

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER No. R2-2003-0112

WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION FOR:

LBL – DUC RANCHO SOLANO II LLC

RANCHO SOLANO PHASE 3 DEVELOPMENT PROJECT, FAIRFIELD, SOLANO
COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region, hereinafter Board, finds that:

1. LBL – DUC Rancho Solano II LLC (hereinafter the Discharger) proposes to construct a residential development known as the Rancho Solano Oaks or Rancho Solano Phase 3 Development Project on a 291-acre site in the City of Fairfield (hereinafter the Project). The Project is the final phase of an existing residential subdivision (Rancho Solano) that includes homes, schools, retirement housing, and a golf course. The Project consists of the following elements:
 - a. Approximately 217 single family residential units on 6,000 to 8,000 square foot lots, a community park, and associated roads, utilities and other infrastructure on approximately 60 acres; and
 - b. 231 acres of open space.
2. There are approximately 1.37 acres of jurisdictional waters of the United States and State, including intermittent/ephemeral creeks, a stock pond, and a seasonal marsh, on the Project site, all within the LedgeWood Creek watershed, tributary to Suisun Bay. The site's waters of the United States and State consist of:
 - a. 6,200 linear feet (0.55 acres) of freshwater seasonal creeks;
 - b. 0.73 acres of freshwater stock pond; and
 - c. 0.09 acres of seasonal marsh.
3. The Project will result in the direct placement of fill into 0.53 acres of jurisdictional waters of the United States and State, including 0.47 acres of seasonal creeks (5,900 linear feet) and 0.06 acres of seasonal marsh within the creeks, on the Project site.
4. **Mitigation Plan:** To mitigate for its permanent fill of 0.53 acres jurisdictional waters of the United States and State, the Discharger will complete the mitigation proposed in its "Rancho Solano Oaks Wetland (Section 404) Revised Mitigation Program" (hereinafter Mitigation Plan), dated September 16, 2003, and prepared by Zentner & Zentner, and the Mitigation Plan's associated documents. The Mitigation Plan provides for the creation of 1.04 acres of riparian habitat (8,189 linear feet) and the restoration of 0.66 acres of riparian habitat (8,057 linear feet). The proposed mitigation will all occur within the LedgeWood Creek watershed, the same watershed in which the Project's impacts occur, and is designed to stabilize and improve the conditions of the watershed, and will be initiated in the same season in which the Project's impacts occur. The Discharger will

obtain easements from all of the necessary landowners to implement the Mitigation Plan prior to initiating the discharge described in Finding 3. The Mitigation Plan is acceptable to the Board, with the required submittals and revisions listed in the Provisions. The proposed mitigation consists of the following:

- a. **Central Reach Creek -- Creation and Restoration.** Create 2,580 linear feet of new riparian channel and restore 2,077 linear feet of existing riparian channel in the Central Reach that runs through the Project site. The restoration efforts will begin at the spring-fed headwaters of the Central Reach immediately east of the Project site and will continue through the Project site. At the downstream end, the restored/created Central Reach will discharge into an existing culvert immediately west of the Project site. This work will reconnect a portion of the North Branch of Ledge wood Creek watershed. The restored and created riparian areas along with a buffer will be preserved under a perpetual conservation easement to be recorded prior to commencement of construction. The restoration efforts will involve temporal impacts to existing jurisdictional areas; these impacts will be mitigated by implementation of the Mitigation Plan and are not considered permanent impacts.
 - b. **On-site Preservation.** 231 acres of the Project site will be avoided and maintained as open space including all of the oak woodland on site and 0.84 acres of avoided jurisdictional waters of the United States.
 - c. **Western Reach Creek -- Creation and Restoration.** Create 2,548 linear feet of new riparian channel and restore 5,680 linear feet of existing riparian channel in the Western Reach drainage that lies less than 0.5 miles west of the Project site. The restoration work will begin at the three headwater channels of the Western Reach and will terminate in an existing channel with a culvert crossing under Mankas Corner Road. This work will reconnect a portion of the North Branch of Ledge wood Creek to the downstream watershed. The created and restored creek and a buffer will be preserved under a perpetual conservation easement to be recorded prior to commencement of construction. The restoration efforts will involve temporal impacts to existing jurisdictional areas; these impacts will be mitigated by implementation of the Mitigation Plan and are not considered permanent impacts.
 - d. **Main Stem of Ledge wood Creek -- Creation and Restoration.** Create 3061 linear feet of new riparian channel and restore 300 linear feet of existing riparian channel in the Main Stem drainage of Ledge wood Creek. This work will begin immediately south of Interstate 80 within the City of Fairfield (approximately 2.2 miles) and terminate at an existing culvert under Highway 12. This work will be completed in conjunction with other City of Fairfield efforts to restore Ledge wood Creek. The restoration efforts will involve temporal impacts to existing jurisdictional areas; these impacts will be mitigated by implementation of the Mitigation Plan and are not considered permanent impacts.
5. **Monitoring and adaptive management of mitigation areas.** The Mitigation Plan provides for a 10-year monitoring and maintenance program to ensure the created and restored habitats meet specific performance standards. The monitoring and maintenance

