

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

ORDER NO. R5-2011-XXXX

**WASTE DISCHARGE REQUIREMENTS
FOR
TEJON MOUNTAIN VILLAGE, LLC
TEJON MOUNTAIN VILLAGE
KERN COUNTY**

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board) finds that:

Discharger

1. Tejon Mountain Village, LLC (hereafter Discharger), submitted a Report of Waste Discharge (RWD) for dredge and fill discharges related to the construction of the Tejon Mountain Village project (Project), located east of Interstate 5 (I-5) near Lebec, on 16 November 2009. The application was deemed complete on 24 December 2009. As described in findings that follow, this Order regulates discharges of dredge and fill materials to specific waters of the State and discharges of wastes associated with storm water runoff to specific waters of the State.

Project Location and Description

2. The Project site is in southwestern Kern County, near the Lebec Road interchange, approximately 40 miles south of Bakersfield and 60 miles north of Los Angeles. The Discharger intends to develop a 26,417 acre mountain resort community, including up to 3,450 residences, approximately 160,000 square feet of commercial, and 350,000 square feet of resort facilities (hotel/spa); passive and active recreational facilities to include private community centers and 36 holes of golf; riding and hiking trails, and equestrian facilities; and approximately 21,335 acres of open space preservation. The Project site has 36 acres of in-holdings, including a 1-acre private in-holding and a 35-acre parcel owned by the California Department of Water Resources (DWR). The site encompasses multiple sections in Township 9 North, Range 18 West, San Bernardino Base and Meridian (SBBM), and lies mainly within the Lebec and Pastoria Creek USGS 7.5-minute quadrangles; the eastern portion is within the Winters Ridge quadrangle, and small portions of the site intersect the Grapevine (northwest) and Frazier Mountain (west-central) quadrangles. See Attachment A.1. for a general location map.
3. Installation of Project infrastructure and amenities will necessitate discharges of dredge and fill materials to Project site waters. Project development will increase the amount of impervious surface and alter the natural drainage patterns within the Project area. It will also create discharges of wastes with storm water runoff

associated with construction activities to Project site waters. Project disturbance areas will include construction of new access roads and driveways, modification to existing access roads, grading to create building pads, installation of utility lines, and construction areas around new structures. To protect water quality, these discharges require regulation.

Receiving Waters

4. The Project site drains to the north toward the extreme southern edge of the San Joaquin Valley. The Project site is in the Grapevine Hydrologic Unit, which is part of the Tulare Lake Hydrologic Region. The site encompasses five local watersheds: Castac Lake, Grapevine Creek, Tehachapi Mountain Range, Pastoria Creek, and Tunis Creek, all of which are included in either the San Emigdio Hydrologic Area or the Tejon Creek Hydrologic Area in the Grapevine Hydrologic Unit. The DWR designation for the San Emigdio Hydrologic Area is 556.30, and for the Tejon Creek Hydrologic Area it is 556.20.

Castac Lake Watershed

The Castac Lake Watershed drains to Castac Lake, an alkali lake almost entirely surrounded by the Project site. The Castac Lake Watershed receives drainage from a 60.3 square-mile area, including the area drained by Cuddy Creek passing through the communities of Pinon Pine Estates, Cuddy Valley, Lake of the Woods, Frazier Park, and portions of the Los Padres National Forest west of I-5. Castac Lake is adjacent to the southeastern part of the Project and also receives drainage from that area. In heavy rain years, when lake capacity is exceeded, Castac Lake overflows into Grapevine Creek.

Grapevine Creek Watershed

The main stream through the Grapevine Creek Watershed is Grapevine Creek which runs north through Castac Valley, paralleling Interstate 5. The western portion of the drainage area is west of I-5 and includes flow from O'Neil Creek. The eastern portion of the drainage is within the Project site and includes flows from Short Canyon, Rising Canyon, and Wildhorse Creeks. Grapevine Creek occasionally receives overflow from Castac Lake. Several natural springs sustain perennial flows in the creek and wetlands in certain portions of the watershed, primarily along I-5 in the vicinity of Fort Tejon, north of the Project. Grapevine Creek terminates on the San Joaquin Valley floor.

Tehachapi Mountain Range Watershed

The Tehachapi drainage area is in the north-central and northwestern portions of the Project site. The drainage area includes Monroe Creek, Silver Creek, Squirrel Creek, and many other smaller drainages extending eastward

immediately north of Geghus Ridge. These creeks are ephemeral and drain into Live Oak Canyon, which eventually joins with Pastoria Creek.

Pastoria Creek Watershed

Bear Trap Canyon, Palos Altos Creek, and Pastoria Creek are included in the Pastoria drainage area. This drainage area includes most of the northeastern portion of the Project site. Pastoria drainages infiltrate into an alluvial wash at the base of the Tehachapi Mountains and do not reach the San Joaquin Valley floor.

Tunis Creek Watershed

The Tunis Creek watershed is less than 1 square mile. It is delineated as a separate watershed in this report because Tunis Creek does not discharge into Pastoria Creek until approximately 7 miles downstream of the Project area boundary. Tunis drainages infiltrate into an alluvial wash at the base of the Tehachapi Mountains and do not reach the San Joaquin Valley floor.

