

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

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Order No. R9-2021-0177

**WASTE DISCHARGE REQUIREMENTS
FOR
TEMECULA WEST VILLAGE LLC**

**WESTERN BYPASS AND ALTAIR PROJECT
RIVERSIDE COUNTY**

The following Discharger and Project are subject to waste discharge requirements as set forth in this Order:

TABLE 1. DISCHARGER INFORMATION

Discharger	Temecula West Village LLC
Name of Project	Western Bypass and Altair Project
Project Address	West of, and adjacent to, Old Town, within the City of Temecula, Riverside County, CA, west of Interstate 15, south of Rancho California Road.
Project Contact, Title and Phone	Wade Hall, (619) 501-2849
Mailing Address	C/O Ambient Communities 179 Calle Magdalena, Suite 201, Encinitas, CA 92024
Type of Project	Mixed use residential and commercial
CIWQS Party Number	558769
CIWQS Place Number	827364
WDID Number	9000003089

TABLE 2. DISCHARGE LOCATION

Discharge Point	Discharge Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
Refer to Attachment A for a map of all discharge locations	Clean Fill	33.49138	-117.15222	Unnamed tributaries to Murrieta Creek.

TABLE 3. ADMINISTRATIVE INFORMATION

This Order was adopted by the California Regional Water Quality Control Board, San Diego Region on:	December 8, 2021
This Order shall become effective on:	December 8, 2021

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 December 8, 2021.

David W. Gibson
Executive Officer

TABLE OF CONTENTS

I. PROJECT INFORMATION.....	4
II. FINDINGS	4
III. DISCHARGE PROHIBITIONS	10
IV. CONSTRUCTION BEST MANAGEMENT PRACTICES	11
V. POST- CONSTRUCTION BEST MANAGEMENT PRACTICES.....	14
VI. PROJECT IMPACTS AND COMPENSATORY MITIGATION	15
VII. RECEIVING WATER LIMITATIONS.....	19
VIII. MONITORING AND REPORTING REQUIREMENTS	19
IX. PROVISIONS	28
X. NOTIFICATIONS.....	32
ATTACHMENT A: PROJECT SITE MAPS	
ATTACHMENT B: MITIGATION SITE MAPS	
ATTACHMENT C: NON-FEDERAL WATERS OF THE UNITED STATES	
ATTACHMENT D: TREATMENT CONTROL BEST MANAGEMENT PRACTICE PLAN	
ATTACHMENT E: CEQA MITIGATION MONITORING AND REPORTING PROGRAM	

I. PROJECT INFORMATION

Information describing the Western Bypass and Altair Project is summarized in Table 1.

II. FINDINGS

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

A. Report of Waste Discharge.

Temecula West Village LLC submitted a Report of Waste Discharge (ROWD) to construct the Western Bypass and Altair Project (Project), located in Riverside County on July 19, 2016. Additional information to complete the ROWD application was received on August 13, 2018, December 4, 2020, December 11, 2020, February 21, 2021, March 4, 2021, and July 15, 2021. The ROWD was deemed complete on August 11, 2021. The Discharger proposes to discharge fill material to waters of the State associated with construction activity at the Project site.

B. Project Location.

The project is located on Assessor's Parcel Numbers (APN): 922-210-049; 940-310-013, -015, -016, -044, -045, -046, -047, -048; 940-320-001, -002, -003, -004, -005, -006, and -007, west of and adjacent to Old Town, within the City of Temecula, Riverside County, CA, west of Interstate 15, south of Rancho California Road. The Project site occurs within unsectioned lands of Township 8 South, Range 3 West of the U.S. Geological Survey (USGS) 7.5-minute Temecula and Murrieta quadrangle map. Murrieta Creek is located offsite and to the east of the project boundary. Attachment A of this Order provides the location of the Project site.

C. Receiving Waters.

The Project site contains approximately 1.434 acres of waters of the State, which includes 0.033 acre of riparian waters of the State, 0.005 acre of wetland waters of the State, and 1.396 acre of streambed (See Drainage Location Map in Attachment A of this Order). The Project area lies within the Murrieta Hydrologic Area (HA), Murrieta Hydrologic Subarea (HSA) (902.32).

D. Overall Project Purpose.

The purpose of the Project is to construct a mixed-use development consisting of residential units, a small commercial component in the center of the Project overlooking a central park on axis with Main Street; and the revised alignment completing the Western Bypass Corridor. Different housing types are proposed to meet the needs of a range of age groups and household sizes. The Project is located to take advantage of the shopping, dining, and entertainment venues of Old Town and is designed to encourage a strong pedestrian connection to both Old Town and the planned open space within the development.

Housing types will include detached housing; multi-plex; rowhouse; live/work; multifamily walk-up; multifamily podium; micro-unit; and mixed-use. These building types are assigned to seven neighborhood “villages” which, in turn, are overlaid with one of three proposed residential zones (Residential Zone, Mixed-Use/Residential, or Mixed-Use), in combination with an active open space zone. All residential uses will allow a small amount of accessory commercial use to support the neighborhood. A range of 1,200-1,750 residential units will be constructed.

The Project will realign the Western Bypass farther to the east within the Project boundary to maximize the wildlife corridor to the west and to tie in at Vincent Moraga Avenue. The Western Bypass is a Covered Activity under the Multiple Species Habitat Conservation Plan (MSHCP).

A portion of the South Parcel may be used for placement of excess fill from the Project. These areas will be restored to native sage scrub vegetation following placement of fill. The Project will develop up to 183.3 acres and conserve 88.7 acres. The 88.7 acres of conservation will be given in fee to the Western Riverside County Regional Conservation Authority (RCA) and the RCA will manage these lands consistent with the MSHCP.

The Project also provides for off-site conservation of the 66-acre Omdahl parcel, which includes four drainages that total approximately 1.17 acres feet of streambed waters of the State, and conservation of the 8.97-acre Foley parcel which abuts the west-central boundary of the Altair parcel and includes two drainages of approximately 0.4 acres (See Location Maps, Attachment A). In addition, a Wildlife Community Facilities District (WCFD) will be created that will collect annual fees from homeowners for use in acquiring an additional 100 acres of conservation lands and is expected to include conservation of additional waters of the State.

