State of California
California Regional Water Quality Control Board
Santa Ana Region

January 29, 2016

STAFF REPORT

ITEM: *8

SUBJECT: Amending Order No. R8-2008-0024, Waste Discharge Requirements for Terracina Investors, LLC, Tract Map No. 32786, City of Lake Elsinore, Riverside County, Order No.R8-2016-0015

DISCUSSION:

On February 29, 2008, the Regional Board adopted Order No. R8-2008-0024, waste discharge requirements for the discharge of fill to waters of the State resulting from the development of Tract Map No. 32786, also known as the Terracina Residential Development. Additionally, the Order serves as a Clean Water Act Section 401 Water Quality Standards Certification in the event that a Certification is required by any federal agency. The Terracina Development was described in the Order as consisting of 368 single-family residences and associated roadways and infrastructure on 151.8 acres located east of Terra Cotta Road, west of Dryden Street, north of Lakeshore Drive and south of existing residential communities in the City of Lake Elsinore. Construction of the project was anticipated to result in the discharge of fill to 0.49 acre of waters of the State of California, including 0.07 acre of wetlands, and to temporarily disturb an additional 0.03 acre in construction. Order No. R8-2008-0024 specified restoration of the temporarily disturbed 0.03 acre and the creation of a minimum of 0.14 acre of riparian wetlands and 0.86 acre of non-wetland ephemeral drainage as mitigation for the discharge of fill to waters of the State of California. Order No. R8-2008-0024 was issued to Centex Corporation but transferred to Terracina Investors, LLC upon a change in ownership of the project.

On November 11, 2014, Terracina Investors, LLC requested an amendment to Order No. R8-2008-0024 based on a revised project description and proposed modification of the compensatory mitigation to be implemented for impacts to waters of the State. Order No. R8-2016-0015 would amend Order No. R8-2008-0024 to reflect: an increase in the number of single family residences to 452; elimination of temporary impacts to 0.03 acre of ephemeral drainages; a decrease in the acreage of wetlands impacted from 0.07 acre to 0.02 acre; a change in the identified project footprint from 151.8 acres to 150.8 acres; and, modification of the mitigation specified to require the purchase of 1.47 acres of mitigation credit for restoration and enhancement in the Riverside-Corona Resource Conservation District (RCRCD) In-Lieu-Fee Program. This would provide for the mitigation of 0.49 acre of permanent impacts to waters of the State at a 3 to1 ratio.

Order No. R8-2016-0015 would amend Order No. R8-2008-0024 to address these project modifications, including the change in mitigation.

RECOMMENDATION:

Adopt Order No.R8-2016-0015, as presented.

Comments were solicited from the following:

David Salene, Terracina Investors, LLC (dsalene@pacbell.net)
Martin Rasnick, Glenn Lukos Associates (mrasnick@wetlandpermitting.com)
James Mace, U. S. Army Corps of Engineers, Los Angeles Office (James.E.Mace@usace.army.mil)
Kim Freeburn-Marquez, CA Department of Fish and Wildlife (Kim.Freeburn@wildlife.ca.gov)
Jason A. Brush, U.S. EPA (Brush.Jason@epa.gov)
Karin Cleary-Rose, U.S. Fish and Wildlife Service (karin_cleary-rose@fws.gov)
Bill Orme, State Water Resources Control Board, 401 Water Quality Certification and Wetlands Program (Bill.Orme@waterboards.ca.gov)
David Rice, State Water Resources Control Board, Office of the Chief Counsel (David.Rice@waterboards.ca.gov)

State of California
California Regional Water Quality Control Board
Santa Ana Region

Order No. R8-2016-0015

Amending Order No. R8-2008-0024
Waste Discharge Requirements for Terracina Investors, LLC, Tentative Tract No. 32786, City of Lake Elsinore, Riverside County

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

1. On February 29, 2008, the Regional Board adopted Order No. R8-2008-0024, prescribing Waste Discharge Requirements for Centex Corporation (also known as Centex Corporation/Pulte Homes) for the discharge of fill to waters of the State as part of the proposed development of residential Tract Map No. 32786 (TM 32786) (hereinafter, the Project). Permanent impacts to 0.49 acre of ephemeral drainages, including 0.07 acre of wetlands, were projected to occur, as well as temporary impacts to 0.03 acre of ephemeral drainage during construction of the tract.