Site Regulation

5. Generally, the federal Clean Water Act (CWA) and regulations promulgated thereunder apply to the discharges of dredged and fill materials and the discharges of pollutants to waters of the United States (waters of the U.S.) Waters that do not fall under the regulatory umbrella of the federal CWA and its regulations are commonly called non-jurisdictional waters. Waters of the State, as defined by California Water Code (CWC) Section 13050, include both waters of the U.S. and non-jurisdictional waters.
6. The U.S. Army Corps of Engineers (Corps) approved a jurisdictional delineation of the site on 2 October 2008 that identifies Castac Lake and the waters that drain thereto as waters of the U.S.
7. Within the Castac Lake Watershed, the Corps approved delineation indicated there will be discharges of dredged and fill materials at 39 locations in waters of the U.S that are subject to regulation under federal CWA Sections 401 and 404. On 14 January 2010, the Central Valley Water Board issued a CWA Section 401 Water Quality Certification for proposed discharges of dredge and fill materials at these locations. Since issuance of Certification, the Discharger has modified the project to avoid all federal jurisdictional wetlands on the site and to decrease the impacts to waters of the U.S., resulting in a reduction of impact locations from the original 39 to 27.
8. Discharges of pollutants associated with construction related storm water runoff in the Castac Lake Watershed are also subject to National Discharge Elimination System permitting under CWA Section 402. The Discharger must file a Notice of Intent to comply with *State Water Resources Control Board Order No. 2009-*

0009-DWQ [As Amended By Order No. 2010-0014-DWQ], National Pollutant Discharge Elimination System General Permit No. CAS000002, Waste Discharge Requirements For Discharges Of Storm Water Runoff Associated With Construction And Land Disturbance Activities (Construction General Permit) to cover discharges of construction related storm water to waters of the U.S.

9. Although Castac Lake is not a part of the project and management of the lake is not conducted by the Discharger, the discharge of pollutants to Castac Lake from the Project in the Castac Lake Watershed are subject to the mitigation measures set forth in the Water Quality Plan (described in Finding 29 below) and the Final Environmental Impact Report for the Project described in Findings 37-40 below. Mitigation measures include requirements for low impact development, storm water source control, site design, treatment control, and hydromodification control to prevent impact to Castac Lake and potential discharge from Castac Lake to Grapevine Creek.
10. The Corps has determined that Grapevine and Pastoria Creek and a number of smaller drainages that are tributaries to Grapevine and Pastoria Creek, including Rising Canyon, are non-jurisdictional due to their nature as non-navigable, isolated water bodies. However, these non-jurisdictional drainages and associated wetlands are waters of the State subject to regulation under the CWC.
11. Construction of Project infrastructure and amenities will involve the proposed discharge of structural materials and/or earthen materials (fill) at 136 project locations that are in non-jurisdictional waters, as listed in Attachment B. With respect to discharges of dredged and fill materials, this Order regulates only these proposed discharges to non-jurisdictional waters.
12. This Order also regulates waste discharges associated with construction related storm water runoff and post-construction storm water runoff to Project site non-jurisdictional waters.
13. This Order is necessary to adequately address potential and planned impacts to waters of the State from the Project, to require mitigation for these impacts to comply with the *Water Quality Control Plan for the Tulare Lake Basin, Second Edition, Revised January 2004* (Basin Plan), to fulfill its obligation to act on the Discharger's application, and to satisfy the objectives of the California Wetlands Conservation Policy (Executive Order W-59-93, signed 23 August 1993). The goals of the California Wetlands Conservation Policy include ensuring "no overall loss" and achieving a "...long-term net gain in the quantity, quality, and permanence of wetland acreage and values."
14. This Order does not regulate discharges from the proposed Project wastewater treatment facility, water reclamation facility, or ongoing municipal storm water

discharges. If applicable, these discharges will be regulated under separate orders.

Site-Specific Conditions

15. The Project site is generally undeveloped. Portions of the property have been altered from their natural condition by decades of ranching, farming, nonnative foraging by wild hogs, and utility easement activities. Existing development is limited almost entirely to the land adjacent to I-5 and existing land uses include ranching, agriculture, and hunting facilities. The Project site contains corrals, ranch buildings, five employee homes, two hunting cabins, and over 200 miles of paved and unpaved roads. The site is also crossed by numerous utilities of various types, including major electrical transmission lines, gas lines, telecommunications lines, and the California Aqueduct.
16. Elevation ranges from 2,586 to 5,408 feet above mean sea level (msl), with most of the site between 3,400 to 4,400 feet above msl. The topography varies from broad ridges to intervening narrow drainages. The largest areas of relatively flat terrain are around Castac Lake and in the Grapevine Creek Valley along the Project's western boundary. Soils found on site are characterized generally by steep to very steep slopes. The soils range from shallow to very deep, with the majority being deep. They are well drained to excessively drained, with moderately slow to very rapid subsoil permeability and slow to very rapid runoff. The soil's capacity to hold water ranges from very low to very high, with most site soils having low water-holding capacity. The erosion hazard is moderate to very high, largely dependent on slope steepness, although a small portion of the site consists of rock outcrops with little erosion potential.
17. The climate of the Project site is influenced by a moist Mediterranean atmosphere to the west and a drier continental climate to the east. Consequently, the climate is characterized as hot and semiarid to subhumid. Summer temperatures are often high with low humidity, while winter temperatures remain low with relatively abundant moisture compared with the more arid areas to the east. Precipitation occurs primarily from November through April; average annual rainfall is about 13 inches. Average temperatures range from approximately 30°F to 60°F during the winter and from approximately 60°F to 80°F during the summer.

