

STEPHEN MONTELEONE
(1886-1962)

MONTELEONE & McCRORY, LLP

LAWYERS

A LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS
725 SOUTH FIGUEROA STREET, SUITE 3200
LOS ANGELES, CALIFORNIA 90017-5446
TELEPHONE (213) 612-9900
FACSIMILE (213) 612-9930

ORANGE COUNTY OFFICE
200 WEST SANTA ANA BLVD., SUITE 200
SANTA ANA, CALIFORNIA 92701

TELEPHONE
(714) 565-3170

FACSIMILE
(714) 565-3184

Scott R. Lane, Esq.

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OUR FILE NUMBER
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Via Email and Federal Express

Patty Kouyoumdjian
Executive Officer
Regional Water Quality Control Board
Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150
Patty.Kouyoumdjian@waterboards.ca.gov
Tel. (530) 542-5412
Fax (530) 544-2271

Kimberly Niemeyer
Staff Counsel
State Water Resources Control Board
Office of Chief Counsel
1001 I Street
Sacramento, CA 95814
Kim.Niemeyer@waterboards.ca.gov
Tel. (916) 341-5547
Fax (916) 341-5199

**RE: In the Matter of Arimol Group, Inc., San Bernardino County
WDID Nos. 6B36CN601729 and 6B36C363433
Administrative Civil Liability Complaint No. R6V-2012-00049**

TRANSMITTAL OF WRITTEN MATERIALS

On behalf of ARIMOL GROUP, INC. ("Arimol"), and pursuant to the November 6, 2012 Hearing Procedures, enclosed please find an original, 15 copies, and an electronic copy (by email) of Arimol's written materials for the above-referenced matter.

LAW OFFICES
MONTELEONE & McCRORY, LLP

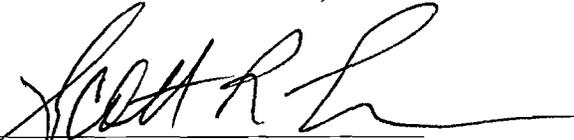
Arimol's Trasmittal of Written Materials
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If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

MONTELEONE & McCRORY, LLP

By:



SCOTT R. LANE

Attorneys for Arimol Group, Inc.

SRL:hn

Copy:

Lauri Kemper
Assistant Executive Officer
Regional Water Quality Control Board
Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150
Lauri.Kemper@waterboards.ca.gov
Tel. (530) 542-5460
Fax (530) 544-2271

Anna Kathryn Benedict
Staff Counsel
State Water Resources Control Board
Office of Enforcement
1001 I Street
Sacramento, CA 95814
AnnaKathryn.Benedict@waterboards.ca.gov
Tel. (916) 322-3227
Fax (916) 341-5896

California Regional Water Quality Control Board,

Lahontan Region

Public Hearing Scheduled for

January 16-17, 2013

Written Materials of Arimol Group, Inc.

December 20, 2012

In the Matter of Arimol Group, Inc., San Bernardino County

WDID Nos. 6B36CN601729 and 6B36C363433

Administrative Civil Liability Complaint No. R6V-2012-00049

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Section I

Executive Summary

1. Arimol's October 2011 disturbance was without knowledge and Arimol immediately endeavored to cooperate with the public agencies involved (including the Water Board) to remedy the situation voluntarily.
2. Prior to the Water Board's March 15, 2012 Cleanup and Abatement Order, Arimol implemented numerous BMP's and cooperated with the Water Board and other public agencies, and worked to resolve conflicting orders between the agencies.
3. The March 15, 2012 Cleanup and Abatement Order contained 6 orders. There is no dispute that Arimol complied with Order's D.2, D.3 and D.4.
4. The allegation that Arimol violated Order D.1 (filing Notice of Intent "forthwith") lacks merit because Arimol submitted the Notice of Intent prior to April 13, 2012 (the date required for the SWPPP). The alleged violation of Order D.1 is also without merit because it assesses \$80,000 in penalties based solely upon the undefined word "forthwith" and is therefore unconstitutionally vague and otherwise legally invalid. (See, Section IV herein). Finally, the allegation of a violation regarding Order D.1 is without merit because the disturbance was under one acre and the Water Board was therefore without jurisdiction or legal authority for Order D.1.
5. The Water Board seeks over \$170,000 in \$1000 per day penalties for the alleged late submission of a technical report that was, in fact, submitted on the date it was due. The allegation that Arimol violated Order D.5 is without merit because the Cleanup and Abatement Order required submission of the technical report on April 20, 2012 and the Complaint admits that the report was submitted on April 20, 2012. (See, Section IV herein). The governing statute does not permit assessing penalties for subjective assertions of "completeness". The statute only allows penalties for a failure or refusal to submit a technical report. Even worse, the Complaint seeks \$1000 per day in penalties for the lengthy periods of time when Water Board staff was reviewing the technical reports, providing a perverse disincentive for staff to respond in a timely matter. Assessing over \$170,000 in penalties is unwarranted and not permitted by the law.
6. The Water Board seeks over \$170,000 in \$1000 per day penalties for the alleged late submission of a technical report that was, in fact, submitted on the date it was due. The allegation that Arimol violated Order D.6 is without merit because the Cleanup and Abatement Order required submission of the technical report on April 26, 2012 and the Complaint admits that the report was submitted on April 26, 2012. (See, Section IV herein). The governing statute does not permit assessing penalties for subjective assertions of "completeness". The statute only allows penalties for a failure or refusal to submit a technical report. Even worse, the Complaint

seeks \$1000 per day in penalties for the lengthy periods of time when Water Board staff were reviewing the technical reports, providing a perverse disincentive to respond in a timely matter. Assessing over \$170,000 in penalties is unwarranted and not permitted by the law.

7. There is a complete failure of proof with regard to alleged violations 1 through 6. Arimol reserves its right to contest any proof presented at the hearing. (See also, evidentiary objections submitted herewith).

Section II

List of Witnesses

1. Bill Moller, Arimol Group, Inc.;
2. Bryant Bergeson, Civil Engineer, Kadtec Engineering. (CV included in Section III, "Qualifications of Experts")
3. Gerald Montgomery, CPESC, CESSWI, Principal, Montgomery & Associates (CV included in Section III, "Qualifications of Experts")
4. Marie C. Campbell, Principal, Sapphos Environmental, Inc. (CV included in Section III, "Qualifications of Experts")

Section III
Qualifications of Experts

Gerald R. Montgomery, CPESC, CESSWI

PRINCIPAL

Mr. Montgomery has over 23 years of extensive experience in the areas of construction management, land development, storm water pollution prevention, NPDES program management, project planning, schedule analysis, project budgeting, project management, cash flow projections, cost control and modeling, estimating, project billings and payments, contract administration, field engineering, construction inspection, quality assurance, and materials testing. Mr. Montgomery is well versed in the areas of project fast-tracking, change order pricing and negotiations, dispute resolution, CPM schedule analysis, RFI process, submittal process, civil construction means and methods, construction estimating, permit approval and compliance processes, and project close-out. *His unique experience of municipal service, consulting in engineering and construction management, construction inspection, materials testing, and stormwater compliance allow him the capability to manage a project from conception through close-out.* He has served on numerous design teams as a value-engineer and as a plan review member, and has taken the lead on permitting processes on numerous projects in many different jurisdictions.

LICENSE & CERTIFICATION

Certified Professional Erosion & Sediment Control (CPESC), #5691

Certified Erosion, Sediment, Storm Water Inspector (CESSWI), #331

California Qualified SWPPP Developer, #51

California Qualified SWPPP Practitioner, #51

California Certified Trainer of Record, #10

EDUCATION

University of Denver-Denver, CO 1987

B.S., Construction Management and Public Administration

AREAS OF EXPERTISE

Storm Water Program Management, & SWPPP Design and Implementation

Storm Water Compliance Training

Construction Management

Recent Experience

Principal

2010

Montgomery & Associates, Inc.

Sacramento, CA

Responsible for providing professional stormwater services to local agencies, Caltrans, contractors and developers. Mr. Montgomery provides training outreach, program design and management, SWPPP development and review, and compliance duties for several clients throughout California. Mr. Montgomery is highly respected throughout the industry and serves on the Construction General Permit Training Team, as well as the Co-Chair of the CASQA Phase II MS4 sub-committee. Mr. Montgomery is a Trainer of Record, and delivered training to all other Trainers of Record.

Storm Water Services Manager | Construction Services Manager

2009 – 2010

Interwest Consulting Group

Elk Grove, CA

Responsible for Storm Water and Construction Management services for municipal clients throughout California. Member of both the State Water Board Stakeholder Steering Committee and the CASQA Phase II Program Subcommittee Co-Chair. Provides training for construction and storm water inspectors and managers in the areas of storm water compliance and inspection. Mr. Montgomery was assigned as the Construction and NPDES Manager for the City of Lincoln, and performed SWPPP review and training for the City of Downey. Mr. Montgomery was also involved with complex construction management and inspection issues, SWPP Plan review and approval, MS4 annual reports, and NPDES auditing services.

Construction Manager | Storm Water Program Manager

2008

Vali Cooper & Associates

Elk Grove, CA

Duties included: Construction Manager for \$8.8 million dollar bridge on the Sacramento River in Sutter County, CA, as well as the company manager for stormwater services. In addition, appointed as ongoing member to the State Water Board Construction General Permit Training Team, as well the Co-Chair of the CASQA Phase II Stakeholder Steering Committee. Performed training and outreach services for various municipalities regarding construction storm water services, as well as NPDES compliance services.

Montgomery and Associates, Inc.

Construction Services Manager | Storm Water Pollution Prevention (NPDES) Manager
2005-2008 **Interwest Consulting Group** **Elk Grove, CA**

Responsible for the day-to-day activities of the Construction Management Department for the City of Elk Grove, both development and capital improvement projects, as well as encroachment permits, storm water pollution prevention, and materials testing. As part of his responsibilities, he interpreted construction documents and specifications, solved complex construction issues, approved submittals and pay estimates, obtained and enforced agency permits, including Army Corps of Engineers, U.S. Fish and Wildlife, California Fish and Game, and California Regional Water Quality Board, and SWPPP enforcement and NPDES compliance. He was the lead on implementing changes to the Elk Grove NPDES program after an EPA Program Audit of the City of Elk Grove program. Under his management and leadership, Elk Grove became a model MS4 Program, and Mr. Montgomery was invited to speak about building and maintaining a compliant NPDES program at various EPA-sponsored training sessions for the California Water Resources Control (State and Regional) Board personnel and selected city and county program managers.

Construction/Storm Water Pollution Prevention Inspector
2004-2005 **Harris & Associates: City of Elk Grove** **Elk Grove, CA**

Performed construction and storm water pollution prevention inspection services for the City of Elk Grove.

Construction/Storm Water Pollution Prevention Inspector
2003-2004 **Coastland Civil Engineering: Town of Yountville** **Yountville, CA**

Performed construction and storm water pollution prevention inspection services for the Town of Yountville.

BRYANT RUSSELL BERGESON

P.E. 48805

26748 Hwy 189

Blue Jay, CA 92317

Mailing Address: PO Box 6885

Crestline, CA 92325

Voice: 909-336-6970 Fax: 909-337-2211

PROFILE

Create and lead a life where I continue to grow and prosper through my honesty, trustworthiness and excellence. I have created a working environment that serves the community with high quality workmanship that is reflected, not only with my staff, but with the homes we design and engineer.

EDUCATION

- Brigham Young University
B.S. in Civil Engineering – 1987
- Long Beach University
Continuing Education
- California Polytechnic State University
M.S. – Civil Engineering in progress

LICENSES

- Professional Engineer – California since 1990 (License 48805)
- Professional Engineer – Utah since 1996 (License 176519-2202)
- Professional Engineer – Arizona since 1998 (License 37800)
- Licensed Architect – California (Testing for the NCARB Exam)

EXPERIENCE

1991 – Present

Bergeson and Associates Inc. (DBA Kadtec) – Owner/President

- California license number 48805. Mainly focusing in the area of structural engineering. Residential homes designed with wood studs, steel studs logs and an experimental sand bag wall. Retaining walls and some soil work. Hydrology, hydraulics, drainage studies and grading plans are also in my scope of abilities. Grading, layout, Title-24, expert in solar engineering and erosion control. Kadtec has designed literally 10's of thousands of homes from 675 square feet to 10,000 square feet.

- Utah license number 176519-2202. Mainly focusing in the area of structural engineering. Residential homes designed with wood studs, steel studs and logs.
- Arizona license number 37800. Mainly focusing in the area of structural engineering. Residential home designed with wood studs, steel studs and logs. Designing water lines and sewer treatment lines and tanks.

1989-1991

Ralph Wagner Consulting Engineer, Inc.

- Mainly focusing in the area of structural engineering. Residential homes designed with wood studs, steel studs and logs.

1987-1989

Boyer and Associates

- Mainly focusing in the area of structural engineering. Residential homes designed with wood studs, steel studs and logs. Retaining walls and some soil work. Hydrology, hydraulics, drainage studies and grading plans are also in my scope of abilities.

1982-1984

Highland Mountain Homes

- Designing and drafting homes for a custom home builder.

PROFESSIONAL AFFLIATION/MEMBERSHIPS

- American Society of Civil Engineers (ASCE) since 1987
- San Bernardino Mountain Association of Building Contractors (ABC) since 1999
- Structural Engineers Association of Southern California (SEAOSC) since 1999
- Lake Arrowhead Chamber of Commerce since 1999

PUBLICATIONS

Homes featured in all the San Bernardino Mountain Publications such as, Homes & Land Magazine and Resort Homes Magazine.

MARIE C. CAMPBELL
PRINCIPAL



Ms. Marie Campbell, principal of Sapphos Environmental, Inc., is an environmental compliance specialist with more than 25 years of experience in managing public- and private-sector projects requiring strategic planning, environmental compliance documentation, and resource management planning. In particular, Ms. Campbell has extensive experience with complex and controversial alternative energy projects, including the 300-megawatt PdV Wind Energy Project, which was unanimously approved by the Kern County Board of Supervisors in July 2008, and the Lompoc Wind Energy Project, which was unanimously approved by the Santa Barbara County Board of Supervisors in May 2009. Success of these projects was reinforced by the strong working relationships Ms. Campbell built among the many diverse parties who had an interest in the projects. Ms. Campbell managed the coordination among agencies, special interests, and the public to resolve issues and meet project goals and milestones. Ms. Campbell serves on the board of the California Wind Energy Association, and is currently overseeing the preparation of a white paper in support of wind energy siting within the Desert Renewable Energy Conservation Area in California.

Legal Defensibility

As principal of Sapphos Environmental, Inc., Ms. Campbell developed the standard work approach to minimize exposure to litigation and maximize protection in the limited cases where a plaintiff pursues litigation. In this approach, the project manager initiates each project with the assumption that the potential for litigation is always present. Therefore, the work plan consists of the necessary efforts to build a comprehensive and defensible administrative record to support the lead agency's decision-making process. Sapphos Environmental, Inc. has prepared numerous environmental documents, including negative declarations, mitigated negative declarations, and various types of EIRs for public- and private-sector clients under the threat of potential litigation. Of the hundreds of environmental documents prepared, legal challenges pursuant to the CEQA were ultimately filed in only nine instances. Each of these documents successfully withstood all legal challenges:

- **La Vina Homeowners Association Subdivision Map Act Compliance:** Sapphos Environmental, Inc. (Ms Marie Campbell) stood as an expert witness for the City of Los Angeles Office of City Counsel and was instrumental in demonstrating that La Vina Homeowner Association had violated the Subdivision Map Act in their failure to complete development of two trails required by the City of Los Angeles Board of Supervisor as of conditions of approval of the project. On June 11, 2008 the Superior Court entered into judgment in favor of the City of Los Angeles Board of Supervisor. The decision was affirmed in an Appellate Court decision in 2010.
- **Hollywood Bowl Shell Rehabilitation Project and Acoustical Improvements EIR:** Prepared for the Los Angeles Philharmonic Orchestra and County of Los Angeles Chief Executive Office. On August 20, 2002, the appellate court upheld the adequacy of the EIR. The project was completed in 2004 for the new season.
- **Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan EIR:** Prepared for the Great Basin Unified Air Pollution Control District. On July 28, 1998, the Superior Court upheld the adequacy of the EIR. The project has been successfully completed.

- **Frank G. Bonelli Regional Park Master Plan EIR:** Prepared for the County of Los Angeles Department of Parks and Recreation. On February 24, 1998, litigation was withdrawn as a result of a Negotiated Settlement Agreement.
- **Longden Reservoir No. 1, Van Nuys Reservoir, Van Nuys Booster Pump Station and 24-inch Parallel Pipeline Project EIR:** Prepared for the San Gabriel County Water District. On October 31, 1997, the Superior Court upheld the adequacy of the EIR. The project has been completed.
- **Deane Dana Friendship Community Regional County Park EIR:** Prepared for the County of Los Angeles Department of Parks and Recreation. On November 15, 1996, the Superior Court of the County of Los Angeles ruled to deny writ of mandate.
- **Los Angeles International Airport Master Plan EIR/EIS:** As a subcontractor to CDM and URS, Sapphos Environmental, Inc. prepared the biological resources, threatened and endangered species, and wetlands components of the EIR/EIS. In December 2005, litigation was withdrawn as a result of a Negotiated Settlement Agreement.
- **Symantec Office Development 800-900 Corporate Pointe EIR:** Sapphos Environmental, Inc. worked in concert with Century Housing's legal team on the CEQA writ of mandate against the City of Culver. Century Housing received their requested mitigation as compensation as a result of a Negotiated Settlement Agreement.
- **EIR for Specific Plan for the Development of State Surplus Property and Amendment to the Redevelopment Plan for the Merged Chino Development Project Area:** Prepared for the City of Chino and the State Department of Health Services. Litigation was withdrawn as a result of a Negotiated Settlement Agreement. Project construction was initiated in January 2005.

Hyundai Annexation, Detachment, Sphere of Influence, Amendment, Redevelopment Area Expansion, General Plan Update for the Automotive Test Course Project EIR: Prepared for the City of California City and Hyundai Motor America. Defenders of Wildlife and the Center for Biological Diversity filed a lawsuit against the U.S. Fish and Wildlife Service over permits issued to Hyundai Motor Company and the City of California City to build an automotive test track near the City of California City. On February 27, 2004, the lawsuit was settled in favor of the project applicant as a result of a Settled Arbitration Agreement, Case Number CV04-01073TJH (AJMx).