E. Project Impacts.

This Order authorizes the permanent discharge of fill material to a total of 0.923 acres (14,126 linear feet) of ephemeral streambed surface waters of the State, 0.005 acres (160 linear feet) of wetland surface waters of the State, and 0.023 acres (589 linear feet) of riparian surface waters of the State in the Murrieta HA. No waters of the United States and/or State will receive temporary discharges of fill associated with the Project. The Project as proposed avoids approximately 0.483 acre (4,823 linear feet) or approximately 34% of total on-site waters of the State. Drainages 1, 7.2, 22.1, and wetland 24 (riparian woodland) will be completely avoided.

F. Project Mitigation.

The Discharger reports that compensatory mitigation for the permanent loss of 0.951 acre of jurisdictional waters will be achieved through a combination of wetland establishment, rehabilitation, and enhancement, at a minimum compensation ratio of 4.32:1 (area mitigated:area impacted). At a minimum, compensatory mitigation shall include:

- Establishment of 2.32 acres of alkali meadow and 1.12 acre of riparian scrub;
- Rehabilitation of 0.05 acre of herbaceous wetland and 0.07 acre of tamarisk scrub; and
- Enhancement of 0.08 acre of freshwater marsh and 0.47 acre of southern riparian scrub.

This results in 4.11 acres of wetland mitigation that consists of establishment (3.44 acres), rehabilitation (0.12 acre), and enhancement (0.55 acre).

The compensatory mitigation will be located on 5.66 acres of a 12.1-acre site (Mitigation Site, APN 480-100-061). The Mitigation Site is situated north of Max Gillis Boulevard and west of Winchester Road immediately adjacent to the northeast side of the City of Murrieta, in unincorporated Riverside County, French hydrologic sub-area (HSA 902.33).

The Mitigation Site occurs within a conservation easement recorded specifically for the Project's mitigation. The conservation easement grants Temecula West Village, LLC exclusive use of the land for conservation, with the easement being conveyable to a qualified conservation organization. The 6.38 acres of APN 480-100-061 outside of the conservation easement area is not part of the mitigation site.

In addition, the Project will provide funding of \$100,000 to the Western Riverside County Regional Conservation Authority (RCA) or other entity as approved by the San Diego Water Board to provide for ongoing removal of salt cedar (Tamarisk sp.) and other non-natives over two acres of existing disturbed riparian habitat immediately upstream of the proposed mitigation site currently owned by RCA. Funding will be provided in four \$25,000 annual payments with the first payment occurring prior to initiation of Project impacts.

G. Regulatory Authority and Reason for Action.

By letter dated February 5, 2021, the U.S. Army Corps of Engineers (USACE) determined that the proposed Project activities will not result in the discharge of dredged or fill material to waters of the United States. Therefore, the Project is not subject to USACE jurisdiction under section 404 of the Clean Water Act (CWA) and a section 404 permit and section 401 water quality certification are not required for the Project.

However, surface waters affected by the Project are waters of the State, as defined by section 13050 (e) of the Water Code, which includes any surface or groundwater, including saline waters, within the boundaries of the State. Waters of the State include, but are not limited to: wetlands and ephemeral, intermittent, and perennial stream channels, in all flow conditions, and which may be effluent dominated and seasonally dry. Waste discharges to these waters are subject to State regulation under division 7 of the Water Code (commencing with section 13000). This Order is issued pursuant to Water Code section 13263, and establishes waste discharge requirements for the discharge of fill material, including structural material and/or earthen wastes from Project construction

activities, to waters of the State. The waste discharge requirements of this Order are necessary to adequately address potential and anticipated impacts to waters of the State, and to ensure compliance with applicable water quality control plans and polices.

H. Statement of Basis.

The San Diego Water Board developed the requirements in this Order based on information submitted as part of the ROWD and other available information. This Order establishes requirements for the discharge of wastes pursuant to Division 7 of the California Water Code and Article 4, Title 23 of the California Code of Regulations, and establishes mitigation and monitoring provisions based on best professional judgment. The waste discharge requirements, reporting requirements, and standard provisions in this Order are established in accordance with Division 7 of the California Water Code. The discharge of fill material as regulated by this Order will not cause an exceedance of applicable water quality standards.

I. Water Quality Control Plan.

The San Diego Water Board adopted the Water Quality Control Plan for the San Diego Basin (hereinafter Basin Plan) on September 8, 1994 that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for Murrieta Creek and other receiving waters addressed through the Plan.¹ Subsequent revisions to the Basin Plan have also been adopted by the San Diego Water Board and approved by the State Water Resources Control Board (State Water Board). Beneficial uses applicable to the unnamed tributary of Murrieta Creek specified in the Basin Plan are as follows:

TABLE 4. BASIN PLAN BENEFICIAL USES OF MURRIETA CREEK

Discharge Points	Receiving Water Name	Beneficial Use(s) (check these)
Refer to Attachment A for a location map.	Isolated and ephemeral tributaries to Murrieta Creek.	Municipal and Domestic Supply; Agricultural Supply, Industrial Service Supply; Industrial Process Supply; Contact Water Recreation (Potential); Non-Contact Water Recreation; Warm Freshwater Habitat; Cold Freshwater Habitat, Wildlife Habitat, and Rare, Threatened, or Endangered Species.

This Order specifies waste discharge requirements that are necessary to adequately address effects on, and threats to, applicable water quality standards resulting from discharges attributed to the Project. Through compliance with the waste discharge requirements of this Order, the Project will not cause or contribute to an exceedance of State water quality standards.

¹ The Basin Plan is accessible on-line at:
https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/

J. Right to Safe Drinking Water.

It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. Although the Order is not subject to this policy, as it does not revise, adopt or establish a policy, regulation or grant criterion (see § 106.3, subd. (b)), it nevertheless promotes the policy by requiring discharges to meet maximum contaminant levels for drinking water, which are designed to protect human health and ensure that water is safe for domestic use.

K. Anti-Degradation Policy.

The State Water Resources Control Board established California's anti-degradation policy in State Water Board Resolution No. 68-16 (Policy) which requires that existing quality of waters be maintained unless degradation is justified based on specific findings. Minimal water quality degradation may be allowed under the Policy only if any change in water quality is consistent with the maximum benefit to the people of the State; the degradation will not unreasonably affect present and anticipated beneficial uses; and the degradation will not result in violation of any applicable Water Quality Control Plan. Discharges must meet requirements that will result in the best practicable treatment or control to avoid pollution or a condition of nuisance. Consistent with the Policy, any degradation must provide for the maximum benefit to the people of the State. Construction of the development not only promotes jobs and provides a necessary accommodation to growth in Riverside County, it will also provide a mixed-use residential and assisted living development. This Order contains waste discharge requirements to ensure present and future beneficial uses are maintained or enhanced through compensatory mitigation and monitoring requirements for authorized impacts to waters of the State. The waste discharge requirements employ best practicable treatment and control of any 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.