Impacts and Mitigation and Monitoring Plan for Discharges of Dredge and Fill to Waters of the State

18. As described in Findings 7 and 11, the Project includes 163 water locations that will be impacted. There are 27 sites that will be impacted that are within jurisdictional waters of the U.S. The remaining 136 sites are within non-jurisdictional waters of the State. Total permanent impacts to non-jurisdictional

waters will result in the fill of 1.18 acres of wetlands and riparian habitat, and 4.97 acres of un-vegetated streambed. Project activities will also result in temporary impacts to 0.37 acres of un-vegetated streambed and 2.0 acres of wetlands that are non-jurisdictional waters. Additionally, this Order allows for unidentified impacts of up to 0.66 acres to ephemeral or perennial drainages and up to 0.45 acres of wetlands/riparian that are within non-jurisdictional waters. This allowance addresses impacts associated with the construction of custom homes, primarily resulting from the construction of driveways to the custom homes that would cross the waters of the State perpendicularly. The precise location and acreage of each impact area will be determined when the custom home sites are developed over time. Waters of the State and the limits of disturbance are illustrated on Attachment A.3.

19. The Discharger's RWD includes its application to the California Department of Fish and Game (DFG) for a California Fish and Game Code Section 1602 Master Streambed Alteration Agreement. The application states that dredge and fill activities will be conducted largely when water bodies are dry. When they are not dry, water will be diverted around dredge and fill sites. Stream channel alignment will be restored after construction. Equipment will not be allowed to work in areas of ponded or flowing water unless there is no practical alternative and only with prior approval from DFG, the Corps, and the Central Valley Water Board. Water containing mud, silt or other pollutants will not be allowed to enter flowing streams or to be placed in locations that may be subject to normal storm flows when normal storm flows can be expected to occur. In addition, the Discharger will implement erosion/sediment control measures throughout all phases of project development. These measures are described in more detail in Findings 26 through 29 and Findings 39 and 40 below, and in Attachment C.
20. The Discharger submitted a document entitled *Draft Conceptual Wetlands Mitigation and Monitoring Plan* (Mitigation Plan) on 24 December 2009. The Mitigation Plan proposes to mitigate for impacts to both the jurisdictional and non-jurisdictional waters of the State at two mitigation sites, Cuddy Creek and Pastoria Creek, as shown in Attachment A.4. Due to reductions in impacts to jurisdictional waters described in Finding 7, the overall size of the mitigation has been reduced slightly from that described in the Mitigation Plan. This Order approves the Mitigation Plan and the reduced mitigation, for the purposes of this Order.
21. For all permanent impacts to non-jurisdictional waters of the State previously discussed, the Discharger proposes creation of 1.18 acres of wetlands/riparian habitat and 4.97 acres of unvegetated streambed, and enhancement of 0.88 acres of wetlands at the Cuddy Creek mitigation site.
22. For temporary impacts to non-jurisdictional waters of the State at Pastoria Creek, the Discharger proposes to restore the 2.00 acres that will be temporarily impacted in situ after the work is complete. To offset the temporal loss of 0.11

acre of wetland resulting from the construction work at the DWR parcel, the Mitigation Plan proposes enhancement of two wetland areas, approximately one mile upstream from the DWR parcel, totaling 9.00 acres.

23. The Discharger proposes to create a total of 7.24 acres of waters of the State/U.S. (1.18 acres of jurisdictional wetland/riparian and 6.06 acres of jurisdictional streambed), restore 2.00 acres of waters of the State (wetland/riparian), and enhance 9.00 acres of waters of the State (wetland/riparian) as compensatory mitigation for the proposed Project. In summary, temporary and permanent impacts to 9.61 acres of waters of the State will be mitigated by the establishment, enhancement, and restoration of 19.49 acres, which is an average 2:1 mitigation ratio overall.
24. The Mitigation Plan requires the Discharger to conduct maintenance and monitoring to ensure success at the mitigation sites. The 5-year monitoring plan proposed in the Mitigation Plan includes a combination of assessment methods to ensure the success of the mitigation sites. This Order requires the Discharger to proceed with the proposed Mitigation Plan and requires monitoring and adaptive management measures to ensure its successful implementation.
25. Due to the effort in avoiding and minimizing impacts to waters of the State, the Project avoids permanent impacts to 202.9 acres of the on-site waters of the State (both jurisdictional and non-jurisdictional), including 116.2 acres of wetlands/riparian, and 86.7 acres unvegetated streambed within the Project boundaries. These waters are included in approximately 21,335 acres of the Project site that will be set aside for open space. Mitigation Measure 4.4-12 in the biological resources section of the Final Environmental Impact Report, as discussed below in Findings 37 - 40, requires recording of an easement or deed restriction that precludes development on project open space. The open space within each planning area will be assured upon recordation of the tentative tract map for each planning area.

Construction Storm Water Management

26. As stated in Finding 8, construction activities in jurisdictional areas will require coverage under the Construction General Permit. Many of the requirements in this Order are excerpted from the Construction General Permit. This Order includes requirements for discharge of wastes in storm water associated with construction activity in non-jurisdictional areas. Site Best Management Practices (BMPs) must be implemented to reduce or eliminate pollutants/wastes in storm water discharges from construction activity to effect Best Practicable Treatment or Control (BPTC). The State Water Resources Control Board has defined BPTC as treatment or control that is technically achievable using the "best efforts", including proper operation and maintenance.

