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San Pedro, California 90731  
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SCOTT R. LANE (SB # 190891)  
JOHN M. McGOWAN (SB# 233940)

Attorneys for Petitioners  
ARIMOL GROUP, INC. and  
MEADOWBROOK CEDAR, INC.

**STATE WATER RESOURCES CONTROL BOARD**

In Re:

CLEANUP AND ABATEMENT ORDER NO.  
R6V-2013-0078 FOR ARIMOL GROUP, INC.  
AND MEADOWBROOK CEDAR, INC.,  
LAKE ARROWHEAD, SAN BERNARDINO  
COUNTY, WDID NO. 6B36C363433

Matter No.:

**PETITION FOR REVIEW OF ARIMOL  
GROUP, INC. AND MEADOWBROOK  
CEDAR, INC. (Request To Be Held in  
Abeyance)**

In accordance with Water Code Section 13320(a) and Titles 23, California Code of Regulations (“C.C.R.”) §§ 2050-2068, Petitioners Arimol Group, Inc. and Meadowbrook Cedar, Inc. (“Petitioners”) respectfully submit this Petition for Review of Cleanup and Abatement Order No. R6V-2013-0078 for Arimol Group, Inc. and Meadowbrook Cedar, Inc., Lake Arrowhead, San Bernardino County, WDID No. 6B36C363433 (the “Order”) issued on September 6, 2013

1 by the Lahontan Regional Water Quality Control Board ("Regional Board"). The Order is  
2 attached hereto as Exhibit "A" along with the letter, dated September 9, 2013, transmitting the  
3 Order by Executive Officer Patty Kouyoumdjian.

4 Pursuant to 23 C.C.R. § 2050.5(d), Petitioners request that this Petition be held in  
5 abeyance temporarily to provide an opportunity for resolution of its concerns, in cooperation  
6 with the Regional Board, in regards to the Order.

7

8 The following information is provided as required by 23 C.C.R. § 2050(a):

9 1. Name and Address of Petitioners

10 Arimol Group, Inc.  
11 Meadowbrook Cedar, Inc.  
12 c/o  
13 Scott R. Lane, Esq.  
14 Lane & McGowan, LLP  
15 445 W. 7<sup>th</sup> Street, Suite I  
16 San Pedro, CA 90731  
17 (310) 221-0480  
18 [lane@lanemcgowan.com](mailto:lane@lanemcgowan.com)

19

20 2. Specific Action to be Reviewed

21 Issuance of the Order to Petitioners.

22

23 3. Date of the Regional Board Action

24 September 6, 2013

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4. Statement of Reasons the Action was Improper

The Order of the Regional Board is improper, and objections are therefore made on the following grounds:

a. The Order indicates that compensatory mitigation will be required as part of a subsequent order. Petitioners dispute to necessity and/or appropriateness of any compensatory mitigation.

b. Petitioners object to the technical report requirements contained in the Order. The burden, including the financial burden, of the reports does not bear a reasonable relationship to the need for the reports and the potential benefits, if any, therefrom.

c. Objection is made to the use of the term “wetland(s)” in the Order. It is premature to make such a characterization of any portion of the sites in question, which determination is the subject of further investigation and expert work. Petitioners do not agree that any portion of the sites are properly deemed “wetland(s)” or that a wetland designation applies to each of the various parcels implicated.

d. Objection is made to the open ended annual requirement for the submission of a technical/monitoring report.

e. Objection is made to any attempt by the Regional Board to seek reimbursement for costs to oversee any remedial action required by the Order. Petitioners reserve the right to challenge the reasonableness of any claimed costs and the recoverability of those costs under Water Code section 13304 should the Regional Board make such a claim.

f. Objection is made to the deadlines set forth in the Order. The deadlines are unreasonable in view of the substantive and procedural requirements contained in the Order. To

1 the extent that delays by the Regional Board in reviewing and responding to submissions impacts  
2 Petitioners' ability to meet any of the deadlines, Petitioners should not be deemed delinquent.  
3 To the extent the Regional Board defers to unreasonable demands from the third-party public  
4 agencies, Petitioner should not be deemed delinquent.