2. As initially proposed, the Project entailed the construction of 368 single-family residences, and associated roadways and infrastructure on 151.8 acres on TM 32786. TM 32786 is located east of Terra Cotta Road, west of Dryden Street, north of Lakeshore Drive and south of an existing residential community in the City of Lake Elsinore. The waters of the State on the site consist of two ephemeral drainages and their smaller tributaries.

3. Centex Corporation committed to mitigate direct impacts to waters of the State by: 1) avoiding 0.33 acre of wetlands and 0.06 acre of non-wetland ephemeral drainage on-site; 2) 0.03 acre of temporarily affected non-wetland ephemeral drainage would be returned to original contour elevations and re-vegetated with native plants; 3) excavation of the adjacent uplands along the avoided drainage and planting the area with native plants in order to widen the stream width and create 1.0 acre of waters of the State.

4. On November 30, 2012, the Regional Board received notice from Centex Corporation and Terracina Investors, LLC that the project had been transferred to Terracina Investors, LLC. Terracina Investors, LLC requested in their letter the transfer of Order No. R8-2008-0024 from Centex Corporation to Terracina Investors, LLC.

5. In a November 11, 2014 letter, Terracina Investors, LLC (hereinafter, Discharger) submitted additional requests to revise Order No. R8-2008-0024 based upon a revised project description that increased the number of single-family homes to be constructed on TM32786 from 368 to 452, and on a new jurisdictional delineation based on the most recent US Army Corps of Engineers (USACE) delineation regulations and current assessment of the condition of the affected waters. The new delineation resulted in

decreased project impacts to wetlands from 0.07 acre to 0.02 acre. The new delineation also established that three (3), not two (2), drainages will be impacted, and that the drainages are waters of the United States, in addition to waters of the State, and are tributary to Temescal Creek, Reach 5. The temporary impacts to 0.03 acre of ephemeral drainage initially projected to occur during project construction will no longer take place. The Discharger requested that the project descriptor be changed from Tract Map No. 32786 "TM 32786" to "Terracina Development" and that the identified project footprint be decreased from 151.8 acres to 150.8 acres.

6. The November 11, 2014 letter from the Discharger also requested revision of the compensatory mitigation requirements originally proposed for the Project and included in Order No. R8-2008-0024. The Discharger now proposes to mitigate 0.49 acres of permanent impacts through the purchase of 1.47 acres of mitigation credit for restoration and enhancement at a 3 to 1 ratio in the Riverside-Corona Resource Conservation District (RCRCD) In-Lieu-Fee Program. The revised project avoids 0.0.07 acre of wetlands and 0.15 acre of non-wetland ephemeral drainage on-site.

7. Pursuant to the California Environmental Quality Act (CEQA), the City of Lake Elsinore adopted a Revised Mitigated Negative Declaration (RMND) for the proposed Terracina Development on July 14, 2015. The RMND was submitted to the Regional Board on July 20, 2015. As a Responsible Agency under CEQA, the Regional Board independently considered the RMND and finds that provided that the Discharger purchases 1.47 acres of mitigation credit for restoration and enhancement in the Riverside-Corona Resource Conservation District (RCRCD) In-Lieu-Fee Program, the significant effects of the discharge of fill to waters of the State and United States will be reduced to less-than-significant as per Mitigation Measure BIO-3 from the RMND.

8. The Regional Board has notified the Discharger and interested agencies and persons of the Board's intent to amend the waste discharge requirements on Order No. R8-2008-0024and has provided them with an opportunity to submit their written views and recommendations.

9. The Regional Board, in a public meeting, heard and considered all comments pertaining to the proposed amendment of Order No. R8-2008-0024.

IT IS HEREBY ORDERED that Order No. R8-2008-0024 shall be amended as follows (additions are **bold and underlined**, deletions are in ~~strikeout~~):

1. Revise Finding 1 of Order No. R8-2008-0024 as follows:
   1. ~~Centex Corporation~~ **Terracina Investors, LLC** (hereinafter, discharger) proposes to discharge fill to 0.49 acres of ephemeral drainages, including ~~0.07~~ **0.02** acre of wetlands as part of the development of residential Tract Map No. 32786 ~~(TM 32786)~~ **(Terracina Development),** in the City of Lake Elsinore. ~~An additional 0.03 acre of ephemeral drainage will be temporarily impacted during construction~~.

