

**California Regional Water Quality Control Board
San Diego Region**

Tentative Order No. R9-2006-0028

**Waste Discharge Requirements and Clean Water Act
Section 401 Water Quality Standards Certification**

For

**Stonewood, Inc., The Vineyard Project,
City of Murrieta, Riverside County**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds that:

1. Waste discharge requirements authority and responsibility. Section 13260(a) of the California Water Code (Water Code) requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, which could affect the quality of the waters of the State, file a report of waste discharge (ROWD). The discharge of dredged or fill material may constitute a discharge of waste that could affect the quality of waters of the State. Water Code section 13263(a) requires that waste discharge requirements (WDRs) be prescribed as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. Such WDRs must implement any relevant water quality control plans, taking into consideration beneficial uses to be protected, the water quality objectives reasonably required for those purposes, other waste discharges, the need to prevent nuisance, and the provisions of section 13241 of the Water Code.
2. Section 401 authority and responsibility. Section 401 [33 U.S.C. 1341] of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) allows the California State Water Resources Control Board (State Board) and the Regional Board to regulate federally-permitted activities, including dredge and fill discharges. Section 401 requires any applicant for a Federal license or permit to conduct any activity which may result in any discharge into the navigable waters, to provide the licensing or permitting agency a certification from the State water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with water quality standards and implementation plans. The regulations for California's 401 Program (CCR Title 23, Chapter 28, sections 3830 to 3869) specify the information to be

included in 401 applications and Regional Board Certification Orders. The fundamental requirement of a Regional Board Certification Order is that it describes the discharge, proposed mitigation, and any conditions in adequate detail to protect beneficial uses and allow effective enforcement if necessary.

3. Authority to require discharger reports. California Water Code Sections 13267(b) and 13383 contain criteria that allows the Regional Board to conduct investigations and to establish technical, monitoring, inspection, entry, reporting, and record keeping requirements from any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste in accordance with the conditions in the section.
4. Basin Plan. The *Comprehensive Water Quality Control Plan for the San Diego Basin (9) (Basin Plan)* was adopted by the Regional Board on September 8, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and approved by the State Board. The Basin Plan designates beneficial uses, narrative and numerical water quality objectives, and prohibitions which are applicable to the discharges regulated under this Order.
5. Project Description. StoneWood, Inc. (Discharger) proposes the discharge of fill material into waters of the State associated with development of The Vineyard project on Tract 28903 in the City of Murrieta (Project). The project is the subdivision and construction of approximately 464 acres of land in general accordance to Vesting Tentative Tract 28903 as approved by the City of Murrieta on April 14, 1999. The site is located in the City of Murrieta, Riverside County on the west side of Murrieta Creek near the intersection of Vineyard Parkway and Hayes Avenue. The proposed project includes 969 single family residential dwellings on 302 acres, open space lots on 127 acres, a recreational center on 5 acres, parks and a school site on 21 acres, and street and landscaping infrastructure on approximately 10 acres. Grading is proposed on approximately 408 acres, including all utility improvements, drainage and retention basins, and would involve approximately 14.9 million cubic yards of cut and fill. Natural open space will comprise approximately 56 acres. Affected waters of the U.S. and/or State are tributary to Cole Creek and Murrieta Creek in the Murrieta Hydrologic Subarea (HSA 902.32).
6. CEQA. On April 14, 1999 the City of Murrieta approved a final Addendum to a previously-certified Environmental Impact Report (EIR) for the Vineyard Project (SCH no. 87021614). Final stormwater management and biological resource mitigation plans had not been approved by the City at the time the EIR was approved.
7. Beneficial Uses. The *Comprehensive Water Quality Control Plan for the San Diego Basin (9) (Basin Plan)* designates the following beneficial uses of waters in the project's hydrologic subarea: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PROC),

Non-contact Water Recreation (REC 2), Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), and potential Contact Water Recreation (REC 1). Designated beneficial uses of ground waters in the project area (Murrieta Hydrologic Area) include Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), and Industrial Process Supply (PROC).

