

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

ORDER 00-062

**WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION FOR:
SEARS POINT RACEWAY, HIGHWAYS 121 AND 37, SONOMA COUNTY**

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

1. Sears Point Raceway Acquisition, Inc. (hereinafter Sears Point) proposes a Master Plan improvement program to modernize the existing racetrack, known as Sears Point Raceway (hereinafter project site), located south of Sonoma, at the intersection of Highways 121 and 37, Sonoma County.
2. The project site currently contains the racetrack and related facilities, numerous shops and work areas, an existing sewage treatment facility, and livestock grazing lands. The project site consists of two parcels totaling 1,591 acres. The first parcel, 724 acres, consists of the existing raceway facilities, and the second, known as the "Lakeville" parcel, consists of 867 acres of livestock grazing lands and an approved 20 lot subdivision. The Lakeville parcel was acquired by Sears Point in 1998 to provide better control of traffic congestion during high-profile events. Existing access roads and parking areas now used on the Lakeville parcel will remain. No new parking areas will be constructed or graded on the Lakeville parcel.
3. Sears Point proposes to upgrade and modernize the existing racetrack facilities, which were constructed in the early 1960's. The proposed project includes the following improvements:
 - a. Construction of new shops and administrative buildings;
 - b. Portions of the existing racetrack will be modified to provide adequate 'runoff' space for racecars which spin out or miss turns;
 - c. Construction of a new wastewater treatment plant;
 - d. Improved spectator amenities which includes the conversion from portable toilets to restroom facilities, new pedestrian walkways, and new grandstands; and,
 - e. Increased onsite queuing, an additional entry gate from Lakeville Highway and construction of a pedestrian undercrossing under Highway 121, which will reduce congestion on local roadways.The majority of the work will occur within the existing footprint of the current facility.
4. The project site contains a 53-acre parcel that is located across from the racetrack and adjacent to Highway 121 and Tolay Creek. This site has been used by Sears Point for parking approximately 15 days out of the year. Sears Point proposes no change in this use, but will be constructing a pedestrian undercrossing under Highway 121. The

construction of this crossing will not impact any jurisdictional waterbodies and will eliminate the need of stopping highway traffic to allow pedestrian crossings.

5. The purpose of the proposed improvements is to upgrade and modernize the existing facility in order to maintain a viable racing operation and includes:
 - a. Increasing racer safety by creating adequate 'runoff' areas;
 - b. Modernizing shop facilities to accommodate current racing requirements;
 - c. Improving spectator viewing areas and providing permanent restroom facilities; and,
 - d. Improving traffic flows and reducing traffic congestion during large racing events.
6. The project site consists of numerous low hills and contains three man-made ponds, several small sag ponds (ponds which are formed by lateral fault movements), seasonal wetlands and seeps, and many thousands of feet of highly eroded ephemeral stream channels. The project site contains no perennial streams.
7. The 724-acre parcel, which contains the raceway facility, contains approximately 23.39 acres of jurisdictional waters of the U.S. The project will result in the direct placement of fill into 10.65 acres of these waters within the raceway parcel. These impacts include: 7.45 acres of ponds, 0.38 acres (2,100 linear feet) of ephemeral streams, 0.49 acres of seeps, springs, and perennial marsh, and 2.33 acres of wetlands.
8. The 7.45 acres of ponds to be filled consists of two man-made ponds. These two ponds are situated at the north edge of the existing raceway and are surrounded by Highway 121 and racetrack access roads/parking. The smaller of the two ponds, 0.95 acres, contains a population of breeding California Red-legged frog (*Rana aurora draytonii*), a federally listed endangered species.
9. Sears Point has submitted a mitigation plan, "Wetland Mitigation Plan", dated March 30, 1999, and a "Red-legged Frog Baseline Report and Mitigation Plan", as part of its proposal, to offset the loss of beneficial uses of waters of the State. The Board concurs with the proposed mitigation, as supplemented.
10. To mitigate for its impacts to 10.65 acres of wetlands and waters of the U.S., Sears Point will complete the following:
 - a. The creation of 7.0 acres of new ponded open-water habitat, 3.2 acres of seasonal wetlands and 1.02 acres of riparian vegetation;
 - b. The preservation/restoration of approximately 100 acres of land on the Lakeville parcel which will contain the majority of the mitigation waterbodies in a protected watershed. This area will be fenced to exclude livestock and prevent vehicle traffic. Historical parking areas in this area will be removed;
 - c. The planting of approximately 5,000 linear feet of eroded ephemeral stream channels with native willow cuttings;
 - d. The reduction and/or elimination of livestock grazing from the overall project site;

