CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
ORDER NO. R9-2011-0057

SETTLEMENT AGREEMENT AND STIPULATION FOR ORDER AND ADMINISTRATIVE CIVIL LIABILITY ORDER SANTA MARGARITA WATER DISTRICT

FOR VIOLATIONS OF PROHIBITIONS CONTAINED IN ORDER NOS. 2006-0003-DWQ AND R9-2007-0005, SECTION 301 OF THE CLEAN WATER ACT AND CALIFORNIA WATER CODE SECTION 13376, COMPLAINT NO. R9-2011-0023

Section I: Introduction

This Settlement Agreement and Stipulation for Order ("Stipulation") and Administrative Civil Liability Order (the "Order") are entered into in reference to an adjudicative proceeding initiated by the issuance of Administrative Civil Liability Complaint No. R9-2011-0023, dated March 10, 2011 (the "Complaint"). The parties to this proceeding are the San Diego Regional Water Quality Control Board Prosecution Staff ("Prosecution Staff") and Santa Margarita Water District ("Discharger") (collectively the "Parties"). The Stipulation is presented to the San Diego Regional Water Quality Control Board ("San Diego Water Board") for adoption as an Order, by settlement, pursuant to Government Code section 11415.60.

Section II: Recitals

1. The Discharger is the owner and operator of approximately 600 miles of sewer pipe, 19 sewer lift stations, and three sewage treatment plants, providing wastewater treatment services to 150,000 residents and businesses within southern Orange County. The Discharger provides sewer service to portions of the cities of Rancho Santa Margarita, Mission Viejo, and San Clemente, as well as unincorporated county areas within its sphere of influence. The Plano Lift Station facility, located at 21384 Antonio Parkway, Rancho Santa Margarita and the 24-inch force sewer main associated with it (the "Facility") are key facilities which transmit wastewater from portions of the Cities of Lake Forest and Rancho Santa Margarita and unincorporated County areas to the Chiquita Wastewater Treatment Plant.

2. The Discharger's sewage collection system, including the Facility, is subject to the requirements set forth in State Water Board Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems* and San Diego Water Board Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Systems in the San Diego Region.*

3. The Complaint as issued recommends an administrative civil liability totaling $1,731,970 for violations of Prohibitions contained in Order Nos. 2006-0003-DWQ and R9-2007-0005, Section 301 of the Clean Water Act and California Water Code (Water

3. The Complaint as issued recommends an administrative civil liability totaling $1,731,970 for violations of Prohibitions contained in Order Nos. 2006-0003-DWQ and R9-2007-0005, Section 301 of the Clean Water Act and California Water Code (Water Code) section 13376 between March 23, 2010 and March 30, 2010. The violations resulted from the discharge of 2.293 million gallons of raw sewage from a ruptured sewer force main into waters of the United States. The proposed civil liability includes estimated economic benefit of $667 and staff costs of $10,500.

4. The Parties have engaged in settlement negotiations and based on substantial evidence provided by the Discharger and not available to the Prosecution Staff at the time of the Complaint's issuance, agree to settle the matter without administrative or civil litigation and by presenting this Stipulation to the San Diego Water Board for adoption as an Order pursuant to Government Code section 11415.60. To resolve by consent and without further administrative proceedings all alleged violations of Water Code section 13350(a) set forth in the Complaint, the Parties have agreed to the imposition of $890,000 in civil liability against the Discharger. Discharger shall pay a total of $445,000 to the State Water Resources Control Board Cleanup and Abatement Account no later than 30 days following the San Diego Water Board's adoption of this Order. The remaining $445,000 in liability is suspended upon completion of a Supplemental Environmental Project ("SEP") ($140,000) and the Enhanced Compliance Action ("ECA") ($305,000) set forth in this Stipulation and Order. Discharger shall expend at a minimum $140,000 to complete the SEP and $305,000 to complete the ECA in accordance with the terms of this Stipulation and Order.