L. No Net Loss Policy.

In 1993, the Governor of California issued the California Wetlands Conservation Policy (Executive Order W-59-93). Commonly referred to as the "No Net Loss Policy" for wetlands, the Executive Order requires state agencies to "ensure no overall net loss [of wetlands] and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship and respect for private property." This Order meets the objectives of Executive Order W-59-93 by requiring that the Project first avoid and then minimize adverse impacts on aquatic resources to the maximum extent practical. Any remaining unavoidable adverse impacts on aquatic resources are offset by compensatory mitigation requirements which protect and restores the abundance, types and conditions of aquatic resources and supports their beneficial uses.

M. California Environmental Quality Act.

The City of Temecula is the lead agency (Lead Agency) under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)). The Lead Agency certified a Final Environmental Impact Report (FEIR) for the Western Bypass and Altair Project, under CEQA Guidelines Title 14, California Code of Regulations. The Lead Agency determined this mixed-use residential and commercial Project, without mitigation, would have a significant effect on the environment. Therefore, the Final FEIR incorporates mitigation measures that mitigate many of the Project's effects on the environment to less than significant. For those impacts that the Lead Agency determined to be unavoidable impacts where mitigation was infeasible, the Lead Agency adopted a Statement of Overriding Considerations finding that the specific benefits of the project outweighed the unavoidable adverse impacts.

The San Diego Water Board is a responsible agency under CEQA for the purposes of issuing this Order. As a Responsible Agency, the San Diego Water Board is "responsible for considering only the effects of those activities involved in a project which it is required by law to carry out or approve." Pub. Resources Code, section 21002.1(d). The San Diego Water Board has reviewed and considered impacts to water quality in the Lead Agency's FEIR and Statement of Overriding Considerations. The San Diego Water Board concludes that without mitigation, the Project as proposed may have a significant effect on resources within the San Diego Water Board's purview. Pursuant to CEQA Guidelines section 15091 subdivision (a) (1), the San Diego Water Board finds 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 FEIR.

This Order requires implementation of mitigation measures that will reduce effects on the environment that are within the San Diego Water Board's jurisdiction to less than significant. This Order requires the Discharger to comply with a monitoring and reporting program that will ensure that the mitigation measures are implemented.

The San Diego Water Board finds that compliance with the conditions in this Order will reduce impacts to water quality to less than significant because implementation of BMPs, compensatory mitigation, and monitoring requirements will ensure that the Project is in compliance with applicable water quality objectives. The San Diego Water Board also finds that none of the significant unavoidable environmental impacts addressed in the FEIR that led to the Lead Agency's adoption of the Statement of Overriding Considerations are within the areas of responsibility of the San Diego Water Board.

The San Diego Water Board will file a Notice of Determination in accordance with CEQA Guidelines section 15096 subdivision (i).

N. Executive Officer Delegation of Authority.

The San Diego Water Board by prior resolution has delegated all matters that may legally be delegated to its Executive Officer to act on its behalf pursuant to Water Code section 13223. Therefore, the Executive Officer is authorized to act on the San Diego Water Board's behalf on any matter within this Order unless such delegation is unlawful under Water Code section 13223 or this Order explicitly states otherwise.

O. Public Notice.

In accordance with the requirements of Water Code section 13167.5, the San Diego Water Board has notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. The San Diego Water Board provided written responses to all timely received public comments on the Order. The San Diego Water Board has also provided an opportunity for the Discharger and interested agencies and persons to submit oral comments and recommendations at a public hearing.

P. Public Hearing.

The San Diego Water Board, in a public meeting, heard and considered all comments pertaining to the discharge and the Order.

THEREFORE, IT IS HEREBY ORDERED that, in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, the Discharger shall comply with the requirements in this Order.

III. DISCHARGE PROHIBITIONS

A. Project Conformance with Application.

The discharge of waste, in a manner or location other than as described in the Report of Waste Discharge or findings of this Order, and for which valid waste discharge requirements are not in force is prohibited.

B. Waste Management.

Unless authorized by this Order, 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.

C. Waste Management.

The treatment, storage, or disposal of waste in a manner causing, or threatening to cause or create a condition of pollution, contamination or nuisance, as defined by Water Code section 13050, is prohibited.

D. Waste Management.

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

E. Basin Plan Prohibitions.

The Discharger must comply with all applicable Discharge Prohibitions contained in Chapter 4 of the Basin Plan. All such prohibitions are incorporated by this reference into this Order.

IV. CONSTRUCTION BEST MANAGEMENT PRACTICES

A. Approvals to Commence Construction.

The Discharger shall not commence Project construction until all necessary federal, State, and local approvals are obtained.

B. Personnel Education.

Prior to the start of the Project, and annually thereafter until construction is completed, the Discharger must educate all personnel on the requirements in this Order, including pollution prevention measures, spill response, and BMPs implementation and maintenance.

C. Spill Containment Materials.

The Discharger must, at all times, maintain appropriate types and sufficient quantities of materials on-site 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 United States and/or State.

D. General Construction Storm Water Permit.

Prior to start of Project construction, the Discharger must, as applicable, obtain coverage under, and comply with, the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity, (General Construction Storm Water Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Storm Water Permit, the Discharger must develop and implement a runoff management plan (or equivalent construction BMP plan) to prevent the discharge of sediment and other pollutants during construction activities

E. Waste Management.

The Discharger must properly manage, store, treat, and dispose of wastes in accordance with applicable federal, State, and local laws and regulations. Waste management shall be implemented to avoid or minimize exposure of wastes to precipitation or storm water runoff.

F. Downstream Erosion.

Discharges of concentrated flow during construction or after completion of the Project must not cause downstream erosion or damage to properties or stream habitat.

G. Construction Equipment.

All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. All equipment components used in direct contact with surface water shall be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment.

H. Process Water.

Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or State or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each workday or sooner if rain is predicted.

I. Surface Water Diversion.

All surface waters, including ponded waters, must be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving waters. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.

