Heal the Bay

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April 10, 2012

Mr. Samuel Unger
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Re: Tentative Clean Water Act section 401 Water Quality Certification and Waste Discharge Requirements (WDR) for Newhall Land & Farming Company, Santa Clarita, Los Angeles County (File No. 11-168)

Dear Mr. Unger:

On behalf of Heal the Bay, we appreciate the opportunity to provide comments on the *Tentative Clean Water Act section 401 Water Quality Certification and Waste Discharge Requirements (WDR) for Newhall Land & Farming Company, Santa Clarita, Los Angeles County (File No. 11-168)* ("WDRs").

The Santa Clara River ("River") is the largest free-flowing river remaining in southern California. It provides crucial aquatic ecosystem functions in the region, including groundwater recharge and habitat for endangered and rare riparian species. The River is an important migration and genetic dispersion corridor for many wildlife species, including aquatic taxa, riparian obligate species (resident and migratory), and larger terrestrial animals. In addition, there are numerous animal communities that inhabit the riparian corridor including the Lawrence's goldfinch, Northern harrier, Arroyo toad, Western spadefoot toad, and San Bernardino ringneck snake. It is home to over 117 threatened, endangered or sensitive plant and wildlife species or communities. Of these, 18 are federally listed, two are candidates for listing and 14 are state-listed. The River is also a significant input to southern California's coastal waters at the City of San Buenaventura. In 2005, the Santa Clara River was named the "10th Most Endangered River" in the Country by the American Rivers organization in part because of the imminent threat of development.

Slated to impact thousands of acres of natural open space along the Santa Clara River, the Newhall Ranch Development Project ("Project") is a 14,000-acre site that abuts one of the

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most pristine reaches of the Santa Clara River. The proposed Newhall Project severely threatens the water quality and biological integrity of this watershed. Specifically, the Project proponent proposes to remove the tops of the mountains/hills and use the sediment to create building pads for approximately 19,517 residential units and 5.45 million square feet of commercial area (WDRs Page 15). As mentioned in the WDRs and Attachment 1, the result would be to permanently fill 47.9 acres of waters of the U.S. Approximately 9 linear miles (47,195 linear feet) of tributary would be buried and converted into underground storm drain. Another 35.3 acres of waters of the U.S. (11.4 of which are wetlands) would be "temporarily" impacted. The hardening of numerous miles of the Santa Clara proposed by the Project, along with the runoff generated by new impervious areas, will devastate macroinvertebrate populations within the River and its tributaries, while causing scour and other impacts downstream. In addition, as mentioned in the WDRs, the Project requires the removal and recompaction of approximately 4.2 million cubic yards of soil material, and up to 5.8 million cubic yards of soil import from the Adobe Canyon borrow site (Page 17). This is an enormous amount of cut and fill. Numerous riparian plant communities would be destroyed as a result of these activities.

Given the sensitivity of this area and the large impact of the Project on water quality and biological resources, we oppose the issuance of 401 Certification and WDRs unless much stronger requirements are placed on the Project to drastically reduce the negative impacts. Our over-arching concern with this project is that it impinges upon the natural functioning of the River to such an extent that significant, immitigable damage will be done to water quality and sensitive habitat. Unless drastically modified, this Project will cause or contribute to violations of water quality standards and impact beneficial uses, as summarized below and explained in more detail throughout the letter.

Specifically, we ask the Regional Board to consider the following concerns:

- There is an insufficient buffer zone (undeveloped vegetated area) provided between developed areas and the River. Significant development occurs within the 100-year floodplain of the River.

- The Project proposes extensive areas of stream bank alteration, in the form of hardened structures for stabilization, including buried bank stabilization, which is known to increase erosion/sedimentation problems and decrease aquatic and riparian habitat. Instead, hardened structures should be minimized and bioengineering solutions should be employed.

- The Project includes an enormous increase in impervious area, which translates into higher peak discharge rates, greater runoff volumes, and higher floodplain elevations, and impacts to macroinvertebrate communities and other sensitive aquatic organisms. This could have major impacts on downstream ecosystems and species located downstream such as steelhead and the red-legged frog. The Project should be required to comply with more stringent stormwater and LID requirements than are currently required.

- The Project fills large areas of stream and wetland habitat with inadequate mitigation. The 401 Certification should include a 4:1 ratio for wetlands or 3:1 mitigation ratio for other riparian habitats. At a minimum, no mitigation ratio (even for temporary impacts) should be less than 2:1.