5. Subsequent to the issuance of the Complaint and in the course of settlement discussions between the Parties, the Discharger provided the following substantial evidence to the Prosecution Staff that justified a downward adjustment in two of the factors utilized in the penalty calculation methodology as required by the 2009 State Water Resources Control Board Water Quality Enforcement Policy.

a. Based on the information provided by the Discharger, Prosecution Staff recommended that the Factor 1 (Step 1) *Potential for Harm for Discharge Violations* score be reduced from a score of 4.5 (between "above moderate" and "major") to a score of 4 ("above moderate" harm). While construction of the earthen berm to impound the raw sewage within a mile section of Tijeras Creek negatively impacted beneficial uses of the Creek for well over five days, which in accordance with the penalty calculation methodology guidelines would allow for a finding of major harm in Step 1, this minimized much greater harm to the beneficial uses of the downstream waters, and as such it is reasonable to lower the score to above moderate harm.

b. Additionally, the Adjustment Factor for *Culpability* in Step 4 of the methodology was reduced from a score of 1.0 to a score of 0.75 because the Discharger could not have reasonably expected the Plano force main to be corroding from the interior since the pipe was well within its life expectancy.

c. The downward adjustment of these two factors resulted in lowering the recommended liability amount under the Enforcement Policy from $1,731,970 in the Complaint to $890,000 (including staff costs).

6. The Prosecution Staff avers that the resolution of the alleged violations is fair, reasonable, and fulfills its enforcement objectives, that no further action is warranted concerning the specific violations alleged in the Complaint except as provided in this Stipulation, and that this Stipulation is in the best interest of the public.

7. **SEP Description – Starr Ranch Invasive Control and Restoration Project:** The goals for funding the first year of this project are to restore 0.5 to 2.0 acres of riparian and stream habitat within Bell Canyon Creek, and aid in training volunteers in stream bioassessment protocols. Additionally, upland habitat along the Bell Canyon watershed within the Audubon Starr Ranch Sanctuary will be restored to coastal sage scrub habitat by the removal of the invasive artichoke thistle. The invasive control and restoration project is completely non-chemical, research-based (i.e. uses adaptive management), and landscape scale (i.e. both riparian and upland). The riparian project is supervised by the Director of Research and Education and staffed by two seasonal interns, recent college graduates who live on site for eight months. Interns recruit and supervise volunteers and Orange County Conservation Corps crews to remove priority invasives and also to do active and passive restoration in 0.5 – 2.0 new acres per year along the Bell Canyon riparian corridor, which is 4.7 miles long and approximately 232 acres. The Starr Ranch upland project removes invasives and restores two rare habitats, coastal sage scrub and native grassland. A seasonal field crew of five recent college graduates, who also live on site, add 20 - 30 new upland acres per year and use experimentally-derived methods to control artichoke thistle.

Quantitative and qualitative monitoring results will indicate success of invasive control and passive and active restoration. To assess performance, data will be analyzed to detect trends of native vs. invasive cover as well as native woody plant density in both active and passive restoration sites. Detailed plans for achieving the goal(s) are provided in the Starr Ranch Invasive Control and Restoration Project - Implementation Schedule and Milestones included herein as part of the SEP description, Attachment A.

The San Diego Water Board acknowledges that the total cost of the three year SEP exceeds the Discharger's contribution to the project ($140,000). However, implementation of the first year of this project will provide stand-alone benefits to the riparian and upland habitat restoration and enhancement which will continue to be maintained and monitored regardless of implementation of years two and three of the project. For this reason, the Audubon Starr Ranch Sanctuary (or "Implementing Party") will complete the first year of the SEP utilizing the funds provided by the Discharger, and seek funding for years two and three from alternative funding sources.

8. **SEP Completion Date:** The first year's work under the SEP, as described in paragraph 7,shall be completed in its entirety no later than October 15, 2012 (the "SEP Completion Period"). If other circumstances beyond the reasonable control of Audubon Starr Ranch Sanctuary or the Discharger prevent completion of the first year's work under the SEP by that date, San Diego Water Board staff may extend the SEP Completion Period by up to one (1) year, to October 15, 2013. The Discharger must send its request for an extension in writing with necessary justification to the Designated San Diego Water Board Representative no later than September 14, 2012.

9. **Agreement of Discharger to Fund, Report and Guarantee Implementation of SEP:** The Discharger represents that: (1) It will fund the SEP in the amount as described in this Stipulation and Order; (2) It will provide certifications and written reports to the San Diego Water Board consistent with the terms of this Stipulation detailing the implementation of the SEP, and (3) Discharger will guarantee implementation of the SEP identified in Attachment A by remaining liable for $140,000 of suspended administrative liability until the SEP is completed and accepted by the San Diego Water Board in accordance with the terms of this Stipulation. The Discharger agrees that the San Diego Water Board has the right to require an audit of the funds expended by it to implement the SEP.