J. Cofferdams or Water Barriers.

Cofferdams and water barrier construction shall be adequate to prevent seepage into or from the work area. Cofferdams or water barriers shall not be made of earth or other substances subject to erosion or that contain pollutants. When dewatering is necessary to create a temporary dry construction area, the water shall be pumped through a sediment-settling device before it is returned to the water body. The enclosure and the supportive material shall be removed when the work is completed, and removal shall proceed from downstream to upstream.

K. Re-vegetation and Stabilization.

All areas that will be left in a rough graded state must be stabilized no later than two weeks after completion of grading. The Discharger is responsible for implementing and maintaining BMPs to prevent erosion of rough graded areas. Hydroseed areas must be revegetated with native species appropriate for the area. The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at <http://www.cal-ipc.org/ip/inventory/>. Follow-up seed applications must be made as needed to cover bare spots and to maintain adequate soil protection.

L. Hazardous Materials.

Except as authorized by this Order, substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.

M. Vegetation Removal.

Removal of vegetation must occur by hand, mechanically, or using United States Environmental Protection Agency (USEPA) approved herbicides deployed using applicable BMPs to prevent impacts to beneficial uses of waters of the State. Use of aquatic pesticides must be done in accordance with State Water Resources Control Board Water Quality Order No. 2013-0002-DWQ, General Permit No. CAG990005, *Statewide General National Pollutant Discharge Elimination System (NPDES) Permit For Residual Aquatic Pesticide Discharges to Waters Of The United States From Algae and Aquatic Weed Control Applications*, and any subsequent revisions or reissuance thereto.

N. Limits of Disturbance.

The Discharger shall clearly define the limits of Project disturbance to waters of the State using highly visible markers such as flag markers, construction fencing, or silt barriers prior to commencement of Project construction activities within those areas.

O. Beneficial Use Protection.

The Discharger must take all necessary measures to protect the beneficial uses of waters of Murrieta Creek and its unnamed tributaries. This Order requires compliance with all applicable requirements of the Basin Plan. If at any time, an unauthorized discharge to waters of the State occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities shall cease immediately, and the San Diego Water Board shall be notified in accordance with Reporting Requirement VIII.C of this Order. Associated Project activities may not resume without approval from the San Diego Water Board.

V. POST- CONSTRUCTION BEST MANAGEMENT PRACTICES

A. Post-Construction Discharges.

The Discharger shall not allow post-construction discharges from the Project site to cause or contribute to on-site or off-site erosion or damage to properties or stream habitats.

B. Storm Drain Inlets.

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

C. Post-Construction BMP Design.

The Project must be designed to comply with the most current Standard Storm Water Mitigation and Hydromodification Plans for the City of Temecula.

D. Post-Construction BMP Design.

Bridges, culverts, dip crossings, or other stream crossing structures shall be designed and installed so they will not cause scouring of the stream bed and erosion of the banks. Storm drain lines/culverts and other stream crossing structures shall be designed and maintained to accommodate at least a 100-year, 24-hour storm event, including associated bedload and debris with a similar average velocity as upstream and downstream sections. Bottoms of temporary culverts shall be placed at stream channel grade and bottoms of permanent culverts shall be open bottom or embedded and backfilled below the grade of the stream greater than or equal to a depth of 1 foot.

E. Post-Construction BMP Implementation.

The Project adds approximately 19.40 acres of impervious surface for streets and sidewalks. Future development of the Project will determine the remaining impervious surface areas. The Discharger must install and implement the post construction BMPs for the Project described in the *Preliminary Water Quality Management Plan: Project Title: Altair Specific Plan*, dated May 9, 2015, and any subsequent revisions thereto. Post-construction BMPs must be installed and functional within 30 days of Project completion.

F. Post-Construction BMP Maintenance.

All post-construction structural treatment BMPs, including, but not limited to, vegetated swales and media filters, must be regularly inspected and maintained in perpetuity per manufacturers' specifications for proprietary structural devices, and at frequencies no less than those recommended by the California Storm Water Quality Association (CASQA)² guidance, or equivalent if approved by the San Diego Water Board, for non-proprietary measures. At a minimum, the Discharger must comply with the following:

² California Storm Water Quality Association (*California Storm Water BMP Handbook, New Development and Redevelopment 2003*), available on-line at:

1. Final maintenance plans for the vegetated swales must be developed and implemented based on CASQA guidance (or equivalently effective practices).
2. Flow-based treatment BMPs (e.g., media filters and vegetated swales) must be inspected at a minimum monthly from October through April and at least twice from May through September each year.
3. Retention basins must be maintained as necessary to prevent nuisance conditions, including those associated with odors, trash, and disease vectors. Such maintenance shall not compromise the ability of the basins to perform water quality treatment required by this Order.
4. Records must 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.

VI. PROJECT IMPACTS AND COMPENSATORY MITIGATION

A. Project Impact Avoidance and Minimization.

The Project must avoid and minimize adverse impacts to waters of the State to the maximum extent practicable.

B. Project Impacts and Compensatory Mitigation.

Unavoidable Project impacts to the unnamed tributaries to Murrieta Creek must not exceed the type and magnitude of impacts described in the table below. At a minimum, compensatory mitigation required to offset unavoidable permanent Project impacts to waters of the State must be achieved as described in the table below:

Permanent Impacts	Impacts (acres)	Impacts (linear ft.)	Mitigation for Impacts (acres)	Mitigation Ratio (area mitigated :area impacted)	Mitigation for Impacts (linear ft.)
Stream Channel	0.923	14,126	3.44 Establishment ¹	4.32:1 ⁴	2,586
Wetland	0.005	160	0.12 Rehabilitation ²		170
Riparian	0.023	589	0.55 Enhancement ³		121

1. Wetland establishment consisting of 2.32 acres of alkali meadow and 1.12 acre of riparian scrub located north of Max Gillis Boulevard and west of Winchester Road immediately adjacent to the northeast side of the City of Murrieta (Mitigation Site).
2. Rehabilitation of 0.05 acre of herbaceous wetland and 0.07 acre of tamarisk scrub at the Mitigation Site.

<https://www.casqa.org/resources/bmp-handbooks/new-development-redevelopment-bmp-handbook> [Accessed September 2020]

3. Enhancement of 0.08 acre of freshwater marsh and 0.47 acre of southern riparian scrub at the Mitigation Site.
4. The project will also provide funding of \$100,000 to the Western Riverside County Regional Conservation Authority (RCA) or other entity as approved by the San Diego Water Board to provide for ongoing removal of salt cedar (Tamarisk sp.) and other non-natives over two acres of existing disturbed riparian habitat immediately upstream of the proposed mitigation site currently owned by RCA. Funding will be provided in four \$25,000 annual payments with the first payment occurring prior to initiation of project impacts.