Public Outreach

Effective communication and public and agency outreach is fully integrated into the technical approach and scope of services for all work efforts undertaken by Sapphos Environmental, Inc. Ms. Campbell has successfully completed the federal government training for negotiating, bargaining, and conflict resolution. In addition, Ms. Campbell has taught at the collegiate level. Ms. Campbell has the ability to assist clients and regulatory oversight personnel in developing a strategy to address complex environmental issues and the related public outreach program to ensure that the goals of NEPA and CEQA are fulfilled. Ms. Campbell has extensive experience preparing and delivering oral presentations that effectively convey technical information in a manner that is understandable for the layperson. Ms. Campbell developed the technical training program used to

train all technical staff at Sapphos Environmental, Inc. in effective listening and facilitation of community and agency meetings and workshops. Ms. Campbell has made numerous presentations to special district boards, boards of supervisors, city councils, and planning commissions for a variety of high-profile capital projects.

Project Management

Since establishing Sapphos Environmental, Inc., Ms. Campbell has served as project manager on open-end contracts for environmental services, as well as numerous high-profile, complex environmental documents. Under Ms. Campbell's direction, Sapphos Environmental, Inc. has provided open-end environmental services to numerous public agencies: California Department of Transportation, Metropolitan Water District of Southern California, Southgate Recreation and Park District, Great Basin Unified Air Pollution Control District, County of Los Angeles Chief Executive Office, County of Los Angeles Department of Public Works, County of Los Angeles Department of Parks and Recreation, and City of Los Angeles Bureau of Engineering. In the performance of services under these open-end contracts, she has managed multidisciplinary teams consisting of geologists, registered environmental assessors, health risk assessment professionals, biologists, archaeologists, paleontologists, land use planners, air and water quality specialists, acoustical engineers, traffic engineers, and civil engineers. She has managed as many as 15 simultaneous delivery orders (during a one-month period) during the course of these contract efforts. As project manager, Ms. Campbell's responsibilities included preparation of individual scopes of service for each delivery order (including schedules and estimated costs), client and project team coordination, project staffing, supervision of all work efforts, timely submission of all work products, provision of technical input and graphics for internal and external project briefings, and quality control. Ms. Campbell has managed the preparation of environmental compliance and public outreach efforts for a variety of projects where hazards and hazardous materials were a key issue:

- Long Beach Memorial Medical Center Expansion and 2010 Master Plan Environmental Impact Report (EIR)
- South Coast Golf Course (at Palos Verdes Landfill) EIR
- Victoria County Golf Course Rehabilitation EIR and Supplemental EIR
- Victoria Cricket Fields Rehabilitation EIR
- Biological Resources Technical Report, Oak Tree Report, and Expert Witness for Puente Hills Landfill EIR
- Huntington Regional Park Complex EIR (closed Landfill and active petroleum extraction field)
- Kenneth Hahn Ballfield Complex EIR (closed petroleum extraction and storage field)

Environmental Compliance

National Environmental Protection Agency / California Environmental Quality Act Documents

Ms. Campbell has prepared all types of environmental compliance documents for state and federal lead agencies, including categorical exclusions, negative declarations, mitigated negative declarations, environmental assessments, EIRs, Environmental Impact Statements (EISs), and joint environmental documents (EIRs/EISs). Ms. Campbell served as project manager for the National Environmental Protection Agency (NEPA) input to the EIS/EIR in support of the Berth 97-109 Container Terminal Project (China Shipping I, II, and III) project at the Port of Los Angeles.

Ms. Campbell also served as a strategic consultant for the EIS/EIR for the Los Angeles International Airport Expansion for all issues related to biological resources, threatened and endangered species, wetlands, and related regulatory permits. Ms. Campbell served in a similar capacity on the recently completed EIR for the 2003 Owens Lake Demonstration of Attainment for PM₁₀ State Implementation Plan that addresses a 38-square mile study area requiring implementation of a variety of dust control measures. Ms. Campbell completed joint NEPA / California Environmental Quality Act (CEQA) documents for several other projects: Categorical Exclusion / EIR for the Grand Avenue Environs Project, Programmatic Negative Declaration / Environmental Assessment (County of Los Angeles Department of Public Works and U.S. Army Corps of Engineers), Environmental Assessment / Mitigated Negative Declaration for the R-Line Interstate Transmission Corridor, Mitigated Negative Declaration and Environmental Assessment / Finding of No Significant Impact (FONSI) for the Bosque del Rio Hondo Riverfront Park Project (Mountains Recreation and Conservation Authority, Los Angeles County Department of Parks and Recreation, and U.S. Army Corps of Engineers), and Joint Environmental Assessment and Mitigated Negative Declaration for the Lake Mathews Ecological Reserve (U.S. Fish and Wildlife Service and The Metropolitan Water District of Southern California).

Regulatory Permitting

Regulatory permitting has been undertaken by Ms. Campbell in support of a variety of infrastructure projects. Ms. Campbell served as the principal-in-charge representing the City of Carson in after-the-fact Section 404 permit from the U.S. Army Corps of Engineers, water quality certification with the Regional Water Quality Control Board, and Streambed Alteration Agreement with the California Department of Fish and Game for the Del Amo Boulevard overcrossing. Ms. Campbell prepared the Mitigation Plan Biological Assessment for the Proposed Erosion Protection Facilities for the Valencia Water Reclamation Plant Solids Processing Plant, County of Los Angeles, California, for the Sanitation Districts of Los Angeles County. Regulatory permitting included documentation for a Pre-discharge Notification for use of Nationwide Permit submitted to the U.S. Army Corps of Engineers (including formal consultation with the U.S. Fish and Wildlife Service), Streambed Alteration Agreement submitted to the California Department of Fish and Game), and Request for Waiver of Water Quality Certification to the Regional Water Quality Control Board. Similar efforts were undertaken for two projects for The Metropolitan Water District of Southern California, emergency pipeline repairs and recurring maintenance for the Box Springs Feeder Project, and emergency debris removal and routing channel maintenance for the Weldon Canyon Creek tributary to Bull Creek at the Jensen Filtration Plant.

Hazards and Hazardous Materials

Ms. Campbell has served as project coordinator for a number of high-profile projects involving redevelopment of a closed landfill and active or closed petroleum extraction fields. Most recently, Ms. Campbell served as the project coordinator representing Memorial Health Services and the City of Long Beach for the proposed redevelopment of the Long Beach Memorial Medical Center Campus. Ms. Campbell worked with the clients and the Department of Toxic Substances Control to negotiate a Voluntary Clean-up Agreement that provided for assessing the medical campus as three operable units. Assessment of two of the operable units was successfully completed; the investigation of the third operable unit is ongoing. Ms. Campbell served in a similar capacity, representing Meritage Partners and the County of Los Angeles, in relation to the proposed redevelopment of the closed Palos Verdes Landfill as a public golf course. Ms. Campbell has represented public agencies, including the Mountains Restoration and Conservation Authority, the County of Los Angeles, the Sanitation Districts of Los Angeles County, and the City of Huntington Beach in the redevelopment of brownfield properties to accommodate public benefit land uses, including the Bosque del Rio Hondo community park, Kenneth Hahn Ballfield Complex, Puente Hills Landfill, and Huntington Regional Sports Complex.

Resource Management

Ms. Campbell has extensive experience conducting Section 7 consultations on behalf of federal agencies, including the U.S. Army Corps of Engineers, U.S. Department of Agriculture Bureau of Land Management, U.S. Department of Transportation Federal Aviation Administration and Federal Highway Administration, and the U.S. Fish and Wildlife Service. Similarly, Ms. Campbell has overseen the negotiation and environmental documentation related to federal Section 10(a) permits and State 2081 permits for incidental take of endangered species. All these projects have involved the preparation and implementation of long-term habitat management and conservation plans:

- Long-term Habitat Management Plan for the Red Tail Golf and Equestrian Project

- Long-term Habitat Management Plan for Los Angeles Airport / El Segundo Dunes
- Lake Mathews Fire Management Plan, Riverside County, California
- Habitat Restoration Program for Palos Verdes Blue Butterfly at Deane Dana Friendship Community Regional County Park,
- Revegetation Plan in Support of the Bosque del Rio Hondo Project
- Habitat Restoration Program in Support of the Valencia Water Reclamation Plant Solids Processing Expansion Project
- Biological Assessment, Negotiated Settlement Agreement, and Biological Resources Evaluation for the East Orange General Plan Amendment EIR

Construction Monitoring

Ms. Campbell has supervised numerous construction monitoring projects to ensure compliance with mitigation programs defined in environmental compliance documentation and as part of regulatory permitting programs. She prepared a construction monitoring and wildlife relocation program for the Cascades Golf Course project. Previously, she served as the in-field supervisor for construction monitoring of the repair and rehabilitation of the Orange County Feeder Extension and Related Protective Improvements, Newport Back Bay, California. Construction monitoring was required to ensure compliance with permit conditions established by the U.S. Fish and Wildlife Services (California gnatcatcher), U.S. Army Corps of Engineers (Nationwide Permit), Regional Water Quality Control Board (Water Quality Certification), California Department of Fish and Game (Streambed Alteration Agreement), and California Coastal Commission (Coastal Development Permit).

Professional History

- Sapphos Environmental, Inc., Principal, October 1992–Present
- Michael Brandman Associates, Associate, Manager of Environmental Protection Services, 1989–1992
- U.S. Army Corps of Engineers, Environmental Protection Specialist, 1984–1989
- University of California at Los Angeles, Teaching Assistant / Research Analyst, 1982–1985

Education

- Master of Arts, Geography (Geomorphology/Biogeography), University of California, Los Angeles, 1988
- Bachelor of Arts, Ecosystems: Conservation of Natural Resources, University of California, Los Angeles, 1982

Professional Affiliations

- California Wind Energy Association
- American Planning Association
- California Association of Environmental Professionals
- Association of American Geographers
- UCLA Alumni Association
- National Association of Environmental Professionals, Board Member

Selected Publications

Campbell, Marie. 1990. *Mitigation Monitoring AB 3180: The NEPA Perspective*. California Chapter of the American Planning Association. AB 3180 Revisited Workshops. March 16, 23, and 30, 1990.

Campbell, Marie. 1990. *Mitigation Monitoring AB 3180: The NEPA Perspective*. California Chapter of the American Planning Association. AB 3180 Revisited Workshops. March 16, 23, and 30, 1990.

Campbell, M.C. 1988. Rill Erosion in a Post-Burn Chaparral Environment. Unpublished master's thesis. Department of Geography, University of California, Los Angeles.

Mackey, Ellen, R. Green, B. Newby, D. Matis, J. Bradley, D. Karavidas, and M. Campbell. 11 August 1994. *Integrating Fire Management Plans and Conservation of Endangered Species*. Poster session. Ecological Society of America Conference, Knoxville, Tennessee.

Mackey, Ellen (Metropolitan Water District of Southern California, Los Angeles), and Marie C. Campbell (Sapphos Environmental, Inc., Pasadena, CA). 1995. *Using Integrated Pest Management Approach to Ensure Conservation of Endangered Species*. Ecological Society of America Conference, Snow.

SAPPHOS ENVIRONMENTAL, INC. STATEMENT OF QUALIFICATIONS

FIRM OVERVIEW

Sapphos Environmental, Inc. provides planning, resource management, and environmental compliance consulting services to assist public and private sector clients in the planning, design, review, and implementation of infrastructure, educational, conservation, and development projects.

Founded in October 1992, the firm has since provided over 1000 delivery orders to nearly 400 clients. Many of these projects required working closely with numerous state and local government agencies to prepare planning, resource management, and environmental documents that facilitated project compliance with federal, state, and local statutes and regulations.

The firm's experienced project management team is backed by skilled and innovative technical professionals who have developed a successful technical approach for planning, environmental compliance, and resource management work efforts that have successfully withstood all legal challenges.

STRENGTHS OF THE FIRM

Sapphos Environmental, Inc. was formed to support a single objective: achieving client project objectives. Sapphos Environmental, Inc. endeavors to accomplish that objective through the development of pragmatic solutions and preparation of quality documents that are delivered with exemplary client service.

Sapphos Environmental, Inc. has the necessary resources (technological, literary, and human) to successfully complete any and all work efforts required by the client. Resources include, but are not limited to: full time in-house Geographical Information Systems (GIS) staff, graphics staff, technical editing and production staff.

Litigation History

Sapphos Environmental, Inc. has prepared hundreds of environmental documents, including Negative Declarations, Mitigated Negative Declarations, and various types of Environmental Impact Reports (EIRs) for public- and private-sector clients under the threat of potential litigation. Of the environmental documents prepared, legal challenges pursuant to the California Environmental Quality Act (CEQA) were ultimately filed in only ten projects. Each of these documents successfully withstood all legal challenges.

PRACTICE

The firm's practice is comprised of three important service areas: (1) Planning, (2) Resource Management, and (3) Environmental Compliance.

Planning

Planning services include project-level planning, community planning, regional planning, and green building design.

- Regional planning involves coordinating among local jurisdictions to balance jobs and housing and developing efficient transportation systems including transit.
- Comprehensive planning involves preparing general and specific plans for population growth, developing housing elements that provide a variety of housing types at a broad range of affordability, identifying resource constraints, addressing water supply, and protecting agriculture and open space while planning for in-fill and well planned urban expansion development. Community planning involves the analysis and planning of how project elements interact and affect the surrounding community.
- Community planning involves balancing the needs and desires of the community, while renewing blighted neighborhoods through revitalization and formal redevelopment; creating attractive downtowns and other urban spaces for local residents and tourists, and ensuring opportunities for passive and active recreation.
- Green design services present clients the opportunity to streamline the State of California Environmental Quality Act (CEQA) review process, reduce building operational costs, and avoid environmental impacts. Design services are guided by the internationally recognized green building rating system, LEED, which is developed by the U.S. Green Building Council.

Resource Management

Sapphos Environmental, Inc.'s resource management services cover endangered species, habitat restoration, and cultural resources.

- Endangered species services include opportunities and constraints analyses, habitat suitability assessments, endangered species reintroduction programs, endangered species surveys, and biological monitoring. Sapphos Environmental, Inc. has undertaken surveys for a variety of state designated sensitive habitats and state and federally designated sensitive species, covering issues from the project planning phase to the preconstruction, construction, and post-construction phases. Sapphos Environmental, Inc. has extensive experience working in all habitats throughout the southwest United States.
- Habitat restoration plans services include the development and implementation of management plans to address a variety of environmental measures to mitigate impact during construction and to conserve and enhance native plant communities. Sapphos Environmental, Inc. has designed and successfully implemented habitat restoration projects in support of a variety of public infrastructure and private development projects throughout the southwestern United States. Sapphos Environmental, Inc.'s habitat restoration efforts include work in a variety of habitat types, from desert to wetland, from dune to riparian. The success of Sapphos Environmental, Inc.'s habitat restoration program is based on attention to detail, careful planning, and persistent implementation.

- Cultural resource services include historic and cultural resource surveys, assessments, and documentation. Sapphos Environmental, Inc. has been highly successful in understanding and achieving client goals and objectives in an environment of complex government regulations and increasing public scrutiny. With an interdisciplinary staff of experienced archaeologists and architectural historians, Sapphos Environmental, Inc. provides wide-ranging archaeological (prehistoric and historic) and historic resources services.

Environmental Compliance Services

Sapphos Environmental, Inc.'s environmental compliance services cover environmental compliance documentation, hazardous materials consultation, regulatory permitting, and construction monitoring.

- Environmental compliance services include consultation and preparation of environmental compliance documents pursuant to the California Environmental Policy Act, the National Environmental Policy Act, and other applicable statutes and regulations. Hundreds of environmental compliance documents have been completed in support of public and private infrastructure and community development projects in Southern California, including Environmental Impact Statements, Environmental Assessments, Environmental Impact Reports, Mitigated Negative Declarations, and Negative Declarations.
- Regulatory permitting services include the strategy, submission, and processing of a variety of regulatory permits, including Nationwide and Individual Permits pursuant to the Clean Water Act, Streambed Alteration Agreements, Water Quality Certifications, and permits for incidental take of endangered species.
- Construction monitoring is an important component of Sapphos Environmental, Inc.'s environmental compliance services. This ensures adherence to conditions of approval or mitigation measures required by lead and regulatory agencies.
- Hazardous Materials Consultation services include working with the client to identify applicable, relevant, and appropriate federal, state, and local statutes, ordinances, or policies regarding hazards and hazardous materials. These issues must be considered during the decision-making process for projects that have the potential to interact with existing hazards, that may create hazards or that may require the use of hazardous materials, generate hazardous materials or hazardous substances or wastes.

Agency Experience

Sapphos Environmental, Inc. has worked extensively with federal, state, and local government projects agencies to prepare planning, resource management, and environmental documents that facilitated project compliance with federal, state, and local statutes and regulations. Sapphos Environmental, Inc. has developed a key understanding of standards and requirements of each of these agencies. Sapphos Environmental, Inc. regularly coordinates with the following agencies:

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- California Department of Fish and Game
- Office of Planning and Research State Clearinghouse
- California Parks Department, State Historic Preservation Office
- State Air Resources Board
- California Coastal Commission
- Regional Water Quality Control Board
- Southern California Air Quality Management District
- County of Los Angeles Department of Public Works
- County of Los Angeles Department of Regional Planning
- County of Los Angeles Department of Parks and Recreation
- County of Los Angeles County Counsel's Office

Communication

Sapphos Environmental, Inc. believes that communication is one of the most important elements of successful project implementation. As such, each project manager serves as the primary point-of-contact to the client. The project management team responds to all project-related inquiries within one working day (or sooner, as requested).

Sapphos Environmental, Inc. uses standardized Contact Report Forms (CRF) to document the results of all telephone conversations and personal interviews. At a minimum, CRFs include the name, title, affiliations, address and phone number of the parties involved in the communication, the date, a summary of the information discussed and any resulting action items. More involved meetings and research efforts are documented in Memoranda for the Record (MFRs). Status reports are provided to the client on a monthly basis.

Extension of Staff

Successful completion of the environmental documentation to fulfill the client's requirements as the lead agency, pursuant to the California Environmental Quality Act, will be directly related to the selected consultant's experience in serving in this capacity for a variety of public agencies. Much of Sapphos Environmental, Inc's work has been performed serving as an extension to staff pursuant to open-ended contracts for environmental consulting services with Caltrans, Metropolitan Water District of Southern California, Great Basin Unified Air Pollution Control District, the County of Los Angeles Department of Parks and Recreation, the County of Los Angeles Department of Public Works, and the City of Los Angeles Bureau of Engineering.

