

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**CLEANUP AND ABATEMENT ORDER NO. R2-2020-00XX
AND RECISSION OF ORDER NO. R2-2009-0045**

CECA HOLDINGS, LLC, AND MILLARD TONG AND ALICIA TONG, DOING BUSINESS
AS MILLWOOD RANCH

FOR THE PROPERTY LOCATED AT:
ONE PICARDO RANCH ROAD PACIFICA, SAN MATEO COUNTY

This Order is issued to CECA Holdings, LLC, and Millard Tong and Alicia Tong, doing business as Millwood Ranch (Responsible Parties), for the discharge of fill material into waters of the State, pursuant to provisions of California Water Code (Water Code) sections 13304 and 13267.

The San Francisco Bay Regional Water Quality Control Board (Regional Water Board) hereby finds, with respect to the Dischargers' acts, or failure to act, the following:

- 1) **Purpose of Order:** This Order requires the cleanup and abatement of waste discharged at Millwood Ranch, including remedial actions to restore impacted creeks, ponds, and other wetlands and to prevent future discharge of waste.
- 2) **Property Location:** Millwood Ranch is a 166-acre ranch located at One Picardo Ranch Road east of Highway 1 and west of Skyline Boulevard in the City of Pacifica (Pacifica), San Mateo County (Property). The Property borders Terra Nova High School to the south/southwest, Golden Gate National Recreation Area to the north/northwest, and residential areas to the east/southeast.
- 3) **Property History:** The Property has long been used for agriculture and horse boarding. The Picardo family, which owned the Property from the 1930s until 2005, used the Property for agriculture, primarily growing vegetables, until the early 1970s, when it switched its operations to horse boarding. In January 2005, Millard and Alicia Tong purchased the Property and continued the horse boarding business, changing the name to Millwood Ranch. In 2018, Millard and Alicia Tong filed for bankruptcy, and CECA Holdings, LLC purchased the Property in 2019 through this process. As of the date this order was issued, Millard and Alicia Tong continued to operate the horse boarding business at the Property.
- 4) **Named Responsible Parties:** Millard Tong and Alicia Tong (Tongs), doing business as Millwood Ranch, are named as dischargers because they owned the Property from 2005 to 2019, and they caused or permitted waste to be discharged into waters of the State, creating a condition of pollution or nuisance. Specifically, the Tongs filled a creek channel in about 2008 with dirt and debris without having obtained waste discharge requirements or a water quality certification from the Regional Water Board.

CECA Holdings, LLC, owned by Jerry C. Fan, is named as a Responsible Party because

public records and representations by Messrs. Fan and Tong indicate that it purchased the Property in 2019 and currently owns the Property, where unauthorized discharges remain in place.

This Order will use the term “Responsible Parties” to refer collectively to the Tongs and CECA Holdings, LLC, and will refer to the Tongs, specifically, with reference to activities and liability prior to the sale of the property in 2019.