5 Moreover, the site is geographically located in an area that is subject to adverse  
6 seasonal weather, including at times heavy snowfall in the Winter. To the extent that the  
7 potential for adverse weather was not factored into the deadlines, objection is made.  
8 Additionally, should adverse weather impact Petitioners' ability to comply with any deadlines,  
9 Petitioners should be afforded relief.

10  
11 5. The Manner in Which Petitioner is Aggrieved

12 See paragraph 4 above. Petitioner has been aggrieved by being subject of the improper  
13 Order as outlined herein.

14  
15 6. The Specific Action by the Regional Board Requested

16 Petitioners request that the Regional Board withdraw its Order or issue a revised Order  
17 consistent with the points raised by this Petition.

18  
19 7. Statement of Points and Authorities of Legal Issues

20 To the extent that legal issues related to the matters set forth in this Petition exist, they are  
21 still being developed. Petitioners are requesting that the Petition be held in abeyance and  
22 reserves the right to supplement the Petition with a detailed statement of points and authorities at  
23 the appropriate time. Petitioner contests the Regional Board's application, and/or extent of the  
24 application, of each and every code provision contained in the Order.

25  
26 8. Regional Board Notification

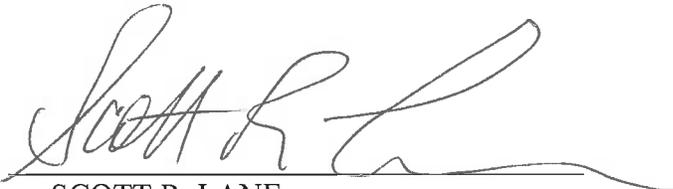
27 A copy of this Petition has been sent to the Regional Board.  
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9. Statement Regarding Issues or Objections

The Order was issued without public hearing by the Regional Board. Nevertheless, Petitioner previously raised the herein concerns and objection with Regional Board staff through written correspondence and communications.

DATED: October 4, 2013

By:   
SCOTT R. LANE  
JOHN M. McGOWAN  
Attorneys for Petitioners

# **EXHIBIT A**



Lahontan Regional Water Quality Control Board

September 9, 2013

To: INTERESTED PARTIES AND STAKEHOLDERS

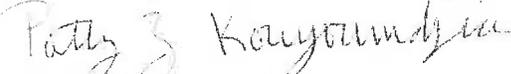
**CLEANUP AND ABATEMENT ORDER NO. R6V-20013-0078 FOR ARIMOL GROUP, INC. AND MEADOWBROOK CEDAR, INC., LAKE ARROWHEAD, SAN BERNARDINO COUNTY, W DID NO. 6B36C363433**

I am issuing the enclosed Cleanup and Abatement Order (CAO) No. R6V-2013-0078 to require restoration of the impacted surface waters of the Lahontan Region by November 8, 2013. This CAO is a follow up to the \$60,000 penalty that the Lahontan Water Board ordered at a public hearing on January 16, 2013 to Arimol Group, Inc. At that public hearing, Water Board members emphasized that impacted surface waters must be restored as expeditiously as possible.

Please note that Orders 2 and 3 in the enclosed CAO, which require the wetland delineation work plan and commencement of the investigation, respectively, have deadlines that predate this CAO. Though these two Orders have been fully complied with, I retained these two Orders in the CAO to document that the Water Board required these two actions. I am encouraged that Orders 2 and 3 have been completed and that the parties worked together to craft a mutually-agreeable schedule to achieve full restoration of the impacted surface waters.

This enclosed CAO does not require compensatory mitigation. Rather, a subsequent order is planned to require compensatory mitigation and is expected to be developed based on the final results of the wetland delineation. Once the final wetland delineation results are submitted, which are due September 20, 2013, Water Board staff anticipate drafting an order that will likely contain detailed worksheets with relevant information describing how the final amount of compensatory mitigation was determined.

If you have any questions about this, please contact me at [pzkouyoumdjian@waterboards.ca.gov](mailto:pzkouyoumdjian@waterboards.ca.gov) or (530) 542-5412 or Doug Smith at [dfsmith@waterboards.ca.gov](mailto:dfsmith@waterboards.ca.gov) or (530) 542-5453. Thank you for your cooperation in this matter.