Temporary Impacts ¹	Impacts (acres)	Impacts (linear ft.)	Mitigation for Impacts (acres)	Mitigation for Impacts (linear ft.)
NA	NA	NA	NA	NA

1. No waters of the United States and/or State shall receive temporary discharges of fill associated with the Project.

C. Compensatory Mitigation for Permanent Impacts.

The Discharger shall provide compensatory mitigation for impacts to waters of the State attributable to the Project in accordance with the Altair Project Habitat Mitigation and Monitoring Plan dated February 2021 and incorporated herein by reference. Any deviations from, or revisions to the Report of Waste Discharge must be pre-approved by the San Diego Water Board. The terms and conditions of this Order shall supersede conflicting provisions within the Report of Waste Discharge.

D. Compensatory Mitigation Plan Implementation.

The Discharger must fully and completely implement the Mitigation Plan; any deviations from, or revisions to, the Mitigation Plan must be pre-approved by the San Diego Water Board.

E. Performance Standards.

Compensatory mitigation required under this Order shall be considered achieved once it has met the ecological success performance standards contained in the Mitigation Plan (Section 9.0, page 22) to the satisfaction of the San Diego Water Board.

F. Compensatory Mitigation Site Design.

The compensatory mitigation site(s) shall be designed to be self-sustaining once performance standards have been achieved. This includes minimization of active engineering features (e.g., pumps) and appropriate siting to ensure that natural hydrology and landscape context support long-term sustainability in conformance with the following conditions:

1. Most of the channels through the mitigation sites shall be characterized by equilibrium conditions, with no evidence of severe aggradation or degradation;

2. As viewed along cross-sections, the channel and buffer area(s) shall have a variety of slopes, or elevations, that are characterized by different moisture gradients. Each sub-slope shall contain physical patch types or features that contribute to irregularity in height, edges, or surface and to complex topography overall; and
3. The mitigation sites shall have a well-developed plant community characterized by a high degree of horizontal and vertical interspersion among plant zones and layers.

G. Temporary Project Impact Areas.

The Discharger must restore all areas of temporary disturbance which could result in a discharge or a threatened discharge of pollutants to waters of the United States and/or State. Restoration must include grading of disturbed areas to pre-project contours and re-vegetation with native species. The Discharger must implement all necessary BMPs to control erosion and runoff from areas associated with the Project.

H. Long-Term Management and Maintenance.

The compensatory mitigation site(s) must be managed, protected, and maintained, in perpetuity, in conformance with the long-term management plan and the final ecological success performance standards identified in the Mitigation Plan. The aquatic habitats, riparian areas, buffers and uplands that comprise the mitigation site(s) must be protected in perpetuity from land-use and maintenance activities that may threaten water quality or beneficial uses within the mitigation area(s) in a manner consistent with the following requirements:

1. Any maintenance activities on the mitigation site(s) that do not contribute to the success of the mitigation site(s) and enhancement of beneficial uses and ecological functions and services are prohibited;
2. Maintenance activities must be limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species, and remedial measures deemed necessary for the success of the compensatory mitigation project;
3. The Mitigation site(s) must be maintained, in perpetuity, free of perennial exotic plant species including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the mitigation site(s);
4. If at any time a catastrophic natural event (e.g., fire, flood) causes damage(s) to the mitigation site(s) or other deficiencies in the compensatory mitigation project, the Discharger must take prompt and appropriate action to assess, respond to, and ensure repair of the damage(s) including replanting, allowing natural revegetation, and addressing any other deficiencies in the affected

area(s). The San Diego Water Board may require additional monitoring by the Discharger to assess how the compensatory mitigation site(s) or project is responding to a catastrophic natural event; and

5. If changes in statute, regulation, or agency needs or mission results in an incompatible use on public lands originally set aside for the Project, the Discharge shall be responsible for providing alternative compensatory mitigation that is acceptable to the San Diego Water Board for any loss in functions resulting from the incompatible use.

I. Timing of Mitigation Site Construction.

The construction of proposed mitigation must be concurrent with project grading and completed no later than 9 months following the start of Project construction. Delays in implementing mitigation must be compensated for by an increased mitigation implementation of 10% of the cumulative compensatory mitigation for each month of delay.

J. Mitigation Site(s) Preservation Mechanism.

Within 90 days from the issuance of this Order, the Discharger must provide the San Diego Water Board with a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that provides long-term protection through real estate instruments or other available mechanisms, as appropriate in perpetuity for aquatic habitats, riparian areas, buffers, and uplands that comprise the overall mitigation site(s).. **Within 5 years of the start of Project construction**, the Discharger must submit proof of a completed final preservation mechanism in conformance with following requirements:

1. Long-term protection may be provided through real estate instruments such as conservation easements held by federal, state, or local resource agencies; the transfer of title to such entities; or by restrictive covenants. For government property, long-term protection may be provided through state or federal facility management plans or integrated natural resources management plans.
2. The real estate instrument, management plan, or other mechanism providing long-term protection of the mitigation site(s) must, to the extent appropriate and practicable, prohibit incompatible uses that might otherwise jeopardize the objectives of the mitigation. The conservation easement, deed restriction, or other legal limitation on the mitigation properties must be adequate to demonstrate that the mitigation site(s) will be maintained without future development or encroachment on the sites which could otherwise reduce the functions and values of the sites for the variety of beneficial uses of waters of the United States and/ or State that it supports. Where appropriate, multiple instruments recognizing compatible uses (e.g., fishing or grazing rights) may be used. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the sites. The preservation

mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.

3. The real estate instrument, management plan, or other long-term protection mechanism must contain a provision requiring 60-day advance notification to the San Diego Water Board before any action is taken to void or modify the instrument, management plan, or long-term protection mechanism, including transfer of title to, or establishment of any other legal claims over, the mitigation site(s).

VII. RECEIVING WATER LIMITATIONS

A. Receiving Water Limitations.

The receiving water limitations set forth below for Murrieta Creek and its unnamed tributaries are based on applicable water quality standards contained in the Basin Plan and applicable federal regulations and are a required part of this Order. Project activities shall not cause or contribute to violation of these receiving water limitations.