- 5) **Basis of Order:** Water Code section 13304 authorizes the Regional Water Board to issue orders requiring a discharger to clean up and abate waste where the discharger has, in violation of a Regional Water Board order or prohibition, caused or permitted waste to be discharged or deposited where it is or probably will be discharged into waters of the State, and creates or threatens to create a condition of pollution or nuisance. Water Code section 13267 authorizes the Regional Water Board to require the Responsible Parties to submit technical and monitoring reports. Here, the Responsible Parties remain in violation of Cleanup and Abatement Order No. R2-2009-0045 (2009 Order), as well as San Francisco Bay Basin Water Quality Control Plan (Basin Plan) Prohibitions 7 and 9, by discharging fill, including construction wastes and debris, to ponds, creeks, and other waters of the State without appropriate authorizations, and allowing such discharges to remain in place for over a decade.
 - a) 2009 Order: The Regional Water Board adopted the 2009 Order on December 11, 2009, based on the findings that the Tongs discharged waste to unnamed perennial creeks tributary to San Pedro Creek and associated ponds and other wetlands (Property Waters), waters of the State and United States. Through inspections in 2008 and 2009, we observed that the Tongs discharged construction waste, including asphalt and approximately 3,822 cubic feet of concrete debris, into the Property’s creeks, ponds, and other wetland areas to expand their horse corrals, barns, stables and horse boarding facilities. The Tongs continued to work without approvals from regulatory agencies and after the Regional Water Board and other agencies’ guidance to stop work. A complete description of the findings supporting the 2009 Order is in the Basis of Order section of the 2009 Order.
 - b) Incomplete Cleanup Work: As of the date this Order was issued, implementation of cleanup work required by the 2009 Order was incomplete. As a result, waste discharged by the Tongs continues to create a condition of pollution.
 - c) Property Sale: The Tongs filed for bankruptcy in 2018 and in this process, CECA Holdings, LLC acquired the Property and is now named as a Responsible Party. This Order requires the Responsible Parties to complete cleanup work required by the 2009 Order.
- 6) **Regulatory History and Status:** The Property was subject to the 2009 Order, which is rescinded and replaced by this Order. The 2009 Order required that the Tongs clean up Property Waters with the following tasks: 1) submit a preliminary assessment of Property Waters; 2) submit and implement a corrective action plan for cleanup work; 3) submit

and implement an equestrian facilities management plan; 4) apply for coverage under the Statewide NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, as amended) (Construction Stormwater General Permit); and 5) submit and implement a Stormwater Pollution Prevention Plan (SWPPP). The Tongs submitted documents pursuant to tasks 1, 2, 3, and 5, but have not started cleanup work described in the corrective action plan or applied for Construction Stormwater General Permit coverage.

The Regional Water Board received a preliminary assessment submitted by the Tongs in 2010. In communications with City of Pacifica staff, the Regional Water Board learned that the Tongs conducted construction at the Property between 2009 and 2020, subsequent to submitting the preliminary assessment. Construction at the Property that resulted in the loss or degradation of wetlands or other waters would necessitate increasing mitigation in the Corrective Action Plan. As a result, Responsible Parties shall submit an updated preliminary assessment as described in cleanup task B.1.

The Regional Water Board conditionally approved a Corrective Action Plan in 2013. However, delayed implementation of the Corrective Action Plan has resulted in a seven-year increase in the temporal loss of Property Waters and their beneficial uses associated with the unauthorized fill, and additional mitigation is required to compensate for the delay. In addition, construction or any other activities at the Property that resulted in the loss or degradation of wetlands or other waters would necessitate additional mitigation. Due to this, the 2013 plan is no longer acceptable. The Responsible Parties may consult with Regional Water Board staff to determine the additional mitigation or other actions required, and regarding any other changes to the Corrective Action Plan.

Millwood Ranch is required to enroll in the General Waste Discharge Requirements for Confined Animal Facilities (Order No. R2-2016-0031). The Tongs enrolled Millwood Ranch in the Regional Water Boards' Confined Animal Facility Program, but have failed to submit annual reports, required by the program, for the three years they have been enrolled.

- 7) **Basin Plan Discharge Prohibitions Violations:** The discharges of waste by the Tongs to waters of the State are violations of Basin Plan Discharge Prohibitions 7 and 9.
- a) Discharge Prohibition 7 prohibits the discharge of rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they could contact or where they would eventually be transported to surface waters, including flood plain areas. The Tongs discharged solid wastes, including, but not limited to, construction wastes and horse manure, directly into surface waters and adjacent to surface waters, such that they would eventually be transported to surface waters; and
 - b) Discharge Prohibition 9 prohibits the discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity or discoloration in surface waters or to unreasonably affect or threaten to affect beneficial uses. The Tongs discharged earthen wastes both directly

into surface waters and to a location where the wastes subsequently discharged into surface waters, filling those waters and likely causing bottom deposits and excess turbidity. These discharges remain in place after more than a decade.

