

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

9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
(858) 467-2952 _ (858) 571-6972 fax
<http://www.waterboards.ca.gov/sandiego>

TENTATIVE ORDER NO. R9-2008-0003

**WASTE DISCHARGE REQUIREMENTS AND
SECTION 401 WATER QUALITY CERTIFICATION**

for

**PAUL GARRETT ENTERPRISES INC.
and
TEMECULA PROPERTIES, LLC,**

**TEMECULA 84,
RIVERSIDE COUNTY, CALIFORNIA**

Table of Contents

FINDINGS	2
DIRECTIVES.....	5
A. PROHIBITIONS.....	5
B. PROJECT PROVISIONS	6
C. MITIGATION PROVISIONS FOR FEDERAL AND STATE WATERS.....	7
D. POST-CONSTRUCTION STORMWATER TREATMENT PROVISIONS	9
E. MITIGATION PHOTO DOCUMENTATION PROCEDURE	11
F. POST-CONSTRUCTION BMPs PHOTO DOCUMENTATION PROCEDURE... 	11
G. STANDARD PROVISIONS	11
H. REPORTING AND RECORD KEEPING REQUIREMENTS	14
I. NOTIFICATIONS.....	15
MONITORING AND REPORTING PROGRAM NO. R9-2008-003	21

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

9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
(858) 467-2952 _ (858) 571-6972 fax
<http://www.waterboards.ca.gov/sandiego>

TENTATIVE ORDER NO. R9-2008-0003

**WASTE DISCHARGE REQUIREMENTS AND
SECTION 401 WATER QUALITY CERTIFICATION**

for

**PAUL GARRETT ENTERPRISES INC.
and
TEMECULA PROPERTIES, LLC,**

**TEMECULA 84,
RIVERSIDE COUNTY, CALIFORNIA**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds that:

1. On July 9, 2007, the Temecula Properties, LLC submitted an incomplete application for Section 401 Certification for discharges of fill associated with the Temecula 84 Project (Project) to the Regional Board. On August 9, 2007, Paul Garret Enterprises Inc. and Temecula Properties, LLC (hereinafter Discharger) submitted a revised application for a Section 401 Certification and a Report of Waste Discharge (ROWD) for Waste Discharge Requirements (WDRs) for the non-federal waters. Additional information to complete the 401 Certification application and ROWD for WDRs was received on October 22, 2007.
2. The proposed Project is a commercial development on the 86-acre site, including a 25-acre graded pad for a Professional Hospital Supply warehouse facility with office space and surrounding parking infrastructure. Also included in the design is an on-site extension of Remington Road and widening of portions of both Winchester Road and Dendy Parkway. Access would be provided by Remington Road. The majority of the western parcel (909-370-018) has already been graded.
3. The Project is located west of Winchester Road between Remington Avenue and Cherry Street in Temecula, Riverside County, California. The Project is situated on unsectioned lands of the Santa Road Land Grant, Township 8 South, Range 3 West in US Geological Survey 7.5-minute Murrieta quadrangle map. The Project will

affect unnamed drainages to Murrieta Creek in the Murrieta Hydrologic Subarea (902.32) in the Santa Margarita Hydrologic Unit.

4. Project effects on federal waters of the U.S. are 0.02 acres (540.5 linear feet) of ephemeral drainage. Project effects on waters of the State are 0.05 acres (834.92 linear feet). Total Project effects are 0.07 acres (1,375 linear feet) of waters. The discharge of fill to 0.02 acres of federal waters requires permitting subject to sections 401 and 404 of the federal Clean Water Act [33 USC 1342 & 1344] because the fill locations were determined by the Corps to be federal waters of the U.S. The discharge of fill to the remaining 0.05 acres of waters of the State was determined by the Corps to be outside of federal jurisdiction and is, therefore, subject to permitting from the State, but not the Corps.

Temecula 84		
On-site and Project Impacts		
Non-federal Waters of the State and Federal Waters		
Habitat	Existing On-site Acres (linear feet)	Project Effects Acres (linear feet)
Non-federal waters of the State, Disturbed Wetlands	0.02 (84.43)	0.02 (84.43)
Non-federal waters of the State, Ephemeral Drainage	0.02 (750.49)	0.02 (750.49)
Non-federal State Waters subtotal	0.05 (834.92)	0.05 (834.92)
Federal Waters		
Ephemeral Drainage, Non-wetland	0.1 (2,221.6)	0.02 (540.5)
Total	0.14 (3,056.52)	0.07 (1,375.42)