The excessive stream hardening and hydromodification proposed in this Project will jeopardize the designated beneficial uses of the River.

The proposed Newhall project would cause significant adverse impacts to the main-stem of the Santa Clara River and its floodplain by creating excessive hardening of the stream. The Newhall Ranch Development alternative, identified by the Army Corps of Engineers' (Corps) as the Final "Least Environmentally Damaging Project Alternative" (LEDPA), entails installing 26,851 linear feet (five miles) of buried bank stabilization along the Santa Clara River (WDRs Page 14, Attachment 3 Table 1 Page 6) and 67,537 linear feet (nearly 13 miles) of bank stabilization in tributary drainages to the Santa Clara River outside of waters of the United States (WDRs page 15).

The Final Project EIR estimates that the Project will result in a 2,054 acre-feet per year increase in runoff, which equates to 1.83 million gallons per day ("MGD"), despite proposed mitigation measures (RMDP-SCP Final EIS/EIR at 4.4-88). This is a large volume of excess runoff; even small increases in flow can result in massive erosion problems over time. In order to "mitigate" the impacts of these flows, the Project includes buried soil cement bank stabilization, bridge piers and abutments, armored bank lining flood protection, and energy dissipaters (WDRs Page 23). We do not see these measures as true mitigation, as these structures or modifications will affect the hydrology of the stream even if only in localized areas. Anytime natural processes are altered, there are substantial downstream impacts. The long-term effects of stream bank/bed modifications include increased scouring, increased erosion, and increased downstream deposition of eroded material, which degrades downstream habitat. As a result, native vegetation is often washed out, eliminating the ability to remove pollutants. Also, eroding stream banks contribute fine

sediment to streams. Fine sediments contribute nutrients, bacteria, and bury important spawning habitat for steelhead trout. We have witnessed firsthand the impacts of stream hardening in the Malibu Creek Watershed. Heal the Bay's Stream Team mapped 70 miles of stream in Malibu Creek Watershed between 2001 and 2003. The Stream Team found that 19.8 (28%) linear stream miles of armoring resulted in 18.7 (27%) linear miles of eroding stream banks.

Furthermore, approval of these WDRs for the Project as proposed would be in direct conflict with the Regional Board's Resolution No. 2005-002: *Reiteration of Existing Authority to regulate Hydromodifications within the Los Angeles Region, and Intent to Evaluate the Need for and develop as Appropriate New Policy or Other Tools to Control Adverse Impacts from Hydromodification on the Water Quality and beneficial Uses of Water Courses in the Los Angeles Region* ("Hydromodification Resolution"), adopted January 27, 2005. As mentioned in Resolution 2005-002 "[w]hen reviewing hydromodification projects, it is important to carefully consider whether the immediate improvements sought are designed in such a way as to avoid unintended adverse consequence on the character of the receiving water and its beneficial uses in the vicinity, and downstream of the hydromodification." It is clear by the amount of unnecessary stream hardening to the Santa Clara River and its tributaries that this consideration was not adequately given to the Project.

According to the Hydromodification Resolution, "The Regional Board strongly discourages direct hydromodification of water courses except in limited circumstances where avoidance or other natural alternatives are not feasible. In these limited circumstances, project proponents must clearly demonstrate that a range of alternatives, including avoidance of impacts, has been thoroughly considered, hydromodification has been minimized to the extent practicable, and adequate in situ and/or off site mitigation measures have been incorporated to offset related impacts. Project proponents must also document that there will be no adverse impacts to water quality or beneficial uses." Was this demonstration made by the Project proponent? If so, we would like to see this documentation. If not, this detailed analysis must be completed and evaluated by Regional Board staff.

There are many measures that can be taken to avoid increased erosion/deposition impacts that are consistent with the Regional Board's Resolution, such as (1) keeping all structures and utilities outside the 100-year floodplain or the 500 foot riparian buffer of the River (whichever is greater) and (2) using only soft bioengineering techniques to stabilize stream banks—in other words, no armoring of stream banks. Bioengineering is preferable because

it allows the River to maintain a natural dynamic balance. This approach also requires less maintenance over time, as there are no concrete or other hard structures to eventually fail and be replaced. Bioengineering also provides natural riparian habitat that maintains water quality and wildlife habitat. We recommend a combination of a setback, as stated above combined with a soft bioengineered approach (featuring biodegradable filter fabric planted with vegetation) with engineered techniques that bury rip-rap up to the toe of the bank as the best alternative to stabilize the bank while protecting critical endangered species' habitat on and contiguous to the site. This method would conserve in-stream sandy bottom habitat as well as riparian vegetation on the stream bank.