8. Description of Fill activities. In order to accommodate the planned development, the Discharger proposes to discharge fill material into 0.74 acres (15,822 linear feet) of waters of the State. The discharge of fill to 0.39 of the 0.74 acres requires permitting subject to Sections 401 and 404 of the federal Clean Water Act [33 USC 1342 & 1344] because the fill locations are determined by the U.S. Army Corps of Engineers (Corps) to be federal waters of the U.S. The discharge to 0.35 acres of waters of the State were determined by the Corps to be outside of federal jurisdiction and are, therefore, subject to permitting from the State, but not the Corps. The proposed fill will result from construction of creek crossings, storm drain infrastructure, roads and suitable housing pads.

Jurisdictional Waters	Proposed to be filled (acres)	Proposed to be avoided (acres)
Federal Waters	0.39	0.33
Non-federal Waters of the State	0.35	0.12
TOTAL ACRES	0.74	0.45

9. WDRs necessary to implement Basin Plan. The permanent discharge of fill into waters of the State to support storm drain infrastructure, roads and suitable housing pads will eliminate beneficial uses and may contribute to conditions of contamination, pollution or nuisance downstream of the fill areas. The discharge of fill to construct creek crossings and provide energy dissipation threatens to affect WARM and WILD beneficial uses. Plans and programs to implement the water quality mitigation measures of the EIR have been revised since adoption of the EIR. Waste discharge requirements and certification conditions to mitigate and compensate for the loss of beneficial uses and threats to water quality resulting from the discharge of fill material to waters of the State are necessary to implement the Basin Plan.
10. Mitigation Plan. The Discharger has proposed to mitigate effects of the discharge of fill to waters of the State/U.S. through the restoration of 2.7 acres of riparian habitat on-site and off-site adjacent to the project. The proposed *The Vineyard Habitat Mitigation and Monitoring / Water Quality Plan* (PCR Services Corporation, January 2006) will adequately compensate for loss of beneficial uses and habitat within waters of the U.S. and non-federal waters of the State associated with the discharge of dredged and fill material. The discharger has also purchased two credits from the Barry Jones Wetland Mitigation Bank located in the French Valley area of southwest Riverside County. This Order requires the discharger to proceed with the proposed

mitigation plan.

11. The discharger has proposed to implement a plan for the management of stormwater discharges associated with the proposed project (*Water Quality Technical Report for The Vineyards (sic)*, Hunsaker & Associates San Diego, Inc. May 17, 2006). Such discharges may threaten beneficial uses through the discharge of urban runoff pollutants (e.g., oil and grease, heavy metals, pathogens, nutrients, and trash) into Cole Creek, Murrieta Creek and on-site tributaries thereto. To mitigate the post-construction threats to water quality and beneficial uses from stormwater discharges, the discharger proposes source control, site design, and treatment control best management practices (BMPs). Treatment BMPs proposed include a combination of water quality detention basins, proprietary treatment units, and a vegetated swale in various portions of the property. Implementation of the treatment BMP measures is also described in *The Vineyard Habitat Mitigation and Monitoring / Water Quality Plan* (PCR Services Corporation, January 2006). This Order requires the discharger to implement the proposed post-construction BMP measures in accordance with guidance developed by the California Stormwater Quality Association (CASQA, *California Stormwater BMP Handbook, New Development and Redevelopment 2003*).
12. Construction activities associated with the proposed discharges of fill would threaten beneficial uses on-site and downstream. Grenhill Investment Corporation (Grenhill) is the property owner and has submitted a Notice of Intent to the State Water Resources Control Board for coverage under State Water Resources Control Board (State Water Board) Order No. 99-08-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRs) For Discharges Of Storm Water Runoff Associated With Construction Activity*. The project was assigned a waste discharge identification number (WDID) 9 33C326166. The Regional Board may conduct inspections to verify compliance with Order No. 99-08-DWQ, including, but not limited to, implementation of a storm water pollution prevention plan.
13. This Order specifies Waste Discharge Requirements (WDRs) that are necessary to adequately address impacts to water quality standards resulting from the filling of waters of the U.S. and waters of the State, to meet the objectives of the State Wetlands Conservation Policy (Executive Order W-59-93), to be consistent with the non-degradation provisions of State Board Resolution No. 68-16, and to accommodate and require appropriate changes over implementation of the project and its construction.
14. The Discharger has avoided and minimized impacts to waters of the U.S./State consistent with the requirements of the Basin Plan. The project, as described in this Order, will not result in State Water Quality Standards being exceeded.