- c) The Basin Plan designates beneficial uses and water quality objectives for waters of the State and their tributaries and includes programs to achieve water quality objectives. The existing beneficial uses for San Pedro Creek and its tributaries include: cold freshwater habitat (COLD); fish migration (MIGR); municipal and domestic water supply (MUN); noncontact water recreation (REC2); fish spawning (SPWN); and warm freshwater habitat (WARM). In addition, San Pedro Creek is known to provide habitat for rare, threatened, and/or endangered species as described below.
 - d) The discharge and depositing of fill/waste materials have significantly impacted the beneficial uses of the Property Waters, which are tributary to San Pedro Creek. These adverse impacts include: destruction of aquatic and wildlife habitat; removal of habitat for threatened and endangered species, specifically of habitat for the California red-legged frog and San Francisco garter snake; alteration of natural stream flow and sedimentation dynamics; and contributing to an observed increase in erosion and the discharge of animal waste to waters of the State.
- 8) **Jurisdictional Requirements:** The Tongs have neither applied for, nor obtained, Clean Water Act section 401 Water Quality Certification (401 Certification) or Waste Discharge Requirements from the Regional Water Board prior to the creek, pond, and other wetland fill and waste discharges into waters of the State. The Tongs did not file a Report of Waste Discharge with the Regional Water Board, and did not file for, nor obtain, Construction Stormwater General Permit coverage from the State Water Resources Control Board for their construction storm water discharges. The Tongs have neither applied for, nor obtained, permits from any local, State, or federal regulatory agencies as required for such activities. After issuance of the 2009 Order, the Tongs applied for and obtained a 401 Certification for restoration of the impacted reach of the creek and submitted a Stormwater Pollution Prevention Plan. However, the restoration authorized in the 401 Certification was not implemented and new State and Federal permits must be obtained prior to any restoration work at the Property.
- 9) **Watershed and Topography:** The Property is within the San Pedro Creek watershed and runoff from the Property discharges into the north fork of San Pedro Creek. The watershed's steep headwater tributaries begin in the northern Santa Cruz Mountains and discharge into the main stem of San Pedro Creek, which flows west across the San Pedro Valley and into the Pacific Ocean in Pacifica. The San Pedro Creek watershed has a total drainage area of approximately 8 square miles. The San Pedro Creek has three major forks: the south, middle, and north forks. The north fork watershed is approximately 2.37 square miles and consists of residential and light commercial facilities in the valley, and open space in the headwaters where the subject Property is located. With the exception of the steep headwaters, including in the proximity of the Property, the lower portion of the north fork has been partially culverted as a result of past urban development. In 2005, the

City of Pacifica restored about 1,300 linear foot reach of the San Pedro Creek bed and restructured the Capistrano Bridge culvert to improve fish passage and habitat. The total cost of that stream restoration project was over five million dollars (\$5 million).

San Pedro Creek provides habitat for the following State and federally-listed species: California red-legged frog, a species listed as threatened under the Endangered Species Act (ESA) and as a California Species of Special Concern (SSC); San Francisco garter snake, a species listed as threatened under the ESA and the California Endangered Species Act and as a fully protected species under section 5050 of the Fish and Game Code; steelhead trout, a species listed as threatened under the ESA and as a SSC; and the San Francisco duskyfooted woodrat, the pacific pond turtle, and migratory, nesting, and foraging bird species such as the yellow warbler, olive-sided flycatcher, and tricolored blackbird, which are all listed as an SSC.

