

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER 00-031

WASTE DISCHARGE REQUIREMENTS FOR:

**CITY OF FAIRFIELD REDEVELOPMENT AGENCY
FAIRFIELD, SOLANO COUNTY**

The California Regional Water Quality Control Board, San Francisco Bay Region, hereinafter Board, finds that:

1. The City of Fairfield Redevelopment Agency (hereinafter the Agency or the Discharger) is the redevelopment agency for the City of Fairfield, a municipality located in the southwest portion of Solano County.
2. The Discharger is developing the Planned Employment Center Project (hereinafter Project), located just north of the junction of Interstate Highways 80 and 680 in the City of Fairfield, Solano County. The purpose of the Project is to develop a mixture of office, research and development, and light industrial uses with ancillary warehousing.
3. There are currently approximately 4.35 acres of palustrine emergent seasonal wetlands on the Project site. Impacts from the development of the Project have been minimized and will result in the filling of 2.90 acres of these jurisdictional waters of the United States.
4. This Order regulates the discharge of dredged and fill material to surface waters and does not apply to storm water discharges associated with construction activities. The Discharger is responsible for obtaining and complying with the rules and regulations of National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity (General Permit).
5. The Discharger has applied to the Board for Water Quality Certification under Section 401 of the Clean Water Act. On January 10, 2000, the U. S. Army Corps of Engineers (hereinafter Corps) issued an authorization under Nationwide Permit No. 26 for the Project.
6. State authority to regulate the discharge, and threatened discharge of waste to Waters of the State, including surface water, groundwater, and wetlands is granted to the State Water Resources Control Board in the Porter-Cologne Water Quality Act (Act). Water Quality Control Plans implement the Act by designating the beneficial uses to be protected, and the water quality objectives reasonably required for that purpose.
7. The Board, on June 21, 1995, adopted, in accordance with Section 13240 et seq. of the California Water Code, a revised Water Quality Control Plan, San Francisco Bay Basin (Basin Plan). This updated and consolidated revised Basin Plan was approved by the State Water Resources Control Board and the Office of Administrative Law on July 20, 1995, and November 13, 1995, respectively. A summary of regulatory provisions is contained in 23

CCR 3912. The Basin Plan defines beneficial uses and water quality objectives for waters of the State, including surface waters and groundwaters. Issuance of this Order and the activities regulated herein are in compliance with the Basin Plan.

8. The impacted jurisdictional waters are tributary to Green Valley Creek. The following existing beneficial uses are identified in the Basin Plan for Green Valley Creek: Cold Freshwater Habitat, Freshwater Replenishment, Water Contact Recreation, Noncontact Water Recreation, Fish Spawning, Warm Freshwater Habitat, and Wildlife Habitat.
9. The Basin Plan Wetland Fill Policy establishes that there is to be no net loss of wetland acreage and no net loss of wetland value when the project and any proposed mitigation are evaluated together, and that mitigation for wetland fill projects is to be located in the same area of the Region, wherever possible, as the project. The Policy further establishes that wetland disturbances should be avoided whenever possible, and if not possible, should be minimized, and only after avoidance and minimization of impacts should mitigation for lost wetlands be considered. The Discharger has submitted documentation to show that appropriate effort was made to avoid and then to minimize wetland disturbance, as required by the Basin Plan. The Board concurs with this finding.
10. To protect the water quality at and in the vicinity of the Project for the duration of Project construction, to adequately address proposed Project impacts and mitigation to waters of the State, to meet the objectives of the California Wetland Conservation Policy, to require appropriate changes over the life of the Project and its construction, and to address public safety concerns in an environmentally responsible way, the Board has determined to regulate the discharge of dredged and fill material to surface waters by issuance of Waste Discharge Requirements (WDRs).
11. The Project site is approximately 160 acres consisting of 139 acres of the following developments: 16 acres of shopping, service office, and specialty retail; eight acres of business support; 45 acres of office and light industry; 40 acres of research and development; and 30 acres of office, light manufacturing, retail, and service.
12. The Discharger has proposed a mitigation plan, "Conceptual Mitigation Plan for Aquatic and Wetland Species Associated with the Planned Employment Center Project" (hereinafter Mitigation Plan), dated June 1998, as a part of its proposal, to offset the loss of beneficial uses of waters of the State.
13. To compensate for the filling of 2.9 acres of palustrine emergent seasonal wetlands, the Mitigation Plan proposes to create 5.8 acres of in-kind wetland habitat (hereinafter mitigation area). All of the created wetland habitat will be on-site and protected in perpetuity by a conservation easement. The proposed wetland mitigation measures will offset the temporal and permanent loss of beneficial uses of Waters of the State resulting from the wetland fill.
14. A storm water detention basin will be built to capture sediment and other pollutants during and after completion of the Project's construction activities. The City of Fairfield will maintain the detention basin as a post-construction storm water treatment measure.

15. The California Environmental Quality Act (CEQA) requires all projects approved by State agencies to be in full compliance with CEQA, and requires a lead agency to prepare an appropriate environmental document (EIR or Negative Declaration) for such projects. The City of Fairfield adopted a Negative Declaration and a Master Planned Unit Development Permit for the Project on April 19, 1994.
16. As authorized under section 401 of the Federal Clean Water Act, and pursuant to Title 23 of the California Code of Regulations section 3857, the Board finds that the proposed activity will result in a discharge into navigable waters of the United States and issues these WDRs to assure that this activity will meet California water quality standards.
17. By letter dated April 5, 2000, the Board notified the Discharger of its intent to prescribe WDRs for this discharge.
18. 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 Prohibitions

1. The discharge of wastes including, but not limited to, oil, gasoline, diesel fuel, any petroleum derivative, any toxic chemical, or hazardous waste, or materials other than storm water, which are not otherwise regulated by a NPDES permit or allowed by this Order to waters of the State or surface water drainage courses is prohibited.
2. The Project shall not cause a condition of pollution or nuisance as defined in Section 13050 of the California Water Code.
3. At no time shall surplus or waste earthen materials be placed in surface drainage courses, or in such a manner as to allow the discharge of such materials to adjacent undisturbed land or to any surface water drainage course except as authorized by this Order as described in Findings 3 and 13, above, and as described in the Discharger's application/Report of Waste Discharge and supporting materials.
4. The groundwater shall not be degraded as a result of project construction and related activities.