2. Revise Finding 2 of Order No. R8-2008-0024 as follows:

   2. ~~TM 32786~~**The Terracina Development** consists of the construction of ~~368~~ **452** single-family residences and associated roadways and infrastructure on ~~151.8~~ **150.8** acres located east of Terra Cotta Road, west of Dryden Street, north of Lakeshore Drive, and south of existing residential communities. ~~TM 32786~~ **The Terracina Development** is located within Sections 26, 27, and 35, Township 5 South, Range 5 West, as shown on the U.S. Geological Service *Lake Elsinore and Alberhill, California* quadrangles (33.69508 degrees N/117.37944 degrees W).

3. Delete Finding 3 of Order No. R8-2008-0024 and re-number subsequent Findings accordingly:

   ~~3. The discharger asserts that the drainages proposed for fill are not subject to Clean Water Act Section 404 permits administered by the U.S. Army Corps of Engineers (Corps). The discharger has prepared a functional assessment within the project area and concluded that the affected drainages do not have a "significant nexus" to navigable waters pursuant to the U.S. Supreme Court Cases titled *Rapanos v. United States* [Rapanos] and *Carabell v. U.S. Army Corps of Engineers* [Carabell]. The discharger's assertion has not been verified by Corps staff. This Order will regulate the discharges of fill even if a Section 404 permit and Section 401 certification are later determined to be necessary.~~

4. Revise Finding 5 of Order No. R8-2008-0024 as follows:

   ~~5~~**4**. The waters of the State **and of the United States** on the site consist of ~~two~~ **three** ephemeral drainages and their smaller tributaries. ~~The Water Quality Control Plan for Santa Ana River Basin (1995) does not designate beneficial uses for any of the surface waters on the project site.~~ **The three drainages are tributary to Reach 5 of Temescal Creek, which flows into Reach 3 of the Santa Ana River. Temescal Creek, Reach 5, has designated beneficial uses (existing or potential) that include:**

   a. Agricultural Supply (AGR);
   b. Groundwater Recharge (GWR);
   c. Water Contact Recreation (REC1);
   d. Non-Contact Water Recreation (REC2);
   e. Rare, Threatened or Endangered Species (RARE);
   f. Warm Freshwater Habitat (WARM); and,
   g. Wildlife Habitat (WILD). ~~Based on the applicant's biological assessment, beneficial uses that are existing or attainable for the ephemeral drainages include:~~

   ~~a. warm freshwater habitat (WARM);~~
   ~~b. wildlife habitat (WILD);~~
   ~~c. groundwater recharge (GWR); and~~
   ~~d. spawning, reproduction, and development (SPWN).~~

5. Revise Finding 8 of Order No. R8-2008-0024 as follows::
   ~~8~~**7**. ~~The discharger has committed to mitigate direct impacts to waters of the State by avoiding 0.33 acre of wetlands and 0.06 acre of non-wetland ephemeral drainage on-site. In addition, 0.03 acre of temporarily affected non-wetland ephemeral drainage will be returned to original contour elevations and re-vegetated with native plants. The discharger proposes to excavate the adjacent uplands along the avoided drainage and to vegetate the area with native plants in order to widen the stream width and create 1.0 acre of waters of the State.~~ **The discharger will mitigate 0.49 acres of permanent impacts at a 3 to 1 ratio through the purchase of 1.47 acres of mitigation credit for restoration and enhancement in the Riverside-Corona Resource Conservation District (RCRCD) In-Lieu-Fee Program.**

6. Revise Finding 9 of Order No. R8-2008-0024 as follows:
   ~~9~~**8.** Pursuant to CEQA, the City of Lake Elsinore **(City)** adopted a **Revised** Mitigated Negative Declaration (**R**MND) for the proposed ~~TM 32786~~ **Terracina Development** on ~~October 11, 2005~~ **July 14, 2015**.