10. **Agreement of Audubon Starr Ranch Sanctuary to Accept SEP Funds and Implement SEP:** As a material consideration for the San Diego Water Board's acceptance of this Stipulation, Audubon Starr Ranch Sanctuary represents that it will utilize the funds provided to it by the Discharger to implement those portions of the SEP designated as a "Year 1" in the Schedule for Performance included in the SEP description, Attachment A. Audubon Starr Ranch Sanctuary understands that its promise to implement the SEP, in its entirety and in accordance with the schedule for implementation, is a material condition of this settlement of liability between the Discharger and the Prosecution Team. Audubon Starr Ranch Sanctuary agrees that the San Diego Water Board staff, or its designated representative, has the right to: (1) inspect the SEP at any time without notice; (2) require an audit of the funds expended by Audubon Starr Ranch Sanctuary to implement the SEP; and (3) require implementation of the SEP in accordance with the terms of this Stipulation and Order if Audubon Starr Ranch Sanctuary has received funds for that purpose from the Discharger.

Audubon Starr Ranch Sanctuary agrees to submit to the jurisdiction of the San Diego Water Board to enforce the terms of this Stipulation and Order and the implementation of the SEP and agrees to provide all such information requested by the Discharger to enable the Discharger to fulfill its reporting and certification obligations to the San Diego Water Board regarding the SEP, as set forth herein.

11. **SEP Oversight:** Discharger agrees to oversee implementation of the SEP. Additional oversight of the SEP will be provided by the San Diego Water Board. The Discharger is solely responsible for paying for all reasonable oversight costs incurred by the San Diego Water Board to oversee the SEP. The SEP oversight costs are in addition to the total administrative civil liability imposed against the Discharger and are not credited toward the Discharger's obligation to fund the SEP. Reasonable oversight tasks to be performed by the San Diego Water Board include but are not limited to, updating CIWQS, reviewing and evaluating progress, reviewing the final completion report, verifying completion of the project with a site inspection and auditing appropriate expenditure of funds.

12. **Certification of SEP Funding:** The Discharger shall provide evidence to the San Diego Water Board of payment in full ($140,000) to Audubon Starr Ranch Sanctuary in support of the SEP no later than 30 days following the San Diego Water Board's adoption of this Order. Failure to pay the full SEP amount by this date will result in the full SEP amount ($140,000) being immediately due and payable to the State Water Resources Control Board for deposit into the Cleanup and Abatement Account.

13. **SEP Progress Reports:** The Discharger shall provide quarterly reports of progress to a Designated San Diego Water Board Representative, and the State Water Resources Control Board's Division of Financial Assistance, continuing through submittal of the final report described in Paragraph 14. If no activity occurred during a particular quarter, a quarterly report so stating shall be submitted. Quarterly reports must be submitted in accordance with the following schedule:

Reporting Period	Due Date
January - March	April 30
April - June	July 31
July - September	October 31
October - December	January 31

14. **Certification of Completion of SEP and Final Report:** On or before December 1, 2012 (or December 1, 2013, if an extension to the completion date is granted), the Discharger shall submit a certified statement of completion of the SEP ("Certification of Completion"). The Certification of Completion shall be submitted under penalty of perjury, to the Designated San Diego Water Board Representative and the State Water Resources Control Board's Division of Financial Assistance, by a responsible corporate official representing the Discharger. The Certification of Completion shall include following:

a. Certification that the SEP has been completed in accordance with the terms of this Stipulated Order. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the San Diego Water Board to evaluate the completion of the SEP and the costs incurred by the Discharger.

b. Certification documenting the expenditures by the Discharger and Implementing Party during the completion period for the SEP. The Implementing Parties' expenditures may be external payments to outside vendors or contractors implementing the SEP. In making such certification, the official may rely upon normal company project tracking systems that capture employee time expenditures and external payments to outside vendors such as environmental and information technology contractors or consultants. The certification need not address any costs incurred by the San Diego Water Board for oversight. Audubon Starr Ranch Sanctuary may submit a separate certification of expenditures on the Discharger's behalf. The Discharger (or the Implementing Party on the Discharger's behalf) shall provide any additional information requested by the San Diego Water Board staff which is reasonably necessary to verify SEP expenditures.