27. The Construction General Permit establishes a technology based numeric action limit for turbidity. Additionally, it defines a qualifying rain event as one producing ½ inch of precipitation or more. It prescribes monitoring and reporting requirements to assure effectiveness of BMPs and compliance with discharge requirements and water quality objectives. The turbidity numeric action limitation and the monitoring and reporting requirements established in this Order are similar to those in the General Construction Permit. This Order also incorporates many of the definitions in the General Construction Permit (i.e. that of a qualifying rain event). As stated in Finding 8, construction activities in jurisdictional areas of the Project require coverage under the Construction General Permit; therefore, this Order should provide an equal level of protection.
28. Site specific storm water pollution prevention plans (SWPPPs) will be developed for each construction phase of the Project. The SWPPPs will identify measures to implement the construction storm water mitigation measures included in the Final Environmental Impact Report noted above and described in the California Environmental Quality Act (CEQA) findings below. The SWPPPs will be posted on the Central Valley Water Board website for a thirty-day public comment period. This Order does not preclude the Discharger from implementing requirements imposed by municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water to separate storm sewer systems or other watercourses under their jurisdiction.
29. The Discharger submitted a document entitled *Draft Final Tejon Mountain Village Specific Plan Water Quality and Hydromodification Technical Report (Water Quality Plan)* on 7 July 2008, as Appendix I1 of the Tejon Mountain Village Specific Plan Draft Environmental Impact Report. The Water Quality Plan identifies pollutants and hydrologic conditions of concern, analyzes potential changes in water quality and hydrologic conditions from the Project, and demonstrates how the mitigation measures for the Project will reduce water quality impacts to a less than significant level. The Water Quality Plan proposes implementation of an adaptive hydromodification strategy that includes:
 - a. implementation of hydromodification BMPs, such as low impact development measures, detention basins, swales, and others;
 - b. monitoring of BMP performance and stream flows and sediment loads to determine effectiveness; and
 - c. implementation of BMP modifications if post-Project flows do not meet pre-Project flows consistent with the performance standard describe below.

Hydromodification controls must meet a performance standard based on “erosion potential.” Post construction development must meet an erosion potential criteria of 1.0 that correlates to no change from existing conditions with a maximum variance of 20%.

This Order approves and requires implementation of the hydromodification strategy, effectiveness criteria, and monitoring plan along with the mitigation measures proposed by the Water Quality Plan and incorporated into the Final EIR that are applicable to the project activities described in Findings 11 and 12.

Basin Plan, Beneficial Uses, and Water Quality Objectives

30. The Basin Plan designates beneficial uses, establishes narrative and numerical water quality objectives, contains implementation plans and policies for protecting all waters of the Basin, and incorporates, by reference, plans and policies of the State Water Board. Pursuant to section 13263(a) of the California Water Code (CWC), these requirements implement the Basin Plan.
31. Surface waters on the Project site are categorized as West Side Streams in the Basin Plan. The Basin Plan states West Side Streams are surface waters in Hydrologic Units 556 and 559 and portions of 541 and 542. Castac Lake is in Hydrologic Unit 556 and is considered to be included in the West Side Streams category. The designated beneficial uses of West Side Streams are Agricultural Supply; Groundwater Recharge; Industrial Service Supply; Industrial Process Supply; Rare, Threatened, or Endangered Species Habitat; Water Contact Recreation; Noncontact Water Recreation; Warm Freshwater Habitat; and Wildlife Habitat.
32. Groundwater on the Project site is located within the Castac Lake Valley groundwater basin and has the following designated beneficial uses: Municipal and Domestic Water Supply, Agricultural Supply, and Industrial Service Supply.
33. This Order implements receiving water limits based on Basin Plan water quality objectives to ensure that the discharges authorized herein, in combination with other sources, do not cause exceedences of Basin Plan water quality objectives or impairment of designated beneficial uses.

Antidegradation Analysis

34. The State Water Resources Control Board (State Water Board) established California's antidegradation policy in State Water Board Resolution No. 68-16, which requires that high quality of waters of the State be maintained "consistent with the maximum benefit to the people of the State." Pursuant to this policy, a Report of Waste Discharge must include information regarding the nature and extent of the discharge and the potential for the discharge to affect surface or ground water quality in the region. In addition, the discharger must identify treatment or control measures to be taken to minimize or prevent water quality degradation.

35. As described in the following, the permitted discharges will be controlled through the requirements herein, the application of mitigation measures for construction and post-construction activities and the discharges of dredge and fill materials. The permitted discharges will not cause violations of water quality objectives, or unreasonably affect beneficial uses, and is to the maximum benefit of the people of the State. More specifically, for the following reasons, the permitted discharge is consistent with the antidegradation provisions of State Water Board Resolution No. 68-16:

a. *The degradation will not result in water quality less than that prescribed in the Basin Plan.*

This Order contains discharge prohibitions, effluent limits, discharge specifications, receiving water limits, and provisions that require compliance with Basin Plan water quality objectives; thus this Order does not authorize exceedences of Basin Plan water quality objectives. As previously noted, the Water Quality Plan includes an analysis demonstrating that the Project's mitigation measures will effectively control pollutants/wastes of concern (POCs); mainly turbidity, sediment, and construction related pollutants, such that the discharges authorized herein will not result in receiving water quality less than that prescribed in the water quality objectives in the Basin Plan.

b. *The degradation will not unreasonably affect present and anticipated beneficial uses.*

While the discharges authorized herein may cause some degradation with respect to POCs, this Order ensures beneficial uses are maintained or enhanced through implementation of the requirements in this Order and in the comprehensive Water Quality Plan, by construction and post-construction measures that includes low impact development practices, source control mitigation measures, site design mitigation measures, treatment control mitigation measures, hydromodification measures, and groundwater mitigation measures.

