

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

**ORDER No. R4-2009-0093**

**WASTE DISCHARGE REQUIREMENTS (WDR) FOR:**

**CITY OF VENTURA (DISCHARGER), MORELAND DRAINAGE DITCH CHANNEL  
MAINTENANCE, VENTURA COUNTY (File No. 08-110)**

The California Regional Water Quality Control Board, Los Angeles Region, hereinafter Regional Board, finds that:

1. The City of San Buenaventura (hereinafter the Discharger) filed an application for a WDR in order to remove accumulated sediment from the Moreland Drainage Ditch located in the City of Ventura.
2. The Discharger proposes to remove accumulated sediment, plant material, and debris within the Moreland Ditch in order to restore its functional capacity and prevent flooding and the potential for damage to adjacent property and agricultural fields during storm events.
3. The Moreland Ditch is an existing, man-made agricultural channel that conveys urban and agricultural runoff from an area that extends north of Olivias Park Drive and west of Victoria Avenue. The width of the man-made ditch varies from 20 to 40 feet, and is roughly 2 to 4 feet in depth.
4. There are approximately 5.45 acres of jurisdictional waters of the United States/ waters of the State of California within the portion of the Moreland Ditch that is the Project site, including 3.04 acres of jurisdictional wetlands and 2.41 acres of jurisdictional non-wetland waters.
5. The Discharger applied to the Board for Water Quality Certification under Section 401 of the Clean Water Act (CWA) and to the U.S. Army Corps of Engineers under Section 404 of the CWA on August 15, 2008. On October 1, 2008, the U.S. Army Corps of Engineers (Corps) determined that the proposed activity (maintenance of an agricultural ditch) would be exempt from Corps permitting requirements per 33 CFR 323.4(a)(3), and therefore a Section 404 permit is not required. On October 7, 2008, the Board determined, based on the size of the impact to Waters of the U.S., that the Project would be regulated under an individual WDR.

6. The specific location of the proposed Moreland Ditch project is as follows:

| <u>Longitude</u> | <u>Latitude</u> |
|------------------|-----------------|
| 119.22889        | 24.236667       |
| 119.22806        | 24.239722       |
| 119.22722        | 24.242222       |
| 119.22194        | 24.243333       |
| 119.22778        | 24.238056       |
| 119.22806        | 24.241111       |
| 119.22528        | 24.243611       |
| 119.21917        | 24.243056       |

7. Waters on the project site may provide habitat for sensitive wildlife resources specifically including: arroyo chub (*Gila orcutti*), tidewater goby (*Eucyclogobius newberryi*), pacific treefrog (*Pseudacris regilla*), western toad (*Bufo boreas*); two-striped garter snake (*Thamnophis hammondi*), southernwestern pond turtle (*Actinemys marmorata pallida*); and all other aquatic and wildlife resources in the area, including the riparian vegetation which provides habitat for such species in the area. Sensitive plant and wildlife species have not been found onsite.
8. The Moreland Ditch is a public facility operated and maintained by the City of Ventura. Discharge from the Moreland Ditch is covered under the Ventura County MS4 NPDES permit, Order No. R4-2009-0057; NPDES Permit No. CAS004002.
9. The function of the Moreland Ditch for the adjacent property holders is to collect and convey runoff from surrounding agricultural fields and urban areas.
10. The Project will not result in changes in the quantity or quality of storm water discharged to the Moreland Ditch or downstream water bodies during maintenance, or during operation subsequent to the maintenance activities. The Project will not result in changes in the quantity or quality of storm water discharge during periods between maintenance activities, or upon its completion.

Project Description

11. The project involves removal of sediment and vegetation over an area comprising 5.45 acres of waters of the United States/waters of the State within the Moreland Ditch. Although the proposed maintenance will temporarily impact waters of the United States/waters of the State, the impacted areas will be returned to previously existing conditions and proposed activities are not anticipated to expand or decrease the originally designed alignment (dimensions) of the drainage channel.