1. **Water Quality Objectives.** Water Quality Objectives applicable to Murrieta Creek and its unnamed tributaries are established in Chapter 3 of the San Diego Water Board's Water Quality Control Plan for the San Diego Basin (Basin Plan) and shall not be exceeded.
2. **Priority Pollutant Criteria.** Priority pollutant criteria applicable to the Murrieta Creek and its unnamed tributaries are promulgated by the USEPA through the a) National Toxics Rule (NTR) (40 CFR 131.36 promulgated on December 22, 1992 and amended on May 4, 1995) and b) California Toxics Rule (CTR) (40 CFR 131.38, (65 Fed. Register 31682-31719), adding Section 131.38 to Title 40 of the Code of Federal Regulations, on May 18, 2000), and shall not be exceeded.

VIII. MONITORING AND REPORTING REQUIREMENTS

A. Representative Monitoring.

Any samples and measurements taken for the purpose of monitoring under this Order shall be representative of the monitored activity.

B. Monitoring Reports.

Any monitoring results shall be reported to the San Diego Water Board at the intervals specified in section VI of this Order.

C. Monitoring and Reporting Revisions.

The San Diego Water Board may make revisions to any monitoring program(s) at any time during the term of this Order and may reduce or increase the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.

D. Records of Monitoring Information.

Any records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
4. The individual(s) who performed the sampling or measurements;
5. The date(s) analyses were performed;
6. The individual(s) who performed the analyses;
7. The analytical techniques or methods used; and
8. The results of such analyses.

E. Discharge Commencement Notification.

The Discharger must notify the San Diego Water Board in writing at least 5 days prior to the start of initial Project construction ground disturbance activities.

F. Geographic Information System Data.

The Discharger must submit Geographic Information System (GIS) shape files of the Project impact sites within 30 days of the start of project construction and GIS shape files of the Project mitigation sites within 30 days of mitigation installation. All impact and mitigation site shape files must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.

G. California Rapid Assessment Method.

California Rapid Assessment Method (CRAM)³ monitoring must be performed to assess the ecological condition(s) (ecological integrity and function of aquatic resource) of aquatic resources. The Discharger shall conduct a quantitative function-based condition assessment of the aquatic resources (e.g., standard/episodic riverine, depressionnal, and vernal pools, as appropriate) by a trained CRAM practitioner to document the condition of aquatic resources to be impacted and to establish pre-project baseline conditions and assess the mitigation site(s) progress towards and achievement of CRAM success criteria.

³ The most recent versions of the California Rapid Assessment Method (CRAM) Field Books for Episodic Riverine, Depressionnal, and Individual Vernal Pool/Vernal Pool Systems and additional information regarding CRAM can be accessed at <http://www.cramwetlands.org/>

1. **CRAM Monitoring Plan.** Prior to initiating Project construction, the Discharger shall develop and submit a CRAM Monitoring Plan to the San Diego Water Board for review and acceptance. The CRAM Monitoring Plan must identify quantitative performance standards (include CRAM metric goals for all metrics), appropriate reference site(s) location(s), and assessment areas (include a minimum of three pools of individual and/or vernal pool systems, as appropriate).
2. **Monitoring Locations and Frequency.** CRAM monitoring must be performed at the impact and mitigation site(s). For impact site(s), CRAM monitoring must be conducted prior to the start of Project construction authorized under this Order. For mitigation site(s), CRAM monitoring must occur before site construction/activity (baseline) and at years 3 and 5 following construction completion for a period of at least 5 years. If the final CRAM performance standards are not met at the compensatory mitigation site by year 5, CRAM monitoring will continue on an annual basis until performance standards are met.
3. **Data Storage.** All CRAM assessment data shall be uploaded to the CRAM Wetlands website.⁴
4. **Monitoring Reports.** The CRAM monitoring results shall be submitted with the respective Annual Project Progress Reports. Additionally, an evaluation, interpretation, and tabulation of all CRAM assessment data, including impact site data, compensatory mitigation site(s) data, and reference site data, shall be submitted with the Year 5 Annual Project Progress Report, and any subsequent reports following if required. If the aquatic resources at the impact site do not meet the minimum requirements to conduct CRAM, a justification statement must be provided, and a qualitative assessment may be used in place of impact site CRAM monitoring.

H. Benthic Macroinvertebrate Community Analysis.

The Discharger shall conduct bioassessment monitoring, as described in this section, to assess the success of mitigation areas, whenever applicable, using benthic macroinvertebrate community data. Bioassessment shall include: 1) the collection and reporting of benthic macroinvertebrate data; and 2) the collection and reporting of physical habitat data. Bioassessment using benthic macroinvertebrates shall be conducted in wadeable streams during the appropriate index period based on stream type:

⁴ The California Wetlands Monitoring Workgroup maintains EcoAtlas, an interactive publicly available mapping tool that provides wetland condition information. CRAM data can be entered at the following website: <http://www.cramwetlands.org/dataentry>.

Scenario	Typical Sampling Period
Nonperennial stream in a typical year	March 1 through May 1
Nonperennial stream in a dry year	February 15 through April 15
Nonperennial stream in a wet year	April 15 through July 15
Perennial stream in a typical year	May 15 through July 15
Perennial stream in a dry year	April 15 through June 15
Perennial or high-elevation stream in wet year*	June 15 through August 15

* where snow or meltwater is a concern

Wadeable streams shall be defined as streams that can be safely waded in order to be sampled for benthic invertebrates during the appropriate index period and baseflow conditions. If there is uncertainty regarding the appropriate sampling period, please contact the San Diego Water Board.