A minimum 500-foot riparian buffer should be required for all development activities.

In order to protect the federally listed aquatic species that may be present at the Project site or downstream, a minimum 500 foot buffer, as measured from the outside edge of the riparian canopy, or a restriction to not build in the floodplain (whichever is greater), should be required for this project due to its size and the nature of the River. This sizable buffer is necessary for many reasons, including that a number of studies have found that the more riparian-dependent wildlife species also require adjacent upland habitat. For instance, Arroyo toads have been found in agricultural fields and occur within portions of the site outside of the proposed riparian setback zones. In general, the purpose of the buffer is to protect the riparian areas from filling, devegetation, and encroachment by human development. In addition to the environmental benefits of including buffer zones, there are economic benefits to the project. For instance, sufficient buffer zones protect developed property from flooding, add hedonic value to those parcels located adjacent to buffers, and have lower costs associated with operation and maintenance. Grading, development, and BMPs should not be allowed in the buffer.

The Project inappropriately places a portion of the development in the floodplain.

Components of the Newhall Ranch Development impinge upon the 100-year floodplain of the River. The Project's floodplain impact analysis performed by the Army Corps of Engineers (within the Final EIS/EIR) focuses on managing flooding impacts by providing levees around the proposed development and by elevating homes above the base flood level with soil taken from leveled hilltops redistributed into the floodplain. Placing structures within the floodplain constitutes a significant modification to the River that would constrict high flows into the narrow path, thereby increasing flow speed, scour,

energy head, sheer stress, down cutting, head cutting, decreasing channel/bank stability and disrupting the sediment diet of the Santa Clara River and its tributaries.

There is absolutely no reason why housing should be placed in the 100-year floodplain, thus necessitating stream bank stabilization measures (i.e. stream bank hardening) to then protect those homes in the floodplain. Any development in the Santa Clara River watershed must occur well outside the 100-year floodplain or outside of the 500 foot riparian buffer (whichever is greater), and as discussed above, the Project must maintain vegetated buffers in order to protect the water quality and ecosystem functions of the River.

Key reports show cumulative impacts to the Santa Clara River and the need for floodplain preservation. For instance, the Corps' Los Angeles District Planning Division contracted Stillwater Sciences to complete a geomorphic assessment of the Santa Clara River (2011). The assessment found that throughout much of the River active channel widths have been reduced by floodplain and river encroachment over the last several decades. The report stated that "these width reductions and flow constrictions have the potential to create an unstable condition in the River's morphology, which could result in accelerated channel bed level changes and/or bank failure and create additional hazards to the population and infrastructure."[1] Likewise, the Ventura County Historical Ecology Study found "The lateral extent of the river corridor has decreased dramatically in some reaches from the 19th century to the 21st. Different land uses have encroached on the former river corridor, claiming many of the less frequently flooded bottom land surfaces. The River currently occupies only a small portion of its former area; almost 50% of its former area has been lost. What remains is largely the much more dynamic active river channel."[2] These reports underscore the significant impacts that have already occurred due to floodplain loss and the importance of preserving the remaining floodplain.

The WDRs should require compliance with more stringent LID and stormwater requirements.

The Project proposes 35 new storm water inlets into the River. According to the WDRs, the Project must comply with the stormwater requirements set out in the general construction permit, the LA MS4 Permit that is in effect when the Project water quality technical report ("WQTR") is prepared, and the Newhall Ranch LID Performance Standard. The adoption of the revised LA MS4 Permit is not expected to occur until September, which means if a

[1] Stillwater Sciences. 2011
[2] Page 118 http://www.sfei.org/projects/VenturaHE

WQTR is finished in the near future, it could fall under the current MS4, which is over 10 years old and lacks LID (infiltration and capture for reuse) requirements. The Newhall Ranch LID Performance Standard attempts to compensate for this uncertainty by providing additional LID requirements based on some of the LID requirements included in the latest Ventura MS4 Permit. However, the LID requirements should be stricter for a Project of this scale and scope, and should apply to every individual parcel and common area within the entire development due to the potential for detrimental impacts to the River, the sensitive nature of the water body, and the lack of spatial constraints on this completely green field construction.