15. These requirements for the discharge of fill material are feasible because they have been proposed by the discharger and/or reflect mitigation conditions incorporated into the approved Environmental Impact Report.
16. The Regional Board has notified the Discharger and other interested persons and agencies of its intent to prescribe Waste Discharge Requirements and Section 401 Water Quality Certification and has provided them with an opportunity for public hearing and an opportunity to submit written comments.
17. The Board, in a public meeting on June 14, 2006, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that Stonewood Inc. (hereinafter 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. PROHIBITIONS

1. The discharge of waste in a manner other than as described in the findings of this Order is prohibited unless the discharger obtains revised waste discharge requirements that provide for the proposed change prior to the discharge occurring.
2. The discharge of fill material in a manner that has not been described in the application / report of waste discharge and for which valid waste discharge requirements are not in force are prohibited.
3. The discharge of waste shall not create a condition of pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code.
4. Discharges to surface waters of wastes or pollutants that are not otherwise regulated by separate National Pollutant Discharge Elimination System (NPDES) requirements are prohibited.
5. The discharge of sand, silt, clay, or other earthen materials from any activity in quantities which cause deleterious bottom deposits, turbidity, or discoloration in waters of the State or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
6. The unauthorized discharge of treated or untreated sewage to waters of the State or to a storm water conveyance system is prohibited.

7. The dumping, deposition, or discharge of waste directly into waters of the State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board or State Water Board.

B. PROJECT PROVISIONS

1. Standard conditions applicable to Clean Water Act Section 401 Water Quality Certification (Certification):
 - a. Every Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC §13330 and 23 CCR §3867.
 - 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 23 CCR §3855(b) 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 §3833 and owed by the dischargers.
2. This Certification is valid only until the expiration of the associated U.S. Army Corps of Engineers Section 404 individual permit.
3. Any proposed change in construction that may alter flow patterns and/or change the approved impact footprint is prohibited without Regional Board approval. Not later than 30 days prior to the beginning of any proposed change, the Discharger shall submit, acceptable to the Regional Board, detailed plans and specifications showing the proposed change in relationship to the approved project.
4. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the Regional Board pursuant to CWC § 13260.
5. The Discharger shall comply with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity and any revisions thereto.

6. The Discharger shall, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
7. Stream crossing structures for drainages "H" and "I" shall provide earthen substrate and capacity for effective wildlife movement. No modifications from the proposed use of CON/SPAN bridge units is permitted without concurrence from the Regional Board.
8. All waters of the United States and State that are to be preserved shall be fenced no less than 10 days prior to the start of vegetation clearing activities and rough grading activities. A qualified biologist shall show all preservation areas to all appropriate construction personnel and shall explain the conditions of this Order and other permits regarding impacts.
9. The Discharger shall staff a qualified biologist on site during project construction to ensure compliance with the Certification requirements. The biologist shall be given the authority to stop all work onsite if a violation occurs or has the potential to occur. Records from the biologist's activities shall be kept on-site and made available for review by Regional Board inspectors.
10. No plant species on the most recent California Invasive Plant Council (Cal-IPC) List, "Exotic Pest Plants of Greatest Ecological Concern in California"¹ shall be planted in mitigation areas, waters of the State, vegetated stormwater BMP areas, or other areas used to convey urban runoff and stormwater.
11. The Discharger shall notify the Regional Board in writing within 10 days following the initiation of discharge of fill to on-site waters of the State and U.S.

C. MITIGATION PROVISIONS FOR FEDERAL AND STATE WATERS

1. Mitigation for permanent discharges of fill to 0.74 acres of federal and non-federal waters of the State will be achieved by a combination of restoration, enhancement, and preservation of waters of the U.S./State, consisting of riparian habitat and non-wetland streambed plant communities in general accordance with *The Vineyard Habitat Mitigation and Monitoring / Water Quality Plan (Mitigation Plan)* (PCR Services Corporation, January 2006) and this Order. Requirements of this Order shall supercede conflicting proposals in the Mitigation Plan.