  
Patty Z. Kouyoumdjian  
EXECUTIVE OFFICER

Enclosure: CAO No. R6V-2013-0078

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**CLEANUP AND ABATEMENT ORDER NO. R6V-2013-0078**

**SMARTS NF NO. 6B36CN601729 AND WDID NO. 6B36C363433**

**REQUIRING ARIMOL GROUP, INC. AND MEADOWBROOK CEDAR, INC. TO  
CLEAN UP AND ABATE THE DISCHARGE AND THREATENED DISCHARGE OF  
WASTE EARTHEN MATERIALS TO SURFACE WATERS OF THE  
MOJAVE HYDROLOGIC UNIT**

\_\_\_\_\_ San Bernardino County \_\_\_\_\_

The California Regional Water Quality Control Board, Lahontan Region (hereinafter Water Board) finds that:

**A. FINDINGS**

1. Arimol Group, Inc. and Meadowbrook Cedar, Inc. own several parcels near the intersection of Meadowbrook Road and Cedar Court within the Crest Park neighborhood of Lake Arrowhead, San Bernardino County, California. On October 1, 2011, or shortly thereafter, Arimol Group, Inc., Meadowbrook Cedar, Inc., and/or their contractors began construction activities on the following three parcels listed in Table No. 1, below.<sup>1</sup> The construction activities eventually resulted in discharges of fill and waste materials to waters of the United States (WOUS) and of the state on Parcel Nos. 1, 2, and 3, identified below. Arimol Group, Inc. and Meadowbrook Cedar, Inc., as property owners, are responsible for their actions and the actions of their contractors, including actions that result in discharges of fill and waste to surface waters. As such, Arimol Group, Inc. and Meadowbrook Cedar, Inc. are hereinafter referred to as the "Dischargers."

Table No. 1

Parcel Address	San Bernardino Co. APN	Owner
1031 Meadowbrook Rd	0336-134-02-0000 (Parcel 1)	Arimol Group, Inc.
995 Meadowbrook Rd	0336-134-03-0000 (Parcel 2)	Arimol Group, Inc.
977 Meadowbrook Rd	0336-134-05-0000 (Parcel 3)	Meadowbrook Cedar, Inc.

2. Prior to October 1, 2011, surface waters (unnamed creeks, springs, spring-fed open-water channels, and wet-meadow and shrub wetlands) were present on San Bernardino County Assessor's Parcel Nos. (APNs) 0336-134-02-0000 (Parcel 1), 0336-134-03-0000 (Parcel 2), and/or 0336-134-05-0000 (Parcel 3), and no detailed maps existed which delineate the full extent of the surface waters on the parcels. These surface waters are tributaries of Lake Arrowhead and are located within the Deep Creek watershed of the Mojave Hydrologic Unit of the Lahontan Region at an elevation of approximately 5,600 feet above mean sea level. These surfaces water are also WOUS and waters of the state.

<sup>1</sup> Source: Notice of Intent submitted dated April 13, 2012

3. On January 16, 2013, the Water Board conducted a public hearing and issued Administrative Civil Liability (ACL) Order No. R6V-2013-0007 to Arimol Group, Inc. in the amount of \$60,000. In that ACL, the Water Board found that Arimol violated Water Code section 13376 and Clean Water Act (CWA) section 301 by discharging wastes to WOUS without filing a report of waste discharge, without a NPDES permit, and without a dredged and/or fill material permit. The Water Board determined that Arimol discharged fill materials without permits into two creeks, two springs and their open water channels, and a shrub wetland; these actions constituted six individual violations. Upon rendering the decision, Board members emphasized that impacted surface waters must be restored as expeditiously as possible. The ACL described the impacted surface waters, as explained in the documented observations made by Water Board staff in Table No. 2, below:

Table No. 2

Inspection Date	Observations
October 21, 2011	The creek that flows across Parcel 1 in a northeasterly direction had been filled with earthen materials following its placement in a 30-inch diameter culvert. A concrete headwall had also been constructed near where the creek flows onto Parcel 1.
October 21, 2011	A second creek that flows onto and adjacent to Parcel 1's eastern boundary had been graded to accommodate the new 30-inch diameter culvert's outfall location.
October 21, 2011	The clearing, grubbing, and grading of what would later be identified as the "shrub wetland."
January 20, 2012	A spring (north spring) located on Parcel 3 had been buried beneath a recently constructed house foundation footing.