The Newhall Ranch LID Performance Standard allows for both biofiltration and offsite regional BMPs, if infiltration and capture BMPs prove infeasible. This "off-ramp" does not provide for the reduction of storm water pollutant discharges from the Project to the MEP. As this is a new development, there should be little potential for technical infeasibility for traditional LID practices, if these elements are taken into consideration during the project design. Also, biofiltration should not be considered a viable LID alternative because it is not as effective at reducing offsite runoff. While we don't believe that biofiltration should be considered as a LID alternative for this Project, at a minimum, the Regional Board should require a 1.5 multiplier to be applied to the volume that would have been required to be retained onsite, or a volume to reach the equivalent in pollutant load reduction, whichever is greater.

In addition, LID elements should be designed to handle 100% of the 85th percentile or 0.75 inch 24-hour design storm, whichever is greater, on the Project site. The final Project description states "Under the LID Performance Standard, LID project design features will be selected and sized to retain the volume of stormwater runoff produced from a 0.75 inch storm event to reduce percentage of Effective Impervious Area (EIA) to 5 percent or less of the total project area within the Newhall Ranch Specific Plan" (WDRs Page 43 and Attachment 1 Page 36). However, the 0.75 inch storm is not equivalent to the 85th percentile storm in this area. The isohyetal map in Appendix C of the LA County Department of Public Works, Water Resource Division, Hydrology Section Report shows that the 85th percentile 24 hour rainfall depth is 1.1 inches for the Newhall site. Instead, we propose the Regional Board require the project to retain on-site the Stormwater Quality Design Volume (SWQDv) proposed in the latest draft of the LA MS4 which is defined as the runoff from:
(a) The 0.75-inch, 24-hour rain event or

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(b) The 85th percentile, 24-hour rain event, as determined from the Los Angeles County 85th percentile precipitation isohyetal map, **whichever is greater**.[3]

The WDRs should include end of pipe numeric effluent limitations.

As discussed above, the Project proposes 35 new storm water inlets into the River. The inclusion of numeric effluent limits for storm water discharges from the site is appropriate and was upheld by the State Water Resources Control Board ("State Board") on December 13, 2006 in State Board Order WQ 2006-0012. As upheld by the State Board, the Regional Board has full authority to establish effluent limits for discharges consisting entirely of storm water. The presumption under the Clean Water Act is that numeric effluent limits will be the tools used to limit the discharge of pollutants, particularly toxic ones. Section 101(a) of the Clean Water Act ("CWA") sets forth a national objective "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33 U.S.C § 1251(a)). Furthermore, permits that result in storm water discharges must meet all applicable provisions of Sections 301 and 402 of the CWA. These provisions require controls of pollutant discharges that utilize best available technology economically achievable (BAT) for toxic pollutants and non-conventional pollutants and best conventional pollutant control technology (BCT) for conventional pollutants. Additionally, these provisions require controls of pollutant discharges to reduce pollutants and any more stringent controls necessary to meet water quality standards. Thus, the WDR should include end of pipe numeric effluent limitations that apply to all discharge from all outfalls from the Project into the Santa Clara River and its tributaries. These effluent limits should be consistent with the Basin Plan and the California Toxics Rule requirements. In addition, the BMP performance analysis included in the Newhall EIR that indicates estimated annual average pollutant concentration of developed conditions with Project Design Features (PDFs) and LID BMPs will achieve for the Project's stormwater discharges into the Santa Clara River and its tributaries (Table 1) should serve as an effluent limit, if it is less than other applicable standards.

[3] Greater Los angeles County MS4 Permit Working Staff Proposal: Minimum Control Measures Page 24.

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Table 4.4-41
Estimated Average Annual Pollutant Concentrations for the Specific Plan, VCC, and Entrada Planning Areas

Parameter	Units	Existing Conditions	Developed Conditions w/out PDFs	Developed Conditions w/ PDFs	Change w/PDFs
TSS	mg/L	313	103	72	-241
Total Phosphorus	mg/L	0.69	0.33	0.26	-0.43
Nitrate-N + Nitrite-N	mg/L	3.4	0.8	0.7	-2.7
Ammonia-N	mg/L	0.49	0.48	0.45	-0.04
Total Nitrogen	mg/L	5.9	3.1	2.3	-3.6
Dissolved Copper	µg/L	7.9	9.5	8.3	0.4
Total Lead	µg/L	8.3	7.4	6.3	-2.0
Dissolved Zinc	µg/L	80	64	39	-41
Total Aluminum	µg/L	834	845	591	-243
Chloride	mg/L	16	15	15	-1

Source: Geosyntec, 2008.