- 1. Field Methods.** Bioassessment monitoring must be performed using the most recent SWAMP field methods specified in *Standard Operating Procedures for the Collection of Field Data for Bioassessment of California Wadeable Streams: Benthic Macroinvertebrates, Algae, and Physical Habitat, SOP 004, May 2016* (SOP SB-2016-0001, Ode et al. 2016)⁵ or any updates of these methods. The Applicants shall conduct, concurrently with all required benthic macroinvertebrate collections, the "Full" suite of physical habitat characterization measurements as specified in the SOP.
- 2. Laboratory Methods.** Benthic macroinvertebrates shall be identified using the SWAMP laboratory methods specified in *Standard Operating Procedures for Laboratory Processing and Identification of Benthic Macroinvertebrates in California* (Laboratory SOP, Woodard et al. 2012)⁶ or any updates of these methods. Standard Taxonomic Effort (STE) Level II or IIa of the Southwestern Association of Freshwater Invertebrate Taxonomists (SAFIT) is required. Quality control samples are required for 10% of the samples each year and Quality Assurance samples must be analyzed by the Aquatic Bioassessment Laboratory of the California Department of Fish and Wildlife.
- 3. Data Analysis.** Analysis of benthic macroinvertebrate data shall be conducted using scoring tools including but not limited to the *California Stream Condition Index* (CSCI, Mazor et. al., 2017, SWAMP-TM-2015-0004).⁷
- 4. Data Storage.** Benthic macroinvertebrate data and physical habitat data shall be submitted to the California Environmental Data Exchange Network

⁵ The SOP can be found electronically at the following location:

https://www.waterboards.ca.gov/water_issues/programs/swamp/bioassessment/docs/combined_sop_2016.pdf

⁶ The Laboratory SOP can be found electronically at the following location:

https://www.waterboards.ca.gov/water_issues/programs/swamp/docs/bmi_lab_sop_final.pdf

⁷ Instructions for calculating scores for the *California Stream Condition Index* can be found electronically at the following location:

https://www.waterboards.ca.gov/water_issues/programs/swamp/bioassessment/docs/csci_scoring_instruct.pdf

(CEDEN). Benthic macroinvertebrate data and physical habitat data shall be submitted to the California Environmental Data Exchange Network (CEDEN)⁸ within 1 year of sample collection.

5. **Monitoring Sites.** All monitoring sites shall be approved by staff at the San Diego Water Board before sampling is initiated and must meet the following conditions:
 - a. **Mitigation Sites.** At a minimum, bioassessment monitoring for mitigation areas must be performed at three sites (assessment stations) within the unnamed tributary to Murrieta Creek (Mitigation Site) before Project initiation, and then in years three and five following start of Project construction, during the established “index period” for the Santa Margarita watershed. The first assessment station is the reference station, which must be located upstream of the mitigation site(s) in a reference area; the second assessment station must be located within the mitigation site(s); and the third assessment station must be located downstream of the mitigation site(s). The reference station upstream of the mitigation site(s) must be located and sampled concurrently with the second and third assessment stations. Reference stations shall be defined as **stations** that show minimally disturbed conditions.
6. **Monitoring Reports.** An evaluation, interpretation and tabulation of the benthic macroinvertebrate community analysis must be submitted prior to **March 1** with the respective Annual Project Monitoring Report.

I. **Annual Project Progress Reports.**

The Discharger must submit annual Project progress reports describing status of BMP implementation, compensatory mitigation, and compliance with all requirements of this Order to the San Diego Water Board prior to **March 1** of each year following the issuance of this Order, until the Project has reached completion. The Annual Project Progress Reports must contain compensatory mitigation monitoring information sufficient to demonstrate how the compensatory mitigation project is progressing towards accomplishing its objectives and meeting its performance standards. Annual Project Progress Reports must be submitted even if Project construction has not begun. The monitoring period for each Annual Project Progress Report shall be January 1st through December 31st of each year. Annual Project Progress Reports must include, at a minimum, the following:

1. **Project Status and Compliance Reporting.**

The Annual Project Progress Report must include the following Project status and compliance information:

⁸ The California Environmental Data Exchange Network can be found electronically at the following location:
<http://www.ceden.org/>

- a. The names, qualifications, and affiliations of the persons contributing to the report;
- b. The status, progress, and anticipated schedule for completion of Project construction activities including the installation and operational status of best management practices project features for erosion and storm water quality treatment;
- c. A description of Project construction delays encountered or anticipated that may affect the schedule for construction completion; and
- d. A description of each incident of noncompliance during the annual monitoring period and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. Compensatory Mitigation Monitoring Reporting.

Mitigation monitoring information must be submitted as part of the Annual Project Progress Report for a period of not less than five years, sufficient to demonstrate that the compensatory mitigation project has accomplished its objectives and met ecological success performance standards contained in the Mitigation Plan. Following Project implementation, the San Diego Water Board may reduce or waive compensatory mitigation monitoring requirements upon a determination that performance standards have been achieved. Conversely the San Diego Water Board may extend the monitoring period beyond five years upon a determination that the performance standards have not been met or the compensatory mitigation project is not on track to meet them. The Annual Project Progress Report must include the following compensatory mitigation monitoring information:

- a. Names, qualifications, and affiliations of the persons contributing to the report;
- b. An evaluation, interpretation, and tabulation of the parameters being monitored, including the results of the Mitigation Plan monitoring program, and all quantitative and qualitative data collected in the field;
- c. A description of the following mitigation site(s) characteristics:
 - i. Detritus cover;
 - ii. General topographic complexity;
 - iii. General upstream and downstream habitat and hydrologic connectivity; and

iv. Source of hydrology.

- d. Monitoring data interpretations and conclusions as to how the compensatory mitigation project(s) is progressing towards meeting performance standards and whether the performance standards have been met;
- e. A description of the progress toward implementing a plan to manage the compensatory mitigation project after performance standards have been achieved to ensure the long term sustainability of the resource in perpetuity, including a discussion of long term financing mechanisms, the party responsible for long term management, and a timetable for future steps;
- f. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;
- g. Stream photo documentation, including all areas of permanent and temporary impact, prior to and after mitigation site construction. Photo documentation must be conducted in accordance with guidelines posted at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced;
- h. A qualitative comparison to adjacent preserved streambed areas;
- i. The results of the California Rapid Assessment Method (CRAM) monitoring required under section VIII.H of this Order;
- j. The results of the Benthic Macroinvertebrate Community Analysis monitoring required under section VIII.I of this Certification;
- k. As-built drawings of the compensatory mitigation project site(s), no bigger than 11”X17”; and
- l. A survey report documenting boundaries of the compensatory mitigation site(s).

J. Final Project Construction Completion Report.

The Discharger must submit a Final Project Completion Report to the San Diego Water Board **within 30 days of completion of the Project**. The final report must include the following information:

- 1. Date of construction initiation;
- 2. Date of construction completion;

3. BMP installation and operational status for the Project;
4. As-built drawings of the Project, no bigger than 11"X17";
5. Photo documentation of implemented post-construction BMPs and all areas of permanent and temporary impacts, prior to and after project construction. Photo documentation must be conducted in accordance with guidelines posted at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation must include Global Positioning System (GPS) coordinates for each of the photo points referenced; and
6. An evaluation, interpretation, and tabulation of all California Rapid Assessment Method (CRAM) assessment data and benthic macroinvertebrate community assessment data collected throughout the term of Project construction in accordance with section VIII.G and VII.H of this Order.