Inspection Date	Observations
January 20, 2012	The open-water channel fed by the north spring had been filled and the north spring's flow diverted into a new pipe adjacent to Parcel No. 1's northern boundary.
January 20, 2012	A portion of a second open-water channel originating from a spring on Parcel 2 (south spring) had been filled with earthen materials after diverting the spring's flow into a new pipe.
June 7, 2012	Another portion of the remaining open-water channel fed by the south spring had been filled with earthen materials after installing a new pipe section.

4. The Water Board's *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains the following prohibition and exemption criteria:

Prohibition

"The discharge of waste to surface water in the Mojave Hydrologic Unit that is tributary to the West Fork Mojave River or Deep Creek, above elevation 3,200 feet (approximate elevation of Mojave Forks Dam), is prohibited."

Exemption Criteria

"An exemption to this prohibition may be granted by the Regional Board whenever the Regional Board finds (based on evidence presented by the proposed dischargers) that the discharge of waste to surface water will not, individually or collectively, directly or indirectly, adversely affect water quality or beneficial uses."

5. The waste discharges described in Finding No. 3, above, are to surface waters tributary to Deep Creek within the Mojave Hydrologic Unit and are above an elevation of 3,200 feet.
6. The discharges of earthen fill materials and waste materials described in Table No. 2 in Finding No. 3, above, were all completed without any Water Board permits and without an exemption to the discharge prohibition in violation of the CWA, Water Code, and a waste discharge prohibition specified by the Water Board's Basin Plan.
7. As of August 29, 2013, no surface water restoration has been initiated, as verified by field observations from Water Board staff.

8. As set forth in Findings Nos. 2, 3, 5, and 6 of this Cleanup and Abatement Order (CAO), the Dischargers have discharged waste to waters of the Lahontan Region, and as set forth in Finding No. 7 of this CAO, no surface water restoration has been initiated. As such, the Dischargers have discharged waste and continue to threaten to cause waste to be discharged or deposited where it is, or probably will be, discharged into WOUS and of the state within the Lahontan Region, creating, or threatening to create, a condition of pollution or nuisance.
9. The purpose of this CAO is to add Meadowbrook Cedar, Inc., being an owner of one or more of the three parcels, as a named Discharger, in addition to Arimol Group, Inc., and to establish a new schedule and clarify the minimum requirements associated with submitting the necessary technical reports and implementing the required restoration.
10. If the Dischargers had obtained the required permits before the construction was started, they would have been required to identify surface waters (unnamed creeks, springs, spring-fed open-water channels, and wet-meadow and shrub wetlands), and avoid, minimize or mitigate impacts to those waters. Because the earthwork occurred without required permits, the full extent of the impacts to the waters of the Lahontan Region are not known. This CAO requires the Discharger to prepare a Surface Water Delineation Work Plan to investigate and delineate the full extent of all wetlands and other surface waters (including, but not limited to, springs, creeks, spring-fed open-water channels) as they existed.
11. Once the delineation is completed and the pre-project surface waters are identified, restoration is required. This CAO provides the ability for the Dischargers to request that certain surface waters be allowed to remain permanently as part of their development of the parcels. However, compensatory mitigation for all permanent and temporal impacts will be required, as part of a subsequent order.

## **B. REGULATORY AUTHORITY**

12. Water Code section 13304, subdivision (a) states:

“Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts. ... Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the Order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”

13. Finding Nos. 3-6 establish that the Dischargers have discharged waste to surface waters in violation of a waste discharge prohibition in violation of the Basin Plan, and Finding No. 8 establishes that the unrestored site conditions constitute a threatened discharge of waste to waters of the state and threaten to create a condition of pollution or nuisance. Therefore, the Water Board is authorized to issue this CAO pursuant to Water Code section 13304.