¹ The Cal-IPC list may be found on-line at <http://www.cal-ipc.org/>.

- a. Restoration and Enhancement: No less than 2.7 acres consisting of waters of the U.S./State and associated riparian buffer zone shall be restored and enhanced within drainages "H" and "I" that are tributary to Cole Creek and within a low-lying zone along the south banks of Cole Creek extending generally from drainage "H" to approximately 500 feet northwest of Drainage "I." These areas shall be restored and maintained in a manner sufficient to support wildlife corridor movement between Cole Creek and the headwaters of tributaries "H" and "I" within the undeveloped open space hillside of the project.
 - b. Preservation: As proposed in the Mitigation Plan, preservation areas shall include sections of drainages B1, C1, F1, F2, X1 and Y1. In addition, drainages "A," "H," and "I" will be entirely avoided, except for three road crossings, an equestrian trail adjacent to Cole Creek, and restoration and enhancement mitigation activities. Areas to be avoided include 0.33 acres of federal waters and 0.12 acres of non-federal waters of the State.
2. The purchase of two credits from the Barry Jones Wetland Mitigation Bank shall serve as compensatory mitigation for the anticipated temporary loss of beneficial uses for the period between the discharge of fill and the full implementation of the Mitigation Plan.
3. The preparation of proposed mitigation areas shall be concurrent with project grading and all plantings shall be completed no later than 36 months following the discharge of fill into on-site waters of the State. Delays in implementing mitigation shall result in increased mitigation requirements by 0.02 acre for each month of delay.
4. Mitigation Site Preparation: The Discharger shall salvage leaf litter, coarse woody debris, and upper soil horizons from impacted jurisdictional water sites that are relatively free of invasive exotic species for use in on-site mitigation areas. The Discharger shall also salvage large cuttings from appropriate tree species if they exist at the impact site and use them as pole plantings at the mitigation site.
5. All restored and enhanced mitigation areas must be self-sustaining after five years of maintenance and monitoring. Self sustaining is defined as "restored habitats that do not require maintenance, supplemental irrigation, and additional planting, and are occupied by, and support, the appropriate plant and animal species."
6. Mitigation areas shall not receive untreated urban runoff or stormwater from the proposed development during the construction or post-construction phases
7. The Discharger shall implement the Mitigation Plan as proposed and as may be modified following review by the Regional Board to assure compliance with this Order. The final Monitoring Plan shall be consistent with Monitoring and Reporting Program No. R9-2006-0028.

8. If mitigation areas do not meet their interim and/or ultimate functional success criteria, as defined in the Mitigation Plan, the Discharger shall prepare remedial measures, acceptable to the Regional Board, to be implemented within one year following the determination that success criteria were not reached.
9. Prior to June 1, 2007 the Discharger shall submit to the Regional Board proof of a completed preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas, their buffers, and preserved waters of the State in perpetuity. The conservation easement or other legal limitation on the mitigation property shall be adequate to demonstrate that the site will be maintained without future development or encroachment on the site or that which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the State/U.S. that it supports. The conservation easement or other appropriate legal limitation shall prohibit, without exception, all uses not identified in this Order, including all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the streambed and riparian functions and values of the site. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, paved maintenance roads, and areas of maintained landscaping for recreation.
10. The Discharger shall submit an as-built report within 60 days after complete installation of the mitigation. The as-built report shall contain final grade and topography elevations, planted areas and palette, areas designated for natural plant recruitment, and any areas subject to fuel modification management.
11. If at any time during the implementation and establishment of the mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, the Discharger shall be responsible for repair and replanting of the damaged area(s).
12. For purposes of this Certification, creation is defined as the creation of vegetated or unvegetated waters of the U.S. where they have never been documented or known to occur (e.g., conversion of nonnative grassland to freshwater marsh). Restoration is defined as the creation of waters of the U.S. where they previously occurred (e.g., removal of fill material to restore a drainage). Enhancement is defined as modifying existing waters of the U.S. to enhance functions and values (e.g., removal of exotic plant species from jurisdictional areas and replacing with native species).