K. Noncompliance Reports.

The Discharger must report to the San Diego Water Board any noncompliance which may endanger human health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the incident and its cause, the period of the 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 reoccurrence of the noncompliance. The San Diego Water Board may waive the above-required written report under this provision on a case by case basis if an oral report has been received within 24 hours.

L. Hazardous Substance Discharge.

Except as provided in Water Code section 13271(b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the State, shall as soon as (a) that person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the County of San Diego in accordance with California Health and Safety Code section 5411.5 and the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State toxic disaster contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.17), and immediately notify the State Water Board or the San Diego Water Board of the discharge. This provision does not require reporting of any discharge of less than a reportable quantity as provided for under subdivisions (f) and (g) of section 13271 of the Water Code unless the Discharger is in violation of a Basin Plan prohibition.

M. Oil or Petroleum Product Discharge.

Except as provided in Water Code section 13272(b), any person who without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, shall, as soon as (a) such person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State oil spill contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.1). This requirement does not require reporting of any discharge of less than 42 gallons unless the discharge is also required to be reported pursuant to Clean Water Act section 311, or the discharge is in violation of a Basin Plan prohibition.

N. Signatory Requirements.

All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

1. For a corporation, by a responsible corporate officer of at least the level of vice president; or
2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

O. Duly Authorized Representative.

Applications, reports, or information submitted to the San Diego Water Board may be signed by a duly authorized representative of that person described in Reporting Requirement N above if:

1. The authorization is made in writing by a person described above;
2. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity; and
3. The written authorization is submitted to the San Diego Water Board.

If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.

P. Certification.

All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

"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."

Q. Electronic Document Submittal.

The Discharger must submit all reports and information required under this Order in electronic format via e-mail to SanDiego@waterboards.ca.gov. Documents over 50 megabytes will not be accepted via e-mail and must be placed on a disc and delivered to:

California Regional Water Quality Control Board
San Diego Region
Attn: R9-2021-0177: 827364:dbradford
2375 Northside Drive, Suite 100
San Diego, California 92108

Each electronic document must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: R9-2021-0177: 827364:dbradford.

IX. PROVISIONS

A. Duty to Comply.

The Discharger must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the Water Code and is grounds for (a) enforcement action; (b) termination, revocation and reissuance, or modification of this Order; or (c) denial of a report of waste discharge in application for new or revised waste discharge requirements.

B. Duty to Comply.

The Discharger must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the San Diego Water Board) to support this Order and all subsequent submittals required under this Order and as described herein. The conditions within this Order shall supersede conflicting provisions within such plans, specifications, technical reports and other submittals required under this Order.

C. Anticipated Noncompliance.

The Discharger shall give advance notice to the San Diego Water Board of any planned changes in the Project or the compensatory mitigation project which may result in noncompliance with the terms and requirements of this Order.

D. Need to Halt or Reduce Activity Not a Defense.

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.

E. Duty to Mitigate.

The Discharger shall take all reasonable steps to minimize or prevent any discharge in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

F. Property Rights.

This Order does not convey any property rights of any sort or any exclusive privileges. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

G. Inspection and Entry.

The Discharger must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to:

1. Enter upon the Discharger's premises, where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order;
2. Access and copy, at reasonable times, any records that must be kept under the conditions of this Order;
3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this Order; and
4. Sample or monitor, at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the Water Code, any substances or parameters at any location.

H. Retention of Records.

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. Records may be maintained electronically. This period may be extended during the course of any unresolved enforcement action or litigation regarding this discharge or when requested by the San Diego Water Board.

I. Duty to Provide Information.

The Discharger shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Discharger shall also furnish to the San Diego Water Board, upon request, copies of records required to be kept by this Order.

J. Duty to Provide Updated Information.

When the Discharger becomes aware that it 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 San Diego Water Board, it shall promptly submit such facts or information.

K. Reopener Provision.

1. This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following.
2. Violation of any terms or conditions of this Order.
3. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts.
4. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

L. Reopener Provision.

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

M. Reopener Provision.

The San Diego Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Discharger, if the San Diego Water Board determines that the Project fails to comply with any of the terms or requirements of this Order or if the results of the Project have unintended impacts to water quality.

N. Transfers of Responsibility.

This Order is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board in accordance with the following terms:

1. Transfer of Property Ownership. The Discharger must notify the San Diego Water Board of any change in ownership of the Project area. Notification of change in ownership must include, at a minimum, a statement that the Discharger has provided the purchaser with a copy of this Order and that the purchaser understands and accepts the Order requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such

notification to the San Diego Water Board within 10 days of the transfer of ownership.

2. **Transfer of Compensatory Mitigation Responsibility.** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in this Order must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13350. Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board within 10 days of the transfer date.
3. **Transfer of Post Construction BMP Maintenance Responsibility.** The Discharger assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred the Discharger must submit to the San Diego Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Discharger must provide such notification to the San Diego Water Board within 10 days of the transfer of BMP maintenance responsibility.

O. Payment of Fees.

This Order is conditioned upon total payment of any fee required under California Code of Regulations, Title 23 section 2200, and owed by the Discharger.

P. Order Availability.

A copy of this Order, the application, and supporting documentation must be available at the Project site during construction for review by site personnel and agencies. A copy of this Order must also be provided to the contractor and all subcontractors working at the Project site.

Q. Enforcement Authority.

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.

R. Investigation of Violations.

In response to a suspected violation of any condition of this Order, the San Diego Water Board may, pursuant to Water Code section 13267, require the Discharger to investigate, monitor, and report information on the violation. The only restriction is that the burden, including costs of preparing the reports, must bear a reasonable relationship to the need for and the benefits to be obtained from the reports.

X. NOTIFICATIONS

- A. These waste discharge requirements have not been officially reviewed by the United States Environmental Protection Agency and are not issued pursuant to CWA section 402.
- B. 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.
- C. This Order becomes effective on the date of adoption by the San Diego Water Board.
- D. 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 the California Code of Regulations, title 23, sections 2050-2056 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after adoption 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