These open-ended service contracts have routinely required the management of multidisciplinary teams, including civil engineers, engineering geologists, registered environmental specialists, hydrologists, and the full range of environmental resource specialists needed to complete the technical studies required to support the environmental analysis. Up to 30 concurrent delivery orders have been successfully managed pursuant to these open-ended contracts for environmental services. Sapphos Environmental, Inc. provides clients with effective and innovative solutions to local, state, and federal environmental and regulatory compliance issues. The technical and administrative staff join resources to facilitate the expedient and successful completion of project goals and objectives. The level of repeat business undertaken for existing clients is evidence of the high level of service and quality of work provided by Sapphos Environmental, Inc.

Timely Submittals

Sapphos Environmental, Inc. utilizes ECCO time and information management software to assign labor resources and track project milestone schedules. Major milestones from the overall project schedule are incorporated into a "to do" list for each individual assigned to the work effort. Intermittent internal products are scheduled to allow the project management team to track partial completion of work efforts. In addition, field and office days assigned to each work effort are denoted on ECCO. This tool is used to adjust individual schedules and identify the need for supplemental labor to ensure adequate staffing and resolve potential conflicts before they occur. Copies of current week tasks assigned in support of the work efforts undertaken under each contract are available to the client upon request.

FIRM LOCATION

Sapphos Environmental, Inc. is a certified minority- and woman-owned small business enterprise headquartered in the City of Pasadena, California. Sapphos Environmental, Inc. was founded to provide responsive, high quality planning, resource management, and environmental compliance services tailored to serve the unique needs of our clients. Sapphos Environmental, Inc. is certified as a minority- and woman-owned business enterprise with the County of Los Angeles, the City of Los Angeles, the State of California, Caltrans, and the Los Angeles County Metropolitan Transportation Authority. In addition, Sapphos Environmental, Inc. is on the County of Los Angeles, Department of Regional Planning "List of Certified Biologists."

Firm Name:	Sapphos Environmental, Inc.
Headquarters Address:	430 North Halstead Street Pasadena, California 91107
Headquarters Phone:	(626) 683-3547
Headquarters FAX:	(626) 683-3548
Regional Office Address:	1351 4 th Street, Suite 227 Santa Monica, CA 90401
Regional Office Phone:	(626) 683-3547
Regional Office FAX:	(626) 683-3548
E-mail Address:	info@sapphosenvironmental.com
Ownership:	C-Corporation
Name of Owner:	Marie Campbell

LITIGATION HISTORY

Sapphos Environmental, Inc.'s key personnel have demonstrated experience and competence in environmental compliance, biological and cultural resources management, hazardous materials compliance, and planning and geographic information system (GIS), as well as agency coordination as they relate to a diversity of projects. The superiority of their qualifications is best demonstrated by the fact that of the hundreds of documents prepared by Sapphos Environmental, Inc., only 10 projects or 12 cases (i.e., less than one percent) have been the subject of litigation. Furthermore, in each instance, involving litigation, the client has prevailed.

- **La Vina Homeowners Association Subdivision Map Act Compliance:** Sapphos Environmental, Inc. (Ms Marie Campbell) stood as an expert witness for the City of Los Angeles Office of City Counsel and was instrumental in demonstrating that La Vina Homeowner Association had violated the Subdivision Map Act in their failure to complete development of two trails required by the City of Los Angeles Board of Supervisor as of conditions of approval of the project. On June 11, 2008 the Superior Court entered into judgment in favor of the City of Los Angeles Board of Supervisor. The decision was affirmed in an Appellate Court decision in 2010.
- **Hollywood Bowl Shell Rehabilitation Project and Acoustical Improvements EIR:** Prepared for the Los Angeles Philharmonic Orchestra and County of Los Angeles Chief Executive Office. On August 20, 2002, the appellate court upheld the adequacy of the EIR. The project was completed in 2004 for the new season.
- **Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan EIR:** Prepared for the Great Basin Unified Air Pollution Control District. On July 28, 1998, the Superior Court upheld the adequacy of the EIR. The project has been successfully completed.
- **Frank G. Bonelli Regional Park Master Plan EIR:** Prepared for the County of Los Angeles Department of Parks and Recreation. On February 24, 1998, litigation was withdrawn as a result of a Negotiated Settlement Agreement.
- **Longden Reservoir No. 1, Van Nuys Reservoir, Van Nuys Booster Pump Station and 24-inch Parallel Pipeline Project EIR:** Prepared for the San Gabriel County Water District. On October 31, 1997, the Superior Court upheld the adequacy of the EIR. The project has been completed.
- **Deane Dana Friendship Community Regional County Park EIR:** Prepared for the County of Los Angeles Department of Parks and Recreation. On November 15, 1996, the Superior Court of the County of Los Angeles ruled to deny writ of mandate.
- **Los Angeles International Airport Master Plan EIR/EIS:** As a subcontractor to CDM and URS, Sapphos Environmental, Inc. prepared the biological resources, threatened and endangered species, and wetlands components of the EIR/EIS. In December 2005, litigation was withdrawn as a result of a Negotiated Settlement Agreement.

- **Symantec Office Development 800-900 Corporate Pointe EIR:** Sapphos Environmental, Inc. worked in concert with Century Housing's legal team on the CEQA writ of mandate against the City of Culver. Century Housing received their requested mitigation as compensation as a result of a Negotiated Settlement Agreement.
- **EIR for Specific Plan for the Development of State Surplus Property and Amendment to the Redevelopment Plan for the Merged Chino Development Project Area:** Prepared for the City of Chino and the State Department of Health Services. Litigation was withdrawn as a result of a Negotiated Settlement Agreement. Project construction was initiated in January 2005.
- **Hyundai Annexation, Detachment, Sphere of Influence, Amendment, Redevelopment Area Expansion, General Plan Update for the Automotive Test Course Project EIR:** Prepared for the City of California City and Hyundai Motor America. Defenders of Wildlife and the Center for Biological Diversity filed a lawsuit against the U.S. Fish and Wildlife Service over permits issued to Hyundai Motor Company and the City of California City to build an automotive test track near the City of California City. On February 27, 2004, the lawsuit was settled in favor of the project applicant as a result of a Settled Arbitration Agreement, Case Number CV04-01073TJH (AJMx).

Section IV

Particular Legal Issues

1. **The Alleged Violation of Order D.1 Is Unconstitutionally Vague and/or an Unreasonable Enforcement Action Because It Seeks \$80,000 in Penalties Predicated Entirely on an Unstated, Vague and/or Unreasonable Definition of the Word “Forthwith”.**

On March 23, 2012, Arimol received a Cleanup and Abatement Order No. R6V-2012-0008 (“Order”) from the Regional Water Quality Control Board (“RWQCB”). Among the many directives was Order D.1 (p. 7) stating, “Forthwith, the Discharger shall submit a Notice of Intent for coverage under the Construction General Permit with the State Water Resources Board” In contrast to Orders D.2, D.3, D.4, and D.5, no specific date or time frame for compliance, beyond the term ‘forthwith,’ was articulated. In an abundance of caution, however, Arimol complied with Order D.1 prior to the earliest date of compliance demanded by Orders D.2 through D.5, which set forth compliance dates ranging from April 13 to April 20, 2012. Arimol complied with Order D.1 when, 16 days later on April 9, 2012, Arimol submitted forthwith the Notice of Intent (“NOI”) for coverage as directed.

In October 2012, Arimol was served with a Complaint for Administrative Civil Liability alleging 9 separate violations, including a violation of Order D.1. The prosecution team contends Arimol violated Order D.1 “when it failed to submit a NOI for coverage under the Construction General Permit ‘forthwith’ (immediately).” Although the word “immediately” did not appear anywhere in Order D.1, staff and the prosecution team apparently recognize the term it actually used in the order – “forthwith” – was vague, thus requiring further clarification by way of a parenthetical definition. Based on its previously uncommunicated interpretation of the word “forthwith,” the RWQCB seeks to recover a monetary award against Arimol based on “16 days of violations” which is calculated as the number of days from the date the Order was served on Arimol to the date the Notice of Intent was submitted.

As noted above, when it was important to set a specific compliance deadline in the Order, staff knew how to articulate and communicate such a date without the need to further clarify what it meant. For example, Order D.2 set a specific deadline of April 13, 2012 to prepare and submit a SWPPP; Order D.3 set the deadline of April 13, 2012 to implement the SWPPP. Order D.4 set April 20, 2012 as the deadline to provide a technical report to identify the SDWPPP elements that had been implemented, and Order D.5 set April 20, 2012 as the deadline to submit a separate technical report describing certain land activities at the site since the year 2011. In contrast, no specific deadline was imposed for Order D.1. Rather, the deadline was merely identified as “forthwith.”

This begs the question: How long is a forthwith? Is it measured in weeks? Is it measured in days? Is it measured in hours? Is it measured in minutes? Apparently, the staff believes a forthwith is a unit of time measured in seconds because it wants to recover penalties from Arimol from the second it was served with the Order until the moment it submitted the NOI. Whether in the criminal law or civil law context, however, a directive issued in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process law, that being notice. *People Ex Rel. Totten v. Colonia Chiques* (2007) 1567 Cal.App.4th 31, 47, 67 Cal.Rptr.3d 70, 82. *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, 1126, 108 Cal.Rptr.2d 102, 108; U.S. CONST. AMEND. 14. Such directives are void as being unconstitutionally vague. *Id.*

Even if ultimately found to be constitutional, the meaning of the term “forthwith” must still be ascertained before a violation can be found in this case. The staff apparently believes it has adequately clarified the Order’s use of the term “forthwith” by writing, post-hoc, the term “immediately” in parenthesis beside the term “forthwith” in paragraph 43.a of the Complaint. Under California law, however, there is no precise definition, so far as time is concerned, of either the words “forthwith” or “immediately.” In every case the meaning depends upon the circumstances of the case and the act to be performed. *Lewis v. Curry* (1909) 56 Cal. 93, 101, 103 P. 493. The terms “forthwith” and “immediately” do not, as a matter of law, necessarily mean “a time immediately succeeding without an interval.” *Newlove v. Mercantile Trust Co.*, (1909) 156 Cal. 657, 666, 105 P. 971; *N. C. Roberts Co. v. Topaz Transformer Products, Inc.* (1966) 239 Cal. App. 2d 801, 817, 49 Cal. Rptr. 209. The word “forthwith” has been described as an archaic and imprecise term. In fact, the California Court of Appeal in *People v. Nat’l Am. Ins. Co.* (1995) 32 Cal. App. 4th 1176, 1180, 38 Cal. Rptr. 2d 569, citing Professor Richard Wydick, calls terms such as forthwith “lawyerisms” that carry little or no meaning at all and explains: “They give writing [or speech] a legal smell, but they carry little or no legal substance. When they are used in writing addressed to nonlawyers, they baffle and annoy. When used in other legal writing [or speech], they give a false sense of precision and sometimes obscure a dangerous gap in analysis.” (Wydick, *Plain English for Lawyers* (1985) p. 53.)” *Id.* at 1180. As set forth herein, the facts of this case dictate that the term “forthwith” used by the RWQCB in its Order – whether or not subsequently clarified in the Complaint by the equally ambiguous term “immediately” – could not have meant any date earlier than April 13, 2012. Since the timeline set forth in Orders D.2 through D.5 were sequential and chronological, a reasonable interpretation of the term “forthwith” in Order D.1 is that the NOI should be submitted prior to the deadline of April 13, 2012, set forth in D.2, which it was, to wit, on April 9, 2012.

2. The Alleged Violation of Order D.1 and D.5 Are Not Permitted Because the Disturbance is Less than One-Acre, Leaving No Jurisdiction or Other Legal Grounds for the Enforcement Action.

Per the repeated admissions of staff, and as set forth in the law, the General Permit is inapplicable where the disturbance is less than one acre. Yet, staff maintains that there was “common plan of development”, which would take the disturbance above one acre and thereby conferring jurisdiction. Arimol disputes this. There is no common plan of development. These are five (5) separate parcels which the local Building Department explained to the Water Board were permitted separately and were not part of a common development. The disturbed area is therefore under one acre. There is no jurisdiction or legal grounds for Order D.1. Further, there is no jurisdiction or legal grounds for demanding technical reporting beyond parcel APN 0336-134-02-0000 (1031 Meadowbrook Rd.)

3. The Alleged Violations of Orders D.5 and D.6 (Technical Reports) Have No Factual Merit Because It Is Undisputed that the Technical Reports Were Submitted on Time. There Is No Statutory Grounds for the RWQCB to Assess Penalties Because the Reports Were Subjectively Not “Complete”. The Assessment is Also Unconscionable During Periods Where Staff Were Reviewing Arimol’s Reports.

Order D.5 ordered a technical report by April 20, 2012. The Complaint admits Arimol submitted the report on time --- April 20, 2012. (See, Complaint at pg. 12).

Order D.6 ordered another technical report by April 26, 2012. Again, the Complaint admits Arimol submitted the report on time --- April 26, 2012. (See, Complaint at pg. 12).

Yet, in both instances, the Complaint alleges that the technical reports in D.5 and D.6 were not “complete.” That is factual matter in dispute, but the point to be made here is that the statute, Water Code Section 13268, does not provide any legal basis to assess penalties for subjective assertions of “completeness.” The Complaint relies expressly on Water Code Section 13268(b)(1) which provides a power to penalize at \$1000 per day for a violation of subpart (a). Subpart (a) of Water Code Section 13268 only allows penalties to a person “failing or refusing to furnish technical or monitoring program reports...” There has been no such failure or refusal here. Instead, the Complaint admits that Arimol did not fail or refuse. The Complaint also admits the Arimol voluntarily supplemented its reports on July 20, 2012. (See Complaint at pg. 12).

There is no statutory authority for assessing penalties based on factual disputes over “completeness” of a technical report. The likely reason there is no such authority is to spare citizens of the type of abuse at issue here. The RWQCB is assessing penalties against Arimol for the time in which staff were supposedly reviewing the reports, meaning staff had a financial

incentive to drag their feet (which they did) after Arimol submitted its reports. To be clear, the Complaint seeks penalties against Arimol between April 20th and April 26th (the dates of the reports) and the date of the RWQCB's Notice of Violation on June 20, 2012. Thus, over the 2 months it took staff to read and report back on the D.5 and D.6 reports, the Complaint seeks \$120,000 in penalties (\$1000 for each day for each report between April and June 20th when staff got around to writing its Notice of Violation). This approach is abusive and unconscionable.

4. **There Is a Total Failure of Evidence Regarding Alleged Violations 1 - 6.**

The evidentiary submission of the staff on December 3, 2012 does not contain any evidence of violations other than the writings of staff which are self-serving hearsay. (See also, evidentiary objections submitted herewith).

5. **Violations of the Americans with Disabilities Act.**

Water Board staff went beyond their jurisdiction and statutory mandate and undertook to prevent the development of 1031 Meadowbrook Road to prevent the service of persons covered by the Americans with Disabilities Act.

Section V

Summary of Testimony

1. Bill Moller, Arimol Group, Inc., will testify in defense of Arimol on all alleged violations. Mr. Moller will rebut the characterizations of conversations contained in various Water Board writings. Mr. Moller will testify about his planned usage of 1031 Meadowbrook Road and how it met opposition from local individuals and groups. Mr. Moller will discuss the affects of punitive threats in the newspaper on his efforts to comply with Water Board orders. Mr. Moller will testify about the efforts he made to cooperate with the Water Board personnel and to share information with them (facts that were mainly omitted from the Water Board Complaint) and the expenses of doing so, despite Mr. Moller's firm belief that the Water Board lacked jurisdiction or statutory authority for its actions. Mr. Moller will explain efforts to retain top notch consulting firms in an effort to comply with Water Board directives.
2. Bryant Bergeson, Civil Engineer, Kadtec Engineering (CV included in Section III, "Qualifications of Experts"), may testify with regard to his reporting to Water Board staffers beginning in October, 2011 and may offer opinions consistent with his knowledge of the site, its features and history.
3. Gerald Montgomery, CPESC, CESSWI, Principal, Montgomery & Associates (CV included in Section III, "Qualifications of Experts"), will offer opinions about the facts alleged in the Complaint, the conduct of Arimol in response to Water Board action, and in defense of the allegations contained in Violations 1 through 9.
4. Marie C. Campbell, Principal, Sapphos Environmental, Inc. (CV included in Section III, "Qualifications of Experts") may testify to explain her services in reviewing the work of PMC and the Water Board's responses thereto, and her efforts to achieve compliance on behalf of Arimol.

Section VI

Exhibits

From: Serenitylodge <serenitylodgearrowhead@yahoo.com>
To: JZimmerman@waterboards.ca.gov
CC: jgibson@dfg.ca.gov; bryant2662@yahoo.com
Date: 10/18/2011 3:51 PM
Subject: Re: Grading at 1031 Meadowbrook Road, Lake Arrowhead

Hello Ms Zimmerman

I see you have read the correspondence between Ms Gibson and myself. To add to that information provided the parcel in question is 1.8 acres. The brush we have removed around the perimeter of the property only is for sure under a acre. We also were doing a survey and topo on the property and needed to clear the brush for our surveyor so he could see the lay of the land. The survey should be complete by the end of the week and I will submit a copy to you and Ms Gibson for review. Also I am putting together the items Ms Gibson requested from me and sub

Urging to her at the end of the week. I will copy you also on that information. We do plan on building on the site in the near future. I do apologize for any disturbance to the land thT I was unaware I was doing and agree to resolve any issues you feel need corrected after you do your inspection.

Thank you

Bill Moller

On Oct 18, 2011, at 10:11 AM, Jan Zimmerman <JZimmerman@waterboards.ca.gov> wrote:

> Mr. Moller,

>

> On October 17, 2011, Lahontan Regional Water Quality Control Board staff received a complaint regarding recent grading activities at your site located on Meadow Brook Road in Lake Arrowhead. Please be advised that construction activities that disturb more than one acre of land (or those projects that are part of a larger common plan of development that cumulatively is greater than one acre) are required to be covered under the Statewide General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit Order No. 2009-0009-DWQ). Information regarding the Construction General Permit and the requirements, including preparation and implementation of a site-specific Stormwater Pollution Prevention Plan (SWPPP), can be found on the State Water Resources Control Board website at http://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.shtml. Coverage under the Construction General Permit must be obtained electronically through the online SMARTS system, which can be accessed at http://www.waterboards.ca.gov/water_issues/programs/stormwater/databases.shtml#const_db. Keep in mind that new State regulations require that only qualified and certified individuals prepare and implement the components of the SWPPP. Specific questions regarding the Construction General Permit can be directed to Mary Dellavalle in our office at 760/241-7365, mdellavalle@waterboards.ca.gov.