Based on quantitative and qualitative assessments documented in the Water Quality Plan, the Project's mitigation measures will control discharges of POCs such that the discharges of dredged and fill materials and construction storm water associated with the activities covered by this Order will not unreasonably affect beneficial uses of surface water and groundwater receiving waters.

c. *Dischargers must use the best practicable treatment or control to avoid pollution or nuisance and maintain the highest receiving water quality consistent with maximum benefit to the people of the State.*

As described above, dredge and fill activities will proceed largely during dry conditions and water will be diverted around dredge and fill sites if it is flowing

during dredge and fill activities. Stream channel alignments shall be restored after construction. Sites will be stabilized prior to the wet season minimizing discharges of wastes. Wetland and streambed lost to dredge and fill activities will be replaced in designated mitigation areas. Project storm water treatment controls will be implemented to maintain high receiving water quality, consistent with the maximum benefit to the people of the State. Construction storm water BMPs require sediment and erosion control measures and good housekeeping measures to reduce or eliminate pollutants in storm water runoff. Additionally, storm water treatment controls are designed and sized to mitigate hydromodification impacts through retention, infiltration, and evaporation in accordance with flow-duration matching criteria, which maintain the predevelopment runoff rates. The treatment controls shall meet or exceed criteria in the Bakersfield and Los Angeles County Standard Urban Storm Water Management Program. Waters of the State will be created, restored or enhanced to mitigate for all temporary and permanent impacts. Implementation of these measures reflects BPTC.

- d. *Any change in water quality must be consistent with maximum benefit to the people of the State*

Degradation, should it occur, will comply with water quality objectives and protect designated beneficial uses. The Project meets the needs of Kern County as set forth in Kern County's *Findings of Fact in Support of Findings Relating to Significant Environmental Impacts, State CEQA Guidelines Section 15091, for Tejon Mountain Village (Exhibit A)*, which is part of the Final Environmental Impact Report. Specifically the Final Environmental Impact Report states the Project accommodates the need for regional housing, promotes the need for orderly development, and contributes to regional infrastructure improvements. The Project will provide needed economic benefits as well as needed funding for community buildings, programs, and services, including providing \$500,000 to partially fund Kern County's costs for a new Frazier Park Community Center or expanding an existing center, providing funds for community wildfire planning and community education, and providing a funding mechanism for firefighting and paramedic services and community funds through homeowner assessments. It will enhance public access and recreational opportunities as well as conserve natural resources and habitat for sensitive species and historical ranching. Specifically, the Project will construct and dedicate a multiuse trail available to the public along the western boundary of Castac Lake and permanently protect 80% of the Project area.

36. Given Finding 35 (a.-d.), the proposed discharges authorized herein comply with Resolution 68-16.

CEQA

37. The County of Kern, acting as CEQA (Public Resources Code Section 21000, et seq.) lead agency, certified the Final Environmental Impact Report for the Tejon Mountain Village Project (*Tejon Mountain Village Specific Plan and Community Plan*) on October 5, 2009 (SCH No. 2005101018). A Notice of Determination was filed with the State Clearinghouse on October 29, 2009, by the County of Kern.
38. The County of Kern adopted a Statement of Overriding Considerations for significant impacts considered unavoidable and not reduced by mitigation. The unavoidable significant impacts not expected to be reduced by mitigation listed in the Final Environmental Impact Report were related to aesthetics/light and glare, air quality and climate change, biological resources (cumulative impacts to California condor rangewide), hazards and hazardous materials, noise, population and housing, and transportation and traffic.
39. The Final Environmental Impact Report states that the potential significant impacts identified in the hydrology and water quality section (related to violation of water quality standards, depletion of the groundwater supply, alteration of existing drainage patterns, runoff, water quality degradation, structures placed within 100-year flood hazard area, and exposing people or structures to flooding or levee/dam failure or inundation by seiche, tsunami, or mudflow) would be reduced to less than significant by mitigation. The Final Environmental Impact Report includes Mitigation Measures related to hydrology and water quality, as summarized in Attachment C.
40. The Central Valley Water Board, acting as a CEQA-responsible agency in compliance with CCR, title 14, section 15096, subdivision (g)(2), evaluated the significant and potentially significant impacts to water quality identified in the Final Environmental Impact Report. The mitigation measures include requirements for preparation and implementation of a storm water pollution prevention plan and implementation of best management practices (BMPs) related to discharge from construction activities, implementation of post-construction storm water BMPs, and implementation of low impact development practices using non-structural and structural measures to insure preservation of pre-construction drainage patterns. The Central Valley Water Board finds that these mitigation measures for significant and potentially significant water quality impacts in the Final Environmental Impact Report, supplemented with the provisions in this Order, are adequate to reduce water quality impacts to less than significant levels.

General Findings

41. Pursuant to CWC Section 13263(g), discharge of waste into waters of the State is a privilege, not a right, and adoption of this Order does not create a vested right to continue the discharge.
42. The Central Valley Water Board will review this Order periodically and will revise requirements when necessary.
43. California Water Code Section 13267(b) states that:

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

44. The technical reports required by this Order and the attached Monitoring and Reporting Program No. R5-2011-xxxx are necessary to assure compliance with these waste discharge requirements. The Discharger operates the Project that discharges the waste subject to this Order.