5. The proposed mitigation will adequately compensate for impacts to waters of the U.S. and State associated with the discharge of fill material. A total of 0.5 acres has been preserved at the Barry Jones Wetland Mitigation Bank by agreement dated September 28, 2007. This is a preservation ratio of more than 6:1 for the impacted waters. A total of 0.07 acres (771 linear feet) of waters of the State will be created as detailed in the *Draft Murrieta 18 Mitigation Plan, October 19, 2007* (Mitigation Plan) as amended by the revised Figure 5 submitted by e-mail dated November 29, 2007. This is a creation ratio of 1:1 for the impacted waters. As shown in the revised Figure 5 to the Mitigation Plan included as Attachment 4 to the Fact Sheet for Order No. R9-2008-0003, a channel will be dug parallel to the existing channel. This Order requires the discharger to proceed with the proposed mitigation plans.
6. Mitigation activities are expected to be successful based on the location and expected hydrology of the mitigation area. The areas selected for wetland creation are immediately adjacent to the existing stream channel that already supports wetlands and will have increased flow from the proposed development in its

watershed. Any upland buffer or slope areas will be seeded with native species known to occur in the immediate vicinity of the project site. Maintenance and monitoring of these areas for five years is expected to keep weedy species from predominating the landscape and allow native species to take over.

7. The post-construction BMPs for the Project are detailed in *Project Specific Water Quality Management Plan for: PHS Warehouse, 42500 Winchester Road, City of Temecula, CA 92590, Phase 1 of Development Only, DEVELOPMENT NO. TPM 35181, DESIGN REVIEW NO. PA06-0369, September 24, 2007 (WQMP)*. The structural treatment BMPs proposed for the project include 1) grass swales {22 segments totaling 3,570 lineal feet}, 2) four proprietary media filtration units by CDS Technologies with Zeolite/Perlite/Granulated Activated Carbon (ZPG) media, and 3) four inlet inserts by Kristar. All three types are flow based BMPs.
8. The Regional Board requires post-construction BMPs to have a pollutant removal efficiency of medium to high. Order No. R9-2008-0003 requires BMPs which achieve medium to high pollutant removal efficiency for all areas of the project including the driveway entrances, adjacent slopes, and public streets. The BMPs proposed for the driveway entrances, adjacent slopes, and public streets have a low pollutant removal efficiency. Additional or alternative BMPs will need to be installed for the driveway entrances, adjacent slopes, and public streets to meet the requirements of Order No. R9-2008-0003. This Order requires the discharger to implement the proposed post-construction BMP measures and to report on design details as development plans are refined.
9. Construction activities associated with the proposed discharges of fill would threaten beneficial uses on-site and downstream. The Discharger intends to file a Notice of Intent to the State Water Resources Control Board (State Board) for coverage under State Board Order No. 99-08-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRs) For Discharges Of Storm Water Runoff Associated With Construction Activity*. The Regional Board may conduct inspections to verify compliance with Order No. 99-08-DWQ, including, but not limited to, implementation of a storm water pollution prevention plan.
10. This Order specifies waste discharge requirements that are necessary to adequately address effects on, and threats to, water quality standards resulting from the filling of waters of the U.S. and waters of the State, to meet the objectives of the State Wetlands Conservation Policy (Executive Order W-59-93), to be consistent with non-degradation provisions of State Board Resolution No. 68-16, and to accommodate and require appropriate changes during implementation of the Project and its construction. Through adherence to the waste discharge requirements, the Project, as described in this Order, will not result in State water quality standards being exceeded.

11. The *Comprehensive Water Quality Control Plan for the San Diego Basin (9) (Basin Plan)* was adopted by the Regional Board on September 8, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and approved by the State Board. The Basin Plan designates beneficial uses, narrative and numerical water quality objectives, and prohibitions which are applicable to the discharges regulated under this Order. The project, as described in this Order, will not result in State Water Quality Standards being exceeded.
12. The dischargers have avoided and minimized impacts to waters of the U.S. consistent with the requirements of the Basin Plan.
13. The proposed discharge from the Temecula 84 project will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act.
14. The Regional Board has notified the Discharger and other interested persons and agencies of its intent to prescribe Waste Discharge Requirements and Section 401 Water Quality Certification and has provided them with an opportunity for public hearing and an opportunity to submit written comments.
15. The Regional Board, in a public meeting on February 13, 2008, heard and considered all comments pertaining to the proposed discharge.

IT IS HEREBY ORDERED THAT, Paul Garret Enterprises Inc. and Temecula Properties, LLC (hereinafter Discharger), in order to meet the provisions contained in Division 7 of the California Water Code and Regulations adopted there under, shall comply with the following requirements:

A. PROHIBITIONS

1. The discharge of waste in a manner other than as described in the findings of this Order is prohibited unless the discharger obtains revised waste discharge requirements that provide for the proposed change prior to the discharge occurring.
2. The discharge of fill material is prohibited in a manner that has not been described in the application / report of waste discharge and for which valid waste discharge requirements are not in force.
3. The discharge of waste shall not create a condition of pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code.
4. Discharges to surface waters of wastes or pollutants that are not otherwise regulated by separate National Pollutant Discharge Elimination System (NPDES) requirements are prohibited.

5. The discharge of sand, silt, clay, or other earthen materials from any activity 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.
6. The unauthorized discharge of treated or untreated sewage to waters of the State or to a storm water conveyance system is prohibited.
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 or State Board.