>

> In addition, it appears that your grading and vegetation clearing has disturbed at least two natural drainage channels that traverse your property. Impacts to natural drainage channels (grading and infilling) and culvert installation changes the dynamics of the flows (hydromodification), which often results in impacts to water quality both upstream and downstream. Any grading, infilling, or disturbance to a surface water (streambed alteration type activities) triggers a permitting action through the Regional Water Board in addition to any permitting action that may be required by the California Department of Fish and Game. Also, if the surface waters are tributary to a water of the U.S., for example Lake Arrowhead, such disturbance would also likely trigger a permitting action through the Army Corps of Engineers under section 404 of the federal Clean Water Act. Information regarding permitting requirements for projects that impact surface waters can be found on our website at http://www.waterboards.ca.gov/lahontan/water_issues/programs/clean_water_act_401/index.shtml. Specific questions regarding these types of projects should be directed to me, Jan Zimmerman, at 760/241-7376.

>
> I intend to inspect your site this week to observe current site conditions and to discern whether any permitting requirements are warranted for your project. In the interim, we recommend at minimum that you provide immediate protection for the culvert inlets and outlets on your property so that flow is maintained through the pipe (and not diverted) and to prevent sediment or debris from blocking flows and/or being carried downstream from your site.
>
> If you have any questions, please do not hesitate to contact either myself or my supervisor, Patrice Copeland (760/241-7404; pcopeland@waterboards.ca.gov).
>
> Thank you.
>
>
> Jan M. Zimmerman, PG
> Engineering Geologist
> Lahontan Regional Water Quality Control Board
>
> Phone: 760/241-7376
> Fax: 760/241-7308
> jzimmerman@waterboards.ca.gov
>
> >>> Joanna Gibson <JGIBSON@dfg.ca.gov> 10/17/2011 12:56 PM >>>
> Mr. Moller,
>
> The Department of Fish and Game (Department) was recently made aware of grading activities on your property at 1031 Meadowbrook Road, Lake Arrowhead, CA.
> You indicated that the San Bernardino County Fire Department inspected the property and directed you to clear all brush within 100-feet of all buildings? Please provide me with a copy of this directive. Also, please provide the name and contact information for the person who authorized grading of the entire property from the County of San Bernardino.
>
> The Department understands that grading activities may have encroached on ephemeral streams on the property. Please note that Section 1602 of the California Fish and Game Code requires an entity or person to notify the Department and obtain an agreement prior to conducting a project that may impact a lake, river, stream, drainage, or other watercourse and associated riparian vegetation (please note that the presence of water does not determine the Department's jurisdiction). Please go to the following link to read more about our Lake and Streambed Alteration Program: <http://www.dfg.ca.gov/habcon/1600/>.
>
> Please cease all activities within the Department's jurisdiction immediately. After I have received the requested information I will contact you to arrange a site visit.
>
> If you have any questions, please contact me.
>
>
> Joanna Gibson
> Environmental Scientist
> CA Department of Fish and Game
> Inland Deserts Region
> 3602 Inland Empire Blvd., Suite C-220
> Ontario, CA 91764
> (909) 987-7449 (voice)
> (909) 481-2945 (fax)
> jgibson@dfg.ca.gov
>
>
>

Jan Zimmerman - Fwd: Meadowbrook Rd

From: Bill Moller <mollabolla@yahoo.com>
To: JZimmerman@waterboards.ca.gov
Date: 10/24/2011 8:34 PM
Subject: Fwd: Meadowbrook Rd
Attachments: MX-2600N_20111024_103555.pdf; MX-2600N_20111024_103615.pdf

Hello Ms Zimmerman

Attached for your files is a copy of all information delivered to Ms Gibson at Dept Of Fish and Game regarding her request for items. If you need anything further please advise.

Thx. Bill Moller

Begin forwarded message:

From: "Jill Holmes" <jill@kadtec.com>
Date: October 24, 2011 10:23:32 AM PDT
To: <mollabolla@yahoo.com>
Subject: scans from kadtec

Thank you,

Jill A. Holmes
Office Manager - Kadtec
Voice: 909-336-6970
Fax: 909-337-2211
jill@kadtec.com
Send US Mail to:
Kadtec
PO Box 6885
Crestline, CA 92325

Arimol Group Inc.
Bill Moller, President
PO Box 2895
Lake Arrowhead, CA. 92352

Joanna Gibson
Environmental Scientist
CA Department of Fish & Game
Inland Deserts Region
3602 Inland Empire Blvd.
Suite C-220
Ontario, CA 91764

Oct 20, 2011

Dear Ms. Gibson:

Our firm, Arimol Group Inc., on June 1, of this year purchased a total of 21 acres of property from Concordia University known as the Arrowhead Lutheran Camp with numerous buildings and vacant land. In July, 2011 we had a Inspection from the San Bernardino Health Dept and one of their corrections was to have a Fire Dept inspection of the grounds and buildings. We arranged that inspection on August 2, and I met with Fire Inspector, Catherine Iglesias from the San Bernardino Fire Dept. We walked the property and she advised me that we must clear all brush with-in 100 ft. of any building, remove trees that are 4 inches or smaller with-in 100 ft of any building, and to cut all branches and limbs off the larger trees up to a height of 8 ft. off the ground for fire clearance. When completed to call for inspection.

Attached is a copy of a notice that was sent out from San Bernardino County Environmental health-Land Use Services Dept./ Fire Hazard Abatement. 385 N. Arrowhead Ave., First Floor, San Bernardino, CA. 92415

This is not the original order sent to Concordia University prior to us purchasing the property, only a copy that is sent out by Land Use Services demanding that clearance work was to be completed by July 26, 2011, and this is one reason once we were notified of this problem, we proceeded Immediately to begin to clear all the weeds, grasses, brush etc. on our properties prior to the Fire Dept inspection, after being notified that if we didn't clear everything, the County would send a Company in to do the clearing and charge us a undisclosed amount of dollars.

This Notice is a Fire Hazard Abatement Program and is conducted by the County on behalf of Lake Arrowhead Fire. Authority for these rules is contained in the San Bernardino County Code, Title 2, Division 3, Chapter 3, Section 23.0301.

No one from the County of San Bernardino authorized me to clear the entire property. We did not clear the entire property, we only cleared the brush from the perimeter of the property, and approx 60 percent of the property was already a graded vacant lot and has been for years, it has been used as a sports field.

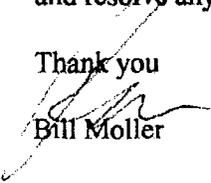
On Wednesday, Oct. 19, I received a call from the Dept of Building & Safety requesting a grading plan of the site. I will be submitting this plan to the Building Dept on Monday morning, Oct 24 and obtaining a grading permit per their request.

We have not moved any dirt on or off the site, only the brush for the fire clearance.

I have included that grading plan along with the other information you requested that we are sending to you and the California Lahontan Regional Water Quality Control Board, Jan Zimmerman, via regular mail. On your copy of the plan I have showed the houses that are within the 100 ft fire clearance required and the proposed houses we intend on building on the site.

After your review and inspection of the site, please advise us what is needed from us to correct and resolve any issues that you feel we need to correct.

Thank you



Bill Moller

YOU ARE HEREBY NOTIFIED TO REMOVE FROM YOUR PROPERTY (INCLUDING PARKWAYS, ROADSIDES, AND EASEMENTS) SPECIFIC MENTIONED ITEMS DESCRIBED BELOW WHICH CONSTITUTE A FIRE HAZARD.

- Item(s) WEEDS AND GRASSES-Annual growth must be cut to 4 inches or less in designated areas.
TREE TRIMMINGS/BRUSH ON THE GROUND-must be completely removed from your property.
- Location(s) Fence lines and/or property boundaries.
Areas surrounding residence or other structures.
Vacant portions/rear portions of property.
Remove pile or piles of combustible material.
Roadside and parkways.
Complete abatement of above hazards required.

*****IMPORTANT***IMPORTANT***IMPORTANT*****

IF SAID ITEMS ARE NOT REMOVED OR ABATED BY **07/26/2011** A DULY DESIGNATED OFFICER MAY ORDER SAID ITEMS REMOVED OR ABATED. IF THIS AGENCY HAS THE ABOVE SAID ITEMS ABATED OR REMOVED, THE ACTUAL COST PLUS HIGHER ADMINISTRATIVE CHARGES SHALL BE LEVIED AND ASSESSED AGAINST THE PROPERTY AS A SPECIAL ASSESSMENT LIEN, OR BILLED DIRECTLY TO THE PROPERTY OWNER.

Any questions regarding this notice must be brought forth prior to the last date to REMOVE, and directed to the agency officer whose name and address appear below. The agency officer will answer any questions and/or arrange for a hearing. Pursuant to San Bernardino Code, Section 23.040, any appeal to this Notice must be filed in writing with the enforcement officer listed below within the time for compliance of this notice. If you clear your parcel after the time for compliance of this notice a \$92.00 fee may be added as a special assessment lien. A \$92.00 fee will be assessed if a warrant is obtained for property entry to abate the hazards.

BE ADVISED THAT REGROWTH AND/OR RE-ESTABLISHMENT OF LISTED HAZARDS AFTER THE FIRST REMOVAL SHOULD NOT BE PERMITTED DURING THE FIRE SEASON, OR ABATEMENT CREWS MAY CLEAR THE HAZARDS WITHOUT ADDITIONAL NOTIFICATION. IF YOU DESIRE TO BE NOTIFIED AGAIN, YOU MUST REQUEST A LETTER OF COMPLIANCE UPON THE COMPLETION OF REQUIRED WORK. If you receive notices on adjacent parcels of property and you wish them abated as one piece of land, contact this office, in writing, prior to the expiration date shown above. If you do not make prior arrangements with us and the work is done by the agency shown on this notice, the adjacent parcels will be billed separately for cost of abatement and administrative charges. Also, it is necessary that these arrangements be renewed, in writing, each time a notice is issued.

FIRE HAZARD OFFICER

385 N. ARROWHEAD

SAN BERNARDINO, CA 924150185

(909)-387-4044

Message Phone

(000)-000-0000

Office Hours

8am - 5:00pm

Date Mailed

06/24/2011

First Inspection Date

06/21/2011

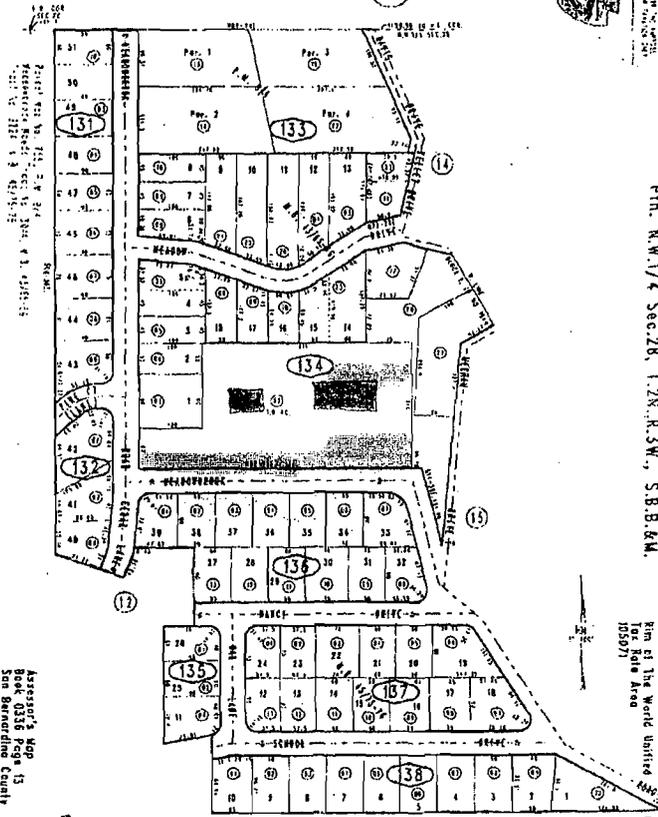
COST TO EXCEED:

\$0.00

REMARKS:

First American Title

April 2004



Pin. N.W. 1/4 Sec. 28, T. 2N., R. 3W., S. 8.B. & M.

Rim of the World Unified
Tax Rate Area
105071
0335-13

Assessor's Map 13
Book 0336 Page 13
San Bernardino County

Order Number: 0623-3741829
Page Number: 9

- - Brush Cleared.
- - new Proposed Building
- Houses within 100' of Brush removed.

Jan Zimmerman - Re: Fwd: Notice of Non-Compliance with the California Water Code and the General Permit for Storm Water Discharges Associated with Construction Activities, 1031 Meadow Brook Road, Lake Arrowhead

From: Bill Moller <mollabolla@yahoo.com>
To: jgibson@dfg.ca.gov; serenityconferencecenter@yahoo.com; bryant2662@yahoo.com; JZimmerman@waterboards.ca.gov; RMorlan@waterboards.ca.gov; ...
Date: 12/8/2011 9:19 AM
Subject: Re: Fwd: Notice of Non-Compliance with the California Water Code and the General Permit for Storm Water Discharges Associated with Construction Activities, 1031 Meadow Brook Road, Lake Arrowhead
Attachments: Calif Water Board.doc; F&G_Site Plane.pdf; Moller Pics.jpg; Moller Pics2.jpg; Moller Pics3.jpg

Dear Mr. Morlan and Ms. Zimmerman

Attached is our letter addressing the Notice of Non-Compliance along with pictures and a site plan of our project. We have also via regular mail sent you a hard copy of these documents. Please feel free to call upon myself or our review Engineer, Bryant Bergeson should you have any questions

Thank You Bill Moller

From: SerenityConferencecenter <serenityconferencecenter@yahoo.com>
To: mollabolla@yahoo.com
Sent: Thursday, December 8, 2011 10:34 AM
Subject: Fwd: Notice of Non-Compliance with the California Water Code and the General Permit for Storm Water Discharges Associated with Construction Activities, 1031 Meadow Brook Road, Lake Arrowhead

Sent from my iPad

Begin forwarded message:

From: Randall Morlan <RMorlan@waterboards.ca.gov>
Date: November 21, 2011 10:44:34 AM PST
To: <serenityconferencecenter@yahoo.com>
Cc: <JGIBSON@dfg.ca.gov>, <dbaker@lusd.sbcounty.gov>, <Daniel.P.Swenson@usace.army.mil>, Mary Dellavalle <MDellavalle@waterboards.ca.gov>, Scott Ferguson <SFerguson@waterboards.ca.gov>
Subject: Notice of Non-Compliance with the California Water Code and the General Permit for Storm Water Discharges Associated with Construction Activities, 1031 Meadow Brook Road, Lake Arrowhead

Attached is the letter "Notice of Non-Compliance with the California Water Code and the General Permit for Storm Water Discharges Associated with Construction Activities, 1031 Meadow Brook Road, Lake Arrowhead".

Thank you,
Randall Morlan

Arimol Group Inc.

PO Box 2895
Lake Arrowhead, CA. 92352

Dec 6, 2011

California Regional Water Quality Control Board
14440 Civic Drive Suite 200
Victorville, CA. 92392

We are in receipt of your NOTICE OF NON-COMPLIANCE letter dated Nov. 21, 2011. and will take the appropriate actions as defined in your letter.

Our company, "Arimol Group Inc." provided the construction for the repair, removal and installation of the 30 inch CMP. The pipe was badly rusted and had debris left behind from previous storms. To help with drainage control, we also installed a concrete steel reinforced Headwall with Velocity Reducing Rip Rap, (see attached photos.) This process occurred Oct. 1, 2011 thru Oct. 10.

Prior to the filing of your Statewide General Permit, we are submitting for your review our site plan showing the disturbed areas. On our site plan we show an area of 15,200 sq. ft that was disturbed during the clearing of brush and weeds per the Fire Dept codes and Weed Abatement orders to clear everything from the site, The area disturbed is under one acre of approx. 15,200 sq ft. The google photo clearly shows the Sports field was clear of trees and not disturbed. If you would like to meet us on the site and review this plan we will be happy to discuss it.

Additionally, we have retained Bryant Bergeson, review Engineer to handle the paperwork for the filing of the Statewide General Permits if you still fell it is necessary to file them after this review of our plan.

Our plan was just clear the brush and weeds, when we encountered an old 30 inch culvert piping, which was covered over, damaged and full of a banded rat nests and dead creatures. We took action to replace the 30-inch piping rather than try to repair. What we put back in was like for like, 30 inch for 30 inch, which was covered over with fill dirt. The water was cut in the same path as the 30 inch pipe, but it was evident the old 30 inch pipe was not accepting any water flow at all because it was full of debris, rats nests, etc. the water path was running along side of it. We felt we improved the water flow by installing new piping in place of the old, which for probably 20 years was not of use or minor flow. There is no change in the flow; all water comes on the lot in the same place and leaves in the same place. All we were doing is correcting a problem we inherited from a former owner and feel we improved the condition.

On Nov. 30, I was at Building & Safety in San Bernardino discussing building plans on another project with Don Baker and advised him that we were submitting plans next week to build on this 1.8 acre site. He informed me that he had a letter from your agency for us to comply, which I acknowledged, he stated that he was aware when Arrowhead Lutheran Church owned the

property and were proposing to build a Sports Field, which is the vacant pad shown on your Google Map picture that in the late 1980s they brought in about 5 ft of undocumented fill dirt and put in that area. We believe that the old 30-inch culvert was covered over in those days with the fill dirt they brought in.

All we were attempting to do was clear existing brush that was in excess of 15-20 foot in height and fix the problem we inherited from buying the land, due to a order from San Bernardino County Fire Hazard Abatement, along with a meeting and discussion with a Fire inspector on the property confirming we must clear all brush within 100 ft of any buildings, unknowing that we were disturbing any drainage channels on our property and unaware we had violated any rules from your agency and the Dept of Fish and Game.

We have now submitted 2 new residences for plan check to the Dept. of Building and Safety, to build 2 new residences on the property. These two proposed buildings we have submitted to the Building Department are not located in the disturbed area, but in the path is a driveway entrance to both residences. The proposed driveway will be concrete or asphalt.

