

FRIANT RANCH L.P.

June 13, 2013

Mr. Matthew S. Scroggins
Senior Water Resource Control Engineer
California Regional Water Quality Control Board
Central Valley Region
1685 E Street
Fresno, CA 93706

Subject: Comments on Tentative Waste Discharge Requirements for Friant Ranch, A Limited Partnership, Friant Ranch Specific Plan Project, Fresno County

Dear Mr. Scroggins:

On behalf of Friant Ranch, LP (“Friant Ranch”), we appreciate the opportunity to comment on the Tentative Waste Discharge Requirements for the Friant Ranch Specific Plan Project (“Draft WDR”) located in Fresno County. In general, Friant Ranch supports adoption of the Draft WDR as proposed. However, Friant Ranch requests that additional language with respect to the creation/restoration of 1.35 acres of wetlands be included in the Waste Discharge Requirements to ensure consistency with the U.S. Department of the Army Section 404 Permit issued in April 2013 (“D.A. Permit”). (Department of Army Permit, Friant Ranch L.P., Permit No. SPK 2004 00966.)

Specifically, as described in Finding 19, the Friant Ranch Mitigation Plan indicates that Friant Ranch “will provide for the creation/restoration of 1.35 acres of wetlands either by purchasing constructed vernal pool and vernal swale creation/restoration credits from a Corps approved mitigation bank within the San Joaquin River watershed, or by creating or restoring 1.35 acres of vernal pool and vernal swale habitat on the Drayer Ranch” (Draft WDR, p. 4.) Based on the Special Conditions contained in the D.A. Permit, Friant Ranch believes it appropriate to provide similar language with respect to the creation or restoration of vernal pool and vernal swale habitat at an offsite location beyond the Drayer Ranch, subject to approval by the Central Valley Regional Water Quality Control Board’s (“Central Valley Water Board”) Executive Officer. Including this language would ensure that the Draft WDR is consistent with the D.A. Permit, which provides that in the event that “purchase of credits at a Corps-approved mitigation bank is not available, [Friant Ranch] must create/re-establish vernal pool habitat at a Corps-approved offsite location.” (D.A. Permit, p. 3.)

Accordingly, we respectfully request that the references to Drayer Ranch throughout the Draft WDR be revised to allow for the creation/restoration of vernal pool and vernal swale habitat at the Drayer Ranch or any other appropriate site approved by the Executive Officer.

For your convenience, we have provided the specific references to Drayer Ranch contained in the Draft WDRs, and the proposed additional language for each reference:

Draft WDR, page 4, Finding 19: “As described in the Mitigation Plan, the Discharger will provide for the creation/restoration of 1.35 acres of wetlands either by purchasing constructed vernal pool and vernal swale creation/restoration credits from a Corps approved mitigation bank within the San Joaquin River watershed, or by creating or restoring 1.35 acres of vernal pool and vernal swale habitat on the Drayer Ranch in Merced County, which will be protected in perpetuity under conservation easement. Or, in the alternative, the Discharger may provide for the creation/restoration of 1.35 acres of vernal pool and vernal swale habitat at any other appropriate site approved by the Executive Officer, which must be protected in perpetuity under conservation easement.”

Draft WDR, page 7, Finding 31.c: “The Mitigation Plan incorporates a combination of measures including purchase of mitigation bank credits to create/restore wetlands or an option for creation/restoration of wetlands at Drayer Ranch, preservation of existing habitats, and management of the preserved habitats to maximize wetland function and wetland restoration and prevent future degradation. Or, in the alternative, with respect to the creation/restoration of wetlands, the Discharger may create/restore 1.35 acres of vernal pool and vernal swale habitat at any other appropriate site approved by the Executive Officer.”

Draft WDR, page 12, Provision D.6.b: “providing, not less than 120 days prior to initiating grading within waters of the State, a Vernal Pool Creation/Restoration Plan prepared by a qualified professional for Executive Officer approval for creation/restoration of 1.35 acres of vernal pools/swales at the Drayer Ranch site, as described in the Mitigation Plan, or any other appropriate site that is approved by the Executive Officer.”

Draft WDR, page 12, Provision D.7: “Not less than one-hundred and twenty (120) days prior to initiating grading within the waters of the State, the Discharger shall submit draft conservation easements for the onsite preserve, the Friant Ranch East Preserve, the Nohrnberg Preserve, the Klein-Morgan Preserve, and if the Discharger chooses Provision 6.b to comply with this Order, the Drayer Ranch creation/restoration site, or other appropriate site approved by the Executive Officer to the Central Valley Water Board’s Executive Officer for review and acceptance as consistent with the provisions within the Mitigation Plan that relate to Central Valley Water Board requirements.”

Draft WDR, page 13, Provision D.8: “Not less than one-hundred and twenty (120) days prior to initiating grading within waters of the State, the Discharger shall provide to the Central Valley Water Board’s Executive Officer evidence that the endowment amounts, as calculated by the Property Analysis Record software program and approved by the California Department of Fish and Wildlife, necessary to provide funding for monitoring and perpetual management and maintenance of the mitigation features and habitat in the preservation areas and, if applicable, the Drayer Ranch or other appropriate mitigation area have been funded.”

Draft WDR, page 13, Provision D.9: “If the Discharger elects to mitigate for wetland impacts by creating/restoring 1.35 acres of vernal pools/swales at the Drayer Ranch site or any other appropriate site approved by the Executive Officer (i.e., Provision D.6.b), the mitigation areas at the Drayer Ranch site or other appropriate site must fully meet the established functional success criteria of the Mitigation Plan by no later than 5 years from the date that the as-built plans for the creation/restoration area are submitted to the Central Valley Water Board.”

Draft WDR, page 13, Provision D.10: “If the Discharger elects to mitigate for wetland impacts by creating/restoring 1.35 acres of vernal pools/swales at the Drayer Ranch or any other appropriate site approved by the Executive Officer (i.e., Provision D.6.b), not less than one-hundred and twenty (120) days prior to initiating grading in waters of the State, the Discharger shall provide the Central Valley Water Board’s Executive Officer a performance bond of 120% of the amount required to complete the Drayer Ranch or other appropriate site establishment (creation) and/or enhancement.”

Draft Monitoring and Reporting Program, Provision I.B.2: “If the Drayer Ranch or other appropriate approved site creation/restoration option is exercised, monitoring of the creation/restoration areas shall be in accordance with monitoring and reporting requirements to be included in the Vernal Pool Creation/Restoration Plan submitted for Executive Officer approval.”

Again, thank you for your consideration. Please do not hesitate to contact me if you have any questions with respect to the above.

Sincerely,

FRIANT RANCH, L.P.

A handwritten signature in black ink, appearing to read "Dennis Bacopulos". The signature is written in a cursive style with a large, looping initial 'D'.

Dennis Bacopulos
Applicant

cc: Lonnie Wass, Regional Water Quality Control Board
Debra Mahnke, Water Resource Control Engineer
Bryan Wagner, Esq.
David McGlasson, Provost & Pritchard
Tess Dunham. Somach, Simmons & Dunn