B. PROJECT PROVISIONS

1. Standard conditions applicable to Clean Water Act Section 401 Water Quality Certification (Certification):
 - a. Every Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC §13330 and 23 CCR §3867.
 - b. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR §3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
 - c. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR §3833 and owed by the dischargers.
2. The Discharger shall implement all plans as proposed in the 401 Certification application and Report of Waste Discharge and as may be modified following review by the Regional Board to assure compliance with this Order.
3. The authorization to discharge fill material pursuant to this Certification is valid only until the expiration of the associated U.S. Army Corps of Engineers Section 404 individual and/or Nationwide permits.
4. Any proposed change in construction that may alter flow patterns and/or change the approved impact footprint is prohibited without Regional Board approval. Not later than 30 days prior to the beginning of any proposed change, the Discharger shall submit, acceptable to the Regional Board, detailed plans and specifications showing the proposed change in relationship to the approved project.

5. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the Regional Board pursuant to CWC §13260.
6. The Discharger shall, at all times, maintain appropriate types and sufficient quantities of materials onsite 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 U.S. and/or State.
7. The Discharger shall comply with the requirements of State Board Order No. 99-08-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRs) For Discharges Of Storm Water Runoff Associated With Construction Activity.
8. The Discharger shall notify the Regional Board in writing within 10 days following the initiation of discharge of fill to on-site waters of the State and U.S.
9. No plant species on the most recent California Invasive Plant Council (Cal-IPC) List, "Exotic Pest Plants of Greatest Ecological Concern in California¹" shall be planted in mitigation areas, waters of the State, vegetated storm water BMP areas, or other areas used to convey urban runoff and storm water.

C. MITIGATION PROVISIONS FOR FEDERAL AND STATE WATERS

1. The Discharger shall implement the plans for mitigation as proposed in support of the 401 Certification application and Report of Waste Discharge and as may be modified following review by the Regional Board to assure compliance with this Order. The final Monitoring Plan shall be consistent with the Monitoring and Reporting Program, and future revisions thereto, in Attachment C of this Order.
2. Compensatory mitigation for permanent discharges of fill to 0.07 acres of federal and non-federal waters of the State shall be achieved as follows:
 - a. A total of 0.5 acres has been preserved at the Barry Jones Wetland Mitigation Bank by agreement dated September 28, 2007. This is a preservation ratio of more than 6:1 for the impacted waters.
 - b. A total of 0.07 acres (771 linear feet) of waters of the State will be created as detailed in the *Draft Murrieta 18 Mitigation Plan, October 19, 2007* (Mitigation Plan) as amended by the revised Figure 5 submitted by e-mail dated November 29, 2007. This is a creation ratio of 1:1 for the impacted waters. As shown in the revised Figure 5 of the Mitigation Plan, included as Attachment 4 to the Fact Sheet for Order No. R9-2008-0003, a channel will be dug parallel to the existing channel.

¹ The Cal-IPC list may be found on-line at <http://www.cal-ipc.org/>.

3. The preparation of proposed mitigation areas shall be concurrent with (or prior to) the discharge of fill material into waters of the U.S. and/or State. Implementation of the Mitigation Plan shall be completed no later than nine months following the discharge of fill into on-site waters of the State. Delays in implementing mitigation shall result in increased mitigation requirements by 0.01 acre for each month of delay.
4. All mitigation areas shall be protected in perpetuity from land-use and maintenance activities that would threaten water quality or beneficial uses within the mitigation area. Within 90 days of the issuance of this Order, the Discharger must provide the Regional Board a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. The conservation easement or other legal limitation on the mitigation property must be adequate to demonstrate that the site will be maintained without future development or encroachment on the site or which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the U.S. that it supports. The conservation easement or other appropriate legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland functions and values of the site. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, paved maintenance roads, and areas of maintained landscaping for recreation. The Discharger must submit proof of a completed preservation mechanism within one year of issuance of this certification.
5. Within 90 days of the issuance of this Order, the Discharger shall submit documentation of a program to provide for maintenance in perpetuity of all mitigation areas to ensure that invasive and non-native species do not colonize the mitigation area and that mitigation activities do not reduce the ability of the waters to support beneficial uses (e.g., excessive sediment erosion or accumulation).
6. Within three and five years following implementation of the Mitigation Plan, the mitigation area shall meet the interim and final success criteria in the Mitigation Plan. If the mitigation area fails to meet the expected success criteria, the Discharger shall prepare remedial measures to be implemented within one year following the determination that success criteria were not reached.
7. If at any time during the implementation and establishment of planted or graded mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, the Discharger shall be responsible for repair and replanting of the damaged area(s).
8. For purposes of this Order, creation is defined as the creation of vegetated or

unvegetated waters of the U.S./State where they have never been documented or known to occur (e.g., conversion of nonnative grassland to freshwater marsh). Restoration is defined as the creation of waters of the U.S./State where they previously occurred (e.g., removal of fill material to restore a streambed). Enhancement is defined as modifying existing waters of the U.S./State to enhance functions and values (e.g., removal of exotic plant species from jurisdictional areas and replacing with native species).