Please advise us after your review, how to proceed.

Thank you

Bill Moller

MADTAC
GRADING & DESIGN
 1000 N. BAYVIEW
 CHICAGO, IL 60610
 (312) 321-1111 FAX 1
 (312) 321-1111 FAX 2

PROJECT:
 1. PROJECT NO. 1000
 2. PROJECT NAME
 3. PROJECT LOCATION
 4. PROJECT DATE

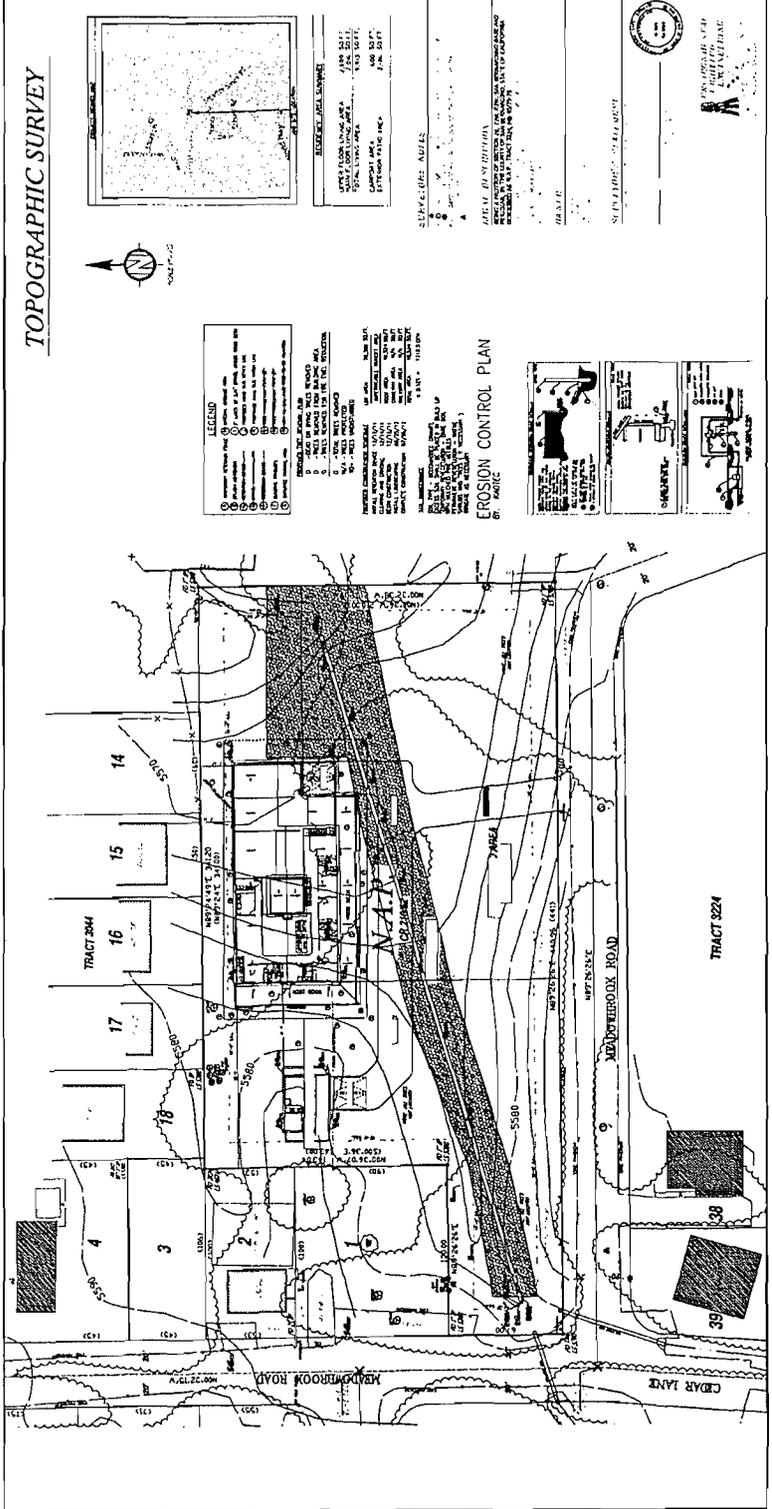
DATE:
 1. DATE OF SURVEY
 2. DATE OF DESIGN
 3. DATE OF PLOTTING

SCALE:
 1. SCALE OF SURVEY
 2. SCALE OF DESIGN
 3. SCALE OF PLOTTING

BY:
 1. SURVEYOR
 2. DESIGNER
 3. PLOTTING

CHECKED BY:
 1. SURVEYOR
 2. DESIGNER
 3. PLOTTING

APPROVED BY:
 1. SURVEYOR
 2. DESIGNER
 3. PLOTTING





OLD PIPE SPORTS FIELD
OPEN AREA RIP RAP PIPE





OVER PIPE FLOW
SPORTS FIELD



OVER PIPE FLOW
OVER PIPE FLOW

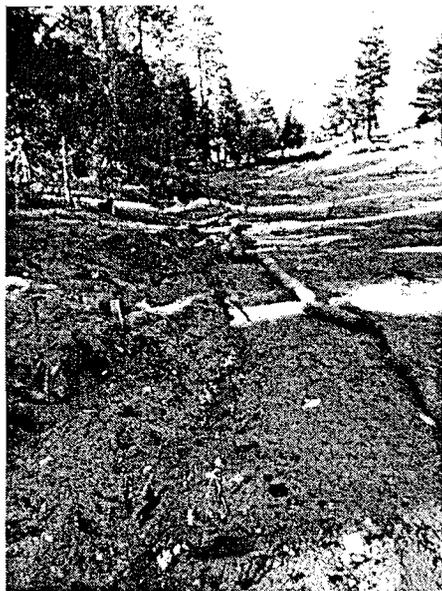




PIPE INLET



ABOVE PIPE INLET



BOTTOM OF LOT



SNOW DAY

Meadowbrook site visit 1/20/2012

On-site meeting to discuss activities that have occurred.

In attendance:

Bryant Bergeson, KadTec

Bill Moller

Jan Zimmerman + student (LRWQCB)

Jeff Brandt (CDFG)

Joanna Gibson (CDFG)

Site Description

- Rectangular block, approx. 2 acres in size (calculated using aerial photography in ArcExplorer, after site visit). Bounded by Meadowbrook Road to south, Meadowbrook Road to west, private property to east and north.
- Large graded pad on northwest portion of site (pad is old – evident on Google Earth imagery dated 2002)
- Pre-existing building towards northwest corner, new building under construction at the northwest corner.
- Virtually all vegetation along the drainages, and along the eastern portion of the property has been cleared. Mr. Moller/Bryant Bergeson stated that approximately 90% of the vegetation that was cleared from the main drainage that ran along the south of the property was willows (*Salix* spp.). Incense Cedar has also been cleared from the site (based on woody debris/stump that was observed on site). Vegetation remains along southern perimeter adjacent to the road (this area has a higher elevation than the rest of the site). Mr. Moller stated that they did intend to clear this area, but they stopped because DFG asked them to halt activities on October 12, 2011. Some vegetation also remains along the northeast perimeter of the site; mainly willows.

Southwest corner:

Two culverts exit from under road, flow towards newly constructed headwall and newly installed RMP. Mr. Moller stated there was a culvert at the location previously, but the headwall is new.

Images:

DSC00438 – new headwall

DSC00439 – two culverts exiting from under road; very southwest corner of property

DSC00440 – cut vegetative debris pile just east of new headwall, along southern edge of property

DSC00441 – close up of vegetative debris pile seen in DSCN0040.

DSC00442 – just north of new headwall, photo taken facing west. Vegetation has been cleared. BMP not secure.

DSC00443 – close up of willow. Mr. Moller stated that “brush” similar to this had been cleared along entire length of stream along southern border of property.

DSC00444 - loose plastic mesh on straw waddle. CDFG requested that this be removed from site; poses entanglement risk to wildlife. BMP is not secure.

Southern portion of site:

Approximately 200 linear feet of pipe has been installed along the southern edge of property. Mr. Moller stated that they undergrounded the ephemeral stream that was along the southern boundary. According to Mr. Moller all or portions of the stream may have been previously piped as they found old pipe; but this was many years ago as the stream they undergrounded had a defined streambed and was vegetated along length by mature willows.

Images:

DSC00445 – image taken facing east. This is area Mr. Moller stated stream previously flowed. BMPs not secure. **NOTE – Refer to BING 2008 image (see last page of report). It appears the stream alignment was different to that stated by Mr. Moller on site (looked up BING image following site visit); stream appears to angle slightly to northeast...**

DSC00446 – same as above

DSC00447 – southern boundary; vegetation left along very southern edge where elevation higher; not cleared due to DFG request to stop work.

DSC00448 – image taken facing west, of southern portion of property; back towards new headwall.

DSC00449 – image taken facing east, southern boundary.

DSC00452 – image taken from small drainage at south facing east; dirt and woody debris stockpiled along edge. BMPs not secure.

DSC00453 – image taken from small drainage at south facing west; facing the new headwall; likely approximate path of underground pipe.

DSC00480 – image taken looking west of pipe alignment; image taken from just near small drainage along southern edge of site. BMPs not secure.

Small drainage along southern edge of site:

A small drainage enters the site from the south (from culvert under Meadowbrook Road). Dirt and woody debris has been stockpiled at this location.

Images:

DSC00450 – dirt and woody debris piled in small drainage

DSC00451 – as above

DSC00474 – Culvert outlet into small drainage (culvert runs under Meadowbrook Road)

DSC00475 – image taken facing north, towards cleared area of property; image taken from near culvert under road.

DSC00478 – dirt and woody debris piled in small drainage

DSC00479 – just west of dirt and woody debris pile

Old parking area:

Dirt road has been graded from old “parking area” down into site. Mr. Moller stated that this was to be new access to the property. Asphalt/broken concrete pile was observed on the edge of this cleared parking area.

Images:

DSC00473 – asphalt/broken concrete

DSC00476 – Asphalt

DSC00477 – Image taken facing north. Shows dirt road in foreground; then cleared property; then remaining willows along northern boundary; then private property beyond.

Stream along the eastern boundary of property:

Appears entire length has been cleared (approximately 100-150 feet); banks have been impacted; dirt piled along southwest bank. Culvert outlets here. No sediment/erosion control in place. Rocks have been placed at culvert outlet.

Images:

DSC00465 – image taken near culvert outlet, near southeast corner of property. Dirt and wood debris pile, close to stream along eastern edge of property. No BMPs.

DSC00466 – image taken facing west, showing southern edge of property towards new concrete headwall; approximate position of buried pipe. BMPs not secure.

DSC00467 – image taken facing southeast corner of property, shows stream that runs along eastern edge. Western bank has been disturbed; dirt piled; no BMPs.

Recommended wildlife-friendly erosion control blanket, or similar at this location (e.g. jute blanket).

DSC00468 – new culvert outlet into stream along eastern border of property. Rocks were installed at outlet. No BMPs.

DSC00469 – image taken at new culvert outlet, facing northeast corner of property.

Banks have been disturbed, vegetation has been removed. Dirt is piled; no BMPs.

Recommended wildlife-friendly blanket.

DSC00470 – image taken just to the west of previous image; shows vegetation that has been cut.

DSC00471 – close-up of RMP and rocks.

DSC00472 – facing southeast corner of property, image taken while standing in streambed. Ground/vegetation disturbance evident on western bank. No BMPs.

Northwest corner, at new building construction:

Natural spring has been piped, diverted to stream to east. Approximately 80(?) feet of pipe has been installed.

Images:

DSC00454 – Area where spring has been disturbed; roots cut.

DSC00455 – image taken facing south of new construction, and existing building.

DSC00456 – willow; likely dependent on spring

DSC00457 – another willow adjacent to where spring would have previously irrigated

Just south of existing building:

A second spring has been impacted on south side of existing building. No images were taken, but see attached aerial photograph at end of document. Appears that there may have been a drainage along the western portion of the property originating at or near this point...?

Stream along northern portion of property:

Stream has been disturbed; vegetation has been removed.

Images:

DSC00458 – dirt pile, willows cut, knocked over

DSC00459 – willows impacted along northern edge

DSC00460 – image taken facing east

DSC00461 – willows impacted along northern edge

DSC00462 – willows impacted along northern edge

DSC00463 – willows impacted along northern edge; close to northeast corner of property.

DSC00464 – close to northeast corner of property; vegetation disturbance

General Comments:

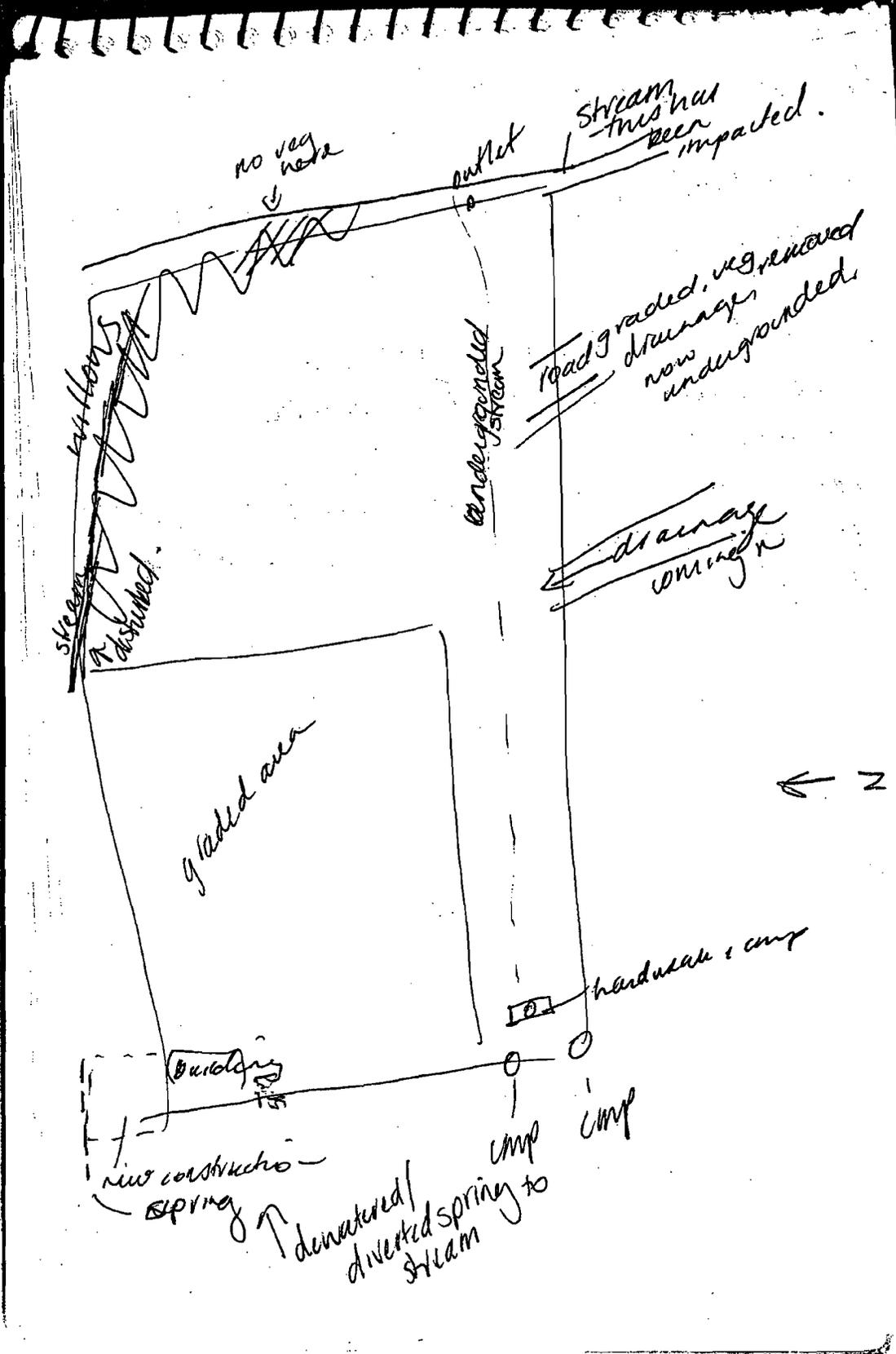
Mr. Moller stated that they are planning on developing both sides Meadowbrook Road.

Mr. Moller stated that zoning is the same on both sides. Each proposed building had been submitted separately to County.

DFG requested a copy of the Abatement Order that was issued for the property; the copy that was included with the Notification was a generic form. Mr. Moller stated that clearing was conducted per the Abatement Order. DFG also requested a copy of the receipt for the Abatement Order.

DFG and RWQCB stated to Mr. Bergeson and Mr. Moller that the following BMPs were required:

- Install BMPs across entire site and at inlet/outlet
- Remove loose plastic mesh from waddle near SW corner; explained that mesh poses entanglement risk to wildlife.
- Install sediment/erosion control BMPs along eastern drainage. Erosion control blanket or similar to control sediment along the banks of eastern drainage recommended; particularly along the slopes. Requested that they use a product that does not pose a wildlife entanglement risk (recommended loose-weave mesh, such as jute).
- Directed to remove sediment from side drainage (vegetative debris and soil have been piled in small drainage along southern edge of property); requested that this was done to restore flow. Requested that material be placed in parking lot area, and BMPs installed around the stockpile.
- Submit a new application within X amount of time (Jeff and I to discuss following meeting); need to respond by January 23, 2012. New application will include plans of the entire site (including proposed development across the street), and a restoration plan.



Jan Zimmerman - 1031 Meadowbrook rd

From: bryant bergeson <bryant2662@yahoo.com>
To: mollabolla@yahoo.com; JZimmerman@waterboards.ca.gov;
Shannon.L.Pankratz@usace.army.mil; JGIBSON@dfg.ca.gov; JBrandt@dfg.ca.gov;
bryant2662@yahoo.com
Date: 1/20/2012 2:04 PM
Subject: 1031 Meadowbrook rd
CC: mollabolla@yahoo.com; JZimmerman@waterboards.ca.gov;
Shannon.L.Pankratz@usace.army.mil; JGIBSON@dfg.ca.gov; JBrandt@dfg.ca.gov

Hello All,

Thanks for meeting with us today. We understand that a lot of tractor work and brush removal was done without the proper approvals. We also understand that water courses may have change from original because an old non-functioning pipe was removed and a pipe of similar size was put in it's place. To help preserve the original flows and sediment retention, we propose BMP's throughout the property. We will fix the straw wattles with wood stake anchoring. We will hay bail in more extreme cases and environmental netting in other places. We will also fix the netting at the construction site. We will take out the pipe and redesign the drainage at the appropriate time. In the spring we will re-vegetate. All the plans will be designed and approved by the appropriate agency prior to work commencing.