c. Certification, under penalty of perjury, that the Discharger and/or Implementing Party followed all applicable environmental laws and regulations in the implementation of the SEP including but not limited to the California Environmental Quality Act (CEQA), the federal Clean Water Act, and the Porter-Cologne Act. Audubon Starr Ranch Sanctuary may submit a separate certification of compliance on the Discharger's behalf. To ensure compliance with CEQA where necessary the Discharger and/or Implementing Party shall provide the San Diego Water Board with the following documents from the lead agency prior to commencing SEP implementation if applicable:

   i. Categorical or statutory exemptions relied upon by the Implementing Party;
   ii. Negative Declaration if there are no potentially "significant" impacts;
   iii. Mitigated Negative Declaration if there are potentially "significant" impacts but revisions to the project have been made or may be made to avoid or mitigate those potentially significant impacts; or
   iv. Environmental Impact Report (EIR)

In addition, by December 1, 2013 (or December 1, 2014, if an extension to the completion date is granted), Audubon Starr Ranch Sanctuary shall submit a final report to the Designated San Diego Water Board Representative which includes a discussion of the monitoring activities and results conducted during the year following completion of the SEP.

15. **San Diego Water Board Acceptance of Completed SEP:** Upon the Discharger's satisfaction of its SEP obligations under this Stipulation and completion of the SEP and any audit requested by the San Diego Water Board, San Diego Water Board staff shall send the Discharger a letter recognizing satisfactory completion of its obligations under the SEP. This letter shall terminate any further SEP obligations of the Discharger and result in a permanent stay of the $140,000 SEP liability imposed on the Discharger by this Stipulation and Order.

16. **Failure to Expend all Suspended Administrative Civil Liability Funds on the Approved SEP:** In the event that Discharger and/or the Implementing Party is not able to demonstrate to the reasonable satisfaction of the San Diego Water Board staff that the entire SEP Amount has been spent to complete the components of the SEP for which the Discharger is financially responsible, Discharger shall pay the difference between the Suspended Administrative Civil Liability and the amount the Discharger can demonstrate was actually spent on the SEP, as an administrative civil liability. The Discharger shall pay the additional administrative liability within 30 days of its receipt of notice of the San Diego Water Board's determination that the Discharger has failed to demonstrate that the entire SEP Amount has been spent to complete the SEP components.

17. **Failure to Complete the SEP:** If the SEP is not fully implemented within the SEP Completion Period (as defined in Paragraph 8) required by this Stipulation, the Designated San Diego Water Board Representative shall issue a Notice of Violation. As a consequence, the Discharger shall be liable to pay the entire Suspended Liability or, some portion thereof, or the Discharger and/or Implementing Party may be compelled to complete the SEP.

18. **Publicity:** Should the Discharger, the Implementing Party or its agents or subcontractors publicize one or more elements of the SEP, it shall state in a **prominent manner** that the Project is being partially funded by the discharger pursuant to San Diego Water Board Order No. R9-2011-0057.

19. **ECA Description:** The Plano Forcemain Realignment Project shall consist of the design and realignment of the portion of the Plano Forcemain that extends easterly from the Plano Lift Station to a point of connection (to the continuation of the existing force main) that is on the east side of Tijeras Creek. The project will consider two realignment alternatives to remove the forcemain from the banks and bed of Tijeras Creek and thus avoid the direct discharge of sewage to the creek in the event of a forcemain failure. The two alternatives and proposed timelines for the project are described in the ECA summary in attachment B. Subject to the California Environmental Quality Act and SMWD Board action, work will start immediately and, subject to unforeseeable/uncontrollable delays will be completed within two years based on the proposed schedule.

20. **ECA Costs:** The installed cost estimate for the ECA is approximately $1,560,000 (Attachment B). The amount of liability to be suspended upon completion of the ECA is $305,000 (ECA Amount). No additional liability above and beyond the $305,000 shall be suspended for costs incurred to complete the ECA.

21. **ECA Progress Reports:** The Discharger shall provide annual reports of ECA progress to San Diego Water Board staff, commencing on November 1, 2011, and annually thereafter until the certification of performance is provided as described in paragraph 24, below.