- 10) **Basin Plan Wetland Fill Policy:** The Basin Plan Wetland Fill Policy (Fill Policy) establishes that there is to be no net loss of wetland acreage and value, and a long-term net gain, when a project and any proposed mitigation are evaluated together, and that mitigation for wetland fill projects is to be located in the same area of the region, whenever possible, as the project. The Fill Policy further establishes that wetland disturbance should be avoided whenever possible and, if not possible, should be minimized and only after avoidance and minimization of impacts should mitigation for lost wetlands or other waters be considered. The Regional Water Board incorporated U.S. EPA's Clean Water Act section 404(b)(1) Guidelines into the Basin Plan for determining the circumstances under which dredging or filling of wetlands, streams, or other waters of the U.S. may be authorized. The Regional Water Board must ensure that all projects meet State water quality standards, including, but not limited to, water quality objectives, existing and potential beneficial uses, and the State's Anti-degradation Policy. Requirements of this Order implement the Fill Policy.
- 11) **Loss of Waters of the State:** The cleanup restoration and mitigation activities described and authorized in the 401 Certification were intended to address the removal of vegetation and unauthorized fill of creeks and wetlands and account for the loss of functions, values, and acreage of waters of the State that occurred from the illegal fill. The activities described in the 401 Certification include: restoring 1,262 linear feet of altered creek and enhancing 637 linear feet of creek channel that was filled, restoring 0.08 acres and enhancing 0.49 acres of wetlands that were filled, restoring 0.6 acres of riparian vegetation and enhancing 2.7 acres of riparian habitat, removing all imported fill materials (834 cubic yards), stabilizing and revegetating 0.94 acres of coastal scrub along hill-slopes and within riparian habitat, removing all structures constructed without proper permits within 25 feet of the top of any creek bank or the edge of any pond or wetland area, and removing invasive vegetation from creek channel and riparian habitat. The delay in restoration has resulted in seven years of additional temporal loss of functions, values, and acreage of waters of the State that were not accounted for when the 401 Certification was issued. In addition to temporal losses, there may be losses associated with construction that occurred at the Property between 2009 and 2020. To meet the Regional Water Board's Fill Policy, additional mitigation is required to compensate for

the additional loss.

- 12) **CEQA:** This enforcement action is being undertaken by a regulatory agency to enforce a water quality law. Such action is categorically exempt from provisions of the California Environmental Quality Act (CEQA) according to CEQA Guidelines section 15321 in Article 19, Division 3, Title 14 of the California Code of Regulations. This Order requires the submittal of detailed work plans that address cleanup activities. The proposed activities under the work plans are not yet known, but implementation of the work plans may result in significant physical impacts to the environment that must be evaluated under CEQA. The appropriate lead agency will address the CEQA requirements prior to implementing any work plan that may have a significant impact on the environment.
- 13) **Summary:** Based on the above findings, the Regional Water Board finds that the Tongs have caused or permitted waste to be discharged or deposited where it can be and has been discharged into waters of the State and the United States, created and threatened to create a condition of pollution, and have allowed that condition to continue for over a decade. The discharged wastes have resulted in unnecessary and avoidable adverse impacts to beneficial uses of waters of the State in violation of the Basin Plan, Water Code, and the Clean Water Act. This Order, therefore, requires the Tongs and CECA Holdings, LLC, the current Property owner, to investigate and remediate existing and likely future impacts to the Property Waters and associated downstream waters, including San Pedro Creek.

IT IS HEREBY ORDERED, pursuant to Water Code sections 13304 and 13267, that the Responsible Parties (or their agents, successors, or assigns) shall clean up and abate the effects described in the above findings as follows:

A. Prohibition

The discharge of wastes, including rubbish, refuse, bark, sawdust, solid wastes such as construction wastes, horse manure, and silt, sand, clay, or other earthen materials, that degrade, or threaten to degrade, water quality or adversely affect, or threaten to affect, beneficial uses of waters of the State in violation of the Basin Plan is prohibited.

B. Cleanup and Abatement Tasks

1. Update Preliminary Assessment

COMPLIANCE DATE: January 4, 2021

The Responsible Parties shall submit an updated preliminary assessment, acceptable to the Regional Water Board's Executive Officer, with the following additions:

- (a) A map of the Property that shows the construction activities that have occurred at the Property since the 2009 Order was issued, along with a narrative description of

the activities and a narrative description and quantitative summary of any impacts to waters of the State.

- (b) A new estimate of the areal extent of impervious surfaces¹ on the Property, including both (1): the total area of impervious surfaces on the Property, and (2) the total area of impervious surfaces added or reworked since the Tongs acquired the Property.