Sincerely yours,

Bill Moller
ARIMOL Group Inc.

From: Jeff Brandt <JBrandt@dfg.ca.gov>
To: bryant2662@yahoo.com
CC: mollabolla@yahoo.com; JZimmerman@waterboards.ca.gov;
Shannon.L.Pankratz@usace.army.mil; RFISCHER@dfg.ca.gov; JGIBSON@dfg.ca.gov
Date: 1/23/2012 5:29 PM
Subject: 1600-2011-0244-R6 - 1031 Meadowbrook Road, Crest Park, CA

Good afternoon Bryant.

The permit was not attached. We will process the permit within a day--please execute and return it ASAP.

To respond to your questions, we don't know the extent of the impacts and used a conservative estimate for the area. See the project description, we avoided quantifying the total impacts. As discussed, you will provide a better estimate of the impacts as you are developing the scope.

The BMP and sediment removal work outlined is exempt from CEQA.

Please cc the County planner on your response.

Thank you, Jeff

Sent from Jeff Brandt's Blackberry

-----Original Message-----

From: bryant bergeson <bryant2662@yahoo.com>
Cc: Gibson, Joanna <JGIBSON@dfg.ca.gov>
To: Brandt, Jeff <JBrandt@dfg.ca.gov>
Cc: Shannon.L.Pankratz@usace.army.mil <Shannon.L.Pankratz@usace.army.mil>
Cc: JZimmerman@waterboards.ca.gov <JZimmerman@waterboards.ca.gov>
To: bergeson, bryant <bryant2662@yahoo.com>
Cc: mollabolla@yahoo.com <mollabolla@yahoo.com>

Sent: 1/23/2012 4:35:41 PM

Subject: Re: 1600-2011-0244-R6 - 1031 Meadowbrook Road, Crest Park, CA

Jeff,

Attached is the signed agreement from Bill Moller.

1/21/12 the straw waddles staked with wood stakes.

1/22/12 removed bad waddle (green mesh)

No more work until weather permits and signatures are in order.

See attached pictures

We have some questions:

1. On page 1 and page 2 of 10, paragraph "Project Description", you mentioned we disturbed approximately 0.5 acres of jurisdictional areas. Does that mean that because we are less than 1 acre, does the State Water Board has fewer requirements?

2. On page 8 and page 9 of 10, paragraph "Effective Date", section 711.4 #3 it mentions a fee to be paid. We went to the web site," http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html", to pay the CEQA fee and can't figure out which fee to pay or are we exempt?

thank you, Bryant

Bryant Bergeson
Civil Engineer, P.E. 48805
Phone: (909) 336-6970 (ext. 102)
Fax: (909) 337-2211
Address: 26748 HWY 189, Blue Jay, CA 92317
Mail: P.O. Box 6885 Crestline, CA 92325
E-Mail: bryant@kadtec.com

From: Jeff Brandt <JBrandt@dfg.ca.gov>
To: bryant bergeson <bryant2662@yahoo.com>
Cc: Joanna Gibson <JGIBSON@dfg.ca.gov>; "Shannon.L.Pankratz@usace.army.mil" <Shannon.L.Pankratz@usace.army.mil>; "JZimmerman@waterboards.ca.gov" <JZimmerman@waterboards.ca.gov>; "mollabolla@yahoo.com" <mollabolla@yahoo.com>
Sent: Sunday, January 22, 2012 12:58 PM
Subject: 1600-2011-0244-R6 - 1031 Meadowbrook Road, Crest Park, CA

Dear Mr. Moller.

On January 20, 2012, Department of Fish and Game (Department) staff visited the construction site at 1031 Meadowbrook Road, Crest Park, CA. During the visit, we observed the site had been significantly altered and several streams had been altered. The activities within the streams included diverting the flow of the two ephemeral streams, discharging into a stream, removing vegetation from the streams, grading and filling the streams, placing a corrugated metal pipe culvert to dewater a portion of a stream, constructing headwalls, obstructing flow within the streams, and designing structures to be constructed within and adjacent to streams. These activities are subject to Fish and Game Code section 1602.

Fish and Game Code section 1602 requires a person to notify the Department before: 1) substantially diverting or obstructing the natural flow of a river, stream, or lake; 2) substantially changing the bed, channel, or bank of a river, stream, or lake; 3) using any material from the bed, channel, or bank of a river, stream, or lake; and/or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake.

In this case, the Department has determined that notification was required because the activities are substantial and have significantly altered the flow and riparian habitat associated with the stream. The sites are also likely to produce significant discharges of sediment into the streams due to the nature of the activities and the lack of adequate best management practices to control onsite erosion.

In order to address this violation, we have prepared this streambed alteration agreement to address remedial work/interim actions that must be done to control erosion and the site. Enclosed is a draft Agreement that includes interim measures the Department has determined are necessary to protect existing fish and wildlife resources. This agreement has been prepared to address significant site problems and does not authorize permanent work associated with future projects. Because you submitted the Notification in response to the Department's request after we identified the violation, Fish and Game Code Section 1614 applies to your project. As a result, a draft Agreement will not be subject to arbitration.

Please be advised the Department may not execute the Agreement until it has complied with the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) as the lead or a responsible agency. Please note that the draft Agreement may be subject to change upon receipt and review of the environmental document for the project. At the meeting you noted you are working with the County of San Bernardino to process several other projects onsite.

Please note you may also need to check in with the County of San Bernardino, Regional Water Quality

Control Board and the US Army Corps. The Department recommends you coordinate with the County of San Bernardino and host a meeting with the above entities so we may coordinate a response that both addresses the violation and allows you to progress with your plans to develop the site.

thank you, Jeff

Jeff Brandt
Department of Fish and Game
Habitat Conservation Branch
Inland Deserts Region

3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Phone: (909) 987-7161
Fax: (909) 481-2945
Email: JBrandt@dfg.ca.gov

>>> bryant bergeson <bryant2662@yahoo.com> 1/20/2012 2:04 PM >>>

Hello All,

Thanks for meeting with us today. We understand that a lot of tractor work and brush removal was done without the proper approvals. We also understand that water courses may have change from original because an old non-functioning pipe was removed and a pipe of similar size was put in it's place. To help preserve the original flows and sediment retention, we propose BMP's throughout the property. We will fix the straw wattles with wood stake anchoring. We will hay bail in more extreme cases and environmental netting in other places. We will also fix the netting at the construction site. We will take out the pipe and redesign the drainage at the appropriate time. In the spring we will re-vegetate. All the plans will be designed and approved by the appropriate agency prior to work commencing.

Sincerely yours,

Bill Moller
ARIMOL Group Inc.

CALIFORNIA DEPARTMENT OF FISH AND GAME
INLAND DESERTS REGION
3602 INLAND EMPIRE BLVD., SUITE C-220
ONTARIO, CA 91764



STREAMBED ALTERATION AGREEMENT
NOTIFICATION No. 1600-2011-0244-R6

ARIMOL GROUP INC.
NEW RESIDENCES AT 1031 MEADOWBROOK ROAD PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and Arimol Group, Inc., (Permittee), represented by Mr. Bill Moller.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on October 25, 2011, that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, DFG has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project is located within several unnamed tributaries to Lake Arrowhead, at 1031 Meadowbrook Road, in the community of Crest Park, County of San Bernardino, State of California; Latitude 34.235039, Longitude -117.204833.

PROJECT DESCRIPTION

Prior to notification, Permittee impacted streambeds and associated riparian vegetation at the above mentioned location. Permittee installed a minimum of 200 feet of 30-inch corrugated metal pipe and a concrete headwall within one ephemeral drainage, disturbed the bed and bank and placed rock riprap within a second ephemeral drainage, removed vegetation and stockpiled sediment and vegetative debris within a third ephemeral drainage, diverted and undergrounded approximately 100-feet of flow from a natural spring, and removed a minimum of 0.3 acres of *Salix spp.* dominated riparian habitat across the project site. Total impacts are estimated to include approximately 0.5

acres of jurisdictional areas, consisting entirely of ephemeral streambed habitat.

This Agreement has been prepared to partially address the unauthorized impacts to approximately 0.5 acres of jurisdictional areas at the project site. This Agreement authorizes two specific scopes, any future work on the project, related infrastructure, or restoration shall be authorized under a separate Lake and Streambed Alteration Agreement Notification.

This Agreement authorizes the Permittee to:

1. Install Best Management Practices (BMPs) across the project site;
2. Remove approximately 10 cubic yards of sediment and vegetative debris that was stockpiled in the ephemeral drainage at the southeastern corner of the property, adjacent to the "driveway" (depicted on plans provided to the Department during a site visit on January 20, 2012). Stockpiled material shall be placed in the "overflow parking" area, and BMPs shall be installed to prevent runoff.

PROJECT IMPACTS

This project has the potential to adversely affect existing native fish and wildlife resources that occur within, and/or have the potential to occur within ephemeral tributaries to Lake Arrowhead, within the vicinity of the community of Crest Park and surrounds, County of San Bernardino.

This Agreement partially addresses the adverse effects of the unauthorized activities at the project site. The full extent of impacts is currently unquantified and undisclosed and will be identified and mitigated under a separate Lake and Streambed Alteration Agreement Notification. The installation of BMPs and removal of stockpiled sediment and vegetative debris will result in temporary impacts to approximately 100 square feet of previously disturbed jurisdictional areas. These areas consist of ephemeral streambed and streambank. No trees or living vegetation shall be removed as a result of the project.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and documents, readily available at the project site at all times to present to DFG personnel, or personnel from another state, federal, or local agency upon request.

- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.5 Take of Listed Species. The issuance of this Agreement does not authorize the take of any state and/or federally listed threatened, endangered, or fully protected species.
- 1.6 Take of Nesting Birds. Sections 3503, 3503.5, and 3513 of the FGC prohibit take of all birds and their active nests, including raptors and other migratory non-game birds (as listed under the Migratory Bird Treaty Act).

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to the fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 Lighting Impacts. No lighting shall be allowed to impact jurisdictional areas, and the lighting and fencing for infrastructure adjacent to jurisdictional areas shall be designed or reviewed by a qualified biologist to allow wildlife to move within the open space and conserved areas without hindrance.
- 2.2 Nonnative plant species. DFG recommends the use of native plants to the greatest extent feasible in the landscaped areas adjacent to and/or near mitigation/open space areas and within or adjacent to stream channels. Permittee shall not plant, seed, or otherwise introduce invasive nonnative plant species to the landscaped areas adjacent to and/or near mitigation/open space areas and within or adjacent to stream channels (minimum 100 foot setback from open space areas and 150 foot setback from stream channels and wetland/riparian mitigation sites). Invasive nonnative plant species not to be used include those species listed on the "California Invasive Plant Inventory, February 2006" and the "February 2007 Inventory Update", (which are updates to Lists A & B of the California Exotic Pest Plant Council's list of "Exotic Pest Plants of Greatest Ecological Concern in California as of October 1999"). This list includes: pepper trees, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree of heaven,

periwinkle, bush lupine, sweet alyssum, English ivy, French broom, Scotch broom, Spanish broom, and pepperweed. A copy of the complete list can be obtained by contacting the California Invasive Plant Council by phone at (510) 843-3902, at their website at www.cal-ipc.org, or by email at info@cal-ipc.org.

- 2.3 Best Management Practices. Permittee shall actively implement best management practices (BMPs) to prevent erosion and the discharge of sediment in to streams and lakes. BMPs shall be monitored daily and repaired if necessary to ensure maximum erosion and sediment control. All fiber rolls, straw waddles, and/or hay bales utilized within and adjacent to the project site shall be free of nonnative plant materials. Fiber rolls or erosion control mesh shall be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.
- 2.4 Pollution and Litter. Permittee shall comply with all litter and pollution laws. All contractors, subcontractors, and employees shall also obey these laws and it shall be the responsibility of Permittee to ensure compliance.
- 2.7.1 Permittee shall not allow water containing mud, silt, or other pollutants from grading, aggregate washing, or other activities to enter a lake, streambed, or flowing stream or be placed in locations that may be subjected to high storm flows.
- 2.7.2 Spoil sites shall not be located within a lake, streambed, or flowing stream or locations that may be subjected to high storm flows, where spoil shall be washed back into a lake, streambed, or flowing stream where it will impact streambed habitat and aquatic or riparian vegetation.
- 2.7.3 Raw cement/concrete or washings thereof, asphalt, paint, or other coating material, oil or other petroleum products, or any other substances which could be hazardous to fish and wildlife resources resulting from project related activities shall be prevented from contaminating the soil and/or entering the waters of the State. These materials, placed within or where they may enter a lake, streambed, or flowing stream by Permittee or any party working under contract or with the permission of Permittee, shall be removed immediately.
- 2.7.4 No broken concrete, cement, debris, soil, silt, sand, bark, slash, sawdust, rubbish, or washings thereof, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess materials or debris shall be removed from the work

area. No rubbish shall be deposited within 150 feet of the high water mark of any lake, streambed, or flowing stream.

- 2.7.5 No equipment maintenance shall be done within or near any lake, streambed, or flowing stream where petroleum products or other pollutants from the equipment may enter these areas under any flow.

3. Mitigation Measures

To mitigate for adverse impacts to the fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

3.1 Identification of Full Project Impacts. **By March 30, 2012**, Permittee shall submit a separate Lake and Streambed Alteration Agreement Notification which identifies total project impacts incurred to date, as well as those proposed in the overall, larger, project scope. The Notification shall include mitigation to address impacts associated with the violations noted above, and mitigation for additional impacts associated with the larger project scope.

3.2 Habitat Restoration. Permittee shall submit a habitat restoration plan that addresses all impacts to jurisdictional areas within the project site. The habitat restoration plan shall include a detailed plant palette. The Department encourages the Permittee to consult with a qualified Biologist in the development of the habitat restoration plan. The habitat restoration plan shall be submitted with the Lake and Streambed Alteration Agreement Notification, **due to the Department no later than March 30, 2012.**

3.3 Monitoring of BMPs. The Permittee shall submit weekly reports detailing the success and/or failure of the BMPs. The reports shall include photographs taken from pre-established photostations and a discussion of any necessary maintenance activities. Reports shall be submitted to DFG until BMPs have been removed from the project site. Reports shall be mailed to DFG Inland Deserts Region at the address below under Contact Information. **Please reference SAA # 1600-2011-0244-R6.**

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 4.1 Notification to CNDDDB. If any sensitive species are observed on or in proximity to the project site, or during project surveys, Permittee shall submit California Natural Diversity Data Base (CNDDDB) forms and maps to the CNDDDB within five working days of the sightings, and provide the regional DFG office with copies of the CNDDDB forms and survey maps. The CNDDDB form is available online at: www.dfg.ca.gov/whdab/pdfs/natspec.pdf. **This information shall be mailed within five days to:** DFG Natural Diversity Data Base, 1807 13th Street, Suite

202, Sacramento, CA 95814, Phone (916) 324-3812. A copy of this information shall also be mailed within five days to DFG Inland Deserts Region at the address below under Contact Information. **Please reference SAA # 1600-2011-0244-R6.**

CONTACT INFORMATION

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other.

To Permittee:

Mr. Bill Moller
Arimol Group, Inc.
P.O. Box 2895
Lake Arrowhead, CA 92352
mollabolla@yahoo.com

To DFG:

Department of Fish and Game
Inland Deserts Region
Lake and Streambed Alteration Program
Attn: Ms. Joanna Gibson
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Notification #1600-2011-0244-R6
(909) 481-2945 (fax)
jgibson@dfg.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute DFG's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

SUSPENSION AND REVOCATION

DFG may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before DFG suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before DFG suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused DFG to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes DFG from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects DFG's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

DFG may amend the Agreement at any time during its term if DFG determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by DFG and Permittee. To request an amendment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter DFG approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFG a completed DFG "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). DFG shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code, § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of DFG's signature, which shall be: 1) after Permittee's signature; 2) after DFG complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the

applicable FGC section 711.4 filing fee listed at:
http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall expire on **March 30, 2012**, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFG in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

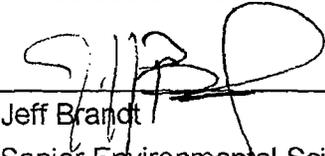
FOR ARIMOL GROUP, INC.



Bill Moller
President

1-22-12
Date

FOR DEPARTMENT OF FISH AND GAME



Jeff Brandt
Senior Environmental Scientist

1.26.12
Date

Prepared by: Joanna Gibson
Environmental Scientist

From: bryant bergeson <bryant2662@yahoo.com>
To: JGIBSON@dfg.ca.gov; bryant2662@yahoo.com
CC: Shannon.L.Pankratz@usace.army.mil; mollabolla@yahoo.com;
JZimmerman@waterboards.ca.gov; JBrandt@dfg.ca.gov
Date: 1/31/2012 2:57 PM
Subject: Re: 1600-2011-0244-R6 - 1031 Meadowbrook Road, Crest Park, CA
Attachments: DSCN0007.JPG; DSCN0012.JPG; DSCN0006.JPG; DSCN0004.JPG; DSCN0002.JPG;
DSCN0010.JPG; DSCN0005.JPG; DSCN0011.JPG; DSCN0008.JPG; DSCN0009.JPG; DSCN0003.JPG;
DSCN0001.JPG

Dear Group,

The first of last week, it snowed. We did get the straw wattles anchored down, however, we decided to install the BMP's (hay bales) when the snow cleared, as we mentioned in our last report.

Monday, we installed the hay bales around the inlet of the pipe and at the outlet, on the opposite side of the stream. (See attached pictures.) We also installed hay bales at the outlet of

the small drainage stream near the debris, we will be removing.

On Wednesday, a water company truck drove around on the property. It wasn't our truck and it did disrupt the soil.