D. POST-CONSTRUCTION STORMWATER TREATMENT PROVISIONS

1. All storm drain inlet structures within the project boundaries shall be stamped and/or stenciled with appropriate language prohibiting non-storm water discharges.
2. Best management practices (BMPs) shall be implemented to treat storm water runoff from all roofs, roads, parking areas, and other impervious areas where activities are expected to generate pollutants that can be conveyed by storm water to the storm drain system and/or waters of the State and/or U.S. Post-construction storm water BMPs shall be designed to mitigate (infiltrate, filter, and/or treat), prior to discharging to receiving waters, the volume of runoff produced by all storms up to and including the 24-hour, 85th percentile storm event for volume-based BMPs and/or the 1 hour, 85th percentile multiplied by a factor of two for flow-based BMPs, as determined from the local historical rainfall record.
3. Post-construction BMPs shall be implemented in accordance with the *Project Specific Water Quality Management Plan for: PHS Warehouse, 42500 Winchester Road, City of Temecula, CA 92590, Phase 1 of Development Only, DEVELOPMENT NO. TPM 35181, DESIGN REVIEW NO. PA06-0369, September 24, 2007 (WQMP)* except as described in Provision D.4. Post-construction BMPs must be installed and functional prior to occupancy and/or planned use of developed areas.
4. The Discharger shall implement BMPs which achieve medium to high pollutant removal efficiency for all areas of the project including the driveway entrances, adjacent slopes, and public streets.
5. Prior to occupancy, the discharger shall submit a report on design details of any changes to the WQMP including the additional or alternative BMPs installed for the driveway entrances, adjacent slopes, and public streets to meet the requirements of Provision D.4.
6. The Discharger shall provide any purchaser or occupant of the site with a map that clearly distinguishes the location and purpose of all storm water site design, pollution prevention, and treatment BMP features. Each purchaser or occupant of the site shall also be educated regarding pollution prevention activities.
7. All post-construction structural treatment BMPs, including, but not limited to, the detention basins, vegetated swales, media filters, etc. shall be regularly inspected

and maintained for the life of the project per manufacturers' specifications for proprietary structural devices and at frequencies no less than recommended by the California Storm water Quality Association (CASQA)² guidance for non-proprietary measures, including the vegetated swales and the detention basins.

- a. Final maintenance plans for the vegetated swales shall be developed and implemented based on CASQA guidance;
 - b. A copy of a Final Plan for operations and maintenance for all post-construction storm water treatment BMPs shall be submitted to the Regional Board prior to initiation of post-construction discharges to receiving waters;
 - c. Inspections: Flow-based treatment BMPs (e.g., media filters and vegetated swales) shall be inspected at a minimum monthly from October through April and at least twice from May through September each year. The detention basins shall be inspected at least once during the summer, once between November and March, and after every rain event in excess of one inch;
 - d. Basins shall be maintained as necessary to prevent nuisance conditions, including those associated with odors, trash, and disease vectors. Nuisance maintenance shall not compromise the ability of the basins to perform water quality treatment required by this Order.
 - e. Records shall be kept regarding inspections and maintenance in order to assess the performance of the systems and determine whether adaptations are necessary to protect receiving waters;
 - f. The Discharger shall be responsible for inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to a future owner or other entity;
 - g. At the time maintenance responsibility for post-construction BMPs is legally transferred, the Discharger shall submit to the Regional Board a copy of such documentation; and
 - h. At the time maintenance responsibility for post-construction BMPs is legally transferred, the Discharger shall provide the transferee with a copy of a long-term BMP maintenance plan that, at a minimum, complies with manufacturer specifications and CASQA guidance.
8. The Discharger must comply with the Monitoring and Reporting Program, and future revisions thereto, in Attachment C of this Order.

² California Storm water Quality Association (*California Storm water BMP Handbook, New Development and Redevelopment 2003*), available on-line at: <http://www.cabmphandbooks.org/>

E. MITIGATION PHOTO DOCUMENTATION PROCEDURE

The Discharger must conduct photo documentation of the project site and mitigation areas, including all areas of permanent and temporary impact, prior to and after project construction. Photo documentation must be conducted in accordance with the State Water Resources Control Board Standard Operating Procedure 4.2.1.4: Stream Photo Documentation Procedure, included as Attachment D. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced. The Dischargers must submit this information in a photo documentation report to the Regional Board with the reports detailed in Monitoring and Reporting Program for Order No. R9-2008-003 Requirements 4 and 5. The report must include a compact disc that contains digital files of all the photos (jpeg file type or similar).