7. Revise Finding 10 of Order No. R8-2008-0024 as follows::
   ~~10~~**9**. 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 City's environmental document identified potentially significant impacts (unless mitigated) to biological resources as the result of discharges of fill to waters and to water quality as the result of pollutants in storm water runoff from the project. To address these impacts, ~~General Provision C.1. of this Order requires the discharger to restore the temporarily-impacted drainage.~~ General Provision C.~~2~~**1. of this Order** requires the discharger to ~~create both wetlands and ephemeral drainage through the excavation of uplands adjacent to an avoided on-site drainage based upon an hydraulic rationale required by Provision C.3~~ **offset the impacts of the Project through the purchase of mitigation credits from the Riverside-Corona Natural Resource Conservation District In-Lieu-Fee Program at a 3 to 1 ratio for restoration and enhancement of waters of the State and United States in the Santa Ana Watershed**. Pollutants in storm water runoff from the project site will be removed through the construction and operation of extended detention and/or infiltration basins and implementation of additional site design best management practices. The Board finds that the significant effects of the discharge of fill to waters of the State, as a result of the grading of ~~TM 32786~~ **the Terracina Development**, authorized by this Order, are reduced to a less-than-significant level as the result of implementation of the project in accordance with these provisions.

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8. Delete Provision 1 of Order No. R8-2008-0024 and renumber subsequent Provisions accordingly:
   ~~1. The discharger shall restore the temporarily-affected 0.03 acre of waters of the State by restoring original contour elevations and re-vegetating the area with native riparian plants.~~

9. Revise Provision 2 of Order No. R8-2008-0024 as follows:
   ~~2~~**1**. ~~The discharger shall create a minimum of 0.14 acre of riparian wetlands and 0.86 acre of non-wetland ephemeral drainage. The creation effort shall occur adjacent to 0.33 acre of wetlands and 0.06 acre of non-wetland ephemeral drainage located at the north-central portion of the site immediately south of Terra Cotta Road (33.69768 degrees N/-117.37767 degrees W).~~ **The discharger shall purchase 1.47 acres of mitigation credit from the Riverside-Corona Resource Conservation District (RCRCD) In-Lieu-Fee Program. The credit shall be used for restoration and enhancement of waters of the State and United States within the Santa Ana Watershed.**

10. Delete Provision 3 of Order No. R8-2008-0024:
    ~~3. The creation effort shall occur according to an approved Mitigation Plan with a 5-year implementation horizon. The Mitigation Plan shall include an hydraulic analysis of the proposed channel configuration in order to evaluate whether the configuration will support the created waters. The Mitigation Plan shall also include at least one alternative mitigation proposal in the event that the mitigation effort fails or is not anticipated to be supported hydraulically. A draft Mitigation Plan shall be submitted for approval by the Executive Officer by April 29, 2008.~~

11. Revise Provision 4 of Order No. R8-2008-0024 as follows::
    ~~4~~**2**. ~~Discharges of fill to waters of the State are prohibited until a final Mitigation Plan is approved by the Executive Officer.~~ **Discharges of fill to waters of the State of California are prohibited until a copy of the receipt of the transfer of funds to the Riverside-Corona Resource Conservation District for the purchase of 1.47 acres of restoration and enhancement credits has been provided to the Regional Board.**

12. Delete Provision 5 of Order No. R8-2008-0024:
    ~~5. The discharger shall fully implement the approved final Mitigation Plan.~~

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13. All other terms and conditions of Order No. R8-2008-0024 shall remain unchanged.

I, Kurt V. Berchtold, 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 January 29, 2016.

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Kurt V. Berchtold

Executive Officer

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State of California
California Regional Water Quality Control Board
Santa Ana Region

Order No. R8-2008-0024

Waste Discharge Requirements

for

Centex Corporation
Tentative Tract Map No. 32786, City of Lake Elsinore
Riverside County

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

1. Centex Corporation (hereinafter, discharger) proposes to discharge fill to 0.49 acre of ephemeral drainages, including 0.07 acre of wetlands, as part of the development of residential Tract Map No. 32786 (TM 32786), in the City of Lake Elsinore. An additional 0.03 acre of ephemeral drainage will be temporarily impacted during construction.

2. TM 32786 consists of the construction of 368 single-family residences and associated roadways and infrastructure on 151.8 acres located east of Terra Cotta Road, west of Dryden Street, north of Lakeshore Drive, and south of existing residential communities. TM 32786 is located within Sections 26, 27, and 35, Township 5 South, Range 5 West, as shown on the U.S. Geological Service *Lake Elsinore and Alberhill, California* quadrangles (33.69508 degrees N/117.37944 degrees W).