2. Update and Implement Corrective Action Plan

COMPLIANCE DATES: Submit plan by April 1, 2021, begin implementation by June 1, 2021, complete implementation by November 1, 2022

The Responsible Parties shall submit and implement a Corrective Action Plan, acceptable to the Executive Officer, that a) addresses the Tongs' unauthorized fill in 2008, b) includes a plan to mitigate for the seven-year increase in temporary loss of wetlands or other waters associated with the unauthorized fill, c) includes a plan to mitigate any other losses associated with construction or other actions between 2009 and 2020. The plan(s) shall include an implementation schedule to ensure actions, in the plan, except for post-restoration monitoring, reporting, and adaptive management, are completed by November 1, 2022. The Responsible Parties shall implement the plan once it is accepted by the Executive Officer, no later than June 1, 2021. The Responsible Parties may consult with Regional Water Board staff to determine the additional mitigation required and any other aspects of the Corrective Action Plan.

The Corrective Action Plan shall include, but is not limited to, descriptions of the following restoration actions and an implementation schedule to complete the actions by the implementation deadline, once the plan has been approved by the Executive Officer.

- (i) Removal of all waste materials, fill, and debris from the creek channel, its bed and banks, springs and other wetlands on the property that Tongs placed in those waterways; this includes all animal waste; construction waste including, but not limited to concrete, grout, rock and debris; culverts and pipes; wood debris; and other fill/wastes;
- (ii) Stabilizing and revegetating all slopes the Tongs have created that have discharged or may discharge sediment and/or debris into Waters of the State;
- (iii) Inventorying the number and size (length and diameter) of all pipes and culverts that have been illegally installed to divert flows into or away from waterways. Describe how the pipes and culverts will be removed and the Site's pre-expansion and pre-expansion hydrology will be restored;
- (iv) Actions to address any adverse impacts the restoration may have on the Site's hydrology and channel morphology.

¹ Impervious surfaces include, but are not limited to: structures, concrete pads, paved roads, gravel roads, and parking lots.

- (v) Restoring the wetlands' function and ensuring their full re-establishment with carefully calculated design details, specified scheduled performance and success criteria, and a minimum period of five years of annual monitoring for those criteria. Monitoring periods may be extended if performance and success criteria are not met in a timely manner;
- (vi) Removing all horse corrals, pathways, roads, and all other built structures and associated improvements the Tongs created without proper permits that are within 25 feet from the top of each creek bank, and the edge of each pond or other wetland, or as required by the relevant permitting agency's procedures;
- (vii) Restoring and re-vegetating the creeks, ponds, and other wetlands work areas, and an associated buffer zone adjacent to them, after all construction and restoration work is completed, including implementing a long-term monitoring plan and achieving performance and success criteria for the restored areas as described in this Task;
- (viii) Creating mitigation wetlands or other waters to compensate for the temporary loss of stream, wetland, and riparian functions and values that resulted from the unauthorized grading and filling of State and Federal waters at the Site. This compensatory mitigation shall be in addition to restoring the impacted creek, wetlands, and riparian corridors to their natural pre-expansion condition. The Corrective Action Plan shall include construction of mitigation and monitoring for mitigation success and shall include, but is not limited to, appropriate design details, performance criteria, success criteria, and monitoring periods of not less than five years for herbaceous vegetation criteria, and not less than ten years for woody riparian vegetation and creek geomorphology criteria. Monitoring periods may be extended if performance and success criteria are not met as scheduled.

The Responsible Parties, in conducting restoration activities described in the Corrective Action Plan, shall adhere to the following practices:

- (i) All grading and excavation activities shall be conducted during the dry season (April 15 through October 15) unless, in the event of no rainfall, a later period is approved by the Regional Water Board, California Department of Fish and Wildlife (CDFW), and U. S. Fish and Wildlife Service (USFWS) as required in their respective regulatory procedures. The Responsible Parties shall contact the Regional Water Board at least two weeks (14 calendar days) prior to any request to grade after October 15 or prior to April 15. Should rain occur prior to October 15 or after April 15, the Responsible Parties shall be responsible to ensure the Site is fully stabilized prior to such rain;
- (ii) Consistent with the Preliminary Assessment (see task 1), the biologist must halt all work in the area if threatened or endangered species are observed during the pre-construction survey or while construction is ongoing, to avoid adverse

impacts. The biologist shall contact CDFW and USFWS for further guidance before work commences or recommences. The Corrective Action Plan shall include or be amended to incorporate any steps necessary to protect the threatened and/or endangered species observed;

- (iii) All debris and construction wastes shall be kept outside waterways and shall be properly disposed of to an offsite facility.