22. **Failure to Complete ECA:** If the project as described is determined to be infeasible, or the Discharger fails to complete the ECA by October 1, 2013, as required by this Stipulation and Order, the San Diego Water Board shall issue a Notice of Violation (NOV). If other circumstances beyond the reasonable control of the Discharger prevent completion of the ECA by that date, San Diego Water Board staff may extend the SEP Completion Period by up to one (1) year, to October 1, 2014. The Discharger must send its request for an extension in writing with necessary justification to the Designated San Diego Water Board Representative no later than September 14, 2013. As a consequence, the Discharger shall be liable to pay the State Water Resources Control Board Cleanup and Abatement Account the suspended liability of $305,000 within 30 days of receipt of the NOV.

23. **ECA Oversight:** Discharger will oversee implementation of the ECA. Additional oversight of the ECA will be provided by the San Diego Water Board. The Discharger is solely responsible for paying all reasonable oversight costs incurred by the San Diego Water Board to oversee the ECA. The ECA oversight costs are in addition to the total administrative civil liability imposed against the Discharger and are not credited toward the Discharger's obligation to fund the ECA. Reasonable oversight tasks to be performed by the San Diego Water Board include but are not limited to, updating CIWQS, reviewing and evaluating progress, reviewing the final completion report, verifying completion of the project with a site inspection and auditing appropriate expenditure of funds.

24. **Certification of Performance of ECA:** On or before December 1, 2013, the Discharger shall provide a report to Designated San Diego Water Board staff, containing documentation demonstrating completion of the ECA and detailing fund expenditures. The report shall be submitted under penalty of perjury, stating that the ECA has been completed in accordance with the terms of this Stipulation and Order. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the San Diego Water Board to evaluate the completion of the ECA and the costs incurred by the Discharger.

25. **Third Party Financial Audit of ECA:** At the written request of the San Diego Water Board Executive Officer or designee, the Discharger, at its sole cost, shall submit a report prepared by an independent third party(ies) acceptable to the San Diego Water Board staff providing such party's(ies') professional opinion that the Discharger has expended money in the amounts claimed by the Discharger directly on the ECA Project. The written request shall specify the reasons why the audit is being requested. The audit report shall be provided to San Diego Water Board staff within three (3) months of notice from San Diego Water Board staff to the Discharger of the need for an independent third party audit. The audit need not address any costs incurred by the San Diego Water Board for oversight.

26. **Failure to Expend all Suspended Administrative Civil Liability Funds on the Approved ECA:** In the event that Discharger is not able to demonstrate to the reasonable satisfaction of the San Diego Water Board staff that the entire ECA Amount has been spent for the completed ECA Project, as described, Discharger shall pay the difference between the Suspended Administrative Civil Liability and the amount Discharger can demonstrate was actually spent on the described ECA Project, as an administrative civil liability. The Discharger shall pay the additional administrative liability within 30 days of its receipt of notice of the San Diego Water Board staff's determination that the Discharger has failed to demonstrate that the entire ECA Amount has been spent to complete the ECA.

Section III: Stipulations

27. The Parties incorporate Paragraphs 1 through 26 by this reference as if set forth fully herein, stipulate to the entry of this Order as set forth below, and recommend that the San Diego Water Board issue this Order to effectuate the settlement.

28. This Stipulation is entered into by the Parties to resolve by consent and without further administrative proceedings certain violations of Order Nos. 2006-0003-DWQ and R9-2007-0005, Section 301 of the Clean Water Act and California Water Code (Water Code) section 13376, set forth in the Complaint and detailed above in Paragraphs 3 through 5.

29. The Discharger hereby agrees to pay the administrative civil liability totaling $890,000 as set forth in Paragraph 4 of Section II herein. Further, the Parties agree that $445,000 of this administrative civil liability shall be suspended pending completion of: (1) the SEP as set forth in Paragraphs 7 through 18 of Section II herein; and (2) the ECA Project as particularly described in Paragraphs 19 through 26 of Section II herein.

30. The Discharger understands that payment in accordance with this Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in the Complaint may subject it to further enforcement, including additional administrative civil liability.

31. Should the Discharger enter into bankruptcy proceedings before all payments are paid in full, the Discharger agrees, to the extent allowable under applicable law, to not seek to discharge any of these penalties in bankruptcy proceedings.

32. Each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

33. The Discharger understands that the terms of the Settlement Agreement and proposed Order must be noticed for a 30-day public review and comment period prior to consideration by the San Diego Water Board. In the event objections are raised during the public comment period for the Order, the San Diego Water Board or the Executive Officer may, under certain circumstances, require a public hearing regarding the Order. In that event, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the Order as necessary or advisable under the circumstances.

