

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

**EXECUTIVE OFFICER SUMMARY REPORT
March 10, 2021**

ITEM 5

SUBJECT

New Waste Discharge Requirements: Waste Discharge Requirements for Lakeside Investment Co., LP; LICO Two, L.P.; and LICO Three, L.P., Hillside Meadows Development Project, San Diego County (Tentative Order No. R9-2021-0014). (*Lisa Honma*)

STAFF RECOMMENDATION

Adoption of Tentative Order No. R9-2021-0014 (Tentative Order) is recommended.

KEY ISSUE

The Tentative Order (**Supporting Document No. 1**) authorizes the permanent discharge of fill material to a total of 1.06 acres (2,291 linear feet) of ephemeral non-wetland waters of the State of California (State), and 0.34 acre (613 linear feet) of wetland waters of the State as part of the Hillside Meadows Development Project (Project). Compensatory mitigation to offset permitted Project impacts will be achieved through the establishment of 2.28 acres (1,736 linear feet) of wetland waters of the State on an adjacent, off-site parcel known as the Parkside Santee Project site. The mitigation site is located to the south, between the Project site and the San Diego River and will provide a minimum compensation ratio of 1.2:1 (area mitigated to area impacted) for ephemeral non-wetland waters of the State and 3:1 for wetland waters of the State.

PRACTICAL VISION

The Tentative Order implements the San Diego Water Board's Practical Vision entitled *Healthy Waters, Healthy People*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. The compensatory mitigation required in the Tentative Order implements the goals of the Recovery of Stream, Wetlands and Riparian Systems 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 purpose of the Project is to construct a housing development, the Hillside Meadows Development Project (Project), and a compensatory mitigation project, the Hillside Meadows Wetlands Mitigation Site (Mitigation Site). The housing development includes construction of up to 142 single-family residential lots, two industrial lots, a public park, a 20-foot-wide trail easement, and related infrastructure. The Project will mass grade and develop the entire 37-acre Project site. The Mitigation Site includes construction of a 2.99-

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

acre wetland mitigation site on the Parkside Santee Project site located directly to the south, between the Project site and the San Diego River (**Supporting Document No. 2**).

Currently, the Site is vacant with no structures existing on the property and supports ruderal vegetation that became established following many decades of agricultural use. The proposed Project will add approximately 22.4 acres of impervious surfaces. The Project application includes a description of the design objective, operation, and degree of treatment expected to be attained from equipment, facilities, or activities (including construction and post-construction BMPs) to treat waste and reduce runoff or other effluents which may be discharged.

Proposed Discharge Impacts

The Discharger, Lakeside Investment Co., LP; LICO Two, L.P.; and LICO Three, L.P., submitted a Report of Waste Discharge (ROWD) in application for waste discharge requirements (WDRs) to construct the Project, on July 26, 2018. The Discharger proposes to permanently discharge fill material associated with Project construction activities to a total of 1.06 acres (2,291 linear feet) of ephemeral non-wetland waters of the State, and 0.34 acre (613 linear feet) of wetland waters of the State.

Compensatory Mitigation

Compensatory mitigation to offset permitted Project impacts will be achieved through the establishment of 2.28 acres (1,736 linear feet) of wetland waters of the State on an adjacent, off-site parcel known as the Parkside Santee Project site. The mitigation site is located to the south, between this Project site and the San Diego River at a minimum compensation ratio of 1.2:1 (area mitigated to area impacted) for ephemeral non-wetland waters of the State and 3:1 for wetland waters of the State.

Tentative Order

Tentative Order No. R9-2021-0014 will, if adopted, serve as WDRs for the discharge of fill material attributable to the Project to waters of the State, pursuant to Water Code section 13260 et. seq. The Tentative Order allows reasonable use of private property for residential housing, associated infrastructure development, and growth of the economy, while offsetting the adverse Project impacts to waters of the State. The Tentative Order serves to authorize unavoidable direct adverse impacts to ephemeral non-wetland waters of the State and wetland waters of the State, attributed to the Project and requires the Discharger to implement compensatory mitigation sufficient to offset the permitted unavoidable 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 U.S. Army Corp of Engineers 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 the Project discharges under WDRs and Board action is required to adopt the Tentative Order.

The Tentative Order was released for public review and comment pursuant to Water Code section 13167.5 on January 15, 2021, for a period of 30 days (**Supporting Document No. 3**). The deadline for submission of written comments on the Tentative Order was February 16, 2021. The San Diego Water Board received a timely comment letter, dated February, 12, 2021, from Tricia Wotipka of Dudek, on behalf of the Discharger, requesting minor changes to the Tentative Order pertaining to (1) the stated name of the Discharger, (2) incorporation of a minor footnote to state that no federal jurisdictional waters exist on the property, (3) confirmation of the reference to the date of the ROWD in section V.C of the Tentative Order, (4) specifying the use of a GPS survey to document boundaries of the compensatory mitigation project, and (5) modification of the Duty to Provide Information provision in section VIII of the Tentative Order to require submittal of relevant information as requested by San Diego Water Board. The Tentative Order was revised to address these comments except for the following:

1. **Reference Date of ROWD.** The July 26, 2018 date cited in section V.C of the Tentative Order does not require correction. The reference to the ROWD includes supplemental application documents, such as the final Revegetation Plan, submitted over the course of the ROWD review, and
2. **Duty to Provide Information.** Section VIII.I of the Tentative Order requires the Discharger to furnish, within a reasonable time, any information that the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the Order. Modification of section VIII.I to stipulate that the requested information must be relevant is not necessary. In requiring submittal of such information, the San Diego Water Board will provide the Discharger with a written explanation regarding the need for the information and the evidence that supports requiring the Discharger to provide the information.

The Tentative Order displays the changes made in red underline for added text and ~~red-strikeout~~ for deleted text.

PUBLIC NOTICE

On January 15, 2021, 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 to the Discharger and other interested parties via e-mail. The public hearing notice, written comment period and Tentative Order were also posted on the San Diego Water Board website on January 15, 2021, for a period of 30 days for public review and comment. Notice was also provided in the Meeting Notice and Agenda for the March 10, 2021 Board meeting and posted on the San Diego Water Board's website.

SUPPORTING DOCUMENTS

1. Revised Tentative Order No. R9-2021-0014
2. Project Site/Location Maps
3. Public Notice issued January 15, 2021