3. Update and Implement Equestrian Facilities Management Plan

COMPLIANCE DATE: Immediately

The Responsible Parties shall submit an updated Equestrian Facilities Management Plan, acceptable to the Executive Officer, to address potential changes to equestrian facilities on the Property since 2012. The Responsible Parties shall implement the updated plan once it has been accepted by the Executive Officer. The updated plan shall include, but is not limited to:

- (i) A new Property map describing all areas of the horse boarding facility, including stables, turnout, paddocks, arenas, manure storage, trails, areas where horse access is prohibited, such as creeks, ponds, and other wetlands, and all other information, as appropriate;
- (ii) A description of best management practices (BMPs) to control runoff from any new horse boarding related structures built since the 2012 Equestrian Facilities Management Plan was prepared. The BMPs shall be effective and consistently implemented to prevent discharges from these facilities to waters of the State and United States;
- (iii) Updated contact information for those responsible for implementing the Equestrian Facilities Management Plan (if applicable).

4. Obtain Construction Stormwater General Permit Coverage

COMPLIANCE DATE: Immediately

The Responsible Parties shall file a complete Notice of Intent (NOI), including the required permit registration documents, for the Construction Stormwater General Permit to obtain coverage for the construction activities on the Property. The Responsible Parties shall file the NOI and permit registration documents with the State Water Resources Control Board online via the Stormwater Multiple Application and Report Tracking System (SMARTS)² and send a copy of the NOI and a copy of payment verification for

² Instructions for using SMARTS are available at: smarts.waterboards.ca.gov

the annual permit fee to: San Francisco Bay Regional Water Board, attn. Demir Worthington, 1515 Clay Street, Suite 1400, Oakland CA 94612 or via email to Demir.Worthington@waterboards.ca.gov.

Pursuant to the Construction Stormwater General Permit and this Order, the Responsible Parties shall submit an updated SWPPP that meets the requirements of the Permit and this Order. The updated SWPPP shall name the Responsible Parties and address any changes to the Property noted in the updated Preliminary Assessment. The Responsible Parties shall submit an updated copy of the SWPPP to the Regional Water Board for the Executive Officer's approval by July 31 of each calendar year until the Responsible Parties have been notified in writing that such submittal is no longer required.

In addition to the requirements in the Construction Stormwater General Permit, the SWPPP shall include the following:

- (i) Engineering calculations, design specifications, implementation dates, and all other information necessary to construct and maintain the measures for the duration of the restoration project and for any future expansions at the Property.
- (ii) If the total impervious area, as determined by the updated preliminary assessment, is equal to or greater than 5,000 square feet, the SWPPP shall include as an appendix a Storm Water Management Plan compliant with Provision C.3 of the Municipal Regional Stormwater Permit (Order No. R2-2015-0049, as amended) that proposes permanent post-construction measures to treat stormwater runoff and address hydromodification impacts from the Property's impervious surfaces for the life of the project. The Responsible Parties shall implement the accepted Storm Water Management Plan.

C. Provisions

1. **Good Operation and Maintenance:** The Responsible Parties shall maintain in good working order and operate as efficiently as possible any facility or control system installed, both during and post restoration activities, including BMPs and post-construction permanent control measures, to achieve compliance with the requirements of this Order.
2. **Cost Recovery:** Pursuant to Water Code section 13304, the Responsible Parties are hereby notified that the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.
3. **Contractor/Consultant Qualifications:** With the exception of the Preliminary Assessment, which shall be signed by its author, all technical documents shall be signed by and stamped with the seal of a California registered geologist, engineering geologist, or civil engineer, and signed by the registered professional.