14. Water Code section 13267, subdivision (b) states:

“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

Finding Nos. 2, 3, 5, and 6, above, established that the Dischargers have discharged waste to waters of the Lahontan Region. The Water Board is therefore authorized to require technical or monitoring reports to identify measures to protect water quality and restore beneficial uses.

15. The technical reports required by this CAO are necessary to define the full extent of pre-project, surface waters on Parcels 1, 2, and 3; identify the corrective actions that must be performed to restore the surface waters to their pre-project conditions; and to prevent additional waste discharges to surface waters. Additionally, the technical reports are necessary to document the cleanup of the waste discharges cited above and the restoration of the surface waters that have been adversely affected by unauthorized grading, filling, and diversion activities. The burden, including costs, of these reports bears a reasonable relationship to the need for the report and the benefits to be obtained from the reports.

16. California Environmental Quality Act (CEQA) Compliance. Issuance of this CAO is an enforcement action taken by a regulatory agency and is exempt from the provisions of the CEQA (Public Resources Code, section 21000 et seq.) pursuant to California Code of Regulations (CCR), Chapter 3, title 14, section 15321, subdivision (a)(2).

**THEREFORE, IT IS HEREBY ORDERED** that, pursuant to Water Code sections 13304 and 13267, the Dischargers shall clean up and abate waste discharges and threatened waste discharges in violation of the Basin Plan prohibitions for the Mojave Hydrologic Unit, and shall comply with the technical and monitoring reporting provisions of this CAO:

**C. ORDERS**

1. Upon adoption of CAO No. R6V-2013-0078, CAO No. R6V-2012-0008 is rescinded.
2. By **August 26, 2013**, the Dischargers shall submit a Surface Water Delineation Work Plan to investigate and delineate the full extent (including, but not limited to, location, dimensions, area, depths) of all wetlands and other surface waters (including, but not limited to, springs, creeks, spring-fed open-water channels) as they existed at the time the Dischargers took ownership of the parcels (pre-project conditions).

The Work Plan must meet these minimum requirements:

- Be prepared by and the field investigation and other investigative activities described therein performed by a qualified wetlands delineation consultant with at least five years of experience delineating wetlands and other surface waters within the Lake Arrowhead watershed or equivalent areas within the mountains of southern California. The consultant must be proficient in identification of soil types, including hydric soils, wetland and riparian vegetation, wetland hydrology, and plant and animal species and communities indigenous to the Lake Arrowhead watershed.
- Field personnel investigating and delineating surface waters as part of this investigation must have sufficient knowledge, training and experience in southern California mountain stream, spring and wetland ecosystems to accurately identify and delineate these features.
- Include a detailed description of field investigation methodologies/techniques, including the logging and sampling of a sufficient number of test pits/trenches excavated along a sufficient number of transects across the three parcels to accurately and fully delineate the extent of all surface waters that were present during pre-project conditions.
- Follow the 1987 U.S. Army Corps of Engineers (USACE) Wetlands Delineation Manual, applying the methodology for Comprehensive Determinations (Part IV, Section E) for wetlands and other surface waters in Atypical Situations (Section F), and the May 2010 Regional Supplement to the USACE Wetland Delineation Manual: Western Mountains, Valleys and Coast Region (Version 2.0), Difficult Wetland Situations (Section 5), to establish the full extent of pre-project surface waters, vegetation and hydrologic conditions on the three parcels.