F. POST-CONSTRUCTION BMPs PHOTO DOCUMENTATION PROCEDURE

The Dischargers must conduct photo documentation of implemented post-construction BMPs. Photo-documentation must be modeled after the State Water Resources Control Board Standard Operating Procedure 4.2.1.4: Stream Photo Documentation Procedure, included as Attachment D. In addition, photo documentation must include Global Positioning System (GPS) coordinates for each of the photo points referenced. The Dischargers must submit this information in a photo documentation report to the Regional Board with the report of completion detailed in Monitoring and Reporting Program for Order No. R9-2008-003 Requirement 4. The report must include a compact disc that contains digital files of all the photos (jpeg file type or similar).

G. STANDARD PROVISIONS

1. The Discharger shall notify the Regional Board by telephone within 24 hours whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC §13267(b), a written notification of the adverse condition shall be submitted to the Board within one week of occurrence. The written notification shall identify the adverse condition, exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; describe the actions necessary to remedy the condition and prevent recurrence; and specify a timetable for the remedial actions. The Regional Board, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

2. The discharge of any hazardous, designated or non-hazardous waste as defined in Title 23, Division 3, Chapter 15 of the California Administrative Code, shall be disposed of in accordance with applicable state and federal regulations. Sediment shall not be removed or disposed in a manner that will cause water quality degradation.
3. This Order is not transferable to any person except after notice to the Regional Board. In accordance with CWC §13260, the dischargers shall file with the Regional Board a report of any material change or proposed change in the ownership, character, location, or quantity of this waste discharge. The notice must include a written agreement between the existing and new dischargers containing a specific date for the transfer of this Order's responsibility and coverage between the current dischargers and the new discharger. This agreement shall include an acknowledgment that the existing discharger is liable for violations up to the transfer date and that the new discharger is liable from the transfer date on. The Regional Board may require modification or revocation and reissuance of this Order to change the name of the dischargers and incorporate such other requirements as may be necessary under the California Water Code.
4. Any proposed material change in operation shall be reported to the Regional Board at least 30 days in advance of the proposed implementation of any change. This shall include, but not be limited to, all significant new soil disturbances, all proposed expansion of development, or any change in drainage characteristics at the project site. For the purpose of this Order, this includes any proposed change in the boundaries of the wetland/waters of the United States fill sites. The Regional Board may require modification or revocation and reissuance of this Order to change any requirements in this Order and incorporate such other requirements as may be necessary under the California Water Code.
5. The Discharger shall maintain a copy of this Order at the project site so as to be available at all times to site operating personnel and agencies.
6. The Discharger shall permit the Regional Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept;
 - b. Access to copy any records required to be kept under the terms and conditions of this Order;
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order; and
 - d. Sampling of any discharge or surface water covered by this Order.

7. This Order does not authorize commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws, regulations or rules of other programs and agencies, nor does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.
8. The Regional Board will consider rescission of this Order upon notification of successful completion of mitigation for all creation, restoration, and enhancement projects required or otherwise permitted now or subsequently under this Order, completion of project construction, and the Regional Board's acceptance of these notifications.
9. The Discharger must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for (a) enforcement action; (b) termination, revocation and reissuance, or modification of this Order; and/or (c) denial of a report of waste discharge in application for new or revised waste discharge requirements.
10. The Discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.
11. In an enforcement action, it shall not be a defense for the dischargers that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this Order. Upon reduction, loss, or failure of the treatment facility, the dischargers shall, to the extent necessary to maintain compliance with this Order, control production or all discharges, or both, until the facility is restored or an alternative method of treatment is provided. This provision applies for example, when the primary source of power of the treatment facility fails, is reduced, or is lost.
12. This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:
 - a. Violation of any terms or conditions of this Order;
 - b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts; or
 - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
13. The filing of a request by the dischargers for the modification, revocation and reissuance, or termination of this Order, or notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

H. REPORTING AND RECORD KEEPING REQUIREMENTS

1. The Discharger shall submit copies of all necessary approvals and/or permits for the project and mitigation projects from applicable government agencies, including, but not limited to, the California Department of Fish and Game, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers, prior to the start of clearing/grading.
2. The Discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board.
3. The Discharger shall furnish to the Regional Board, within a reasonable time, any information which the Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Dischargers shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.
4. Where the Discharger becomes aware that they failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to the Regional Board, it shall promptly submit such facts or information.
5. All reports or information submitted to the Regional Board shall be signed and certified as follows:
 - a. Reports of Waste Discharge shall be signed as follows:
 - i. For a corporation – by a principal executive officer or at least the level of vice-president.
 - ii. For a partnership or sole proprietorship – by a general partner or the proprietor, respectively.
 - iii. For a municipality or other public agency – by either a principal executive officer or ranking elected official.
 - b. All reports required by this Order and other information required by the Regional Board shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person. An individual is a duly authorized representative only if:
 - i. The authorization is made in writing by a person described in paragraph (a) of this provision; and
 - ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
 - iii. The written authorization is submitted to the Regional Board.

- c. All reports required by this Order and other information required by the Regional Board shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person. Any person signing a document under this Section 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 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."