- e. The implementation of a wetland management plan for California Red-legged frog, including annual fall draw-down (draining), complete watershed protection, and long term dedication to conservation; and,
- f. The protection of 10,750 linear feet of stream channel with a 400-foot wide corridors, measured from the centerline of the drainage, to provide for California Red-legged frog dispersal corridors.

The 100-acre mitigation area, along with the revegetation of stream corridors, will provide contiguous waterbodies and preserved upland areas within the watershed, as well as reduce the amount of sediment entering the waterbodies. These contiguous waterbodies will also benefit the California Red-legged frog by providing migration corridors. The mitigation will be monitored for a five-year period.

- 11. To assure that unavoidable impacts to the waterbodies of the United States are successfully mitigated, Sears Point will provide financial assurance. The amount to be provided will be at least 15% of the actual construction costs of the mitigation waterbodies.
- 12. The 100-acre primary mitigation parcel, will either be subject to a formal conservation easement to be granted to a public trust, or will be held by Sears Point with strict deed restrictions. The easement/deed restriction will designate various management and use restrictions, as well as specify particular management programs and measures to be incorporated to serve the long-term viability of the preserved and created wetlands.
- 13. The proposed project includes the construction of a new wastewater treatment plant. Construction plans have not been finalized. These plans will need to be submitted, and reviewed prior to beginning construction on the wastewater treatment plant and disposal ponds. This Order will be revised as necessary.
- 14. 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. Sears Point is responsible for obtaining and complying with the rules and regulations of appropriate National Pollutant Discharge Elimination System (NPDES) permit requirements.
- 15. Sears Point has applied to the Board for Water Quality Certification under Section 401 of the Clean Water Act. On January 21, 2000, the U. S. Army Corps of Engineers (hereinafter Corps) issued a Public Notice for an Individual Section 404 permit. The public comment period for the Public Notice closed on February 20, 2000.
- 16. State authority to regulate the discharge, and threatened discharge of waste to Waters of the State, including surface water, groundwater, and wetlands was 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.

17. **The Board, on June 21, 1995, adopted, in accordance with Section 13244 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 ground waters. This Order is in compliance with the Basin Plan.**
18. **The wetlands and other waters of the project site are located within the San Pablo Basin and are tributaries to Tolay Creek. The Basin Plan does not explicitly identify beneficial uses for these waters. However, the Basin Plan states that "[t]he beneficial uses of any specifically identified waterbody generally apply to all of its tributaries." The San Pablo Basin has the following existing beneficial uses defined in the Basin Plan: Agricultural Supply; Cold Freshwater Habitat; Ocean, Commercial and Sport Fishing; Estuarine Habitat; Industrial Service Supply; Fish Migration; Marine Habitat; Municipal and Domestic Supply; Navigation; Preservation of Rare and Endangered Species; Water Contact Recreation; Noncontact Water Recreation; Fish Spawning; Warm Freshwater Habitat; and Wildlife Habitat.**
19. **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. Sears Point 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.**
20. **To protect the water quality at and in the vicinity of the site 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 discharge of dredged and fill material to surface waters by issuance of Waste Discharge Requirements (WDRs).**
21. **Discharges other than storm water from the project site will have the potential to enter the surface waters of several unnamed ephemeral drainages, seeps, and seasonal wetlands.**
22. **Storm water discharges to surface waters associated with construction activities and post project construction will occur. Appropriate industrial and construction Best Management Practices (BMPs) shall be implemented to prevent and minimize potential**

impacts from industrial storm water and non-storm water discharges to a level of insignificance.