Public Notice

45. All the above and the supplemental information and details in the attached Information Sheet, which is incorporated by reference herein, were considered in establishing the following conditions of discharge.
46. The Discharger and interested agencies and persons have been notified of the intent to prescribe waste discharge requirements for this discharge, and they have been provided an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
47. All comments pertaining to the discharge were heard and considered in a public meeting.

IT IS HEREBY ORDERED that, pursuant to Sections 13263 and 13267 of the California Water Code (CWC), the Tejon Mountain Village, LLC and its agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the CWC and regulations adopted thereunder, shall comply with the following:

A. Prohibitions

1. Discharge of dredge and fill materials to waters of the State not described in Findings 7, 11, 18, and Attachment B are prohibited.
2. Discharge shall not violate any discharge prohibitions contained in the Basin Plan.
3. Discharge causing pollution, contamination, or nuisance as defined in Water Code section 13050 is prohibited.
4. The discharge of waste classified as “‘hazardous’, as defined in section 2521(a) of Title 23, CCR, section 2510 et seq., is prohibited. Discharge of waste classified as ‘designated’, as defined in CWC section 13173, in a manner that causes violation of groundwater limitations, is prohibited.
5. Discharge containing or consisting 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.
6. Operation of equipment in areas of flowing or standing water is prohibited without prior permission from the Central Valley Water Board, CDFG, and the Corps.
7. Fueling, cleaning, or maintenance of vehicles or equipment; and storage of construction materials and heavy equipment within any areas where an accidental discharge to waters of the State may occur is prohibited.

B. Numeric Action Limitation

1. The Numeric Action Limit storm event daily average for turbidity in storm water discharges associated with construction activities is 250 Nephelometric Turbidity Units (NTU). The Discharger shall take actions as described below if the discharge is above this turbidity value.
2. Whenever the results from a storm event daily average indicate that the discharge exceeds the Numeric Action Limit for turbidity, the Discharger shall conduct a construction site and run-on evaluation to determine whether pollutant source(s) associated with the site’s construction activity may have caused or contributed to the Numeric Action Limit exceedences and shall immediately implement corrective actions if they are needed to reduce the turbidity level in the discharge.
3. The site evaluation shall be documented in the SWPPP.

C. Discharge Specifications

1. Dredge and fill activities will be conducted when water bodies are dry to the maximum extent practicable.
2. When work within the boundaries of waters of the State is necessary and water is flowing, the entire stream flow must be diverted around the work area, temporarily, as needed to control discharges of waste.
3. The Discharger shall notify the Central Valley Water Board in writing seven (7) days in advance of the start of any in-water activities.
4. Stream channel alignment will be restored after construction.
5. Water containing mud, silt or other pollutants shall not be allowed to enter flowing streams or to be placed in locations that may be subject to normal storm flows when normal storm flows can be expected to occur.
6. Except for specific dredge and fill activities described in the RWD, soil, silt, or other materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
7. The Discharger shall comply with all California Department of Fish and Game Code Section 1600 requirements for the project.
8. The Discharger shall implement the mitigation measures specified in the Final Environmental Impact Report for the project as they pertain to biology, hydrology and water quality impacts.
9. All areas disturbed by project activities shall be protected from washout or erosion.
10. Restoration of temporary disturbances and temporary discharges of dredge and fill materials to waters of the State must be achieved **within 6 months** of completing work in the area of the temporary impact. Initial restoration must include implementing measures to fully restore conditions to support all beneficial uses for the water body temporarily impacted. Restoration must include, but is not limited to, grading to pre-project contours and re-vegetation with native species. The Discharger must implement BMPs to control erosion and runoff from areas associated with temporary dredge and fill activities.
11. The Discharger shall minimize or prevent discharges of pollutants/wastes in storm water and authorized non-storm water discharges associated with

- construction activities through the use of controls, structures, and best management practices that achieve Best Practicable Treatment or Control.
12. The Discharger shall develop a site specific SWPPP for each phase of construction. The SWPPP must ensure that:
 - a. All pollutants and their sources associated with construction activity are controlled;
 - b. Site BMPs are implemented, effective, and result in reduction of elimination of discharges of pollutants/wastes in storm water and authorized non-storm water discharges from construction activities to the BPTC standard;
 - c. All non-storm water discharges from construction activities are identified and either eliminated, controlled, or treated;
 - d. Stabilization BMPs are installed to reduce or eliminate pollutants/wastes after construction is complete.
 13. The Discharger must, at all times, maintain appropriate types and sufficient quantities of materials on site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the State.
 14. The Discharger must implement BMPs to prevent the discharge of pollutants/wastes into off-site mitigation areas from storm water and non-storm water runoff.
 15. The Discharger must implement hydromodification control BMPs to preserve the long-term pre-Project flow distribution in the channels under post-construction conditions. A post-construction erosion potential of 1.0, which correlates with no change from the existing conditions, with a maximum variance of 20% above and below this objective, shall be maintained. Methods shall include low impact development practices and treatment control measures that are designed and sized in accordance with criteria in the Water Quality Plan.
 16. The Discharger must maintain, in perpetuity, post-construction control and treatment measures for storm water consistent with the Water Quality Plan, or must identify in writing to the Central Valley Water Board, the entity that is legally responsible for maintaining the post-construction controls at the Project site.
 17. The Discharger must provide BMPs for erosion stabilization for all areas of disturbed soil regardless of time of year, including erosion from rainfall, non-storm water runoff, and wind.