B. Provisions

1. The Discharger shall comply with all the Prohibitions and Provisions of this Order immediately upon adoption of this Order or as provided below.
2. The Discharger shall immediately notify the Board by telephone whenever an adverse condition occurs as a result of this discharge. An adverse condition includes, but is not

limited to, a violation or of the conditions of this Order, significant spill of petroleum products or toxic chemicals, or damage to control facilities that could cause noncompliance. Pursuant to Section 13267(b) of the California Water Code, a written notification of the adverse condition shall be submitted to the Board within two weeks 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 Board, for the remedial actions.

3. The Discharger shall notify the Board in writing 30 days prior to actual start dates for each phase of construction.
4. The Discharger shall at all times fully comply with the engineering plans, specifications, and technical reports submitted with the Discharger's application for water quality certification and the completed Report of Waste Discharge.
5. To reduce the potential impacts to water quality, the Discharger shall divert any flow around construction and/or restoration work within waterbodies using a low flow channel, pipe, or other practices such that the flow does not flow across the work area and no equipment operates in areas of flowing or standing water.
6. All reports submitted pursuant to these Provisions shall be prepared under the supervision of a suitable professional licensed in the State of California.
7. The Discharger shall remove and relocate any wastes that are discharged at any sites in violation of this Order.
8. In accordance with Section 13260 of the California Water Code, the Discharger shall file with the Board a report of any material change or proposed change in the character, location, or quantity of this waste discharge. Any proposed material change in operation shall be reported to the Executive Officer at least 30 days in advance of implementation of any proposal. 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 these requirements, this includes any proposed change in the boundaries of the Project site.
9. 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.
10. The Discharger is considered to have full responsibility for correcting any and all problems that arise in the event of a failure that results in an unauthorized release of waste or wastewater.
11. The Discharger shall permit the Board or its authorized representative, upon presentation of credentials:
 - a. Entry on to the Project site or the premises 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.
 - d. Sampling of any discharge or surface water covered by this Order.
12. The Discharger shall implement the Mitigation Plan and reporting requirements in the Plan. The Discharger shall notify the Board in writing of the actual start date of the mitigation. Any substantive future changes to the Mitigation Plan that do not change the acreage, functions or values of the created wetlands must be approved in writing in advance by the Executive Officer. The Board must approve changes that will affect the acreage, functions or values of the created wetlands.
13. All reports and other information, including mitigation monitoring reports, required to be submitted to the Corps shall also be submitted to the Executive Officer at the same time they are submitted to the Corps.
14. The monitoring program shall be continued until the Mitigation Plan has been successfully completed. In no case shall the mitigation site be monitored for less than five years.
15. When the Discharger has determined that mitigation has achieved the specified success criteria, it shall submit a notice of mitigation completion, acceptable to the Executive Officer. The notice of mitigation completion shall include a plan for long-term maintenance and management of the mitigation area, acceptable to the Executive Officer. The Discharger shall implement this plan.
16. The Discharger shall provide proof that the mitigation area will be protected in perpetuity by submitting documentation of a conservation easement acceptable to the Executive Officer no later than September 1, 2000. The conservation easement will protect the wetland values of the mitigation area in perpetuity and be executed in favor of a nonprofit or governmental agency qualified to hold conservation easements under California Civil Code section 815.3.
17. The Discharger shall be responsible for long-term maintenance and management of the storm water detention basin.
18. Before any soil is disturbed on-site, the Discharger must file a Notice of Intent for coverage under the State's General Permit. This must cover both the Project development and the wetland mitigation areas.
19. The Discharger shall implement best management practices to minimize deposition of sediment into Waters of the State while performing any work authorized by the U.S. Army Corps of Engineers' Permit, while creating the wetland mitigation habitat, and while constructing the storm water detention basin.

20. Appropriate native seed mixtures shall be used for hydroseeding or broadcast seeding of disturbed surfaces outside of the constructed wetlands.
21. The Discharger shall be considered to have a continuing responsibility for ensuring compliance with the Prohibitions, limitations, and Provisions of this Order in the operations or use of the owned property. The Discharger shall immediately notify the Board when a change in ownership of the Project site occurs.
22. These Requirements do not authorize commission of any act causing injury to the property of another or of the public; do not convey any property rights; do not remove liability under federal, state or local laws, regulations or rules of other programs and agencies, nor do these Requirements authorize the discharge of wastes without appropriate permits from other agencies or organizations.
23. The Discharger shall submit copies of all necessary approvals and/or permits for the Project and mitigation projects from applicable government agencies, including the California Department of Fish and Game, prior to the start of construction.
24. All reports and other information, including mitigation monitoring reports, required to be submitted to the Corps shall also be submitted to the Executive Officer at the same time they are submitted to the Corps.

I, Lawrence P. Kolb, Acting Executive Officer, do hereby certify that the foregoing is a full, complete and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on April 19, 2000.



Lawrence P. Kolb
Acting Executive Officer