12. The project will involve an excavator or backhoe operating from the dirt roads on either side of the ditch to remove built-up sediment and plant material. A four-foot wide flail mower will be attached to the articulated arm of the excavator to break plant material into small pieces (< 6 inches). The plant material will be removed from the ditch by heavy machinery. Mature trees within the drainage ditch will be removed by hand, using chain saws.
13. The Discharger has proposed avoidance measures to protect fish, wildlife, and plant resources, including:
  - Clearing of vegetation in all jurisdictional areas will be restricted to within excavation-designated areas. Excessive clearing of the vegetation will not be permitted. A qualified biologist will be present during grading and clearing to ensure this enforcement.
  - Prior to initiation of construction activity, the biologist will ensure that the construction foreman and the crew are aware of the limits of construction activity.
  - Vehicles and construction equipment will be periodically checked to ensure that there are no fugitive emissions from leaks or defective equipment.
  - All erosion control devices will be installed before initiation of construction activity and will be periodically inspected to ensure that the devices are effective, particularly prior to and immediately after rainfall events.
  - Five-day weather forecasts will be conducted in order to identify potential storm events so that preparations for storms can be made.
  - Appropriate erosion control devices will be placed around stockpiled materials. Spoil sites will be located away from obvious drainage areas.

In addition, the discharger will develop a Stream Diversion Plan to include a series of dewatering pools/dams upstream and downstream of the maintenance area to prevent surface water from entering the project site during the maintenance activities.

14. All appropriate Best Management Practices (BMPs) will be implemented in order to avoid any impacts to water quality. The Project will not result in indirect impacts to water quality or beneficial uses of downstream water bodies, i.e. the Santa Clara River, the Santa Clara River Estuary, and the Pacific Ocean.
15. Because the Project will not cause indirect or cumulative impacts to water quality or beneficial uses of downstream water bodies, no mitigation measures for indirect or cumulative impacts will be required.
16. To mitigate for temporary impact to waters of the State as described, the Discharger shall preserve, enhance and/or restore riparian habitat at a 0.5 to 1 ratio for a total of 1.52 acres. This mitigation is also the required by the California Department of Fish and Game under a Streambed Alteration Agreement.

17. This Order applies to the temporary impacts to waters of the State associated with the Project, which is comprised of the removal of sediment and vegetation for maintenance of the existing Moreland agricultural ditch. Implementation of the Project will result in the disturbance of 5.45 acres of waters of the United States/waters of the State of California
18. The Discharger proposes to perform maintenance activities as-needed within the next five years. All necessary precautions (BMPs) will be implemented to conduct maintenance activities in accordance with all Department of Fish & Game conditions. Additionally, all work shall be conducted in dry conditions.

#### Regulatory Authority

19. The Board has determined to regulate the subject discharge of fill materials into waters of the State by issuance of waste discharge requirements (WDRs) pursuant to Section 13263 of the California Water Code (CWC). The Board considers WDRs necessary to adequately address impacts and mitigation to beneficial uses of waters of the State from this Project, to meet the objectives of the California Wetlands Conservation Policy (Executive Order W-59-93), and to accommodate and require appropriate changes over the life of the Project.
20. The Board, on June 13, 1994, adopted, in accordance with Section 13240 et seq. of the CWC, a revised Water Quality Control Plan, Los Angeles Region (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 November 17, 1994, and February 23, 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, and amendments thereto.
21. The subject waters of the U.S. within the Moreland Ditch are located within the Santa Clara River Watershed. The Basin Plan does not explicitly identify beneficial uses for these waters. However, the Basin Plan states that "Those waters not specifically listed (generally smaller tributaries) are designated with the same beneficial uses as the streams, lakes or reservoirs to which they are tributary." The Moreland Ditch is tributary to the Santa Clara River, and thence to the Santa Clara River Estuary and the Pacific Ocean. The site waters are located in the Santa Clara-Calleguas Hydrologic Unit (403.00) and the Oxnard Hydrologic Sub-unit (403.11).
22. The section of the Santa Clara River downstream from the Moreland Ditch, which is within the Oxnard Hydrologic Sub-unit (403.11), has the following existing beneficial uses as identified in the Basin Plan: industrial service supply; industrial process supply; agricultural supply; ground water recharge; freshwater replenishment; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater

habitat; wildlife habitat; migration of aquatic organisms; rare, threatened, and endangered species; and wetland habitat.