Source: Newhall Ranch Final EIR Page 4.4-150

In addition, outfall monitoring should take place during at least four wet-weather events per season. Outfalls should be monitored if any dry weather discharge is noted, with a minimum of two dry-weather storm channel/drain outfall monitoring events conducted twice per year at every project outfall. The end of pipe storm drain/channel outfall monitoring conducted during the first rain event of every wet season should be performed during the first hour of the storm in which sampling takes place so as to capture the concentrations of pollutants discharged from the Newhall Project during the first flush.

The WDRs should include BMP performance requirements.

One of the most effective ways to ensure the success of stormwater management and the attainment of water quality standards is to require performance-based criteria. The Regional Board must include scientifically supported, performance-based design criteria in the WDRs to help ensure the Project attains water quality standards for receiving waters. The recent Geosyntec analysis of the ASCE/USEPA stormwater BMP database paves the way for the development of scientifically sound water quality performance criteria. This analysis contains effluent concentration percentiles for certain parameters and BMPs. The Board should require that BMPs installed in the Project perform as well or better than 75% of the BMPs in the ASCE/EPA database. We recognize that the Project proponent did their

own evaluation of BMP performance. If these numbers are more protective, these should be set as the standards. Of note, this concept was adopted in the Ventura MS4.

In summary, we urge the Regional Board to include the following requirements in the Permit:

- That there be a prohibition on dry weather discharges;
- That discharges contain enforceable numeric effluent limits (as discussed in further detail below);
- That full on-site retention/evapotranspiration/infiltration of the 85th percentile or 0.75 inch storm (whichever is greater) be required;
- That the use of green street elements for all residential and commercial roads be required;
- The use of rain barrels, cisterns, and other methods to capture and reuse stormwater
- That the use of permeable pavement for all school, public and commercial parking lots be required;
- That the ultimate post-development hydrograph mimic the natural hydrograph and that the erosion potential of the streams on-site and in the Santa Clara River does not exceed one.
- The use of bio-filtration is not an acceptable method for treating storm water and should be prohibited or at a minimum a 1.5 multiplier and equivalent pollutant load reduction be employed.
- The inclusion of BMP performance standards to ensure BMPs are actually working.

Mitigation projects should include a higher mitigation ratio and stronger monitoring requirements.

The mitigation proposed does not adequately compensate for the functions and values lost from the permanent impacts proposed on-site and should be dramatically increased. For instance, the Project appears to consider the filling of tributary channels to be part of restoration and mitigation. Newhall's Final Mitigation and Monitoring Plan states, "The restoration strategies for the Long Canyon drainage channel include (l) complete fill of the stream channel, (2) reconstruction of the stream channel on compacted soil fill, (3) incorporation of stream channel stabilization, and 4) newly created stream channel." These actions do not constitute proper mitigation. The plan lacks detailed site-specific mitigation

plans and performance standards. Moreover, it fails to show how the mitigation proposed at Long Canyon and other locations will compensate for lost ecological functions.

To compensate for these inadequacies, the WDRs should propose mitigation requirements that are more protective than the 1:1 minimum mitigation ratio currently proposed for both temporary and some permanent impacts. A higher mitigation ratio is necessary to ensure that, given the stresses on the restoration project, a 1:1 ration is actually achieved in the long term. At a minimum, a mitigation ratio of 3:1 should be employed for disturbance to habitat that can absolutely not be avoided, with an even higher ratio of 4:1 for impacts to wetlands.

Specifically, the WDRs should clearly outline strong requirements for mitigation of impacts to wetlands. Destruction of wetlands in this Project should be a very last resort. In situations where wetland destruction is unavoidable, a minimum mitigation ratio of 4:1 should be established in the WDRs to ensure that adequate area is set aside to mitigate wetland impacts. The Project should meet the goals of the "No-net loss" Federal policy goal[4] and the California Wetlands Conservation Policy which calls for "no overall loss." Nationwide, methods to replace wetlands have largely proven unsuccessful in fully recreating the biodiversity and habitat lost in areas where the wetlands have been impacted or destroyed. In addition, the WDRs should require in-kind wetland mitigation projects, if possible, to ensure that the created wetlands are similar in structure and habitat to wetlands within the same basin area in order to adequately mimic lost habitat for indigenous species and wetland function (i.e. freshwater marsh to freshwater marsh wetlands). It is also important that the created wetlands are placed in the same subwatershed, if possible.

