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**Central Valley Regional Water Quality Control Board**

24 October 2014

Mr. Mike Mahoney  
Penryn Development, LLC  
3990 Ruffin Road, Suite 100  
San Diego, CA 92123

**CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY  
CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE  
ORCHARD AT PENRYN PROJECT (WDID#5A31CR00392), PENRYN, PLACER COUNTY**

**ACTION:**

1.  Order for Standard Certification
2.  Order for Technically-conditioned Certification
3.  Order for Denial of Certification

**WATER QUALITY CERTIFICATION STANDARD CONDITIONS:**

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.
4. Certification is valid for the duration of the described project. Penryn Development, LLC shall notify the Central Valley Water Board in writing within 7 days of project completion.

**ADDITIONAL TECHNICALLY CONDITIONED CERTIFICATION CONDITIONS:**

In addition to the four standard conditions, Penryn Development, LLC shall satisfy the following:

1. Penryn Development, LLC shall notify the Central Valley Water Board in writing 7 days in advance of the start of any in-water activities.
2. Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. All areas disturbed by project activities shall be protected from washout or erosion.
4. Penryn Development, LLC shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed project shall be adequately informed and trained regarding the conditions of this Certification.
5. An effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working during all phases of construction.
6. All temporarily affected areas will be restored to pre-construction contours and conditions upon completion of construction activities.
7. Penryn Development, LLC shall perform surface water sampling: 1) When performing any in-water work; 2) In the event that project activities result in any materials reaching surface waters or; 3) When any activities result in the creation of a visible plume in surface waters. The following monitoring shall be conducted immediately upstream out of the influence of the project and 300 feet downstream of the active work area. Sampling results shall be submitted to this office within two weeks of initiation of sampling and every two weeks thereafter. The sampling frequency may be modified for certain projects with written permission from the Central Valley Water Board.

| Parameter                               | Unit         | Type of Sample      | Frequency of Sample                           |
|---|--------------|---------------------|---|
| Turbidity                               | NTU          | Grab                | Every 4 hours during in water work            |
| Settleable Material                     | ml/l         | Grab                | Same as above.                                |
| Visible construction related pollutants | Observations | Visible Inspections | Continuous throughout the construction period |

8. Activities shall not cause turbidity increases in surface water to exceed:
  - (a) where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
  - (b) where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
  - (c) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
  - (d) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
  - (e) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be assessed by prior permission of the Central Valley Water Board.

9. Activities shall not cause settleable matter to exceed 0.1 ml/l in surface waters as measured in surface waters 300 feet downstream from the project.
10. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the work area or downstream. Penryn Development, LLC shall notify the Central Valley Water Board immediately of any spill of petroleum products or other organic or earthen materials.
11. Penryn Development, LLC shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, oil/grease, or foam are exceeded.
12. Penryn Development, LLC shall comply with all Department of Fish and Wildlife 1600 requirements for the project.
13. Penryn Development, LLC must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities issued by the State Water Resources Control Board for any project disturbing an area of 1 acre or greater.
14. The Conditions in this water quality certification are based on the information in the attached "Project Information." If the information in the attached Project Information is modified or the project changes, this water quality certification is no longer valid until amended by the Central Valley Water Board.
15. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law and section 401 (d) of the federal Clean Water Act. The applicability of any State law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure

compliance into this Order.

- a. If Penryn Development, LLC or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Order, or falsifies any information provided in the monitoring reports, the applicant is subject to civil monetary liabilities, for each day of violation, or criminal liability.
- b. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require Penryn Development, LLC to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- c. Penryn Development, LLC shall allow the staff(s) of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the project premises for inspection, including taking photographs and securing copies of project-related records, for the purpose of assuring compliance with this certification and determining the ecological success of the project.