3. By **September 3, 2013**, the Dischargers must begin implementing the Surface Water Delineation Work Plan that is to, at a minimum, satisfy Order No. 2, above, and provide the information required by Order No. 4, below. The field work must be coordinated with both Water Board and California Department of Fish and Wildlife (CDFW) staff, and a minimum of 72 hours advance notification of all field activities must be provided to staff of both agencies. All permits necessary to conduct the investigation must be obtained prior to implementation, and all reasonable care shall be taken to avoid further impacts to surface waters.
4. By **September 20, 2013**, submit a Surface Water Delineation Report (Report) providing the results of the surface water delineation work. The Report must narratively describe, numerically quantify, and visually illustrate the full extent of all surface waters in their pre-project condition. The Report shall include a complete set of appropriately scaled site plans that accurately illustrate pre-project surface and subsurface soils, hydrology, and topography, and accurately depict the types and full extents of all surface waters and associated vegetation. The Report shall include a complete set of appropriately scaled site plans that accurately illustrate current surface and subsurface soils, hydrology, and topography, and accurately depict the types and full extents of all currently existing surface waters and associated vegetation. The Report shall include a sufficient number of cross-sections to fully and accurately depict the lateral and vertical extent of all wetlands and other surface waters on the three parcels (Parcel Nos. 1, 2, and 3). The Report must be certified by the Dischargers in addition to the qualified wetlands delineation consultant responsible for overseeing the surface water investigation and preparing the Report. The Report shall also identify any deviations from the Work Plan and provide the rationale for each deviation.
5. By **September 20, 2013**, the Dischargers shall submit a Surface Water Restoration Plan for restoring surface waters to pre-project conditions on all three parcels. Restoration to pre-project conditions shall address all impacts to:
  - the creek on Parcel 1 that has been placed in a 30-inch diameter culvert
  - the creek on Parcel 1's eastern boundary that was cleared, grubbed, and graded
  - the north spring that originated on Parcel 3
  - the spring-fed open water channel supported by the north spring
  - the south spring that originated on Parcel 2
  - the spring-fed open water channel supported by the south spring
  - the wet-meadow and shrub wetlands on Parcel 1 that were cleared, grubbed, and graded
  - any wetlands supported by the surface waters listed above
  - any other surface waters identified during the Surface Water Investigation as having been disturbed by the Dischargers' activities since obtaining ownership to the three parcels.

If the Dischargers propose any deviations from restoring all surface waters to pre-project conditions on any or all of the three parcels (i.e., permanent impacts/loss of a portion of or an entire surface water type on any of the three parcels), the Restoration Plan shall provide a complete accounting of such deviations (e.g., permanently impacted surface water type, area of permanent impacts, length of permanent impacts) and the reason(s) for proposing the permanent surface water impacts/losses. Such permanent impacts are subject to Water Board acceptance and are subject to compensatory mitigation. Requirements for compensatory mitigation will be set forth in a subsequent order.

The Surface Water Restoration Plan (Restoration Plan) shall provide, at a minimum, the following information:

- a. A detailed description and illustration (scaled design plans) of the measures proposed to restore the pre-project characteristics of the above-referenced surface waters (e.g., channel width, length, depth, sinuosity/alignment, channel slope, and channel substrate; wetland boundaries, topography, hydrology, substrate) to pre-project conditions;
- b. An erosion control section with detailed description and illustration of the measures proposed to temporarily stabilize the restoration areas until permanent stabilization measures (e.g., vegetation, slope protection) effectively stabilize the restoration areas. At all times during restoration work, an effective combination of erosion and sedimentation control Best Management Practices (BMPs) must be installed and maintained.
- c. A revegetation section with detailed description and illustration (scaled design plans) of the measures proposed to reestablish the vegetation that has been removed from within and adjacent to the above-referenced surface waters. This section shall include, but not be limited to, the following:
  - i. For each of the above-referenced surface waters, a list of local California native plant species, locally sourced where possible, to reestablish the vegetation species that have been removed. The list shall identify the number and spacing of plantings for each species, as applicable, and the relative seed percentages and application rates for each seed mix being used.
  - ii. A detailed description of soil preparation activities (e.g., removing all fill material, removing compacted soils; adding soil amendments such as compost, top soil, etc.).
  - iii. Interim and final success criteria for each of the above-referenced surface waters. The criteria shall include, but not be limited to, percentage of live vegetative cover, total cover, vegetative species diversity, and vegetative species composition. Success criteria may be based upon proposed reference sites accepted in writing by Water Board and CDFW staff. If reference sites are proposed as the basis for the success criteria, then the proposed reference sites must be identified and fully characterized with respect to the proposed criteria. Any other method of developing success