6. The Discharger shall submit reports required under this Order, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Program; File No. WPN:18-2007069:kschwall
9174 Sky Park Court, Suite 100
San Diego, California 92123

I. NOTIFICATIONS

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
2. This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the dischargers from liability under federal, state or local laws, nor create a vested right for the dischargers to continue the waste discharge.
3. These requirements have not been officially reviewed by the United States Environmental Protection Agency and are not issued pursuant to Section 402 of the Clean Water Act.
4. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.

5. The adoption of these waste discharge requirements constitutes water quality certification for the project as described in this Order pursuant to Section 401 of the Clean Water Act. The Regional Board hereby certifies that the proposed discharge from **Temecula 84** (401 project no. 07C-069) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act.

This Order becomes effective on the date of adoption by the Regional Board.

I, John H. Robertus, Executive Officer, do hereby certify 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 February 13, 2008.

JOHN H. ROBERTUS
Executive Officer

Attachment A – Project Description
Attachment B – Project Area
Attachment C – Monitoring and Reporting Program
Attachment D – Stream Photo Documentation Procedure

ATTACHMENT A TO ORDER NO. R9-2006-0104

PROJECT DESCRIPTION

Applicant: Paul Garret Enterprises Inc. and Temecula Properties, LLC
(hereinafter Dischargers)
One Better World Circle, Suite 300
Temecula, CA 92590
Contact: Nancy Daniels
951-506-6556
Fax: 951-506-4831
ndaniels@thegarretgroup.net

Applicant
Representatives: Stephen Neudecker
HELIX Environmental Planning, Inc.
7578 El Cajon Blvd., Suite 200
La Mesa, CA 91941
SteveN@helixepi.com

Project Name: Temecula 84

WDID Nos. 9 000001732 (WDR for non-federal fill)
9 000001678 (401 certification for federal fill)

Project Location: The project is located west of Winchester Road between Remington Avenue and Cherry Street in Temecula, Riverside County, California. The site is situated on unsectioned lands of the Santa Road Land Grant, Township 8 South, Range 3 West in US Geological Survey 7.5-minute Murrieta quadrangle map. The project will affect unnamed drainages to Murrieta Creek in the Murrieta Hydrologic Subarea (902.32) in the Santa Margarita Hydrologic Unit.
Lat / Long (approximate): 33° 30' 52.95" N / 117° 11' 03.04" W

Type of Project: Commercial development.

Project Description: The proposed Temecula 84 project (project) is a commercial development on an 86-acre site, including a 25-acre graded pad for a Professional Hospital Supply warehouse facility with office space and surrounding parking infrastructure. Also included in the design is an on-site extension of Remington Road and widening portions of both Winchester Road and Dendy Parkway. Access would be provided by Remington Road. The majority of the western parcel (no. 909-370-018) has already been graded.

The applicant proposed to discharge fill material into both waters of the U.S./State subject to Sections 404 and 401 of the Clean Water Act (CWA) and non-federal waters of the State subject to waste discharge requirements under the California Water Code, but

exempt from Sections 404 and 401 of the CWA.

Federal Agency/Permit: U.S. Army Corps of Engineers §404 Permits:
Nationwide Permit No. 39.

Other Required Regulatory Approvals: California Department of Fish and Game (CDFG) Streambed Alteration Agreement. .

California Environmental Quality Act (CEQA) Compliance: On September 25, 2007, the City of Temecula approved the Notice of Determination for a Mitigated Negative Declaration for the Temecula 84 project (State Clearinghouse No. 2007081042).

Receiving Water: Unnamed water bodies tributary to Murrieta Creek within the Murrieta Hydrologic Subarea (902.32)

Discharges of Fill to Waters of the United States: Permanent: 0.02 acres (540.5 linear feet) total
Ephemeral Drainage: 0.02 acres (540.5linear feet)
Temporary: None

Discharges of Fill to Non-Federal Waters of the State: Permanent: 0.05 acres (834.9 linear feet) total
Wetland: 0.02 acres (84.4 linear feet)
Ephemeral Drainage: 0.02 acres (750.5 linear feet)
Temporary: None

Dredge Volume: none

Related Projects Implemented/to be Implemented by the Applicant(s): None

Compensatory Mitigation: A total of 0.5 acres has been preserved at the Barry Jones Wetland Mitigation Bank by agreement dated September 28, 2007. This is a preservation ratio of more than 6:1 for the impacted waters.

A total of 0.07 acres (771 linear feet) of waters of the State will be created. This is a creation ratio of 1:1 for the impacted waters. A channel will be dug parallel to the existing channel.

Mitigation Plan for Enhancement: *Draft Murrieta 18 Mitigation Plan, October 19, 2007.*

Best Management Practices (BMPs):

The structural treatment BMPs proposed for the project include 1) grass swales {22 segments totaling 3,570 lineal feet}, 2) four proprietary media filtration units by CDS Technologies with Zeolite/Perlite/Granulated Activated Carbon (ZPG) media, and 3) four inlet inserts by Kristar. All three types are flow based BMPs.

