

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

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TENTATIVE ORDER NO. R9-2022-0164

ADDENDUM NO. 1 TO ORDER NO. R9-2022-0030

**WASTE DISCHARGE REQUIREMENTS FOR
THE PRESERVE AT TORREY HIGHLANDS LLC,
TORREY HIGHLANDS OFFICE PROJECT
SAN DIEGO COUNTY**

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

Background

1. The Preserve at Torrey Highlands LLC (Discharger) submitted a Report of Waste Discharge (ROWD) in application for waste discharge requirements for construction of the Torrey Highlands Office Project (Project), located in San Diego County, on July 7, 2021. 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.
2. Order No. R9-2022-0030 was adopted by the San Diego Water Board on March 9, 2022 and serves as waste discharge requirements for the discharge of fill material attributable to the Project. Order No. R9-2022-0030 authorizes unavoidable direct adverse impacts to an isolated ephemeral streambed water of the State attributed to the Project and requires the Discharger to implement compensatory mitigation sufficient to offset the permitted Project impacts.

Purpose of this Order

3. This Order makes a minor modification to Order No. R9-2022-0030 to correct a non-substantive typographical error in section VI.C.2, Compensatory Mitigation for Permanent Impacts, in which the amount of mitigation credit to be purchased is incorrectly stated as 0.12 acres. This Order revises section VI.C.2 of Order No. R9-2022-0030 to provide that the amount of mitigation credit to be purchased is 0.08 acres, consistent with Table 5 of Order No. R9-2022-0030.

Legal Authorities

4. The Discharger has reviewed and consented to the typographical correction to Order No. R9-2022-0030 proposed by this Order. The proposed correction is considered a minor modification of Order No. R9-2022-0030.
5. Order No. R9-2022-0030 is not being reopened for any other purpose than the revision contained herein. Except as contradicted or superseded by the findings and directives set forth in this Order, all the previous findings and directives of Order No. R9-2022-0030 shall remain in full force and effect.

California Environmental Quality Act

6. The San Diego Water Board, as a responsible agency under the California Environmental Quality Act (CEQA), previously found that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects that are within the San Diego Water Board's purview, as identified in the Final Environmental Impact Report prepared by the Lead Agency, the City of San Diego. This Order makes a minor modification to correct a non-substantive typographical error in Order No. R9-2022-0030, modifying the amount of mitigation credits to be purchased from 0.12 acres to 0.08 acres. This modification provides consistency and clarity within Order No. R9-2022-0030.

Adoption of Order No. R9-2022-0164 is not subject to CEQA because it is not a "project" under CEQA which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (Pub. Resources Code, §§ 21065, 21080; Cal. Code Regs., tit. 14, §§ 15060, 15378; tit. 23, § 3720, subd. (b).)

Public Participation

7. The San Diego Water Board has notified all known interested parties of its intent to adopt this Order.
8. The San Diego Water Board in a public meeting on November 9, 2022, heard and considered all comments pertaining to the adoption of this Order.
9. Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 *et seq.* The State Water Board must receive the petition by 5:00 p.m., 30 days after the adoption date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: https://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

IT IS HEREBY ORDERED

1. Section VI.C.2. of Order No. R9-2022-0030 is amended as follows. Added text to section VI.C.2 is Order No. R9-2022-0030 is displayed in underline text and deleted text is displayed as strikeout text.

VI.C.2.

“ Prior to the start of construction, the Discharger must provide documentation to the San Diego Water Board verifying the purchase of at least ~~0.12~~ 0.08 acre of credit applicable to establishment/re-establishment, of riverine wetland waters of the U.S. and/or State from the San Luis Rey Mitigation Bank. The use of an alternate mitigation bank to provide required compensatory mitigation must be approved by the San Diego Water Board before the credits are secured and is subject to the following conditions:

- a. The Discharger must identify the USACE approved mitigation bank and submit documentation demonstrating that:
 - i. The permitted Project impacts are located within the service area of the mitigation bank; and
 - ii. The mitigation bank has the appropriate number and resource type of credits available.

If San Diego Water Board approval of the use of the alternate mitigation bank is obtained, the Applicant must provide documentation verifying that the appropriate number and resource type of credits have been secured from the mitigation bank prior to the start of construction.”

*I, David W. Gibson, Executive Officer, do hereby certify that this Order is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on **November 9, 2022.***

David W. Gibson
Executive Officer