We would like to begin removing the debris and clearing the side inlet stream next week. Bryant Bergeson

Civil Engineer, P.E. 48805

Phone: (909) 336-6970 (ext. 102)

Fax: (909) 337-2211

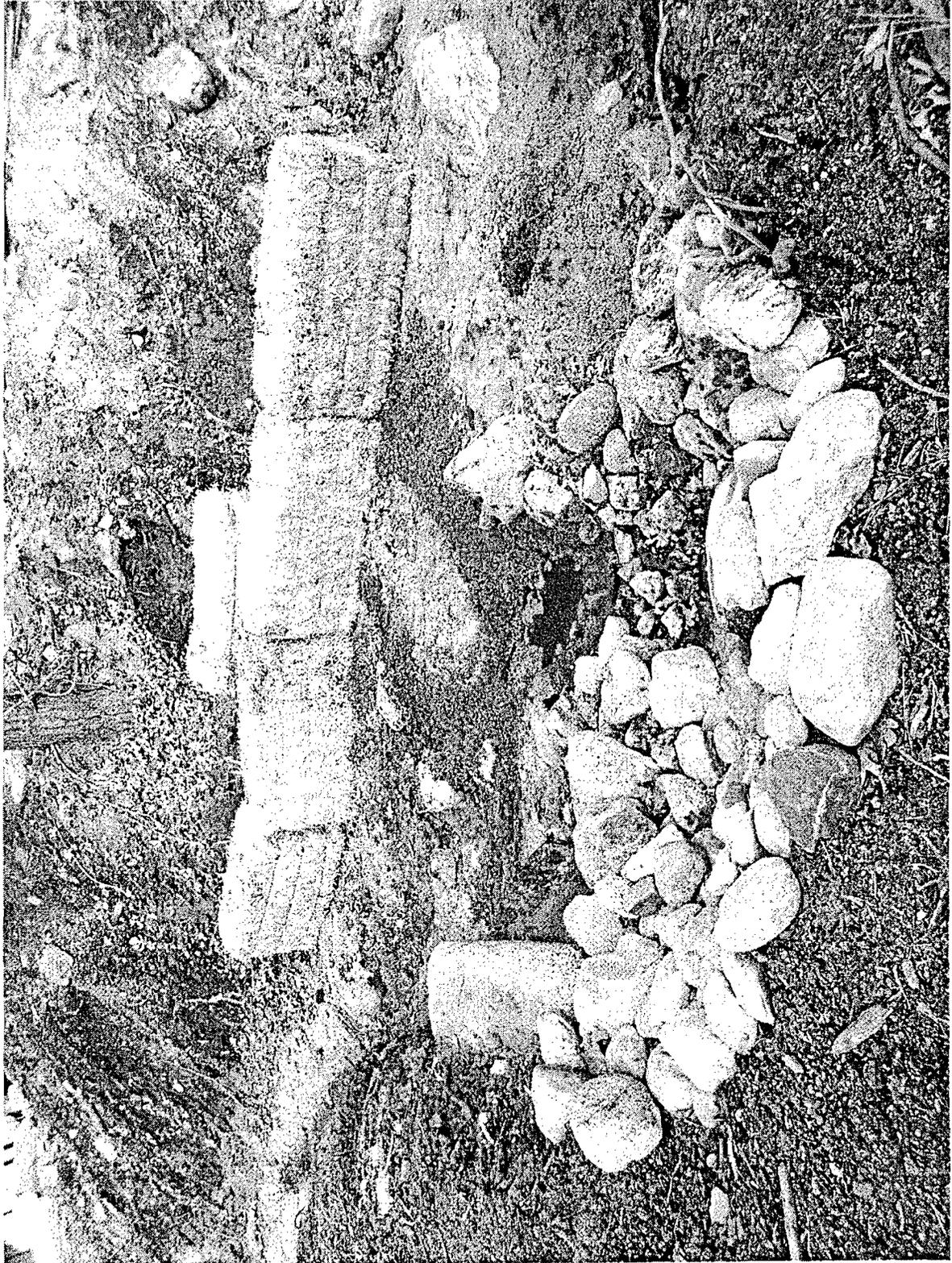
Address: 26748 HWY 189, Blue Jay, CA 92317

Mail: P.O. Box 6885 Crestline, CA 92325

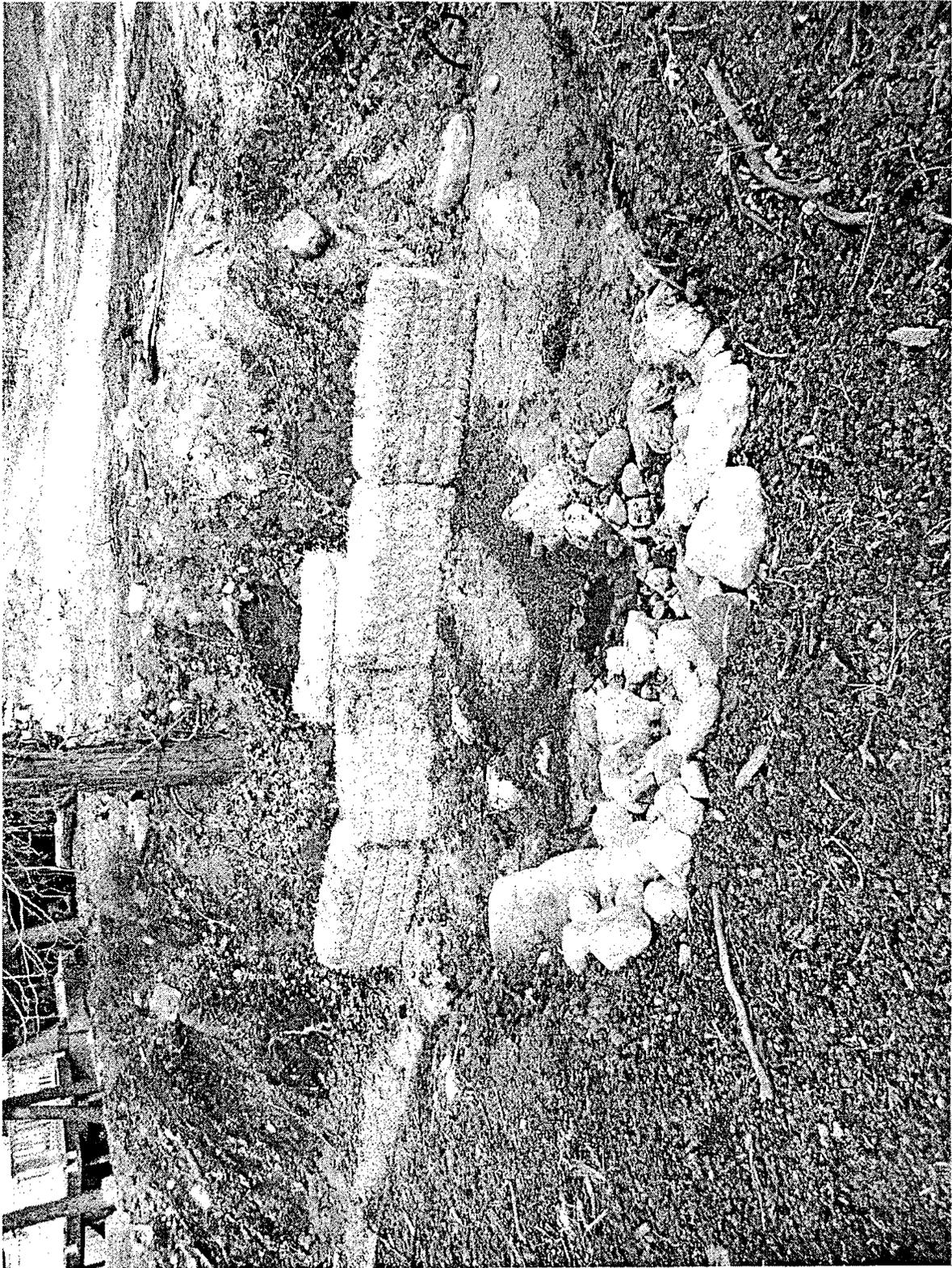
E-Mail: bryant@kadtec.com

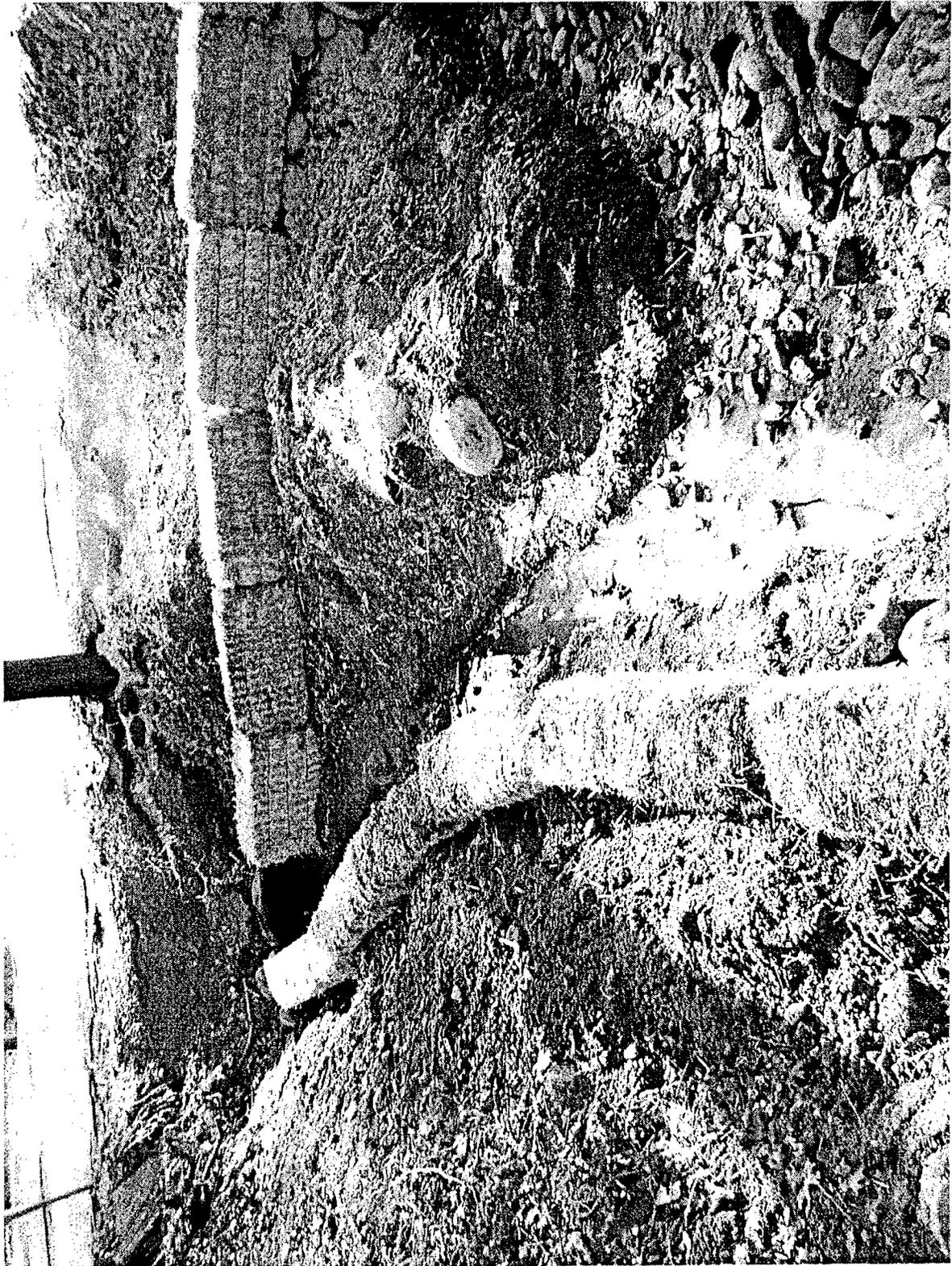
PS yesterday I was trying to get this report out. I loaded "atube catcher" and a virus followed it. I didn't want to send an email until

I removed the program and cleared my computer. Sorry. bb

























From: Mike Plaziak
To: Harold Singer; Jan Zimmerman; Jehiel Cass
CC: Lauri Kemper
Date: 1/31/2012 5:26 PM
Subject: Re: Serinity Development

Harold

I spoke to Mike Harold this afternoon. I let him know we were working with DFG on this case. We expect the owner to install BMPs by Feb 3rd to prevent erosion into the stream and will inspect early next week to see compliance. On the longer range we will work with DFG to get a restoration plan from the owner. I did not mention any enforcement actions pending, however. He seemed satisfied with our response and expects to have the story out in the Thursday weekly edition.

/r

Mike

Mike Plaziak,
Supervising Engineering Geologist, PG
South Lahontan Watersheds Division
California Regional Water Quality Control Board, Lahontan Region
Victorville Branch Office
14440 Civic Dr., Suite 200
Victorville, CA 92392
(760) 241-7325
(760) 553-6839 (blackberry)
(760) 241-7308 (fax)
email: mplaziak@waterboards.ca.gov

>>> Singer, Harold(Harold Singer) 1/30/2012 8:00 PM >>>
All

Need to return a call to Mike Harris, Mt News 909/337-6145 x229

He is inquiring about our role in this single family home development in Crest Park area of Lake Arrowhead. Indicated there is a blue line creek in vicinity of project and that Lahontan staff was out walking the site with an owner of neighboring property.

Please determine our role in this, issues raised by site walk last Fri, neighbor issues and relationship to our role, if any, and any other issues with project.

Please call me to discuss as soon as you can on Tues am and we can determine who is best staff to return call.

Thanks
Harold

Serenity Lodge,
Crest Park

Developer Facing Deadline

By Mike Harris, Reporter | Posted: Thursday, February 2, 2012 12:00 am

The developer of several residential lots along Meadowbrook Road in Crest Park has until Feb. 3 to install best management practices for the perennial stream that abuts the Meadowbrook properties.

"We want to get the owner to install best management practices to prevent soil erosion into the stream," Mike Plaziak, supervising engineering geologist for the Lahontan Regional Water Quality Control Board, told this newspaper. "We want to protect the water quality in case of a storm."

But that's not all that Bill Moller, operating as the Arimol Group, developer of the properties, has to do.

"Our focus is on the water quality with wetlands," Plaziak said. "We are taking action on two different parallel tracks."

The first track is ordering best management practices for the stream, he said. The other track deals with restoring the stream.

"The second thing is getting a restoration plan in place to put back the stream to its original hydrologic function," he said.

Lahontan officials plan to return to the Meadowbrook property Feb. 3 to see if best management practices have been put in place.

"Best management practices would include standard erosion control measures," he said "That might include straw waddles, hay bales, and sometimes hydro seed to put in vegetation."

Lahontan officials did an inspection of the property abutting the stream bed on Jan. 20, and again on Jan. 27, Plaziak said.

Plaziak called the stream "a perennial stream" that is part of a willow riparian corridor.

"The stream is part of the area's watershed," he said.

The developer would need a federal Clean Water Act Section 404 permit issued by the Army Corps of Engineers. At the present time it doesn't appear that the developer has filed with the Army Corps of Engineers for such a permit, he added.

Plaziak said Lahontan is waiting to see if the developer will put in best management practices for the stream by the Feb. 3 deadline.

"Based on how well he responds will dictate how we ramp up in enforcement," he added.

Residents in the Meadowbrook Drive area of Crest Park are alarmed by the prospect of drug rehabilitation group homes being built near them.

A plan by Arimol Group to build as many as six single family homes in the area is helping to fan neighbors' fears.

One single family home permit has been issued for 977 Meadowbrook, and contractors currently are building on the site.

County planners are currently reviewing two other residential plans. The developer reportedly pulled three other plans back.

Jan Zimmerman - RE: Meadowbrook Road

From: "Baker, Don - LUS" <Donald.Baker@lus.sbcounty.gov>
To: 'Jan Zimmerman' <JZimmerman@waterboards.ca.gov>
Date: 2/1/2012 4:24 PM
Subject: RE: Meadowbrook Road

No if this was some kind of common development it would need planning approval. The lots are separate and permits are being obtained parcel by parcel as any other permits or construction would be done. They just happen to be owned by one group.

Don

From: Jan Zimmerman [mailto:JZimmerman@waterboards.ca.gov]
Sent: Wednesday, February 01, 2012 3:25 PM
To: Baker, Don - LUS
Subject: RE: Meadowbrook Road

Thanks Don. I am wondering though, would multiple grading permits for adjacent parcels be considered a larger plan of common development? Does the County depend on the developer to disclose whether or not these projects are related or is it because the construction is in phases the county looks at then separately?

Thanks again.

Jan M. Zimmerman, PG
Engineering Geologist
Lahontan Regional Water Quality Control Board

Phone: 760/241-7376
Fax: 760/241-7308
jzimmerman@waterboards.ca.gov

>>> "Baker, Don - LUS" <Donald.Baker@lus.sbcounty.gov> 2/1/2012 2:21 PM >>>

Afternoon,

No grading permits have been submitted or approved. One house plan was submitted and approved at this time and it was for APN 0336-134-05. Other plans have been submitted but are in the review process. They are for APN 0336-134-02,03. 02 parcel has two houses that are intended for the site as it is a large enough lot to have two units on it by Development code requirements, this lot is one that has been graded but has not submitted grading plans for the site at this time and requires submittal and approvals prior to any construction.

Two other lots APN 036-131-08,09 have plan submittals also but as of this time are not approved. A total of six

file://C:\Documents and Settings\staff\Local Settings\Temp\XPgrpwise\4F296734Region6V... 2/6/2012

From: bryant bergeson <bryant2662@yahoo.com>
To: JGIBSON@dfg.ca.gov; bryant2662@yahoo.com
CC: mollabolla@yahoo.com; Shannon.L.Pankratz@usace.army.mil;
JZimmerman@waterboards.ca.gov; JBrandt@dfg.ca.gov
Date: 2/3/2012 10:29 AM
Subject: Re: 1600-2011-0244-R6 - 1031 Meadowbrook Road, Crest Park, CA
Attachments: DSCN0016.JPG; DSCN0024.JPG; DSCN0023.JPG; DSCN0021.JPG; DSCN0017.JPG;
DSCN0013.JPG; DSCN0022.JPG; DSCN0020.JPG; DSCN0019.JPG; DSCN0015.JPG; DSCN0014.JPG;
DSCN0018.JPG

Dear Group,

The water flow has slowed down and the BMP's are in place and working. (see attached). The snow has melted and we were planning on removing the debris from the small inlet and placing it on the parking area until it can be properly disposed of. The next week looks clear except for Tuesday night. If it rains then we will stop

work, replace the hay bales and wait for it to dry up.

Tonight: Mostly clear, with a low

around 28. Northeast wind between 10 and 15 mph, with gusts as high as 20 mph.