23. The goals of the California Wetlands Conservation Policy (Executive Order W-59-93, signed August 23, 1993) include ensuring “no overall loss” and achieving a “...long-term net gain in the quantity, quality, and permanence of wetland acreage and values...” Senate Concurrent Resolution No. 28 states that “[i]t is the intent of the legislature to preserve, protect, restore, and enhance California’s wetlands and the multiple resources which depend on them for benefit of the people of the State.” Section 13142.5 of the CWC requires that the “[h]ighest priority shall be given to improving or eliminating discharges that adversely affect...wetlands, estuaries, and other biologically sensitive areas.”
24. 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 (e.g., Environmental Impact Report or Negative Declaration) for such Projects. The Board finds that the proposed activities are categorically exempt pursuant to Section 15301(d) (Existing Facilities) of the California Environmental Quality Act (CEQA).
25. This Project is filed with the Regional Board under file number 08-110.
26. The Board has notified the City of Ventura and interested agencies and persons of its intent to prescribe WDRs for this discharge.
27. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that the City of San Buenaventura, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following, pursuant to authority under CWC Sections 13263 and 13267:

**A. 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, visible film or coating, 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. The discharge of decant water from active dredging or fill sites and dredged material stockpile or storage areas to surface waters or surface water drainage courses is prohibited, except as conditionally allowed following the submittal of a discharge plan or plans as described in the Provisions.
5. The groundwater in the vicinity of the Project shall not be degraded as a result of the Project's activities or the placement of fill for the Project.
6. The discharge of materials other than storm water, which are not otherwise regulated by a separate NPDES permit or allowed by this Order, to waters of the State is prohibited.

#### **B. Provisions**

1. The Discharger shall comply with all Prohibitions and Provisions of this Order immediately upon adoption of this Order or as provided below.
2. The Discharger shall submit copies of all necessary approvals and/or permits for the Project, including its associated mitigation, from applicable government agencies, including, but not limited to, the State Department of Fish and Game, the U.S. Army Corps of Engineers, and the City of Ventura.
3. This Order requires the Discharger to submit, acceptable to the Executive Officer, final designs or as-builts, and/or other final information, including additional information as described in this Order.

#### Project Implementation Deadlines

4. No later than 60 days prior to beginning of maintenance, the Discharger shall submit, acceptable to the Executive Officer, a Final Stream Diversion Plan to address the Project's water diversion impacts.
5. Not later than 60 days prior to the beginning of maintenance, the Discharger shall submit, acceptable to the Executive Officer, a final Mitigation Plan that addresses the required mitigation elements to offset the maintenance impacts.
6. All elements of the final Mitigation Plan shall be underway or completed within the same calendar year as impacts first occur, or at least no later than the end of the following calendar year (e.g., if impacts occur in October 2009, mitigation for all impacts must be underway or completed no later than December 31, 2010).

Notice of Mitigation Completion

7. When the Discharger has determined that the mitigation has achieved the final success criteria specified in the final Mitigation Plan approved by the Executive Officer, it shall submit a notice of mitigation completion (notice), acceptable to the Executive Officer. Separate notices may be submitted for the different portions of proposed mitigation. After acceptance of the notice in writing by the Executive Officer, the Discharger's submittal of annual mitigation monitoring reports for its mitigation, or for that element of mitigation for which a notice was submitted, is no longer required.
8. Any changes to final plans referenced in the Provisions must be approved in writing by the Executive Officer.

Other Provisions

9. All reports pursuant to these Provisions shall be prepared under the supervision of suitable professionals registered in the State of California.
10. The Discharger shall immediately notify Board staff by telephone whenever an adverse condition occurs as a result of the Project. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC §13267(b), 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 Executive Officer, for the remedial actions.
11. The Discharger shall notify the Board in writing at least 30 days prior to the actual start date of the Project.
12. The Discharger shall at all times fully comply with its WDR, which includes all materials submitted as a part of its application for water quality certification.
13. The Discharger 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. The discharge of any hazardous, designated or non-hazardous waste as defined in Title 23, Division 3, Chapter 15 of the California Administrative Code, shall be disposed of in accordance with applicable state and federal regulations.

15. The Discharger shall remove and relocate any wastes that are discharged at any sites in violation of this Order.
16. In accordance with CWC §13260, the Discharger shall file with the Board a report of any material change or proposed change in the ownership, 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 the proposed implementation of any change. 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 this Order, this includes any proposed change in the boundaries of the wetland/waters of the state fill sites.
17. 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 and agencies.
18. The Discharger shall permit the Board or its authorized representative at all times, upon presentation of credentials:
  - a. Entry onto Project premises, including all areas on which wetland fill or wetland mitigation is located or 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.
19. This Order does not authorize commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws, regulations or rules of other programs and agencies, nor does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.
20. The Board will consider rescission of this Order upon Project completion and the Executive Officer's acceptance of notices of completion of mitigation for all mitigation, creation, and enhancement Projects required or otherwise permitted now or subsequently under this Order.

I, Tracy J. Egoscue, 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, Los Angeles Region, on 3 September, 2009.

  
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Tracy J. Egoscue  
Executive Officer