program included in the Mitigation Plan is acceptable to the Board, with the required submittals listed in the Provisions.

6. **Post-construction stormwater management:** The Discharger has submitted a "Rancho Solano Phase III Stormwater Quality Treatment Program" (hereinafter SWMP), prepared by Zentner & Zentner, and dated October 2002. This plan is acceptable to the Board, with the submittals and revisions listed in the Provisions. The plan includes the following measures to address the Project's post-construction urban runoff impacts:
 - a. The Project has been designed to limit impermeable areas: approximately 80% of the site (231 acres) will be preserved as open space;
 - b. Construction of a detention basin to maintain water supply to receiving water reaches at 90% of the pre-development flows and to prevent any increase in the peak stormwater discharge rate and duration from pre-development conditions from the site for the 2-year to 10-year, 6-hour storm;
 - c. Construction of three water quality basins to treat stormwater flows from the north and south subcatchments of the development. The basins have been designed to capture over 80% of the annual rainfall with a target detention time of 40 hours;
 - d. Runoff from residential roofs will be routed to landscaped swales on individual parcels for treatment before discharging into the stormdrain network;
 - e. Stormwater source control measures will be detailed in the Covenants, Conditions and Restrictions (CC&Rs) for the development; and
 - f. A homeowner stormwater education program will be implemented and stormdrain inlets will be labeled with "No Dumping, Drains to Bay" language as specified in the SWMP.
7. The proposed water quality basins are intended to function as urban runoff treatment systems. Therefore, pursuant to Board Resolution Number 94-102, "Policy on the use of constructed wetlands for urban runoff pollution control," the water quality basins are, as proposed, not considered waters of the United States or State requiring water quality certification pursuant to Section 401 of the Clean Water Act for maintenance and other work completed on them.
8. **Future Creek Crossings.** The Discharger intends to construct two or three bridges across off-site creek conservation areas to allow access to adjacent property. These bridges are not part of the Project and are not covered by this Order. None of the bridge crossings is expected to result in the placement of fill into existing creeks below ordinary high water. However, creek impacts during or associated with future bridge construction may occur, and this Order requires submittal of a Report of Waste Discharge for future bridge construction projects which have the potential to impact waters of the State.
9. **Financial Assurance:** The Discharger has submitted a financial assurance plan (the Financial Plan), dated November 18, 2003. The Financial Plan proposes for the Discharger to submit a bond, callable by the Board, in the amount of \$750,000. As outlined in the Financial Plan, the financial assurance amount may be stepped down upon the successful completion of a mitigation item, as determined by the Executive Officer in his sole discretion.

10. **Long-term Management:** The long-term management of the mitigation sites described in Finding 4 will be transferred to an appropriate land management group or agency, subject to the approval of the Executive Officer. The Discharger anticipates that the Solano Land Trust will assume the easements and long-term maintenance responsibility for the Western Reach of the mitigation, while the City of Fairfield will assume the easements and maintenance responsibility for the Central Reach of the mitigation. Based on annual cost estimates, an endowment of \$157,200 is required to provide an annual income sufficient to fund the annual duties of the entity providing the long-term management. As outlined in the Financial Plan, the Discharger will establish an endowment account by depositing an investment of \$82,000 into an interest bearing account prior to start of construction. At the end of the ten-year monitoring period, the initial investment plus the interest having accrued thereon is projected to amount to a minimum of \$157,200. If at the end of the ten-year monitoring period, the endowment account does not contain \$157,200, the Discharger will fund the difference.
11. On July 15, 2002, the Discharger submitted an initial application for Water Quality Certification and Waste Discharge Requirements for the Project. Because of the size and complexity of the Project, the sensitivity of resources on site, and the timing of the application submittals, the Board was unable to consider the application prior to the expiration of the one-year period allowed under U.S. Army Corps of Engineers' regulations. Accordingly, the application was denied without prejudice on July 14, 2003.
12. On September 18, 2003, the Discharger reactivated the Project's application for water quality certification and provided additional information regarding the Project. That application was subsequently completed by additional submittals.
13. The Board has determined to regulate the proposed discharge of fill materials into waters of the State by issuance of Waste Discharge Requirements (WDRs) pursuant to Section 13263 of the California Water Code (CWC) and 23 CCR §3857, in addition to issuing certification pursuant to 23 CCR §3859. The Board considers WDRs necessary to adequately address impacts and mitigation to beneficial uses of waters of the State from the Project, to meet the objectives of the California Wetlands Conservation Policy (Executive Order W-59-93), and to require appropriate changes in provisions over the life of the Project and its construction should the Project's proposed and/or actual discharges change.
14. The Board, on June 21, 1995, adopted, in accordance with Section 13240 et seq. of the CWC, a revised Water Quality Control Plan, San Francisco Bay Basin (Basin Plan). This updated revised Basin Plan was approved by the State Water Resources Control Board and the Office of Administrative Law on July 20, 1995, and November 13, 1995, respectively. A summary of regulatory revisions is contained in 23 CCR § 3912. The Basin Plan defines beneficial uses and water quality objectives for waters of the State, including surface waters and groundwaters. This Order is in compliance with the Basin Plan.
15. The subject seasonal creeks, wetlands, and other waters on the Project site are located in the headwaters of the Suisun Basin and are tributary to Ledgewood Creek. Ledgewood

Creek flows into Suisun Slough, Suisun Bay, Carquinez Strait, and thence to San Francisco Bay. The mitigation areas on the Central Reach, the Western Reach and the Main Stem are also part of the Ledgewood Creek watershed. The Basin Plan does not explicitly identify beneficial uses for waters on the Project site. However, the Basin Plan states that "[t]he beneficial uses of any specifically identified waterbody generally apply to all of its tributaries." The Basin Plan identifies the following existing beneficial uses of the receiving waters from the Project site:

- a. Ledgewood Creek: cold freshwater habitat, freshwater replenishment; migration of aquatic organisms, water contact recreation, non-contact water recreation, spawning, reproduction and/or early development, warm freshwater habitat, and wildlife habitat-riparian.
 - b. Suisun Slough: navigation; water contact recreation; non-contact water recreation; spawning, reproduction and/or early development; warm freshwater habitat; and wildlife habitat – riparian.
 - c. Suisun Bay and the Carquinez Strait: ocean, commercial, sports fishing; estuarine habitat; industrial service supply; migration of aquatic organisms; navigation; rare and endangered species; water contact recreation; non-contact water recreation; spawning, reproduction and/or early development; and wildlife habitat – riparian.
16. The Basin Plan Wetland Fill Policy (policy) establishes that there is to be no net loss of wetland acreage and no net loss of wetland value when the 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 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 be considered.
17. The goals of the California Wetlands Conservation Policy (Executive Order W-59-93, signed August 23, 1993) include ensuring "no overall loss" and achieving a "...long-term net gain in the quantity, quality, and permanence of wetland acreage and values...." Senate Concurrent Resolution No. 28 states that "[i]t is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and the multiple resources which depend on them for benefit of the people of the State." Section 13142.5 of the CWC requires that the "[h]ighest priority shall be given to improving or eliminating discharges that adversely affect... wetlands, estuaries, and other biologically sensitive areas."
18. This Order applies to the temporary and permanent fill and indirect impacts to waters of the State associated with the Project, which is comprised of the components listed in Finding 1. Construction of the project will result in the permanent placement of fill in and/or disturbance of 0.53 acres of jurisdictional waters, including freshwater seasonal creeks and a seasonal marsh. The permanent impact of this fill on waters was identified as a potentially significant impact but mitigated in the Mitigated Negative Declarations certified for the Project.

19. The Discharger has submitted the "Rancho Solano Oaks 404(b)1 Alternatives Analysis," prepared by Zentner & Zentner, dated October 2002, and supplemental information dated September 16 and October 15, 2003, to show that appropriate effort was made to avoid and then to minimize wetland disturbance, as required by the Basin Plan. Board staff held extensive additional discussions with the Discharger regarding its Alternatives Analysis. The Board concurs with the conclusions of the Alternatives Analysis, as supplemented.
20. Discharges of storm water associated with construction activity will occur. The Discharger is responsible for obtaining appropriate permits for these discharges, including complying with the rules and regulations of National Pollutant Discharge Elimination System (NPDES) permit requirements. This includes complying with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity (hereinafter General Permit), or its amendments and /or reissuances.
21. Discharges of storm water associated with the post-construction operation and maintenance of the Project will occur following its completion. The Discharger is responsible for obtaining appropriate permits for these discharges, including complying with the rules and regulations of NPDES permit requirements. This includes complying with the requirements placed on the Project under NPDES Permit No. CAS612005, the NPDES municipal storm water permit that covers the City of Fairfield. The Discharger has submitted a SWMP for the Project that, together with the additional submittals required under this Order, is consistent with the requirements of NPDES Permit No. CAS612005, Provision C.3, the permit provisions addressing new and redevelopment projects.
22. Because of the Project's proximity to sensitive resources, and potential to discharge materials that could significantly impact those resources, this Order requires the Discharger to submit a Storm Water Pollution Prevention Plan or Plans (SWPPPs) for the Project, prepared pursuant to the provisions of the General Permit, at least 60 days prior to the beginning of construction for the Project.
23. Discharges of ground water or other non-storm water during construction may be required. This Order considers such discharges covered by the General Permit, contingent on submittal of an acceptable discharge plan at least 30 days prior to such a discharge.
24. The California Environmental Quality Act (CEQA) requires all discretionary projects approved by public agencies to be in full compliance with CEQA, and requires a lead agency to prepare an appropriate environmental document (e.g., Environmental Impact Report or Negative Declaration) for such projects. On January 10, 2001, the City of Fairfield certified the Mitigated Negative Declaration for the Project. The Board, as responsible agency, finds the Mitigated Negative Declaration to be adequate and has considered the environmental impacts analyzed therein.

25. On July 15, 2002, the U. S. Army Corps of Engineers (Corps) issued a Public Notice for a proposed Individual Permit for the Project (Corps File No. 24749N) pursuant to Section 404 of the Clean Water Act.
26. On December 11, 2002, the California Department of Fish and Game (CDFG) entered into a Streambed Alteration Agreement for the Project pursuant to Fish and Game Code Section 1603 (Notification No. R3-2002-00700).
27. Pursuant to 23 CCR Sections 3857 and 3859, the Board is issuing WDRs and Water Quality Certification for the Project as described herein.
28. The Board has notified the Corps, the City, CDFG, and other interested agencies and persons of its intent to prescribe WDRs and Water Quality Certification for this discharge.
29. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.
30. This Project file is maintained at the Board under File No. 2128.03 and Site No. 02-48-C0230.

IT IS HEREBY ORDERED that the Discharger, in order to meet the provisions contained in Division 7 of the California Water Code and the regulations adopted thereunder, shall comply with the following, pursuant to authority under CWC Sections 13263 and 13267:

A. Discharge Prohibitions

1. The direct discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plains, is prohibited.
2. The discharge of floating oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
3. 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 is prohibited.
4. The wetland fill activities subject to these requirements shall not cause a nuisance as defined in CWC §13050(m).
5. The discharge of decant water from active dredging or fill sites and dredged material stockpile or storage areas to surface waters or surface water drainage courses is prohibited, except as conditionally allowed following the submittal of a discharge plan or plans as described in the Provisions.

6. The groundwater in the vicinity of the Project shall not be degraded as a result of the Project activities or placement of fill for the Project.
7. The discharge of materials other than storm water, which are not otherwise regulated by a separate NPDES permit or allowed by this Order, to waters of the State is prohibited.
8. The discharge of drilling muds to waters of the State, or where such muds could be discharged to waters of the State, is prohibited.

B. Provisions

1. The Discharger shall comply with all Prohibitions and Provisions of this Order immediately upon adoption of this Order or as provided below.
2. The Discharger shall submit copies of all necessary approvals and/or permits for the Project and mitigation projects from applicable government agencies, including, but not limited to, CDFG, the City of Fairfield, and Corps, for the Project prior to the start of Project construction.

Project Implementation Deadlines

3. No construction shall commence on the Project until all required documents, reports, plans, and studies required in the Provisions have been submitted to and found acceptable by the Executive Officer. In all cases where the Discharger is required to make a submittal acceptable to the Executive Officer, the Executive Officer may determine that construction may begin sooner than the specified number of days for the submittal prior to the beginning of construction.
4. Not later than 60 days prior to the beginning of construction, the Discharger shall submit, acceptable to the Executive Officer, a Plan that includes all appropriate Mitigation Plan implementation details that are not presently included in the Mitigation Plan. This includes information related to: (1) the long-term management of the mitigation areas (including managing entity and management plan); (2) required financial assurances; (3) proposed conservation easements; (4) demonstration that the Discharger has obtained easements from all of the necessary landowners to implement the Mitigation Plan prior to initiating the discharge described in Finding 3; and (5) a schedule for implementing the Mitigation Plan that indicates that mitigation will be initiated in the same season the Project's impacts occur. Upon the Executive Officer's determination that the Plan is acceptable, the Executive Officer may determine that construction may begin sooner than 60 days following submittal of the acceptable Plan.
5. As-built plans for each of the mitigation sites describing the status of the mitigation projects shall be prepared and submitted to the Board within 8 weeks of the completion of each mitigation site's construction. Within six months of completion of construction of all mitigation areas, the Project's on-site ecological monitor will finalize a construction log and the as-built reports and certify that the Project was built in accordance with this Order. This information will be submitted to the Board as per the Mitigation Plan.

6. Annual monitoring reports shall be submitted to the Board by September 15 of each monitoring year, as per the Mitigation Plan, and until all mitigation sites have met their performance standards and final success criteria, and the Executive Officer has accepted a notice of mitigation completion for each site.
7. Not later than 60 days prior to the beginning of construction, the Discharger shall submit, acceptable to the Executive Officer, draft conservation easements for all mitigation areas that will identify the proposed holder of the easement. The Discharger shall make an irrevocable offer of dedication to the proposed grantee upon receipt of approval from the Executive Officer. The Executive Officer may determine that work may begin sooner than 60 days after submittal of acceptable easements. The final, recorded easements shall be submitted to the Board upon recordation and prior to discharge of fill into waters of the State.
8. Not later than 60 days prior to the beginning of construction, the Discharger shall submit, acceptable to the Executive Officer, a SWMP implementation plan. The SWMP implementation plan shall include the following:
 - a. A final design for the proposed water quality treatment basins and landscape swales included in individual lots, acceptable to the Executive Officer, and including a schedule for the basin's construction and completion. This submittal shall also include a work plan and schedule for the submittal of an Operations and Maintenance (O&M) plan for the water quality basins and other best management practices.
 - b. Finalized CC&Rs for the Project detailing stormwater source control measures required within the Project; and
 - c. Details regarding the homeowners' education and outreach program to be implemented within the Project.
9. Not later than 60 days prior to the beginning of construction, the Discharger shall submit, acceptable to the Executive Officer, adequate financial assurance sufficient to ensure the success of the proposed creek and wetland mitigation as described in Finding 9. This financial assurance shall be no less than \$750,000 and be callable by the Board in the event of creek and/or wetland mitigation failure. The financial assurance amount may be stepped down upon the successful completion of a mitigation item, as determined by the Executive Officer in his sole discretion.
10. Not later than 60 days prior to the beginning of construction, the Discharger shall submit, acceptable to the Executive Officer, a signed agreement with a third party appropriate to manage all conservation areas provided for in the Mitigation Plan in perpetuity. The third party may also be the holder of any of the conservation easements described in Provision B.7.
11. Not later than 60 days prior to the beginning of construction of any project component, the Discharger shall submit, acceptable to the Executive Officer, a SWPPP to address the Project's expected construction stage impacts.

12. Any changes to the final mitigation plans referenced in the Provisions must be approved in writing by the Executive Officer.

Notice of Mitigation Completion

13. When the Discharger has determined that an area of the mitigation (i.e., Western Reach, Central Reach, Main Stem) has achieved the performance standards and final success criteria specified in the Mitigation Plan, it shall submit a notice of mitigation completion (notice), acceptable to the Executive Officer. The notice shall include a status report on the implementation of the long-term maintenance and management portion of the Mitigation Plan and a description of the status of the mitigation component that has been determined to be successful. After acceptance of the notice in writing by the Executive Officer, the Discharger's submittal of annual mitigation monitoring reports for that mitigation component is no longer required.

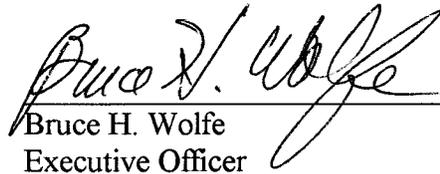
Other Provisions

14. All reports pursuant to these Provisions shall be prepared under the supervision of suitable professionals registered in the State of California.
15. The Discharger shall immediately notify the Board by telephone whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC §13267(b), a written notification of the adverse condition shall be submitted to the Board within two weeks of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to the modifications of the Board, for the remedial actions.
16. Should discharges of otherwise uncontaminated ground water contaminated with suspended sediment or other non-storm water that has accumulated in utility trenches or other portions of the Project be required, where such discharges are not otherwise covered by an applicable NPDES permit, such discharges may be considered covered by the General Permit, following the Discharger's submittal of a discharge/treatment plan, acceptable to the Executive Officer, at least 30 days prior to such a discharge.
17. The Discharger shall notify the Board in writing at least 30 days prior to actual start date for the Project.
18. The Discharger shall at all times fully comply with the engineering plans, specifications, and technical reports submitted with its application for water quality certification and the completed report of waste discharge.
19. The Discharger is considered to have full responsibility for correcting any and all problems that arise in the event of a failure that results in an unauthorized release of waste or wastewater.

20. The discharge of any hazardous, designated or non-hazardous waste as defined in Title 23, Division 3, Chapter 15 of the California Administrative Code, shall be disposed of in accordance with applicable state and federal regulations.
21. The Discharger shall remove and relocate any wastes that are discharged at any sites in violation of this Order.
22. In accordance with CWC §13260, the Discharger shall file with the Board a report of any material change or proposed change in the ownership, character, location, or quantity of this waste discharge. Any proposed material change in operation shall be reported to the Executive Officer at least 30 days in advance of the proposed implementation of any change. This shall include, but not be limited to, all significant new soil disturbances, all proposed expansion of development, or any change in drainage characteristics at the Project site. For the purpose of this Order, this includes any proposed change in the boundaries of the area of wetland/waters of the United States and/or State to be filled.
23. The following standard conditions apply to this Order:
 - a. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC §13330 and 23 CCR §3867.
 - b. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR §3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
 - c. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR §3833 and owed by the Discharger.
24. The Discharger shall maintain a copy of this Order at the Project site so as to be available at all times to site operating personnel and agencies.
25. The Discharger shall permit the Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto Project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Order.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.

- d. Sampling of any discharge or surface water covered by this Order.
- 26. This Order does not authorize commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws, regulations or rules of other programs and agencies, nor does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.
- 27. The Board will consider rescission of this Order upon Project completion and the Executive Officer's acceptance of notices of completion of mitigation for all mitigation, creation, and enhancement projects required or otherwise permitted now or subsequently under this Order.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on December 3, 2003.



Bruce H. Wolfe
Executive Officer