

California Regional Water Quality Control Board  
Santa Ana Region

Order No. R8-2008-0015

Waste Discharge Requirements

for

Fairfield Holland Road, LP  
Riverside County Plot Plan No. 22338

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), finds that:

1. Fairfield Holland Road, LP (hereinafter, discharger) proposes to discharge fill to 0.22 acre of waters of the State as part of the development of residential Plot Plan No. 22338 (PP 22338), in the Sun City/Menifee Valley area of Riverside County.
2. PP 22338 is for construction of a 230-dwelling unit apartment complex consisting of eleven 3-story buildings and a dedicated easement for the later construction of an overpass for Holland Road over Antelope Road and the nearby State Highway 215. Half-street improvements are proposed for Hanover Lane on the project's east side and full-street improvements are proposed for Albion Lane on the north. PP 22338 is located on 15.03 acres northeast of the intersection of Antelope and Holland Roads within Section 2 of Township 6 South, Range 3 West, as shown on the U.S. Geological Service *Romoland, California* quadrangle (33.6720 degrees N/-117.1694 degrees W).
3. In a letter dated August 3, 2006, the U.S. Army Corps of Engineers (Corps) determined that the drainages on the property were not subject to their jurisdiction under CWA Section 404. The Board commonly regulates discharges of dredge or fill to waters of the State through the issuance of Clean Water Act (CWA) Section 401 Water Quality Standards Certifications (Certifications) where the discharge is also subject to regulation by the Corps. These Certifications are accompanied by authorization to discharge in accordance with State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification. This occurs when the receiving water is both a water of the State as defined by the California Water Code and a water of the U.S. under CWA Section 404. In the absence of an applicable federal permit or license, the Board regulates the proposed discharge to waters of the State through the issuance of Waste Discharge Requirements, or a waiver thereof.
4. The affected water of the State consists of an isolated ephemeral drainage and an earthen channel. The overall site drains, partly via sheet flow, to Salt Creek and then to Canyon Lake. The drainage overlies the Menifee Groundwater Management Zone.

5. Based on the applicant's biological assessment and a site visit by Board staff on January 25, 2008, beneficial uses of the drainage that may be impacted by the proposed discharge of fill are:
  - a. Wildlife Habitat (WILD);
  - b. Warm Freshwater Habitat (WARM); and
  - c. Groundwater Recharge (GWR).
6. Waste Discharge Requirements (WDRs) are necessary to address impacts of the fill on the beneficial uses of waters of the State.
7. This Order regulates the discharge of fill material to waters of the State that are not within the Corps' CWA Section 404 jurisdiction (non-federal). The discharger submitted a ROWD on April 5, 2007.
8. The discharger has committed to mitigate direct impacts to waters of the State by paying an in-lieu fee to the Santa Ana Watershed Association towards the eradication of 0.508 acre of invasive plant species in the San Jacinto River watershed.
9. Pursuant to CEQA, the County of Riverside adopted a Negative Declaration (ND) for the proposed TM 34092 on January 30, 2008.
10. As a Responsible Agency under CEQA, the Board is required to consider the Lead Agency's environmental documents and make findings on the significant impacts within its jurisdiction to approve. (Public Resources Code, Section 21002.1(d); California Code of Regulations, Title 14, Section 15096(g), (h).) The Board has considered the County's ND and there are no un-mitigated significant impacts on water quality as a result of the proposed project.
11. The Board has considered anti-degradation pursuant to State Board Resolution No. 68-16 and finds that the discharge is consistent with those provisions.
12. The Board has notified the discharger and other interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity for public hearing and opportunity to submit their written views and recommendations.
13. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

**IT IS HEREBY ORDERED** that the 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:

**A. DISCHARGE SPECIFICATIONS:**

1. No activities associated with the project shall cause or threaten to cause a nuisance or pollution as defined in Section 13050 of the California Water Code.
2. The discharge of any substance in concentrations toxic to animal or plant life is prohibited.
3. The groundwater in the vicinity of the project shall not be degraded as a result of the project activities or placement of fill for the project.
4. The discharge of fill materials shall be limited to inert materials, as defined in Section 20230, Division 2, Title 27. The discharge of fill material other than native soil shall be only with the prior approval of the Executive Officer.

**B. DISCHARGE PROHIBITIONS:**

1. The direct discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plains, is prohibited.
2. The discharge of floating oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
3. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
4. Discharges of wastes or pollutants to surface waters, unless otherwise regulated by a separate National Pollutant Discharge Elimination System (NPDES) permit, are prohibited.

**C. PROVISIONS:**

1. The discharger shall compensate for permanent impacts to beneficial uses by paying an in-lieu fee to the Santa Ana Watershed Association towards the eradication of 0.508 acre of invasive plant species in the San Jacinto River watershed. The fee payment shall include a minimum of six years of follow-on maintenance. Evidence of the payment shall be provided to the Executive Officer by April 29, 2008.
2. The discharge of fill to waters of the State is prohibited until the evidence of payment of the in-lieu fee is received by the Executive Officer.

3. The discharger shall maintain a copy of this Order at the site so that it is available to site operating personnel at all times. Key operating personnel shall be familiar with its content.
4. The discharger shall remove from the site any waste or fill material found to contain substances that may have a deleterious effect on water quality, and dispose of unacceptable wastes in a manner acceptable to the Executive Officer.
5. The discharger must comply with all of the requirements of this Order. Any violation of this Order constitutes a violation of the California Water Code and may constitute a violation of the CWA and its regulations, and is grounds for enforcement action, termination of this Order, revocation and re-issuance of this Order, denial of an application for re-issuance of this Order, or a combination thereof.
6. The discharger shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.
7. The provisions of this Order are severable, and if any provision of this Order, or the application of any provisions 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.
8. The filing of a request by the discharger for modification, revocation and re-issuance, or termination of this Order or a notification of planned changes or anticipated noncompliance does not stay any requirements of this Order.
9. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the discharger from liabilities under federal, state, or local laws, nor guarantee the discharger a capacity right in the receiving waters.
10. This Order does not convey any property rights of any sort, or any exclusive privilege.
11. This Order is not transferable to any person except after notice to, and approval by, the Executive Officer. The Board may require modification or revocation and re-issuance of this Order to change the name of the discharger.
12. In the event of any change in control or ownership of land or waste discharge facility presently owned or controlled by the discharger, the discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to the Board.
13. This Order will serve as a Clean Water Act Section 401 Water Quality Standards Certification in the event that one is required by any federal agency, except as noted below. Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- a. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
  - b. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter 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 under this Chapter and owed by the applicant.
14. The Board and other authorized representatives shall be allowed:
- a. Entry upon premises where a regulated facility or activity is located or conducted, or where records are kept under the requirements of this Order;
  - b. Access to copy any records that are kept under the requirements of this Order;
  - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
  - d. To photograph, sample and monitor for the purpose of assuring compliance with this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on February 29, 2008.

  
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Gerard J. Thibeault  
Executive Officer