**ADDITIONAL STORM WATER QUALITY CONDITIONS:**

Penryn Development, LLC shall also satisfy the following additional storm water quality conditions:

1. During the construction phase, Penryn Development, LLC must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
  - (a) the Storm Water Pollution Prevention Plan (SWPPP) must be prepared during the project planning and design phases and before construction;
  - (b) an effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.
2. Penryn Development, LLC must minimize the short and long-term impacts on receiving water quality from the Orchard at Penryn Project by implementing the following post-construction storm water management practices:
  - (a) minimize the amount of impervious surface;
  - (b) reduce peak runoff flows;
  - (c) provide treatment BMPs to reduce pollutants in runoff;
  - (d) ensure existing waters of the State (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
  - (e) preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
  - (f) limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
  - (g) use existing drainage master plans or studies to estimate increases in pollutant loads and flows resulting from projected future development and require

- incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;
- (h) identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/ sediment loss;
  - (i) control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.
3. Penryn Development, LLC must ensure that all development within the project provides verification of maintenance provisions for post-construction structural and treatment control BMPs. Verification shall include one or more of the following, as applicable:
- (a) the developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; or
  - (b) written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; or
  - (c) written text in project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner's association, or other appropriate group, for maintenance of structural and treatment control BMPs; or
  - (d) any other legally enforceable agreement that assigns responsibility for storm water BMP maintenance.
4. Staff of the Central Valley Water Board has prepared total maximum daily load (TMDL) allocations that, once approved, would limit methylmercury in storm water discharges to the Sacramento-San Joaquin Delta. The Central Valley Water Board has scheduled these proposed allocations to be considered for adoption. When the Central Valley Water Board adopts the TMDL and once approved by the Environmental Protection Agency, the discharge of methylmercury may be limited from the proposed project. The purpose of this condition is to provide notice to Penryn Development, LLC that methylmercury discharge limitations and monitoring requirements may apply to this project in the future and also to provide notice of the Central Valley Water Board's TMDL process and that elements of the planned construction may be subject to a TMDL allocation.

**REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:**

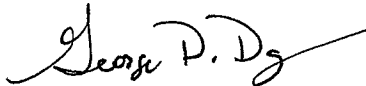
George D. Day, P.E., Redding Branch Office, 364 Knollcrest Drive, Suite 205, Redding, California 96002, (530) 224-4845

**WATER QUALITY CERTIFICATION:**

I hereby issue an order certifying that any discharge from Penryn Development, LLC, Orchard at Penryn Project (WDID# 5A31CR00392) will comply with the applicable provisions of §301 ("Effluent Limitations"), §302 ("Water Quality Related Effluent Limitations"), §303 ("Water Quality Standards and Implementation Plans"), §306 ("National Standards of Performance"), and §307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)."

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with Penryn Development, LLC's project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Water Quality Control Plan for the Sacramento River and San Joaquin River, Fourth Edition, revised October 2011 (Basin Plan).

Any person aggrieved by this action may petition the State Water Quality Control Board to review the action in accordance with California Water Code § 13320 and California Code of Regulations, title 23, § 2050 and following. The State Water Quality Control Board must receive the petition by 5:00 p.m., 30 days after the date of this action, except that if the thirtieth day following the date of this action falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Quality Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.



(for) PAMELA C. CREEDON  
Executive Officer

GDD:lmw

Enclosure: Water Quality Order No. 2003-0017 DWQ

cc w/o Mr. Will Ness, U.S. Army Corp of Engineers, Sacramento  
enclosures: Department of Fish and Wildlife, Region 2, Rancho Cordova  
U.S. Fish and Wildlife Service, Sacramento  
Mr. Bill Jennings, CALSPA, Stockton  
Mr. Matt Fremont, HELIX Environmental Planning, Inc., Folsom

cc w/o U.S. EPA, Region 9, San Francisco  
enclosures Mr. Bill Orme, SWRCB, Certification Unit, Sacramento  
by email:

## PROJECT INFORMATION

**Application Date:** 16 July 2014

**Application Complete Date:** 21 October 2014

**Applicant:** Penryn Development, LLC, Attn: Mr. Mike Mahoney

**Project Name:** Orchard at Penryn Project

**Application Number:** WDID No. 5A31CR00392

**U.S. Army Corps File Number:** SPK-2007-00019

**Type of Project:** Private development project that includes remediating existing contaminated soils on the site and constructing 150 multi-family residential units on the approximately 15 acre property.