D. POST CONSTRUCTION STORMWATER TREATMENT PROVISIONS

1. All storm drain inlet structures within the project boundaries shall be stamped and/or stenciled with appropriate language prohibiting non-storm water discharges.

2. Best management practices (BMPs) shall be implemented to treat stormwater runoff from all roofs, roads, parking areas, and other impervious areas where activities are expected to generate pollutants that can be conveyed by stormwater to the storm drain system and/or waters of the State and/or U.S. Post-construction stormwater BMPs shall be designed to mitigate (infiltrate, filter, and/or treat), prior to discharging to receiving waters, the volume of runoff produced by all storms up to and including the 24-hour, 85th percentile storm event for volume-based BMPs and/or the 1 hour, 85th percentile multiplied by a factor of two for flow-based BMPs, as determined from the local historical rainfall record.
3. Post-construction BMPs shall be implemented in accordance with plans submitted to the Regional Board, including *The Vineyard Habitat Mitigation and Monitoring / Water Quality Plan* (PCR Services Corporation, January 2006) and *Water Quality Technical Report for The Vineyards (sic)* (Hunsaker & Associates San Diego, Inc. May 17, 2006). Post-construction BMPs must be installed and functional prior to occupancy and/or planned use of developed areas.
4. Homeowner Awareness. The Discharger shall provide each lot purchaser with a lot map that clearly distinguishes the location and purpose of stormwater site design, pollution prevention, and treatment BMP features (e.g., disconnected rooftop drains, natural area conservation, minimized impervious footprint, vegetated swale, *Vortechs Stormwater Treatment Systems*, and detention basins and others as described in the *Water Quality Technical Report*) for the lot and subdivision.
5. Maintenance. All post-construction structural treatment BMPs, including, but not limited to, the vegetated swale, four *Vortechs Stormwater Treatment Systems*, and four detention basins shall be regularly inspected and maintained for the life of the project per manufacturers' specifications for proprietary structural devices and at frequencies no less than recommended by CASQA² guidance for non-proprietary measures, including the vegetated swale and the detention basins.
 - a. Preventive and corrective maintenance procedures will be performed as outlined in the *Water Quality Technical Report* for the *Vortechs Systems* and detention basins. Final maintenance plans for the vegetated swale shall be developed and implemented based on CASQA guidance;
 - b. A copy of a Final Plan for operations and maintenance for all post-construction stormwater treatment BMPs shall be submitted to the Regional Board prior to initiation of post-construction discharges to receiving waters;

² California Stormwater Quality Association (*California Stormwater BMP Handbook, New Development and Redevelopment 2003*), available on-line at: <http://www.cabmphandbooks.org/>

- c. Inspections: Flow-based treatment BMPs (*Vortechs Systems* and vegetated swale) shall be inspected at a minimum monthly from October through April and at least twice from May through September each year. The detention basins shall be inspected at least once during the summer, once between November and March, and after every rain event in excess of one inch;
- d. Records shall be kept regarding inspections and maintenance in order to assess the performance of the systems and determine whether adaptations are necessary to protect receiving waters;
- e. The discharger shall be responsible for inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to the local homeowners association or other entity;
- f. At the time maintenance responsibility for post-construction BMPs is legally transferred, the discharger shall submit to the Regional Board a copy of such documentation; and
- g. At the time maintenance responsibility for post-construction BMPs is legally transferred, the discharger shall provide the transferee with a copy of a long-term BMP maintenance plan that, at a minimum, complies with manufacturer specifications and CASQA guidance.

E. STANDARD PROVISIONS

1. The Discharger shall notify the Regional Board by telephone within 24 hours whenever an adverse condition occurs as a result of this discharge. 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 one week 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 Regional Board, for the remedial actions.
2. 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. Sediment shall not be removed or disposed in a manner that will not cause water quality degradation.
3. This Order is not transferable to any person except after notice to the Regional Board. In accordance with CWC §13260, the dischargers 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. The notice must include a written

agreement between the existing and new dischargers containing a specific date for the transfer of this Order's responsibility and coverage between the current dischargers and the new dischargers. This agreement shall include an acknowledgment that the existing dischargers is liable for violations up to the transfer date and that the new dischargers is liable from the transfer date on.