- criteria must also be fully described and its applicability to the restoration activities justified.
- iv. A detailed description of assessment methodologies and schedule for implementing them in order to evaluate progress towards satisfying interim and final vegetation success criteria. Each surface water restoration area shall be assessed, at a minimum, annually for a minimum of five years, unless a reduction in the monitoring period is authorized in writing by the Water Board and CDFW staff. Satisfying the final vegetation success criteria shall be based upon no augmentation or artificial irrigation activities occurring for the previous year and is to be accomplished by the end of the fifth monitoring event (2018).
  - d. The Dischargers have the opportunity to restore and/or create surface water resources on one or more of the three parcels that would be in addition to those listed above. If the Dischargers propose to implement such measures prior to November 8, 2013, then the Dischargers must submit the same information as described in Directive Nos. 5.a – 5.c within the Restoration Plan. Such measures must be clearly identified as being in addition those required to restore all surface waters to pre-project conditions on all three parcels.
  - e. A detailed project schedule that begins implementation of the Restoration Plan by **October 4, 2013** and completes all initial restoration activities, as described above and identified in the Restoration Plan, by **November 8, 2013**.
  - f. The Restoration Plan must be signed by the Dischargers in addition to the qualified restoration consultant or other appropriate licensed or certified individual(s) responsible for developing the Restoration Plan.
6. By **October 4, 2013**, begin implementing the Restoration Plan that is to restore surface waters listed in Order No. 5, above, to pre-project conditions. All permits necessary to perform the work must be obtained prior to beginning restoration activities. All restoration activities must be performed under the direct oversight of a qualified restoration consultant. The consultant must have at least five years of experience with restoration of wetlands and surface water resources in fragile, montane environments in southern California, such as those that were present at the three parcels prior to development activities. The restoration areas shall be surveyed and appropriately delineated in the field to identify the full extent of all restoration site activities on the three parcels prior to commencing restoration activities. At all times during and following restoration activities, an effective combination of temporary and permanent erosion and sediment control BMPs must be properly installed and maintained throughout the restoration area to prevent erosion and sedimentation on and downstream of the three parcels.
  7. By **November 8, 2013**, all initial restoration activities, as identified in the Restoration Plan, shall be completed. Additionally, all areas on the three parcels shall be fully stabilized and winterized with an effective combination of temporary and permanent BMPs to prevent erosion and sedimentation on and downstream from the three parcels.

8. By **December 31, 2013**, submit a technical report certifying completion of all initial restoration activities, as identified in the Restoration Plan. The report shall include appropriately scaled, detailed site plans accurately depicting the final, "as-built" restoration conditions and all BMPs implemented to effectively prevent erosion and sediment discharges. The report must be signed by the Dischargers and the qualified restoration consultant in charge of all surface water restoration activities. Any deviations from the Restoration Plan shall be identified and clearly illustrated on the as-built plans, and the reason(s) for such deviations shall be provided.
  
9. Beginning **November 30, 2014**, and annually thereafter until the restoration site satisfies final success criteria without any assistance/augmentation during the preceding year, submit a technical/monitoring report that provides the results of the vegetation restoration site assessment discussed in Order No. 5.c.iv, above. These technical/monitoring reports shall also address any failure for restoration activities to satisfy interim or final success criteria by identifying and describing proposed corrective actions, their associated objectives, and when they will be implemented. Additionally, each of these technical/monitoring reports shall identify and describe all corrective actions implemented during the report's monitoring period, and shall discuss if each corrective action met its objective. These technical/monitoring reports must be signed by the Dischargers and by the qualified restoration consultant in charge of vegetation restoration activities at the three parcels.

10. SUMMARY TABLE OF ORDERS AND DUE DATES

Order No.	Item	Due Date
2.	Submit Surface Water Delineation Work Plan	August 26, 2013
3.	Begin implementing Surface Water Delineation Work Plan	September 3, 2013
4	Submit Surface Water Delineation Report	September 20, 2013
5	Submit Surface Water Restoration Plan	September 20, 2013
6	Begin implementing Surface Water Restoration Plan	October 4, 2013
7	Complete all activities identified in Surface Water Restoration Plan	November 8, 2013
8	Submit a report certifying all activities completed in Surface Water Restoration Plan	December 31, 2013
9	Submit monitoring report on vegetation restoration	November 30, 2014, and annually thereafter until restoration site satisfies final success criteria