**Project Location:** Section 2, Township 11 North, Range 7 East, MDB&M.  
Latitude: 38°50'18" and Longitude: -121°10'10"

**County:** Placer County

**Receiving Water(s) (hydrologic unit):** Secret Ravine, which is tributary to Sacramento River. Valley-American Hydrologic Unit-Lower American Hydrologic Subarea No. 519.21

**Water Body Type:** Wetlands

**Designated Beneficial Uses:** The Water Quality Control Plan *for the Sacramento River and San Joaquin River*, Fourth Edition, revised September 2009, has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND), Hydropower Generation (POW); Groundwater Recharge, Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and /or Early Development (SPWN); and Wildlife Habitat (WILD).

**Project Description (purpose/goal):** The Orchard at Penryn Project consists of developing 150 multi-family residential units and a recreation center on ±15.1 acres in the community of Penryn. The project would consist of three or six units per building with parking for a total of 375 vehicles (2.5 parking spaces per unit). The project applicant also proposes to create commonly held open space in the central portion of the project site and build recreational facilities onsite. The primary site entrance is proposed as a gated entrance from Penryn Road. A secondary exit-only gated access point is proposed for Taylor Road. The proposed project also includes a 30-foot wide landscape easement along Penryn Road, onsite landscaping, an onsite circulation system, and placement of utilities. A small portion of fencing and landscaping associated with the property to the south encroach on the project site. These features would be removed with development of the proposed project.

Placer County will require the project applicant to construct improvements along the project site's frontage on Penryn Road consistent with the road cross-sections for Penryn Parkway

provided in the Community Plan. The applicant is required to provide 44 feet of right-of-way, which is one-half of the full roadway width. This would include widening the road to provide two southbound 12-foot travel lanes, a Class II bike lane, and curb, gutter, and sidewalk. The project would also be required to provide one-half of a center two-way left turn lane.

The actions necessary to complete site remediation are documented in the project's Revised Draft Removal Action Workplan (RAW) (Wallace-Kuhl & Associates 2008), which is provided as Appendix C to this Draft EIR. The RAW recommends removal of 11,600 cubic yards of contaminated soil from  $\pm 7.11$  acres of the project site. Soil excavations would generally be between 12 and 18 inches deep, although in three locations excavations may reach 24 inches in depth. The soil within and surrounding the eastern drainage swale and the southern portion of the central drainage swale is contaminated and would be excavated. This would destroy the affected portions of the swales and remove the associated riparian and woodland vegetation.

Drainage originating from offsite properties that currently flows through the onsite drainage swales is proposed to be conveyed across the project site in storm drains. Drainage that originates within the project site would be conveyed through storm drain pipes and onsite bioswales to the center of the project site and to a detention basin.

**Preliminary Water Quality Concerns:** Construction activities may impact surface waters with increased turbidity and settleable matter.

**Proposed Mitigation to Address Concerns:** Penryn Development, LLC will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. Penryn Development, LLC will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

**Fill/Excavation Area** Project implementation will permanently impact 0.414 acre of jurisdictional wetland and temporarily impact 0.117 acre of jurisdictional wetland.

**Dredge Volume:** 3,500 cubic yards of soil.

**U.S. Army Corps of Engineers Permit Number:** Individual Permit

**Department of Fish and Wildlife Streambed Alteration Agreement:** Penryn Development, LLC applied for a Streambed Alteration Agreement on 11 July 2014.

**Possible Listed Species:** Valley elderberry longhorn beetle (VELB)

**Status of CEQA Compliance:** The County of Placer signed a final Notice of Determination approving an Environmental Impact Report on 11 December 2012 in compliance with Section 21108 or 21152 of the Public Resources Code, stating the project will have a significant effect on the environment. Mitigation measures were made a condition of approval. A mitigation reporting or monitoring plan was adopted for this project and a statement of Overriding Considerations was not adopted for this project. (State Clearinghouse Number 2010032070).

**Compensatory Mitigation:** Penryn Development, LLC will either purchase 0.5-acre of wetland mitigation credits from the Toad Hill Ranch Mitigation Bank or from the National Fish & Wildlife Foundation fund in-lieu fee program fund, for the unavoidable impacts to jurisdictional waters.



**Application Fee Provided:** On 16 July 2014 a certification application fee of \$3,944.00 was submitted as required by 23 CCR §3833b(3)(A) and by 23 CCR §2200(e).