Order No. R9-2008-0003 requires BMPs which achieve medium to high pollutant removal efficiency for all areas of the project including the driveway entrances, adjacent slopes, and public streets. The BMPs proposed for the driveway entrances, adjacent slopes, and public streets have a low pollutant removal efficiency. Additional or alternative BMPs will need to be installed for the driveway entrances, adjacent slopes, and public streets to meet the requirements of Order No. R9-2008-0003. This Order requires the discharger to implement the proposed post-construction BMP measures and to report on design details as development plans are refined.

Treatment BMP Plan: Project Specific Water Quality Management Plan for: PHS Warehouse, 42500 Winchester Road, City of Temecula, CA 92590, Phase 1 of Development Only, DEVELOPMENT NO. TPM 35181, DESIGN REVIEW NO. PA06-0369, September 24, 2007

Public Notice:

On July 13, 2007 receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

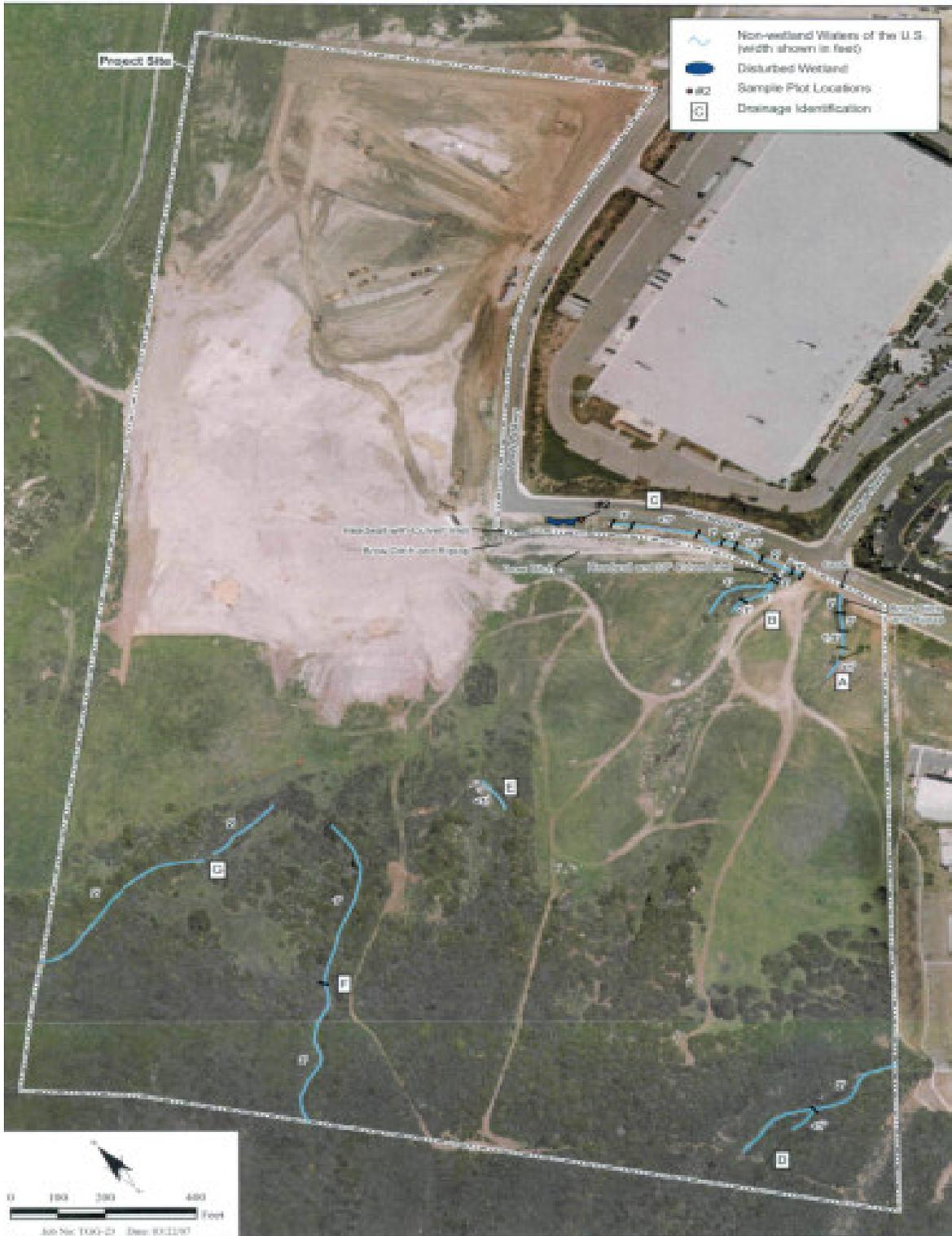
Fees:

Total Due 401 Cert: \$3,203
Total Paid: \$500 and \$2,703 (check No. 2703 and 3217)