18. The Discharger must stabilize from erosion all finished slopes, open space, utility backfill, and graded or filled lots within two weeks from when excavation or grading activity has been completed.
19. The Discharger must control run-on from offsite areas, route flows away from disturbed areas in a manner that does not cause onsite or offsite erosion, and provide controls to minimize run-on and problems from storm water flows into active or disturbed project areas from offsite areas.
20. The Discharger must, at all times, maintain effective perimeter controls and stabilize all construction entrances/exits sufficiently to control erosion and soil or sediment discharges from the site.
21. The Discharger must properly install and effectively maintain all BMPs for storm drain inlets and perimeter controls, runoff control BMPs, and stabilized entrances/exits.
22. The Discharger must ensure that construction activity traffic to and from the Project is limited to entrances and exits that employ effective controls to prevent offsite tracking of soil.
23. The Discharger must comply with the following source control requirements for all construction projects:
 - a. Maintain vegetative cover to the extent possible by developing the project in a way that reduces the amount of soil exposed to erosion at any time.
 - b. Inspect and remove accumulated deposits of soil at all inlets to the storm drain system at frequent intervals during rainy periods.
 - c. Provide buffer strips and/or vegetation protection fencing between the active construction area and any water bodies.
 - d. Provide “good housekeeping” measures for construction materials, waste management, vehicle storage and maintenance, and landscape materials at all times including, but not limited to, the list of required measures in Attachment D, which is made a part of this Order.

D. Receiving Water Limitations

Receiving Water Limitations are based upon water quality objectives contained in the Basin Plan and are a required part of this Order. The discharges authorized herein, in combination with other sources, shall not cause the following in surface waters:

1. **Ammonia.** The un-ionized ammonia in amounts which adversely affect beneficial uses. In no case shall the discharge of wastes cause concentrations of un-ionized ammonia (NH₃) to exceed 0.025 mg/l (as N) in receiving waters.
2. **Biostimulatory Substances.** Biostimulatory substances that promote aquatic growths in concentrations that create nuisance or adversely affect beneficial uses.
3. **Bacteria.** The fecal coliform concentration in any 30-day period to exceed a geometric mean of 200 MPN/100 mL, nor more than 10 percent of the total number of fecal coliform samples taken during any 30-day period to exceed 400 MPN/100 mL
4. **Chemical Constituents.** Chemical constituents in concentrations that adversely affect beneficial uses.
5. **Color.** Discoloration that creates nuisance or adversely affects beneficial uses.
6. **Dissolved Oxygen.** Concentrations of dissolved oxygen to fall below 5.0 mg/L.
7. **Floating Material.** Floating material in amounts that cause nuisance or adversely affect beneficial uses.
8. **Oil and Grease.** Oils, greases, waxes, or other materials that create nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.
9. **Pesticides.** Pesticides to be present, individually or in combination, in concentrations that adversely affect beneficial uses; and pesticide increases in bottom sediments or aquatic life in concentrations that adversely affect beneficial uses.
10. **Radioactivity.** Radionuclides to be present in concentrations that are deleterious to human, plant, animal or aquatic life; or that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to human, plant, animal, or aquatic life.
11. **Salinity.** Waters shall be maintained as close to natural concentrations of dissolved matter as is reasonable considering careful use of the water resources

12. **Sediment.** The suspended sediment load and suspended sediment discharge rate of waters to be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
13. **Settleable Material.** Deposition of material that causes nuisance or adversely affects beneficial uses.
14. **Suspended Material.** Suspended material to be present in concentrations that cause nuisance or adversely affect beneficial uses.
15. **Taste and Odors.** Taste- or odor-producing substances to in concentrations that cause nuisance or otherwise adversely affect beneficial uses.
16. **Temperature.** Natural temperatures of waters shall not be altered unless it can be demonstrated to the satisfaction of the Regional Water Board that such alteration in temperature does not adversely affect beneficial uses.
17. **Toxicity.** Toxic substances to be present in the water column, sediments, or biota in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life, whether caused by a single substance or interactive effect of multiple substances.
18. **Turbidity.** Waters shall be free of change in turbidity that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributable to controllable water quality factors shall not exceed the following limits:
 - a. where natural turbidity is between 0 and 5 NTUs, increases shall not exceed 1 NTU;
 - b. where natural turbidity is between 5 and 50 NTUs, increase shall not exceed 20 percent.
 - c. where natural turbidity is equal to or between 50 and 100 NTUs, increases shall not exceed 10 NTUs; and
 - d. where natural turbidity is greater than 100 NTUs increases shall not exceed 10 percent.

In determining compliance with the above limits, the Central Valley Water Board may prescribe appropriate averaging periods provided that beneficial uses will be fully protected.

E. Groundwater Limitations

The discharges authorized herein, in combination with other sources, shall not cause groundwater to contain waste constituents in concentrations greater than the ambient quality.