In addition, the Regional Board should require a Restoration and Monitoring Plan to be prepared by a qualified restoration ecologist to ensure mitigation efforts will be monitored frequently in order to evaluate the success of the created wetlands and other mitigated habitat. This plan must include a thorough baseline assessment of the proposed mitigation site, an extensive "as built" monitoring plan and criteria by which "success" will be judged. As part of this monitoring, regular species (flora and fauna) enumerations and indexes of

[4] "The goal of "no-net-loss" of wetlands was first set out by President George H.W. Bush during his 1988 presidential campaign, and was announced as an administration policy at an EPA press conference in January, 1989. The concept was originally developed by the National Wetlands Policy Forum, a stakeholder panel brought together by the Conservation Foundation. The results of the Forum were published in 1988 and called for a short-term goal of no overall net loss of wetlands, and a longer term goal of achieving a net gain of the nation's wetlands. The goal did not just apply to the extent of wetlands acreage in the country, but also to the functions and values of those wetlands, a much more difficult goal to achieve and to measure." Sibbing, Julie M. Nowhere Near No-Net-Loss. National Wildlife Federation. Retrieved 31 March 2011.

biological integrity analyses should be performed. We recommend that monitoring persist in perpetuity to ensure the quality of a wetland's conditions, as a created wetland may need many years to begin maturation. All monitoring plans and annual monitoring reports should be provided to the Regional Board and be made available to the public for review.

The WDRs should provide additional requirements to control invasive aquatic species.

Recent aquatic invertebrate surveys in the Malibu Creek watershed have confirmed the presence of the New Zealand mudsnail, an insidious exotic invasive species that could potentially wreak havoc on the watershed's native organisms. The mudsnail has also been found in Piru Creek in the Santa Clara River watershed. The WDRs describe various construction activities that will take place in the River. In addition to provisions listed in the WDRs, other measures are necessary to avoid the spread of this exotic species. Anyone having contact with the River during the Project should complete and implement a Hazard Analysis & Critical Control Points ("HACCP") to prevent the possible spread of the mudsnail further into the watershed. We agree with the WDR provisions requiring equipment inspections to check for mud snails. However, washing is not an effective measure to control the spread of mud snails. Equipment that has been in mudsnail impacted areas should be required to dry out in the sun for 48 hours prior to use in other portions of the waterways.[5]

Miscellaneous concerns:

- The WDRs should not cover the entire Newhall Ranch Project, and should instead be issued for the various phases after their respective EIR is approved. The WDRs mention that the EIR for Homestead is not complete, nor has the tract map been completed. Hence, it is inappropriate to cover this phase of the Project under the WDRs as the environmental impacts have not been fully evaluated.

- The Santa Clara River has numerous beneficial use impairments, and thus, multiple TMDLs have been developed, including the Santa Clara River Bacteria TMDL, Santa Clara River Chloride TMDL, and Santa Clara River Nutrients TMDL. The Project should be given a zero waste load allocation to ensure that further degradation does not occur.

[5] United States Forest Service. *USFS Intermountain Region Guidance- Preventing Spread of Aquatic Invasive Organisms Common to the Intermountain Region 2011- Technical Guidelines for Fire Operation*—Revised May 2011 http://www.fs.fed.us/r4/resources/aquatic/guidelines/index.shtml

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- The WDRs should contain requirements that ensure BMPs are maintained and monitored in perpetuity. Some of the proposed water quality BMPs will be maintained by homeowner associations. This does not ensure ongoing water quality protection because there is no regulatory oversight of these associations. All water quality protection measures should be the responsibility of the developer. Alternatively the homeowners associations should at least be required to sign binding agreements with such government agencies requiring the homeowners associations to perform specific maintenance, monitoring and reporting requirements, depending on the BMP.

- Page 59 states that any changes in the Project will be brought to the Executive Officer for review and approval. Please confirm that any additional information will also be made available to the public for a comment period.

The Newhall Ranch Project has a huge footprint within the Santa Clara River watershed and, thus, enormous potential to create impacts within the watershed by generating increased runoff volumes and encroaching into the floodplain. Both traits serve to create flooding issues (adding more volume and decreasing capacity) yet the Project has no obligation to address these issues other than to protect its own investment. We oppose the 401 Certification and WDRs as proposed. We urge the Regional Board to ensure that the issues described above are addressed to ensure water quality protection. Without sufficiently protective requirements, the proposed Project will severely degrade one of the most critical habitats in our region. Please contact us if you have any questions.

Sincerely,

Kirsten James, MESM
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