**D. REPORTING REQUIREMENTS**

1. **Signatory Requirements.** All reports required under this CAO shall be signed and certified by the Dischargers or by a duly authorized representative of the Dischargers and submitted to all parties identified in Reporting Requirement No. 4, below. A person is a duly authorized representative of the Dischargers only if: (1) the authorization is made in writing by the Dischargers and (2) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

2. **Certification.** Include the following signed certification with all reports submitted pursuant to this CAO:

*"I certify under penalty of perjury under the laws of the state of California that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information submitted, the document is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

3. **Notification of Work Performed.** The Dischargers must notify Water Board and CDFW staff a minimum of 72 hours in advance of any work at the three parcels performed pursuant to this CAO. This includes any work that threatens to create a condition of pollution or threatens to cause waste to be discharged into waters of the state. Notification must be done in electronic correspondence to staff identified below. Any method of notification other than electronic mail will not satisfy the requirement set forth in this paragraph. The notification should contain the date the work will be performed, the duration and the type of work that will be performed.

Email Contacts:

Lahontan Water Board, Victorville: Jan Zimmerman –  
[Jan.Zimmerman@waterboards.ca.gov](mailto:Jan.Zimmerman@waterboards.ca.gov)

Lahontan Water Board, South Lake Tahoe: Scott Ferguson –  
[Scott.Ferguson@waterboards.ca.gov](mailto:Scott.Ferguson@waterboards.ca.gov)

CDFW: Joanna Gibson - [Joanna.Gibson@wildlife.ca.gov](mailto:Joanna.Gibson@wildlife.ca.gov)

4. **Report Submittals.** All reports required under this CAO shall be submitted concurrently to each of the following Water Board offices, below, in addition to CDFW, USACE, and San Bernardino County Land Use Services:

Jan Zimmerman  
California Regional Water Quality Control Board – Lahontan Region  
14440 Civic Drive, Suite 200  
Victorville, CA 92392

Scott Ferguson  
California Regional Water Quality Control Board – Lahontan Region  
2501 Lake Tahoe Boulevard  
South Lake Tahoe, CA 96150

#### **E. NOTIFICATIONS**

1. **Cost Recovery.** Pursuant to Water Code section 13304, the Water Board is entitled to, and may seek, reimbursement for all reasonable costs actually incurred by the Water Board to oversee cleanup of unauthorized discharges of waste, abatement of the effects thereof, or other remedial actions required by this CAO.
2. **Requesting Administrative Review by the State Water Board.** Any person aggrieved by an action of the Water Board that is subject to review as set forth in Water Code section 13320, subdivision (a), may petition the State Water Resources Control Board (State Water Board) to review the action. Any petition must be made in accordance with Water Code section 13320 and CCR, title 23, section 2050 and following. The State Water Board must receive the petition within 30 days of the date the action was taken, except that if the thirtieth day following the date the action was taken fall on a Saturday, Sunday, or state holiday, then the State Water Board must receive the petition by 5:00 p.m. on the next business day. Copies of the law and regulation applicable to filing petitions may be found on the internet at [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality/index.shtml](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/index.shtml) or will be provided upon request.
3. **Modifications.** Any modification to this COA shall be in writing and approved by the Executive Officer, including any potential extensions. Any written extension request by the Dischargers shall include justification for the delay.
4. **Enforcement Notification.** Failure to comply with the requirements of this CAO may result in additional enforcement action, which may include pursuing administrative civil liability pursuant to Water Code sections 13268, 13350, and/or 13385, or referral to the Attorney General of the state of California for such legal action as she may deem appropriate. The Water Board is authorized to impose liabilities up to \$1,000, \$5,000, and \$10,000, respectively, per day for each violation.

5. **No Limitation of Water Board Authority.** This CAO in no way limits the authority of this Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the site consistent with the Water Code. This CAO may be revised as additional information becomes available.

Ordered by: Patty Z. Kouyoumdjian  
PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

Dated: 9/6/13

Attachment: Water Code section 13267 Fact Sheet