F. Provisions

1. The Discharger must comply with the *Standard Provisions and Reporting Requirements for Waste Discharge Requirements*, dated 1 March 1991, which is made part of this Order.
2. The Discharger must comply with Monitoring and Reporting Program, No. R5-2011-xxxx, which is made a part of this Order, and future revisions thereto as specified by the Executive Officer.
3. A copy of this Order shall be kept at the project site for reference by project personnel. Personnel shall be familiar with its contents.
4. The Discharger shall submit to the Central Valley Water Board a copy of the SWPPP for each construction phase at least 60 prior to breaking ground on the phase.
5. This Order hereby approves the *Draft Final Tejon Mountain Village Specific Plan Water Quality and Hydromodification Technical Report* as final for the purposes of this Order. Any subsequently proposed modifications to the report must be submitted 90 days prior to implementation to the Executive Officer for approval. The Discharger shall not implement the proposed changes until it obtains written approval from the Executive Officer.
6. This Order hereby approves the *Draft Conceptual Wetlands Mitigation and Monitoring Plan*, with a modification in the mitigation area to reflect the area described in Finding 23, as final for the purposes of this Order. Any subsequently proposed modifications to the report must be submitted 90 days prior to implementation to the Executive Officer for approval. The Discharger shall not implement the proposed changes until it obtains written approval from the Executive Officer.
7. The discharges, including discharges of fill material, must be limited to those described in the RWD submitted by the Discharger on 16 November 2009, the Findings, or the conditions of this Order. The Project must be constructed and operated in accordance with the RWD, its supporting documents, and this Order. The Discharger shall file a supplemental RWD if material changes in location, quantity, or character of the discharge are required.
8. The Discharger must implement the measures described in the Mitigation Plan (Finding 20). The initial construction of the compensatory mitigation in the Castac Lake watershed for discharge of fill to waters of the State must be completed **within 1 year of initial impacts** to waters of the State. The initial construction of the compensatory mitigation in the Pastoria Creek watershed for discharge of permanent fill to waters of the State in Pastoria Creek must be completed **within 1 year of initial impacts** to waters of the State. Within

30-days of initial completion of the compensatory mitigation sites, the Discharger shall submit complete sets of as-built plans for the sites to the Executive Officer for review.

9. All mitigation areas for permanent impacts must be protected in perpetuity from land-use and maintenance activities that would threaten water quality or beneficial uses within the mitigation area. **(One-hundred and twenty (120) days prior to initiating grading within waters of the State)**, the Discharger must submit a draft conservation easement for the Cuddy Creek and Pastoria Creek mitigation sites to the Central Valley Water Board's Executive Officer for review and acceptance. The language of the conservation easement must follow the California Department of Fish and Game (CDFG) and/or U.S. Fish and Wildlife Service (USFWS) templates and guidelines for conservation easements and must identify the third-party nonprofit entity qualified to hold a conservation easement under California Civil Code, Section 815.3, to whom the conservation easement would be granted. The conservation easement must include provisions and responsibilities of the Discharger and the designated land trust organization, including any future transfers of the easement or fee interest that may be anticipated, and must grant access rights to Central Valley Water Board staff. The conservation easement must also specify the purposes for which it is established and include a list of prohibited activities that are inconsistent with the maintenance of the mitigation site, such as development, dredging, mowing, and/or other nonemergency activities that would result in permanent or temporary disturbance of the mitigation area.
10. **One-hundred and twenty (120) days** prior to initiating grading in waters of the State, the Discharger must provide to the Central Valley Water Board's Executive Officer a performance bond for 120% of the amount required to complete on-site establishment (creation) and enhancement. If the management entity to which the mitigation sites will be conveyed requires annual fees in perpetuity, then prior to release of the financial security, the Discharger must provide to the Central Valley Water Board's Executive Officer evidence that funding has been provided for in perpetuity. The Discharger must also provide the Central Valley Water Board the terms of the funding assurances to be established for monitoring and perpetual management and maintenance of the mitigation features and habitat in the conserved mitigation site. The principal in the endowment should generate sufficient revenue to cover the costs described in the Monitoring and Reporting Program including funding for any extended monitoring and maintenance activities, as well as contingency measures, that the Central Valley Water Board's Executive Officer may determine are necessary to meet the mitigation requirements for the Project.
11. The Discharger must provide the name and contact information of any third party accepting responsibility (liability) for implementing the mitigation

- requirements of this Order. Written notification must be submitted to the Central Valley Water Board within **60 days of the proposed transfer of responsibility**. The notification must include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of this Order, or the liability will remain with the Discharger.
12. **No later than 5 years** from the date that the as-built plans for the mitigation area are submitted to the Central Valley Water Board, the mitigation areas must fully meet the established functional success criteria of the Mitigation Plan. If the mitigation areas fail to meet the criteria, the Discharger must provide by this date a technical report proposing remedial measures, for acceptance by the Central Valley Water Board's Executive Officer, to be implemented within 1 year following the determination that success criteria were not met.
 13. Any and all monitoring reports required by this Order are required pursuant to CWC section 13267.
 14. The Discharger must attach a signed, certified cover letter to all monitoring reports provided to the Central Valley Water Board. The certified cover letter must clearly identify any violations of this Order, discuss corrective actions taken or planned, and propose a time schedule for completing identified corrective actions. Identified violations must include a description of the violation.
 15. The Central Valley Water Board may revise or modify this Order for reasons including, but not limited to, revisions to the Project and ensuring consistency with changes in the Central Valley Water Board's riparian and wetland policy. The Central Valley Water Board may review and revise waste discharge requirements in accordance with CWC Section 13263, subdivisions (e) and (f).

I, Pamela C. Creedon, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on _____.

PAMELA C. CREEDON, Executive Officer

- Attachments:
- A. Location Map and Project Area Map
 - B. Dredge and Fill Location Identification Number and Attributes
 - C. California Environmental Quality Act Mitigation Measures
 - D. Good Site Management "Housekeeping"
Information Sheet
Standard Provisions for Waste Discharge Requirements
Monitoring and Reporting Program R5-2011-XXXX