23. 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. In June 1998 a Draft EIR for the project was prepared and circulated for review and comment. An Amended Draft EIR was prepared in May 1999 and addressed comments received concerning the adequacy of the June 1998 Draft EIR. Sonoma County Board of Supervisors approved the Amended EIR on April 25, 2000. The Board finds, after review of the project's environmental documents, that all environmental impacts have been identified and, with compliance with the Conditions of this Order, will be mitigated to a level of insignificance.
24. Pursuant to Title 23, California Code of Regulations Sections 3857 and 3859, the Board is issuing WDRs and Water Quality Certification.
25. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that Sears Point, 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 direct discharge of wastes to surface waters or surface water drainage courses is prohibited.
2. The discharge of oil, gasoline, diesel fuel, any petroleum derivative, any toxic chemical, or hazardous waste is prohibited.
3. The discharge of waste shall not cause a pollution or nuisance as defined in Section 13050 of the California Water Code.
4. 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 the Order and described in Findings 7 and 10, above, and as described in the application and supporting materials.
5. Discharges of materials other than storm water, which are not otherwise regulated by a NPDES permit or allowed by this Order to waters of the State are prohibited.

6. The groundwater shall not be degraded as a result of project construction and related activities.

B. Provisions

1. Sears Point shall comply with all the Prohibitions and Provisions of this Order immediately upon adoption of this Order or as provided below.
2. The following standard conditions apply to this Order:
 - (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 California Water Code and Section 3867 of Title 23 of the California Code of Regulations (23 CCR).
 - (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 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 pursuant to 23 CCR Section 3833 and owed by the applicant.
3. Sears Point 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.
4. Sears Point shall notify the Board in writing 30 days prior to actual start dates of racetrack and mitigation construction.
5. Sears Point shall at all times fully comply with the engineering plans, specifications, and technical reports submitted with the application for water quality certification.
6. To reduce the potential impacts to water quality, Sears Point will 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.

7. All reports pursuant to these Provisions shall be prepared under the supervision of a suitable professional in the State of California.
8. The discharge of any hazardous, designated or non-hazardous waste as defined in Title 27, Division 2, Subdivision 1, Chapter 2 of the California Code of Regulations shall be conducted in accordance with applicable state and federal regulations.
9. Sears Point shall remove and relocate any wastes that are discharged at any sites in violation of this Order.
10. In accordance with Section 13260 of the California Water Code, Sears Point 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, plans for the wastewater treatment plant and related ponds, 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.
11. Sears Point shall submit plans for the wastewater treatment plant and related ponds for review and approval prior to construction. These WDRs will need to be amended as needed to cover the wastewater treatment plant and related ponds. Information to be submitted includes the following:
 - a. Flows – A description of the wastewater generated by the facility which is tributary to the treatment and disposal system including annual average daily wastewater flow (gallons per day), peak daily wastewater flow during major events (gallons per day), and months and duration of the peak flows;
 - b. Treatment Facilities – Description of all wastewater treatment equipment, including number of units and capacities of each process unit;
 - c. Pond System Plans – Dimensioned schematic of wastewater treatment pond system, including treatment pond design and sizing (including water balances), as well as appurtenances such as flow meters, valves, drain pipes, overflow pipes or channels, influent and effluent pipes and pumps;
 - d. Reclaimed Water Uses – Description of treated wastewater uses and use sites, including types of reclaimed wastewater uses proposed, acreage and location of each reuse site, how the water will be applied, typical operating procedures and schedules, and assimilative capacity estimation of reclamation site;
 - e. Seismic/geotechnical report for areas of treatment ponds and reclamation sites;