Saturday: Mostly sunny, with a high near 47. North wind between 5 and 10 mph.

Saturday Night: Partly cloudy, with a low around 28. Northeast wind around 5 mph.

Sunday: Mostly sunny, with a high near 49. North wind around 10 mph.

Sunday Night: Partly cloudy, with a low around 29.

Monday: Mostly sunny, with a high near 52.

Monday Night: Partly cloudy, with a low around 29.

Tuesday: Mostly sunny, with a high near 48.

Tuesday Night: A slight chance of showers. Partly cloudy, with a low around 29.

Wednesday: Mostly sunny, with a high near 51.

Wednesday Night: Partly cloudy, with a low around 28.

Thursday: Mostly sunny, with a high near 54. Bryant Bergeson

Civil Engineer, P.E. 48805

Phone: (909) 336-6970 (ext. 102)

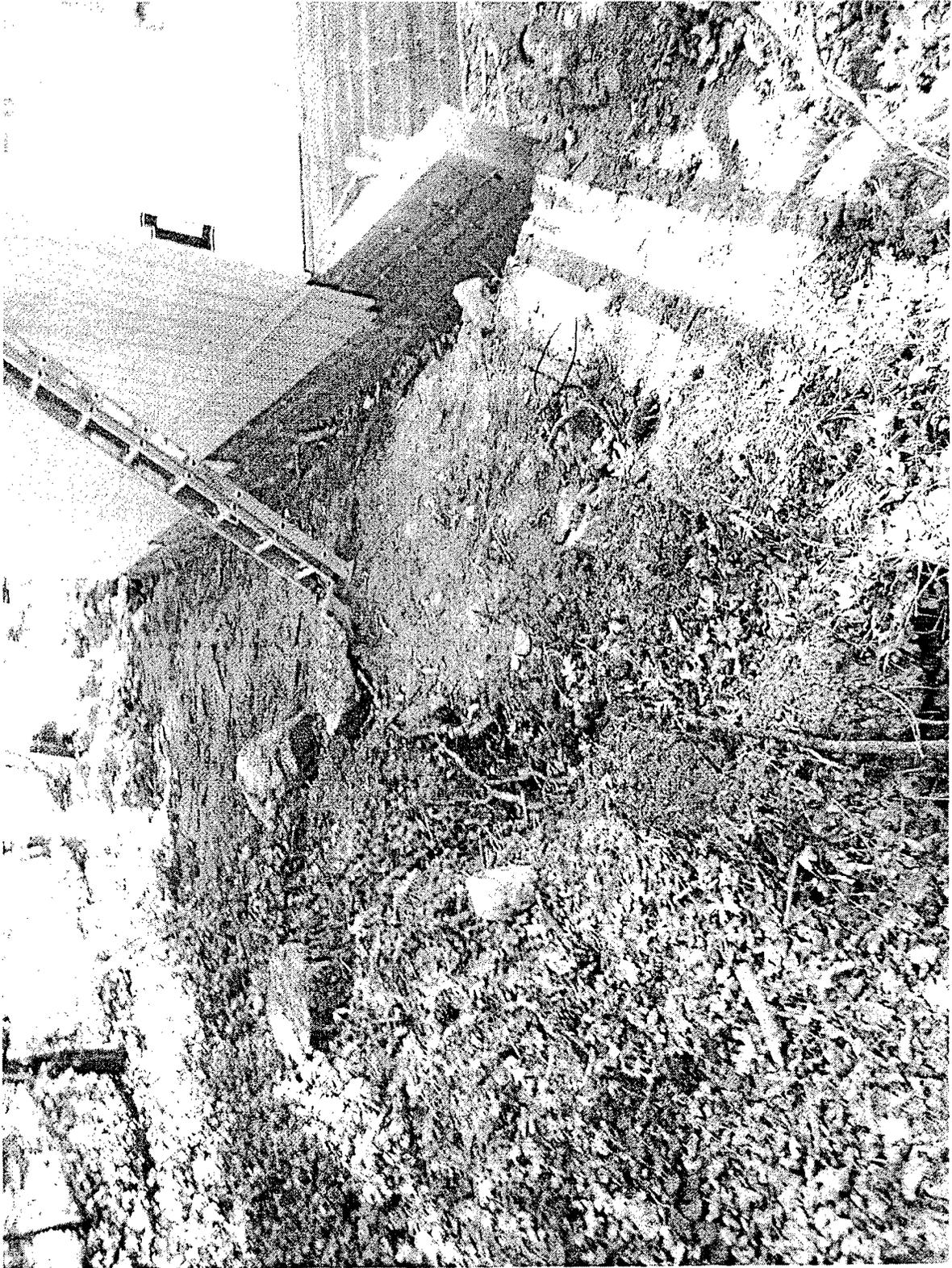
Fax: (909) 337-2211

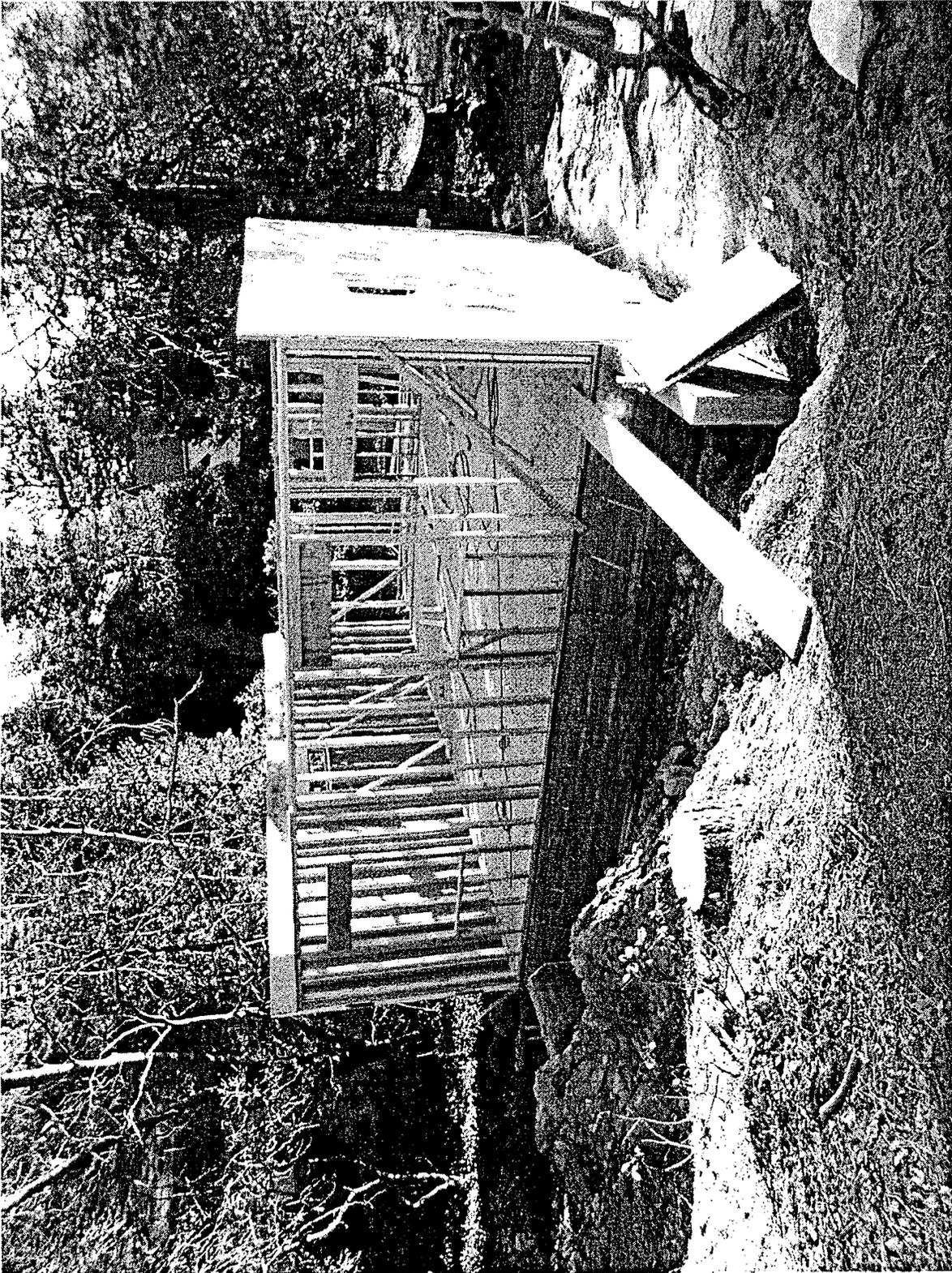
Address: 26748 HWY 189, Blue Jay, CA 92317

Mail: P.O. Box 6885 Crestline, CA 92325

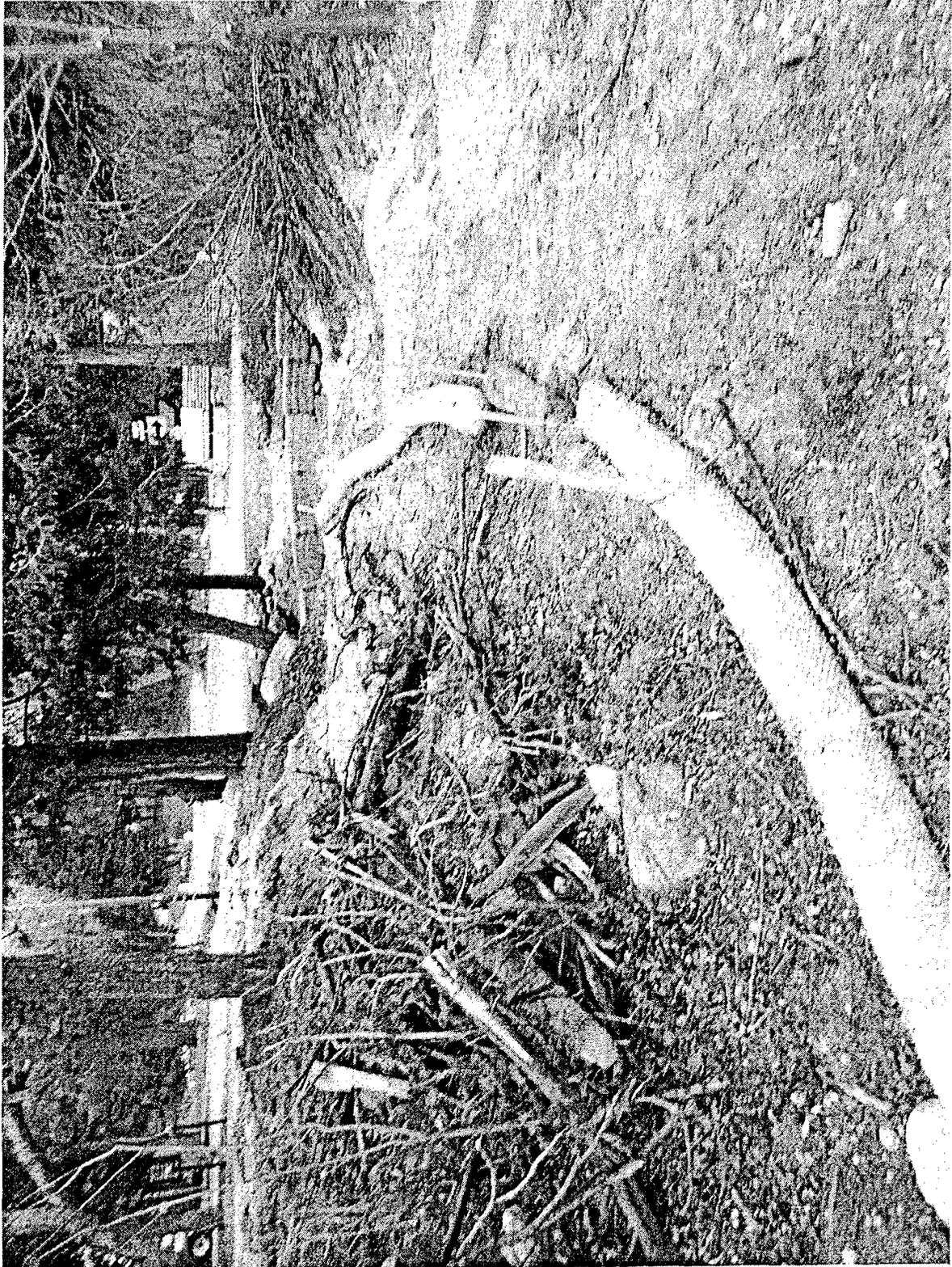
E-Mail: bryant@kadtec.com

























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Jan M. Zimmerman, PG
Engineering Geologist
Lahontan Regional Water Quality Control Board

Phone: 760/241-7376
Fax: 760/241-7308
jzimmerman@waterboards.ca.gov<mailto:jzimmerman@waterboards.ca.gov>

>>> "Baker, Don - LUS" <Donald.Baker@lus.sbcounty.gov> 2/1/2012 2:21 PM >>>

Afternoon,

No grading permits have been submitted or approved. One house plan was submitted and approved at this time and it was for APN 0336-134-05. Other plans have been submitted but are in the review process. They are for APN 0336-134-02,03. 02 parcel has two houses that are intended for the site as it is a large enough lot to have two units on it by Development code requirements, this lot is one that has been graded but has not submitted grading plans for the site at this time and requires submittal and approvals prior to any construction.

Two other lots APN 036-131-08,09 have plan submittals also but as of this time are not approved. A total of six houses have been submitted for approval and only one has been approved at this time.

You could contact Daniel Avera at (909) 387-8311 and request that the permit information be sent you if applicable.

Don Baker, Plans Examiner
Building & Safety Division
Land Use Services Department
County of San Bernardino
(909) 387-4246
dbaker@lusc.sbcounty.gov

From: Jan Zimmerman [mailto:JZimmerman@waterboards.ca.gov]
Sent: Wednesday, February 01, 2012 12:27 PM
To: Baker, Don - LUS

Subject: RE: Meadowbrook Road

Don,

I understand that there are 4 or 5 grading permits that have already been issued to Arimol for this development and 2 or 3 more still in review. Please confirm how many permits have been issued and how many are in review. Also, how can I get a copy of the permits issued to Arimol for this development?

Thanks.

Jan M. Zimmerman, PG
Engineering Geologist
Lahontan Regional Water Quality Control Board

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jzimmerman@waterboards.ca.gov<<mailto:jzimmerman@waterboards.ca.gov>>

>>> "Baker, Don - LUS" <Donald.Baker@lus.sbcounty.gov> 1/28/2012 7:22 AM >>>

thanks

Don Baker, Plans Examiner
Building & Safety Division
Land Use Services Department
County of San Bernardino
(909) 387-4246
dbaker@lusd.sbcounty.gov

From: Jan Zimmerman [<mailto:JZimmerman@waterboards.ca.gov>]

Sent: Friday, January 27, 2012 4:42 PM

To: mollabolla@yahoo.com

Cc: Jeff Brandt; JGIBSON@dfg.ca.gov; Baker, Don - LUS; Shannon L SPL Pankratz; Patrice Copeland; bryant2662@yahoo.com

Subject: Meadowbrook Road

Mr. Moller,

Today I reinspected your property at 1031 Meadowbrook Road, Crest Park. The intent of the inspection was to document the condition of the site and to determine compliance with our verbal order of 01/20/2012 to install an effective combination of sediment and erosion control best management practices (BMPs) to stabilize the disturbed areas. On 01/20/2012, I specifically requested that BMPs be placed at the inlet and outlet of the newly installed culvert, particularly sediment and erosion control BMPs on the slope opposite the point of discharge from the pipe culvert. At the time of my inspection, the only BMPs observed onsite were staked straw waddles along the southern portion of the site. No BMPs were observed at the inlet and no controls were observed at the outlet. The current condition of this site poses a significant threat to water quality and measures must be taken immediately to stabilize the exposed soils and to prevent unauthorized discharge to waters of the State. We request that you implement an effective combination of erosion and sediment control BMPs to stabilize the entire site by February 3, 2012, or within 24 hours of a forecasted rain event, whichever comes first. Please notify this office via email when BMP installation is complete. Please include a photographic log with your notification to document the implementation.

If you have any questions, please do not hesitate to contact me.

Jan M. Zimmerman, PG
Engineering Geologist
Lahontan Regional Water Quality Control Board

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Fax: 760/241-7308

jzimmerman@waterboards.ca.gov<mailto:jzimmerman@waterboards.ca.gov>

Patrice Copeland - Re: Serinity Development

From: Jan Zimmerman
To: Pankratz, Shannon L SPL; Plaziak, Mike
Date: 2/3/2012 3:48 PM
Subject: Re: Serinity Development
CC: Cass, Jehiel; Copeland, Patrice; Kemper, Lauri; Singer, Harold

Mike,

The article has been published in Mountain News yesterday 02/02/2012.

http://www.mountain-news.com/news/article_e6a551c2-4d34-11e1-92fb-001871e3ce6c.html

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jjzimmerman@waterboards.ca.gov

>>> Mike Plaziak 1/31/2012 5:26 PM >>>
Harold

I spoke to Mike Harold this afternoon. I let him know we were working with DFG on this case. We expect the owner to install BMPs by Feb 3rd to prevent erosion into the stream and will inspect early next week to see compliance. On the longer range we will work with DFG to get a restoration plan from the owner. I did not mention any enforcement actions pending, however. He seemed satisfied with our response and expects to have the story out in the Thursday weekly edition.

/r
Mike

Mike Plaziak,
Supervising Engineering Geologist, PG
South Lahontan Watersheds Division
California Regional Water Quality Control Board, Lahontan Region
Victorville Branch Office
14440 Civic Dr., Suite 200
Victorville, CA 92392
(760) 241-7325
(760) 553-6839 (blackberry)
(760) 241-7308 (fax)
email: mplaziak@waterboards.ca.gov

>>> Singer, Harold(Harold Singer) 1/30/2012 8:00 PM >>>
All

Need to return a call to Mike Harris, Mt News 909/337-6145 x229

He is inquiring about our role in this single family home development in Crest Park area of Lake Arrowhead. Indicated there is s

blue line creek in vicinity of project and that Lahontan staff was out walking the site with an owner of neighboring property.

Please determine our role in this, issues raised by site walk last Fri, neighbor issues and relationship to our role, if any, and any other issues with project.

Please call me to discuss as soon as you can on Tues am and we can determine who is best staff to return call.

Thanks

Harold