Diego Water Board website on November 9, 2017 for a period of 30 days for public review and comment. Notice was also provided in the Meeting Notice and Agenda for the December 13, 2017 Board meeting and posted on the San Diego Water Board website.