- f. Contingency Plans which describe plans for events such as pump or pond failures; and,
 - g. A map or site plan of the facility site showing the locations of all pertinent facilities and site characteristics, such as buildings, septic tanks, leachfields, treatment ponds, storage tanks or ponds, wastewater pipelines, reclaimed water irrigation areas, drinking and irrigation wells, access roadways, surface waterways, and drainage channels.
- 12. Sears Point shall maintain a copy of this Order at the project site so as to be available at all times to site operating personnel.
- 13. Sears Point is considered to have full responsibility for correcting any and all problems that arise in the event of a failure, which results in an unauthorized release of waste or wastewater.
- 14. Sears Point 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.
- 15. Any substantive future changes to the Wetland Mitigation Plan and Red-legged frog Mitigation Plan must be approved in writing in advance by the Executive Officer.
- 16. Sears Point shall submit an as-built report within 60 days of installation of the mitigation habitat. Annual mitigation monitoring reports shall be submitted for a minimum of 5 years. The first annual report shall be submitted one year after the preparation of the as-built report, and subsequent reports shall be submitted on the anniversary date of the first annual report submittal.
- 17. When Sears Point has determined that mitigation has achieved success criteria of implementation, 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, acceptable to the Executive Officer. After acceptance by the Executive Officer of the notice of completion, submittal of annual mitigation reports for the mitigation phase is no longer required.

18. **Sears Point shall submit documentation of financial assurance in the amount equivalent to at least 15% of the actual construction costs of the proposed mitigation waterbodies, for the development, operation, and long-term maintenance of mitigation waterbody areas. The form of financial assurance shall be submitted, subject to the approval of the Executive Officer, no less than 30 days prior to the initiation of construction-related ground disturbance activities. The financial responsibility shall terminate upon approval by the Executive Officer that the mitigation plan has been implemented and performance criteria have been met. The Board will take necessary action to recover the monies if Sears Point fails to meet the mitigation requirements.**
19. **Sears Point shall submit a plan for draining the two ponds described in Finding 8, subject to the approval of the Executive Officer, no less than 60 days prior to the initiation of draining. The plan will include the method of draining the ponds and the final destination of the waters to be drained, as well as provisions for recovery of species occupying the ponds.**
20. **All cattle grazing shall be removed from the 100-acre primary mitigation site prior to the start of the mitigation construction activities. If Sears Point desires modified grazing of the primary mitigation area, they shall submit a grazing/range management plan, subject to the approval of the Executive Officer, no less than 60 days prior to the reintroduction of grazing to this area. The plan should include appropriate grazing management objectives (resource enhancement and maintenance, reduction of fire hazards), and grazing specifications (residual foliage heights, stocking rates, grazing periods). All waterbodies will need to be fenced with alternative water sources provided for the cattle.**
21. **Sears Point shall be considered to have a continuing responsibility for ensuring compliance with the Prohibitions and Provisions of this Order in the operations or use of the owned property. Sears Point shall notify the Board if a change in ownership occurs for the project site or mitigation areas.**
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. **Sears Point shall submit copies of all necessary approvals and/or permits for the project and mitigation projects from applicable government agencies, including the State Department of Fish and Game, the U.S. Fish and Wildlife Service, and the Corps, prior to the start of construction.**
24. **No later than 30 days prior to the initiation of construction-related ground disturbance activities, Sears Point shall submit, acceptable to the Executive Officer, a Long Term Storm Water Management Plan (SWMP) that addresses design and treatment measures to minimize impacts to beneficial uses resulting from runoff from the entirety of the project.**

The SWMP shall include a drainage plan for the entirety of the project site, cross-sections and typical designs of each storm water treatment measure (e.g. grassy swales, detention areas, etc.), a maintenance plan for all storm water treatment measures, and all other appropriate information.

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 July 19, 2000.

A handwritten signature in black ink, appearing to read "Lawrence P. Kolb", written over a horizontal line.

Lawrence P. Kolb
Acting Executive Officer