3. The discharger asserts that the drainages proposed for fill are not subject to Clean Water Act Section 404 permits administered by the U.S. Army Corps of Engineers (Corps). The discharger has prepared a functional assessment within the project area and concluded that the affected drainages do not have a "significant nexus" to navigable waters pursuant to the U.S. Supreme Court Cases titled *Rapanos v. United States* [Rapanos] and *Carabell v. U.S. Army Corps of Engineers* [Carabell]. The discharger's assertion has not been verified by Corps staff. This Order will regulate the discharges of fill even if a Section 404 permit and Section 401 certification are later determined to be necessary.

4. 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. 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 may regulate the proposed discharge through the issuance of Waste Discharge Requirements or a waiver thereof.

5. The waters of the State on the site consist of two ephemeral drainages and their smaller tributaries. The Water Quality Control Plan for Santa Ana River Basin (1995) does not designate beneficial uses for any of the surface waters on the project site. Based on the applicant's biological assessment, beneficial uses that are existing or attainable for the ephemeral drainages include:

   a. warm freshwater habitat (WARM);
   b. wildlife habitat (WILD);
   c. groundwater recharge (GWR); and
   d. spawning, reproduction, and development (SPWN).

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 may not be considered under Corps CWA Section 404 jurisdiction (non-federal). The discharger submitted a Report of Waste Discharge on May 21, 2007.

8. The discharger has committed to mitigate direct impacts to waters of the State by avoiding 0.33 acre of wetlands and 0.06 acre of non-wetland ephemeral drainage on-site. In addition, 0.03 acre of temporarily affected non-wetland ephemeral drainage will be returned to original contour elevations and re-vegetated with native plants. The discharger proposes to excavate the adjacent uplands along the avoided drainage and to vegetate the area with native plants in order to widen the stream width and create 1.0 acre of waters of the State.

9. Pursuant to CEQA, the City of Lake Elsinore adopted a Mitigated Negative Declaration (MND) for the proposed TM 32786 on October 11, 2005.

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 City's environmental document identified potentially significant impacts (unless mitigated) to biological resources as the result of discharges of fill to waters and to water quality as the result of

pollutants in storm water runoff from the project. To address these impacts, General Provision C.1. of this Order requires the discharger to restore the temporarily-impacted drainage. General Provision C.2. requires the discharger to create both wetlands and ephemeral drainage through the excavation of uplands adjacent to an avoided on-site drainage based upon an hydraulic rationale required by Provision C.3. Pollutants in storm water runoff from the project site will be removed through the construction and operation of extended detention and/or infiltration basins and implementation of additional site design best management practices. The Board finds that the significant effects of the discharge of fill to waters of the State, as a result of the grading of TM 32786, authorized by this Order, are reduced to a less-than-significant level as the result of implementation of the project in accordance with these provisions.

11. The Board has considered antidegradation 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 to surface waters of wastes or pollutants that are not otherwise regulated by a separate National Pollutant Elimination System (NPDES) permit, is prohibited.

C. PROVISIONS:

1. The discharger shall restore the temporarily-affected 0.03 acre of waters of the State by restoring original contour elevations and re-vegetating the area with native riparian plants.

2. The discharger shall create a minimum of 0.14 acre of riparian wetlands and 0.86 acre of non-wetland ephemeral drainage. The creation effort shall occur adjacent to 0.33 acre of wetlands and 0.06 acre of non-wetland ephemeral drainage located at the north-central portion of the site immediately south of Terra Cotta Road (33.69768 degrees N/-117.37767 degrees W).

3. The creation effort shall occur according to an approved Mitigation Plan with a 5-year implementation horizon. The Mitigation Plan shall include an hydraulic analysis of the proposed channel configuration in order to evaluate whether the configuration will support the created waters. The Mitigation Plan shall also include at least one alternative mitigation proposal in the event that the mitigation effort fails or is not anticipated to be supported hydraulically. A draft Mitigation Plan shall be submitted for approval by the Executive Officer by April 29, 2008.

4. Discharges of fill to waters of the State are prohibited until a final Mitigation Plan is approved by the Executive Officer.

5. The discharger shall fully implement the approved final Mitigation Plan.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. This Order does not convey any property rights of any sort, or any exclusive privilege.

14. 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.

15. 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.

16. 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.

17. 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.

Gerard J. Thibeault
Executive Officer