

**REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

EXECUTIVE OFFICER SUMMARY REPORT

March 9, 2022

ITEM 5

SUBJECT

Waste Discharge Requirements Adoption: Waste Discharge Requirements for the Preserve at Torrey Highlands LLC, Torrey Highlands Office Project, San Diego County (Tentative Order No. R9-2022-0030). (*Alan Monji*)

STAFF RECOMMENDATION

Adoption of Tentative Order No. R9-2022-0030 (Tentative Order) is recommended.

KEY ISSUE

The Tentative Order (**Supporting Document No. 1**) authorizes permanent impacts to 0.02 acres (561 linear feet) of ephemeral streambed surface waters of the State attributed to the Torrey Highlands Office Project (Project). Compensatory mitigation to offset permitted Project impacts will be achieved through the purchase of 0.08 acres of wetland establishment/re-establishment mitigation credit from a United States Army Corps of Engineers (USACE) approved mitigation bank.

PRACTICAL VISION

The Tentative Order implements the San Diego Water Board's Practical Vision, entitled *Healthy Waters, People and Communities*,¹ by requiring mitigation and monitoring for impacts sufficient to offset unavoidable adverse impacts to aquatic resources from the Project. The waste discharge requirements employ the best practicable treatment and control of discharges to ensure and verify that the highest level of water quality is maintained consistent with the maximum benefit to the people of the State of California (State). The compensatory mitigation required in the Tentative Order implements the goal of the *Recover Stream, Wetland and Riparian Areas* chapter of the Practical Vision to attain no overall net loss and a long-term net gain in the quantity, quality and sustainability of aquatic resources.

DISCUSSION

The Project is located in the Carmel Valley area, within the City of San Diego, San Diego County, CA, south of State Route 56, west of Camino Del Sur Road, California, San Diego County (**Supporting Document No. 2**). The purpose of the Project is to construct a 420,000 square foot office campus. The Project proposed to construct two office buildings comprised of a 150,000 square-foot, one 120,000 square-foot building, an amenity building that would include a 3,850 square-foot café, and a 327,890 square-foot six story parking garage with one half level below grade and surface parking. Each office building will also have subterranean parking spaces. The amenity building will include a private café that is linked to walking paths, outdoor seating, and various meeting areas. Site improvements include driveways, walkways, and landscaping. The Project footprint

¹ Practical Vision: https://www.waterboards.ca.gov/sandiego/water_issues/programs/practical_vision/

encompasses 9.76 acres on a 11.10-acre Project site.

Post-construction best management practices (BMPs) to manage and control the effects of resulting runoff increases will be designed, constructed, and maintained to comply with the most current Standard Storm Water Mitigation and Hydromodification Plans for the City of San Diego.

Proposed Discharge Impacts

The Discharger submitted a Report of Waste Discharge (ROWD), in application for waste discharge requirements (WDRs) to construct the Project, on July 7, 2021. The Discharger proposes to discharge permanent fill material associated with Project construction activities to 0.02 acres (561 linear feet) of ephemeral streambed surface waters of the State.

Compensatory Mitigation

Compensatory mitigation for permanent impacts to ephemeral streambed, wetland, and riparian waters of the State will be achieved through the purchase of 0.08 acres of wetland establishment/re-establishment mitigation credit from a USACE approved mitigation bank, at a minimum compensation ratio of 4:1 (area mitigated:area impacted).

Tentative Order

Tentative Order No. R9-2022-0030 will, if adopted, serve as WDRs² for the discharge of fill material to waters of the State attributable to the Project. The Tentative Order allows reasonable use of private property for residential and commercial services, and associated infrastructure development, and growth of the economy, while offsetting the adverse Project impacts to waters of the State. The Tentative Order authorizes unavoidable direct adverse impacts to an isolated ephemeral streambed waters of the State attributed to the Project and requires the Discharger to implement compensatory mitigation sufficient to offset the permitted Project impacts.

The San Diego Water Board typically relies upon its authority under Clean Water Act (CWA) section 401 to regulate discharges of dredged or fill material to waters of the United States and/or State through the issuance of water quality certifications. The San Diego Water Board has delegated this function to the Executive Officer and the issuance of water quality certifications is not typically scheduled for consideration by the Board unless the project is very large or controversial. However, the USACE has determined that no waters of United States are present within the Project's impact area. Therefore, the Project discharges are to waters of the State outside of CWA jurisdiction and the water quality certification regulatory process does not apply. The San Diego Water Board is relying upon its authority under the Porter-Cologne Water Quality Control Act to regulate Project discharges under WDRs and Board action is required to adopt the Tentative Order.

² Pursuant to Water Code section 13260 et. seq.

The Tentative Order was released for public review and comment pursuant to Water Code section 13167.5 on January 21, 2022, for a period of 30 days (**Supporting Document No. 3**). The deadline for submission of written comments on the Tentative Order was February 21, 2022. The San Diego Water Board received a timely comment letter, dated February 3, 2022, from David Dick of Lexterra PLC, on behalf of the Discharger, requesting minor changes to the Tentative Order to (1) revise the square footage of the office campus from 450,000 square feet to 420,000 square feet, (2) revise the project description to include two 150,000 square foot building and one 120,000 square foot building, (3) revise the parking garage description to six stories and 327,890 square feet from seven stories and 180,000 square feet, and (5) revise the project mitigation ratio from 6:1 to 4:1. The Tentative Order displays the requested changes made in underline for added text and strikeout for deleted text.

PUBLIC NOTICE

On January 21, 2022, the San Diego Water Board provided public notice of the release of the Tentative Order for public review and comment and today's public hearing (**Supporting Document No. 3**). The Notice of Opportunity to Comment and Public Hearing (Notice) and Tentative Order were posted on the San Diego Water Board website on January 21, 2022, for a period of 30 days. Notice was also provided in the Meeting Notice and Agenda for the March 9, 2022 Board meeting and posted on the San Diego Water Board's website

SUPPORTING DOCUMENTS

1. Tentative Order No. R9-2022-0030
2. Project Site/Location Map
3. Public Notice issued January 21, 2022