4. **Reporting of Changed Owner or Operator:** The Responsible Parties shall file a written report on any changes in the Property's occupancy or ownership associated with the Property described in this Order. This report shall be filed with the Regional Water Board within 30 days following a change in Property occupancy or ownership.
5. **Document Distribution:** Electronic copies of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be provided upon request within two weeks of the established task deadline to the following recipients:
 - (i) CDFW; (ii) U.S. Army Corps of Engineers (iii) USFWS; and (iv) City of Pacifica.

The Executive Officer may modify this distribution list as needed.

6. **Delayed Compliance:** If the Responsible Parties are delayed, interrupted, or prevented from meeting one or more of the completion dates specified in this Order, the Responsible Parties shall promptly notify the Executive Officer, and the Regional Water Board or Executive Officer may consider revision to this Order. We recognize the possibility that delays may occur due to other agencies' permitting requirements for proposed abatement activities.
7. **Enforcement:** Failure to comply with the provisions of this Order may result in the imposition of civil liabilities, imposed either administratively by the Regional Water Board or judicially by the Superior Court in accordance with Water Code sections 13268, 13304, 13308, 13350, and/or 13385, and/or referral to the Attorney General of the State of California for injunctive relief or civil or criminal liability. Failure to submit, late or inadequate submittal of technical reports and workplan proposals, or falsifying information therein, is a misdemeanor and may subject the Responsible Parties to additional civil liabilities. This Order does not preclude or otherwise limit in any way the Regional Water Board's ability to take appropriate enforcement action for the Responsible Parties' violations of applicable laws, including, but not limited to, discharging without a permit and failing to comply with applicable requirements. The Regional Water Board reserves its rights to take any enforcement action authorized by law.
8. **Evidentiary Hearing before the Regional Water Board:** Any person affected by this action of the Regional Water Board may request an evidentiary hearing before the Regional Water Board. The Regional Water Board's Executive Officer may elect to hold an informal hearing or a "paper hearing" in lieu of scheduling a hearing before the Regional Water Board itself. If you decide to request an evidentiary hearing, send your request to the San Francisco Bay Regional Water Board Executive Officer, Attn: Michael Montgomery, 1515 Clay Street, Suite 1400, Oakland CA 94612 and to Demir.Worthington@waterboards.ca.gov. Please consider the following carefully:
 - a. The Regional Water Board must receive your request within **30 calendar days** of the date of this Order.
 - b. Your request must include all comments, technical analysis, documents, reports, and other evidence that you wish to submit for the evidentiary hearing. However, please note that

the administrative record will include all materials the Regional Water Board has previously received regarding this Property. You are not required to submit documents that are already in the record.

- c. The Executive Officer or Regional Water Board may deny your request for a hearing after reviewing the evidence.
 - d. If you do not request an evidentiary hearing, the State Water Board may prevent you from submitting new evidence in support of a State Water Board petition.
 - e. Your request for an evidentiary hearing, if you submit one, does not stay the effective date of the Order, whether or not a hearing is scheduled.
 - f. A request for a hearing does not extend the 30-day period to file a petition with the State Water Board (see below). However, you may request that the State Water Board hold a petition in abeyance while your request for a hearing is pending, in accordance with California Code of Regulations, title 23, section 2050.5(d). Additional information regarding the State Water Board petition process is provided below.
9. **State Water Board Petition:** Any person aggrieved by this action may petition the State Water Board to review the action in accordance with Water Code section 13320 and Title 23, California Code of Regulations, section 2050 et al. The State Water Board, Office of Chief Counsel, must receive the petition by 5:00 p.m. 30 days after the date this Order becomes final (if the thirtieth day falls on a weekend or State holiday, the petition must be received by the next business day).³ This Order is effective upon the date of signature.
10. **Rescission of Existing Order:** This Order supersedes and rescinds Order No. R2-2009-0045.
11. **Periodic Cleanup and Abatement Order Review:** The Regional Water Board may review this Order periodically and may revise it when necessary.

Ordered by

Date

Michael Montgomery
Executive Officer

³ Instructions for petitioning will be provided upon request or you may view them at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality/index.shtml