4. Any proposed material change in operation shall be reported to the Regional Board 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 United States fill sites. The Regional Board may require modification or revocation and reissuance of this Order to change the name of the dischargers and incorporate such other requirements as may be necessary under the California Water Code.
4. 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.
5. The Discharger shall permit the Regional 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; and
 - d. Sampling of any discharge or surface water covered by this Order.
6. 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.
7. The Regional Board will consider rescission of this Order upon notification of successful completion of mitigation for all creation, restoration, and enhancement projects required or otherwise permitted now or subsequently under this Order, completion of project construction, and the Regional Board's acceptance of these notifications. Determination of mitigation success will be based on the provisions discussed in Section C of this Order and in the Monitoring and Reporting Program

for this Order.

8. The Discharger must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for (a) enforcement action; (b) termination, revocation and reissuance, or modification of this Order; and/or (c) denial of a report of waste discharge in application for new or revised waste discharge requirements.
9. The Discharger shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the Regional Board within 24 hours from the time the dischargers becomes aware of the circumstances. A written submission shall also be provided within five days of the time the dischargers becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Regional Board, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
10. The Dischargers shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.
11. In an enforcement action, it shall not be a defense for the dischargers that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this Order. Upon reduction, loss, or failure of the treatment facility, the dischargers shall, to the extent necessary to maintain compliance with this Order, control production or all discharges, or both, until the facility is restored or an alternative method of treatment is provided. This provision applies for example, when the primary source of power of the treatment facility is failed, reduced, or lost.
12. This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:
 - a. Violation of any terms or conditions of this Order;
 - b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts; or
 - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

13. The filing of a request by the dischargers for the modification, revocation and reissuance, or termination of this Order, or notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

F. REPORTING AND RECORD KEEPING REQUIREMENTS

1. The Discharger shall submit copies of all necessary approvals and/or permits for the project and mitigation projects from applicable government agencies, including, but not limited to, the California Department of Fish and Game, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers, prior to the start of clearing/grading.
2. The Discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board.
3. The Discharger shall furnish to the Regional Board, within a reasonable time, any information which the Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Dischargers shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.
4. Where the Discharger becomes aware that they failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to the Regional Board, it shall promptly submit such facts or information.
5. All reports or information submitted to the Regional Board shall be signed and certified as follows:
 - a. Reports of Waste Discharge shall be signed as follows:
 - i. For a corporation – by a principal executive officer or at least the level of vice-president.
 - ii. For a partnership or sole proprietorship – by a general partner or the proprietor, respectively.
 - iii. For a municipality or other public agency – by either a principal executive officer or ranking elected official.
 - b. All reports required by this Order and other information required by the Regional Board shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person. An individual is a duly authorized representative only if:

- i. The authorization is made in writing by a person described in paragraph (a) of this provision; and
 - ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
 - iii. The written authorization is submitted to the Regional Board.
- c. Any person signing a document under this Section shall make the following certification All reports required by this Order and other information required by the Regional Board shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person.

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

6. The dischargers shall submit reports required under this Order, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; File No. WPN:18-2005029:haasj
9174 Sky Park Court, Suite 100
San Diego, California 92123

G. NOTIFICATIONS

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
2. This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the dischargers from liability under federal, state or local laws, nor create a vested right for the dischargers to continue the waste discharge.

3. These requirements have not been officially reviewed by the United States Environmental Protection Agency and are not issued pursuant to Section 402 of the Clean Water Act.
4. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision 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.
5. The adoption of these waste discharge requirements constitutes certification of water quality certification for the project as described in this Order pursuant to Section 401 of the Clean Water Act. The Regional Board hereby certifies that the proposed discharge from the **The Vineyard Project** (401 project no. 05C-109) will comply with the applicable provisions of sections 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 Order becomes effective on the date of adoption by the Regional Board.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on June 14, 2006.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer