

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**tentative CLEANUP AND ABATEMENT ORDER NO. R9-2023-0132
FOR
TEMECULA CREEK RANCH, LLC; EDWARD AND JEAN WARD TRUST;
JACQUELINE M. FLETCHER; AND JOSE ANTONIO JIMENEZ
ASSESSOR PARCEL NOS. 583-120-003, 583-120-004, AND 583-120-086
COUNTY OF RIVERSIDE**

This Order is issued to Temecula Creek Ranch, LLC (TCR); the Edward and Jean Ward Trust (Trust); Jacqueline M. Fletcher; and Jose Antonio Jimenez (together Dischargers) based upon California Water Code (Water Code) section 13304, authorizing the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) to issue an order requiring the cleanup and abatement of wastes, and Water Code section 13267 authorizing the San Diego Water Board to require the preparation and submittal of technical and monitoring reports (Order).

The Executive Officer finds the following regarding the Dischargers' acts or failures to act:

Purpose of the Order

1. This Order requires the Dischargers to cleanup and abate waste discharged into and around Temecula Creek, a "waters of the United States" and "waters of the state" on Riverside County Assessor Parcel Numbers (APNs) 583-120-003, 583-120-004 and 583-120-086 (Site), Aguanga, County of Riverside during construction activity on or about August 2021. The discharge was not authorized by any federal, state, or local agencies, including the San Diego Water Board. This Order requires investigation and cleanup in compliance with the Water Code, the Water Quality Control Plan for the San Diego Basin (Basin Plan),¹ State Water Resources Control Board (State Water Board) Resolution No. 92-49,² and other applicable State and Regional Water Board plans, policies, and regulations.

¹ The Basin Plan can be found at

https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/

² The resolution can be found at

https://www.waterboards.ca.gov/water_issues/programs/site_cleanup_program/resolution_92_49.html

**Temecula Creek
Aguanga, California****Site Location and Description**

2. Temecula Creek³ generally flows from east to west through the Site and is upstream of Vail Lake. Temecula Creek (902.84) is in the Tule Creek Hydrologic Subarea of the Aguanga Hydrologic Area of the Santa Margarita Hydrologic Unit. APNs 583-120-003⁴ and 583-120-86⁵ are on the north side of Temecula Creek and are owned by the Trust, while TCR is the operator. APN 583-120-003 is approximately 42 acres and is contiguous and west of the approximately 47-acre APN 583-120-086. Fletcher and Jimenez are the owners of the approximately 85-acre APN 583-120-004⁶ that is contiguous and south of APNs 583-120-003 and 583-120-086.
3. The Site is within the United States Fish and Wildlife Service (USFWS) critical habitat for the arroyo toad (*Anaxyrus californicus*),⁷ which was listed as endangered on December 16, 1994, by the USFWS.⁸ Additionally, the Site is within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)⁹ and contains wetlands.¹⁰ As such the Site is considered a key area for beneficial uses¹¹ that support healthy aquatic ecosystems.¹²

³ Google Earth and Google imagery of the Site incorrectly labels Temecula Creek as Cottonwood Creek based upon a review of the San Diego Basin Plan Map. See <https://gispublic.waterboards.ca.gov/portal/apps/webappviewer/index.html?id=1f58bd97fdcd45329a5e16e373ede24d>.

⁴ Exhibit 1, Real Property Tax Assessor Record, APN 583-120-003, July 14, 2022.

⁵ Exhibit 2, Real Property Tax Assessor Record, APN 583-120-086, July 14, 2022.

⁶ Exhibit 3, Real Property Tax Assessor Record, APN 583-120-004, July 14, 2022.

⁷ Exhibit 4, Screenshot of Arroyo Toad Critical Habitat Map.

⁸ Exhibit 5, USFWS Arroyo Toad Website.

⁹ Exhibit 6, Section 1.0, Western Riverside Multiple Species Habitat Conservation Plan.

¹⁰ Exhibit 7, National Wetlands Inventory Map.

¹¹ Beneficial uses are defined as the uses of water necessary for the survival or well-being of man, plants and wildlife. Basin Plan at page 2-3.

¹² San Diego Water Board web page at https://www.waterboards.ca.gov/sandiego/water_issues/programs/key_areas/

**Temecula Creek
Aguanga, California****Dischargers**

4. The Dischargers must comply with this Order based on the following:
 - a. Fletcher and Jimenez conducted activities that resulted in the alteration of Temecula Creek's natural stream bed and flow regime, destruction of the riparian vegetation adjacent to Temecula Creek, and the unauthorized discharge of waste into and surrounding Temecula Creek such that the waste is likely to be discharged into Temecula Creek.¹³ Additionally, as the current owner of APN 583-120-004, Fletcher and Jimenez had, or should have had, knowledge of the alleged discharges at APN 583-120-004 and have control of APN 583-120-004 and the legal ability to remediate those conditions and prevent additional discharges. Fletcher and Jimenez obtained APN 583-120-004 on or about March 6, 2020.¹⁴
 - b. The Trust as the owner of APNs 583-120-003 and 583-120-086 and TCR as the operator at the time of the discharge had or should have had knowledge of the activities that resulted in the discharge and had the legal ability to prevent those activities. Additionally, as the current owner of APNs 583-120-003 and 583-120-086, the Trust and TCR had, or should have had, knowledge of the alleged discharges at APNs 583-120-003 and 583-120-086 and have control of APNs 583-120-003 and 583-120-086 and the legal ability to remediate those conditions and prevent additional discharges.¹⁵
5. The San Diego Water Board reserves the right to amend this Order to add additional persons as dischargers when and if the San Diego Water Board identifies those parties.

¹³ Exhibit 8, June 19, 2023, San Diego Water Board Inspection Report; Exhibit 9, San Diego Water Board Notice of Violation No. R9-2023-0092; Exhibit 10, Temecula Creek Ranch, LLC, Cease and Desist Letter; and Exhibit 11, Riverside County Photographs, September 27, 2022.

¹⁴ Exhibit 12, Real Property Transaction Record for APN 583-120-004.

¹⁵ Exhibit 13, Riverside County Notice of Violation Case No: CVNP220046.

**Temecula Creek
Aguanga, California****Factual Basis of the Order**

6. San Diego Water Board and California Department of Fish and Wildlife staff were invited to the Site on June 19, 2023, by Fletcher, Jimenez, the Ward Trust, and TCR to investigate unauthorized discharges of waste into and around Temecula Creek.¹⁶ Also, in attendance at the Site visit were representatives of the County of Riverside, the Ward Trust, TCR as well as counsels on behalf of Fletcher and Jimenez, TCR and the Ward Trust.¹⁷ The following unauthorized activities by Fletcher and Jimenez occurred:
- a. On APN 583-120-004 between June and August 2021, the following occurred:¹⁸
 - 1. Grading of approximately one acre to build a grain storehouse to the west of the APN's northern entrance.¹⁹ Fletcher and Jimenez run approximately 60 head of cattle composed of Black Angus, Wagyu and Washugyu (Wagyu crossed with Black Angus) on the Site.²⁰
 - 2. Construction of six cabins on the eastern shore of Temecula Creek.
 - b. On APN 583-120-004, creation of a lake by constructing a diversion on Temecula Creek that diverted flows from Temecula Creek between August and October 2021.²¹ The lake was stocked with 200 bluegill and 200 bass from a San Diego County fishery.²²
 - c. At the Site, removal and thinning of native trees and brush in and around Temecula Creek occurred between October 2021 and September 2022.²³

¹⁶ Exhibit 8, June 19, 2023, San Diego Water Board Inspection Report.

¹⁷ Exhibit 8, June 19, 2023, San Diego Water Board Inspection Report at page 14.

¹⁸ Compare and contrast Exhibit 14, June 11, 2021, Google Earth Image; and Exhibit 15, August 5, 2021, Google Earth Image.

¹⁹ Exhibit 11, Riverside County Photographs, September 27, 2022, at pages 13-14.

²⁰ Exhibit 8, June 19, 2023, San Diego Water Board Inspection Report at page 5; and Exhibit 11 at pages 33-34.

²¹ Compare and contrast Exhibit 15, August 5, 2021, Google Earth Image; and Exhibit 16, October 18, 2021, Google Earth Image.

²² Exhibit 8, June 19, 2023, San Diego Water Board Inspection Report at p. 8.

²³ Exhibit 11, Riverside County Photographs, September 27, 2022. Also, compare and contrast Exhibit 16, October 18, 2021, Google Earth Image; and Exhibit 17, January 22, 2023, Google Earth Image.

**Temecula Creek
Aguanga, California**

- d. At the Site between 2021 and 2022, Jimenez and Fletcher created, modified, and maintained culverts in Temecula Creek.²⁴

Beneficial Uses and Waste Discharge Prohibitions

7. The Basin Plan designates beneficial uses, establishes water quality objectives and waste discharge prohibitions, contains implementation programs for achieving objectives, and incorporates by references, plans and policies adopted by the State Water Board. Beneficial uses for surface waters are designated under the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. § 1251 et seq.) section 303 (33 U.S.C. § 1313) in accordance with regulations contained in 40 Code of Federal Regulations (CFR) part 131 (2021). The State of California (State) is required to specify appropriate water uses to be achieved and protected. The designation of beneficial uses for waters of the State by each of the Regional Boards is mandated under Water Code section 13240. Water Code section 13241 provides that each Regional Board shall establish water quality objectives for the waters of the state (i.e., ground and surface waters) which, in the Regional Board's judgment, are necessary for the reasonable protection of beneficial uses and for the prevention of nuisance. Clean Water Act section 303 requires that the State adopt water quality objectives (called water quality criteria) for surface waters.
8. The Basin Plan's designated beneficial uses for Temecula Creek (902.84) include Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PROC), Groundwater Recharge (GWR); Contact Water Recreation (REC-1), Non-contact Water Recreation (REC-2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD); Wildlife Habitat (WILD) and Spawning, Reproduction, and/or Early Development (SPWN). Existing beneficial uses which have not been formally designated in the Basin Plan are protected as well as designated uses.²⁵ Therefore, where the presence of habitat that supports a beneficial use occurs even if not so designated in the Basin Plan, the beneficial use is protected at the site.

²⁴ Exhibit 8, June 19, 2023, San Diego Water Board Inspection Report at pages 2-5; and Exhibit 11, Riverside County Photographs, September 27, 2022, at pages 2-5, 19, 25, 26, and 31.

²⁵ Basin Plan at page 2-13.

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9. Temecula Creek supports the Rare, Threatened, or Endangered Species (RARE) beneficial use by providing documented and designated critical habitat for the endangered arroyo toad.²⁶ “Temecula and Wilson Creeks - Most of the arroyo toad habitat along these drainages are in private ownership and are particularly threatened by water diversions, groundwater overdraft, sand and gravel mining, tilling of agricultural fields on the stream terrace, and future urbanization.”²⁷ Other sensitive species reliant upon Temecula Creek’s waters include the arroyo chub, chaparral sand-verbena, coastal California gnatcatcher, least Bell’s vireo, and southwestern willow flycatcher.
10. The Basin Plan has the following Waste Discharge Prohibitions that were violated by the filling and discharging of waste in and around Temecula Creek on the Site by the Dischargers:
 - a. No. 1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in Water Code section 13050, is prohibited.
 - b. No. 2. The discharge of waste to land, except as authorized by Waste Discharge Requirements (WDRs) or the terms described in Water Code section 13264 is prohibited.
 - c. No. 3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in Water Code section 13376) is prohibited.
 - d. No. 7. The dumping, deposition, or discharge of waste directly into waters of the State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board.
 - e. No. 14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.

²⁶ [Federal Register Vol. 76, No. 27, Wednesday, February 9, 2011, page 7246.](#)

²⁷ [Western Riverside County MSHCP Species Accounts - Amphibians](#)

**Temecula Creek
Aguanga, California****Legal Basis of the Order**

11. Water Code section 13304, subdivision (a) states, in relevant part, “any person who has discharged or discharges waste into 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, cleanup the waste or abate the effects of the waste. Upon failure of any person to comply with the cleanup and 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.”
12. “Waste” is defined by Water Code section 13050, subdivision (d) as, “sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for the purpose of, disposal.” Sediment and fill are “waste” as defined under Water Code section 13050.
13. “Pollution” is defined by Water Code section 13050, subdivision (l)(1) as, “an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) the waters for beneficial uses, or (B) facilities which serve these beneficial uses.”
 - a. Sediment has the potential to unreasonably affect the beneficial uses of waters of the State.
 - b. Discharges of sediment and other inert material alter, the ability for Temecula Creek to hold water, smother and/or eliminate critical wildlife habitat, and threaten aquatic dependent species, thereby impacting the following beneficial uses: Rare, Threatened, or Endangered Species, Warm Freshwater Habitat, and Wildlife Habitat. Even if not completely filled, discharges of sediment, or sediment laden water to Temecula Creek can lead to adverse conditions such as physical alterations (hydrologically and geologically), increases in suspended sediment and turbidity, aquatic toxicity and, inability to support wildlife including the arroyo toad.
14. Cleanup and abatement is necessary to ensure that the existing condition of pollution is cleaned up and abated, and that any impacts to beneficial uses are mitigated. The issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with San Diego Water Board and State Water Board policies.

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15. State Water Board Resolution No. 92-49, Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site and requires that cleanup levels be consistent with State Water Board Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality Waters in California (Antidegradation Policy). Resolution No. 92-49 requires the Dischargers to clean up the waste in a manner that promotes attainment of either background water quality, or the best water quality which is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the State; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Water Board. Resolution No. 92-49 directs that investigations proceed in a progressive sequence. To the extent practical, it directs the San Diego Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.

Required Technical Reports

16. Water Code section 13267, subdivision (a) provides that a regional board may investigate the quality of any water of the State within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that a regional board, through an investigation, may require dischargers to furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of these technical reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
17. San Diego Water Board staff estimate the total cost of technical or monitoring reports required by this Order to be approximately \$10,000 - \$23,000. The costs of the technical or monitoring reports required by this Order bear a reasonable relationship to the need for these reports and the benefit to be gained by these reports, as discussed below:

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- a. The Restoration/Mitigation and Monitoring Plan (RMP) is a technical report that is necessary to assess impacts to waters of the State resulting from the discharges of waste associated with Dischargers' activities and any other activities on the Site to determine the appropriate restoration and mitigation work to address those impacts. By requiring the Dischargers to submit an RMP, the San Diego Water Board or its delegee has the opportunity to review and approve the scope of the proposed restoration and corrective actions to confirm the proposed work will adequately remediate site conditions and prevent unauthorized discharges from further impacting beneficial uses. The plan requirements and associated costs to prepare an RMP (i.e., field inspection and report preparation) are estimated to cost between \$5,000 and \$15,000. After consideration of these factors, the burden, including costs, of submitting the RMP bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.
- b. The RMP Completion Report demonstrates to the San Diego Water Board or its delegee that the restoration and corrective actions contained in the approved RMP have been fully implemented. By requiring the Dischargers to submit documentation of the corrective actions, including pre- and post-remediation photographs and relevant maps and schematic diagrams, staff can confirm that the RMP has been fully implemented and that Best Management Practices (BMPs) are adequate to prevent future discharges of wastes into waters of the State. The cost to prepare an RMP Completion Report is estimated to cost between \$5,000 and \$8,000. After consideration of these factors, staff determined that the burden, including costs, of submitting the RMP Completion Report bears a reasonable relationship to the need for the report and the benefits obtained from the report.
- c. The Dischargers named in this Order currently own the Site and have owned and/or operated the Site during all the alleged discharge, or conducted and/or directed construction activities on the Site that resulted in waste discharges on the Site, and thus are appropriately named as dischargers and must provide the requested technical reports.

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California Environmental Quality Act

18. Issuance of this Order is an enforcement action taken by a regulatory agency to enforce the regulatory provision of the Basin Plan and is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code, section 21000 et seq.) in accordance with California Code of Regulations (Cal. Code Regs.), title 14, section 15321. This action may also be considered exempt because it is an action by a regulatory agency for the protection of natural resources (Cal. Code Regs., title 14, section 15307) and an action by a regulatory agency for the protection of the environment (Cal. Code Regs., title 14, section 15308). To the extent that the Order requires earth disturbing and revegetation activities not to exceed five acres in size and to ensure restoration of habitat and prevent erosion, such actions may be considered exempt from the provisions of CEQA pursuant to Cal. Code Regs., title 14, section 15333. Should additional environmental review be required in connection with future discretionary regulatory actions at this site, the San Diego Water Board may recover the costs associated with preparing and processing environmental documents from the Dischargers (Public Resources Code, section 21089).

Required Actions

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, the Dischargers shall cleanup and abate, or take other necessary remedial action, with respect to the ongoing threatened discharge of waste to waters of the State, and submit technical and/or monitoring reports as follows:

19. Within 90-days of the effective date of this Order, the Dischargers shall prepare and submit to the San Diego Water Board a Restoration/Mitigation and Monitoring Plan (RMP) that assesses impacts to Temecula Creek resulting from the discharges of waste associated with Dischargers' activities on the Site, recommends the appropriate cleanup and abatement activities to achieve a restored state that supports beneficial uses and mitigates for temporal impacts of waste discharged to Temecula Creek on the Site, and proposes a monitoring plan to demonstrate successful completion of the cleanup and abatement activities. The RMP must detail, at a minimum, the following information, activities, and an implementation schedule:

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- a. Site assessment of waters of the United States and state: Using historical evidence and a current investigation of the filling and disturbance activities, provide a description of the area and extent of impacts to the Site's waters of the United States and state including a jurisdictional delineation of the impacted area, and areas upstream and downstream to allow for comparison. The assessment shall use text, photographs, surveys, and maps to provide an evaluation of impacts, in terms of changes to channel morphology, habitat alterations, changes to riparian areas and jurisdictional waters, changes in water flow as a result of unauthorized impoundment, and effects to sensitive species (i.e., arroyo chub, arroyo toad, chaparral sand-verbena, coastal California gnatcatcher, least Bell's vireo, and southwestern willow flycatcher).
- b. Restoration Plan: Describe all activities proposed to cleanup and abate the discharged waste within two years by restoring the impacted waters, and demonstrating that their functions and values (geological, hydrological, and biological) are at least equivalent to the conditions prior to impacts. Additional on-site habitat mitigation or the purchase of off-site mitigation credits should be considered to offset temporal losses of beneficial uses until such time that the restored habitats are fully functional. Appropriate cleanup and abatement may include fencing, cleanup and removal of the waste, appropriate disposal of the waste and ultimate waste disposal location, recontouring of the original channel morphology, and revegetation with appropriate native species.
- c. Habitat Monitoring and Mitigation Plan: The RMP shall also propose success criteria for demonstrating that establishment/re-establishment of habitat functions and values are at least equivalent to the conditions prior to impacts and provide a monitoring and reporting plan to document that the interim and final success criteria have been met.
 - i. The RMP must propose interim and final success criteria. This Order will not be considered fully satisfied until the final success criteria have been met.

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- ii. If the Dischargers can demonstrate that there are permanent discharges of fill to the Site that cannot be cleaned up and abated through restoration, they may propose abatement through the purchase of establishment credits of compensatory mitigation at a ratio of 10:1 from an established mitigation bank (where applicable) or by construction of on-site mitigation, subject to the approval of the San Diego Water Board. Any compensatory mitigation purchased or constructed to satisfy this Order shall be protected and maintained in perpetuity from land-use and maintenance activities that would threaten water quality or beneficial uses within these areas by using the appropriate mechanism (e.g., protective covenants or deed restrictions).
 - d. An implementation schedule detailing the sequence of restoration and mitigation and monitoring activities, and the time frame for completing each activity.
- 20. **Following approval of the RMP by the San Diego Water Board or its delegatee**, the Dischargers shall implement the RMP in accordance with the schedule provided in 19.d above.
- 21. **Restoration/mitigation shall be completed no later than two years from execution of this Order.** The Dischargers shall subsequently initiate monitoring for interim and final success criteria including photograph documentation of the installation work.
- 22. When final success criteria have been met, the Dischargers shall submit an RMP Completion Report demonstrating completion of all proposed activities and shall request that the San Diego Water Board issue a letter indicating that no further action is warranted to satisfy this Order.

General Requirements and Notices

- 23. **Use of Qualified Professionals:** All technical reports required by this Order that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geological sciences, shall be prepared by, or under the direction of, persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

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24. **Signatory Requirements:** All technical reports submitted by the Dischargers shall include a cover letter signed by the Dischargers, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Dischargers shall also state if they agree with any recommendations/proposals and whether they approve implementation of said proposals. Any person signing a document submitted under this Order shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

25. **Notice of Change in Ownership or Occupancy:** The Dischargers shall file a written report of any changes in the Site's ownership or occupancy. The Dischargers shall file this report with the San Diego Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.
26. **Compliance with Other Regulatory Requirements:** The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning work.
27. **Cost Recovery:** Pursuant to Water Code section 13304, San Diego Water Board staff is entitled to, and may seek reimbursement for, all reasonable costs it incurs investigating and abating the effects of the unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other remedial action, required by this Order. If requested by the San Diego Water Board, the Dischargers shall enroll in the State Water Board's Cost Recovery Program and shall reimburse the State of California for all reasonable costs incurred by the San Diego Water Board.
28. **Submissions:** All reports, plans, and documents required by this Order shall be submitted electronically as a Portable Document File (PDF) file to: sandiego@waterboards.ca.gov, with the following in the subject heading "CAO No. R9-2023-0132:CW-887218, 887220 and 887600:FMelbourn" unless otherwise stated. If the Dischargers cannot send the reports, plans, and documents required by this Order by email, they shall be submitted electronically on a Universal Serial Bus (USB) flash drive or Compact Disc (CD) to the following address:

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Frank Melbourn

Attn: CAO No. R9-2023-0132:CW-887218, 887220 and 887600:FMelbourn
California Regional Water Quality Control Board, San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108

29. **Delayed Compliance:** If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the required actions, or in compliance with any work schedule submitted pursuant to this Order and approved by the San Diego Water Board or its delegee, the Dischargers shall notify the San Diego Water Board as soon as a delay is recognized by the Dischargers and prior to the compliance date. The Dischargers may request that the San Diego Water Board, or its delegee, modify this Order to allow for a delay. Any such request shall include justification for the delay. The San Diego Water Board, or its delegee, may grant an extension by revising this Order. The San Diego Water Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Dischargers and will take all the available relevant facts into consideration when considering whether to grant an extension request.
30. **Modification of Order:** Any modification to this Order shall be in writing and approved by the San Diego Water Board or its delegee, including any proposed extension requests.
31. **Enforcement Authority:** If the Dischargers fail to comply with the requirements of this Order, the San Diego Water Board may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order may result in the assessment of Administrative Civil Liability of up to \$5,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268 and 13350. The San Diego Water Board reserves its right to take any enforcement actions authorized by law.
32. Any person aggrieved by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or State holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

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33. This Order is issued under authority delegated to the Executive Officer by the San Diego Water Board pursuant to Resolution No. R9-2005-0271 and is effective upon signature.

Tentative

DAVID W. GIBSON
Executive Officer

**Temecula Creek
Aguanga, California**

Exhibits:

1. Real Property Tax Assessor Record, APN 583-120-003, July 14, 2022.
2. Real Property Tax Assessor Record, APN 583-120-086, July 14, 2022.
3. Real Property Tax Assessor Record, APN 583-120-004, July 14, 2022.
4. Screenshot of Arroyo Toad Critical Habitat Map.
5. USFWS Arroyo Toad Website.
6. Section 1.0, Western Riverside Multiple Species Habitat Conservation Plan.
7. National Wetlands Inventory Map.
8. June 19, 2023, San Diego Water Board Inspection Report.
9. San Diego Water Board Notice of Violation No. R9-2023-0092.
10. Temecula Creek Ranch, LLC, Cease and Desist Letter.
11. Riverside County Photographs, September 27, 2022.
12. Real Property Transaction Record for APN 583-120-004.
13. Riverside County Notice of Violation Case No: CVNP220046
14. Google Earth Image, June 11, 2021.
15. Google Earth Image, August 5, 2021.
16. Google Earth Image, October 18, 2021.
17. Google Earth Image, January 22, 2023.