34. The Parties agree that the procedure contemplated for adopting the Order by the San Diego Water Board and review of this Stipulation by the public is lawful and adequate. In the event procedural objections are raised prior to the Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

35. This Stipulation and Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. The Discharger is represented by counsel in this matter.

36. This Stipulation and Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the San Diego Water Board.

37. This Stipulation may be executed in counterparts and by facsimile signature.

38. In the event that this Order does not take effect because it is not approved by the San Diego Water Board, or is vacated in whole or in part by the State Water Resources Control Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the San Diego Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:

a. Objections related to prejudice or bias of any of the San Diego Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the San Diego Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the Complaint in this matter; or

b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.

39. The Discharger has been informed of the rights provided by CWC section 13323 (b), and hereby waives its right to a hearing before the San Diego Water Board prior to the adoption of the Order.

40. The Discharger hereby waives its right to petition the San Diego Water Board's adoption of the Order as written for review by the State Water Resources Control Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court. The Discharger reserves the right to seek review by the State Water Resources Control Board of any revisions made by the San Diego Water Board prior to adoption of the Order, and to participate as a designated party in any proceeding brought by any other aggrieved party relating to the subject matter of the Stipulation and Order.

41. The Discharger and Audubon Starr Ranch Sanctuary covenant not to sue or pursue any administrative or civil claim(s) against any State Agency or the State of California, their officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any matter addressed herein.

42. Neither the San Diego Water Board members nor the San Diego Water Board staff or State Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Discharger (or the Implementing Party where applicable) its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the San Diego Water Board, its members or staff be held as parties to or guarantors of any contract entered into by Dischargers, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulation and Order.

43. The Assistant Executive Officer warrants by signing below that he has the authority to execute the Stipulation on behalf of the Prosecution Team. The person signing on behalf of the Discharger warrants by signing below that he has the legal authority to bind the Discharger to the terms of this Stipulation. The person signing on behalf of Audubon Starr Ranch Sanctuary warrants by signing below that he or she has the legal authority to bind Audubon Starr Ranch Sanctuary to the applicable terms of this Stipulation. The Parties hereto have caused this Stipulation to be executed by their respective officers on the dates set forth, and the Stipulation is effective as of the most recent date signed.

44. This Stipulation is effective and binding on the Parties upon the execution of this Order.

IT IS SO STIPULATED.

California Regional Water Quality Control Board Prosecution Team
San Diego Region

By: _____
James G. Smith, Assistant Executive Officer

Date: 19 July 2011

Santa Margarita Water District

By: _____
NAME:

Date: 8/25/11

National Audubon Society, Inc.

By: _____
NAME: Monique Ossim, CFO

Date: 8/25/11

Section IV: Findings of the San Diego Water Board

45. The San Diego Water Board incorporates Paragraphs 1 through 44 by this reference as if set forth fully herein.

46. The Parties believe that settlement of this matter is in the best interest of the People of the State. Therefore, to settle the Complaint, the Discharger hereby agrees to comply with the terms and conditions of this Order.

47. The San Diego Water Board finds that the Recitals set forth herein in Section II are true.

48. This Stipulation and Order are severable; should any provision be found invalid the remainder shall remain in full force and effect.

49. In accepting this settlement, the San Diego Water Board has considered, where applicable, each of the factors prescribed in CWC sections 13327 and 13350. The San Diego Water Board's consideration of these factors is based upon information obtained by the San Diego Water Board's staff in investigating the allegations in the Complaint or otherwise provided to the San Diego Water Board. In addition to these factors, this settlement recovers the costs incurred by the staff of the San Diego Water Board for this matter.

50. This is an action to enforce the laws and regulations administered by the San Diego Water Board. The San Diego Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.

51. The San Diego Water Board's Executive Officer is hereby authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under the Order.

52. Fulfillment of the Discharger's obligations under the Order constitutes full and final satisfaction of any and all liability for each claim in the Complaint in accordance with the terms of the Order.

The attached Agreement between the Assistant Executive Officer and the Dischargers is approved pursuant to Government Code section 11415.60 and is incorporated by reference into this Order.

I, David W. Gibson, 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, San Diego Region, on ~~August 10~~, 2011.
September 14

David W. [illegible]

DAVID W. GIBSON
Executive Officer

Date: September 19, 2011