Total Due WDRs: \$8,850
Total Paid: \$8,850 (check No. 3218)

ATTACHMENT B TO ORDER NO. R9-2006-0104

PROJECT LOCATION



ATTACHMENT C TO ORDER NO. R9-2008-003
MONITORING AND REPORTING PROGRAM NO. R9-2008-003

for

PAUL GARRETT ENTERPRISES INC.
and
TEMECULA PROPERTIES, LLC,

TEMECULA 84,
RIVERSIDE COUNTY, CALIFORNIA

1. Responsible Party Updates. Paul Garret Enterprises Inc. and Temecula Properties, LLC (Dischargers) shall provide the name and contact information of any third party accepting responsibility for implementing the requirements of this Monitoring and Reporting Program. The notification shall be submitted to the Regional Board at least 30 days in advance of the transfer of responsibility. The notification shall 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 Program and the related conditions of Regional Board Order No. R9-2008-0003. The Regional Board may require modification or revocation and reissuance of this Order to change the responsible party and incorporate such other requirements as may be necessary under the California Water Code.
2. Construction Monitoring. Construction best management practices (BMPs) shall be visually monitored throughout each construction phase of the project. Monitoring shall occur, at a minimum, at all detention and retention basins and all storm drain outfall structures to receiving waters. Failures of BMP performance that result in discharges of toxic materials or significant quantities of sediment to waters of the State and/or United States, or that result in erosion of waters of the State/U.S., shall be reported to the Regional Board within 24 hours of discovery. A description of remediation efforts that were implemented shall be reported to the Regional Board within five business days of discovery.
3. Geographic Information System Reporting. The Dischargers must submit Geographic Information System (GIS) shape files of the impact and mitigation areas and all post-construction BMPs within 30 days of project impacts and within 30 days of mitigation installation respectively. All impact and mitigation areas shape files must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.

4. Project Completion Report. The Dischargers must submit a report to the Regional Board within 30 days of completion of the project. The report should include as-built drawings no bigger than 11" x 17", planting locations, and photos of the completed project including post-construction BMPs as detailed in Directive F of Order R9-2008-003. The report must include a compact disc that contains digital files of all information in the report.
5. Mitigation Completion Report. The Dischargers must submit a report to the Regional Board within 30 days of completion of mitigation site preparation and planting, describing as-built status of the mitigation project. The report must include
 - a. Topography maps,
 - b. Planting locations,
 - c. Pre- and post-construction photos of the mitigation area in accordance with Directive E of Order No. R9-2008-003,
 - d. Survey report documenting boundaries of mitigation area; and
 - e. The pre-project functional assessment conducted before mitigation.
 - f. A compact disc that contains digital files of all information in the report.

If the site grading and planting are not completed within six weeks of each other, separate reports will be submitted describing those specific as-built conditions.

6. Annual Monitoring and Status Report. The Dischargers must submit annual project monitoring and status reports prior to **August 1** of each year. Annual monitoring and status reports must include information about the status of the entire project as well as relevant mitigation monitoring reports. Monitoring reports must be submitted annually until project construction is complete and mitigation has been deemed successful. Monitoring reports must include, but not be limited to, the following:
 - a. Names, qualifications, and affiliations of the persons contributing to the report;
 - b. Status report on the construction of the project;
 - c. Tables presenting the raw data collected in the field as well as analyses of the physical and biological data, including at a minimum;
 - i. Topographic complexity characteristics at each mitigation site;
 - ii. Upstream and downstream habitat and hydrologic connectivity;
 - iii. Width of native vegetation buffer around the entire mitigation site.
 - d. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results including results of an annual functional assessment;

- e. Photo documentation from established reference points in accordance with the Directive E of Order No. R9-2008-003.;
 - f. Other items specified in the final mitigation plan; and
 - g. A compact disc that contains digital files of all information in the report.
7. Noncompliance. The Discharger shall report all instances of noncompliance not reported under Standard Provision G.10 of Order No. R9-2008-003 at the time monitoring reports are submitted. The reports shall contain the information described in Standard Provision G.10.
8. Certification. Each monitoring and technical report submitted to the Regional Board shall include the following certification statement signed by the principal executive officer, ranking elected official, or duly authorized representative of that person:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person(s) directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

9. Signature Requirement. The monitoring reports shall be signed by an authorized person as required by Requirement H.5 of Order No. R9-2008-003.
10. Submission. All Monitoring Reports shall be submitted to:
- Executive Officer
California Regional Water Quality Control Board
San Diego Region
401 Certification; File No. NWU:18-2007069:kschwall
9174 Sky Park Court, Suite 100
San Diego, Ca 92123
11. CWC 13267. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267.
12. CWC 13268. Pursuant to CWC section 13268, any person failing or refusing to furnish technical or monitoring program reports as required by section 13267, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs

Ordered by: _____
JOHN H. ROBERTUS
Executive Officer

Date: February 13, 2008