



# California Regional Water Quality Control Board

## Santa Ana Region



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Acting Secretary for  
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February 17, 2011

Erik Lunde, Project Manager  
Spyglass Ranch (Riverside) ASLI V LLLP  
240 Newport Center Drive, Suite 220  
Newport Beach, CA 92660

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**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION:  
SPYGLASS RANCH, TENTATIVE TRACT MAP No. 35337  
CITY OF LAKE ELSINORE, RIVERSIDE COUNTY  
(Regional Board Reference No. 332009-07)  
(ACOE Reference No. SPL-2009-00502-JEM)**

Dear Mr. Lunde

On April 28, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by Helix Environmental Planning, Inc., for Tentative Tract Map No. 35337 (TTM 35337, a.k.a. Spyglass Ranch) in the City of Lake Elsinore. On May 27, 2009, the application was denied without prejudice ("Denial") by the Regional Board's Executive Officer. On October 29 2009, Helix Environmental submitted a letter report and updated, preliminary water quality management plan for the project prepared by K&A Engineering to address project inconsistencies and deficiencies called out in the May 27, 2009, Denial. On August 17, 2010, Board staff requested additional supporting documentation concerning the effects of the project on local hydrology and how those effects are to be managed, proposed mitigation, and water quality best management practices (BMPs) proposed. On December 9, 2010, Helix Environmental responded to Board staff's August 2010 request, and provided additional information on January 31, 2011.

This letter responds to your request for certification that the proposed project, described in your application and subsequent submittal and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

**Project Description:** Construction of a 259-acre, residential project. The project will consist of lots for 451 single family homes, multi-family lots (for a maximum of 1035 dwelling units), open space lots, lots designated for parks and other amenities, and associated infrastructure including approximately 11 acres of

**California Environmental Protection Agency**



roadway. The project will include (2) onsite extended detention basins and (2) onsite infiltration basins for dry-weather and first-flush storm water runoff water quality control. Runoff from approximately 60 residential lots and associated infrastructure in Drainage Area #5, shown on the Preliminary Water Quality Management Plan (WQMP), September 2010, "Water Quality Exhibit," will be directed to an extended detention basin located in adjacent Tract 31593 "South Shore 1". The project is located within Section 5 of T6S, R4W, shown on the U.S. Geological Survey *Lake Elsinore, California*, 7.5-minute topographic quadrangle map (33 deg. 40 min. 30 sec. N ; -117 deg. 19 min. 30 sec. W).

- Receiving water: Un-named ephemeral tributaries to Lake Elsinore.
- Fill area: 0.49 acres of permanent impact, comprising:
- 0.02 acres of wetland
  - 0.13 acres of riverine (5,960 linear feet of permanent impact)
  - 0.34 acres pond
- Dredge/Fill volume: 800 cubic yards
- Federal permit: U.S. Army Corps of Engineers Individual Clean Water act Section 404 Permit – SPL-2009-00502-JEM

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent submittals. The proposed mitigation is summarized below:

**Onsite Water Quality Standards Mitigation Proposed:**

- As described in the Preliminary WQMP (September 2010) for the project, nuisance flow and 'first-flush' discharges from the developed portions of the project will be treated in extended detention and infiltration basins. A drainage agreement has been executed allowing the Spyglass Ranch project use of the extended detention basin in Tract 31593.
- Additional site-specific BMPs will be specified in the site's Storm Water Pollution Prevention Plan (SWPPP) and final Water Quality Management Plan (WQMP).

**Offsite Water Quality Standards Mitigation Proposed:**

- Mitigation for unavoidable project effects to jurisdictional areas totally 0.49 acres of wetland and non-wetland waters of the U.S. is proposed through acquisition of mitigation credits from the Riverside Corona Resource Conservation District's Riparian Mitigation Program. Compensation for project impacts would result in

acquisition of a minimum 0.53 acres of credit (3:1 ratio for wetlands; 1:1 ratio for non-wetland waters of the U.S.).

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 2009-0009 DWQ, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of pollutants from the project site. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State.

U.S. Army Corps of Engineers will be issuing a Clean Water Act Section 404 individual permit (No. SPL-2009-00502-JEM) for the project. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game.

In compliance with the California Environmental Quality Act (CEQA), on February 26, 2008 the City of Lake Elsinore certified an Environmental Impact Report (EIR) for Spyglass Ranch Specific Plan, and filed its Notice of Determination with the Riverside County Clerk on March 5, 2008. Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR or negative declaration prepared by the lead agency in determining whether to approve a Section 401 Certification. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project. As required by Section 15096, the Regional Board has considered the EIR prepared for the proposed project, and information provided subsequently by the applicant, in making this Certification.

In the issuance of this Certification, the Executive Officer has considered those sections of the City's Environmental Impact Report that relate to water quality. Based on the mitigation proposed and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. The Regional Board independently finds that changes or alterations have been required in, or incorporated into, the project which avoid or mitigate impacts to water quality to a less than significant level.

**This 401 Certification is contingent upon the execution of the following conditions:**



1. Proposed onsite water quality treatment control BMPs (extended detention basins and infiltration basins) shall be conservatively designed and sized according to generally accepted engineering principles. Basins shall be constructed and operational prior to completion of construction of any model or dwelling unit in the basin's respective tributary area.
2. The offsite extended detention basin on Tract 31593 shall be constructed, operational, and prepared to receive drainage from Tract 35227 prior to occupancy of any model or dwelling unit in Drainage Area #5, as shown on the "Water Quality Exhibit " in the project's Preliminary WQMP, September 2010. Water quality standards certification for Tract 31593, issued by this office on December 14, 2006, specified conditions for the design and sizing of this basin, and for restrictive covenants as to its use. If the extended detention basin on Tract 31593 is not constructed, the applicant shall obtain Executive Officer approval of alternative methods for treating runoff from Drainage Area #5, prior to construction on any lot within Tract 35227 Drainage Area #5.
3. Outlets from all basins shall be equipped with suitable energy dissipation features.
4. The applicant, the applicant's successor or assignees, shall be responsible for operation and maintenance of the proposed extended detention and infiltration basins in a manner that assures their optimal performance, until these responsibilities are accepted by a homeowner's association (HOA), or by the City of Lake Elsinore, or by another entity acceptable to the Regional Board. The project's final WQMP shall specify that after acceptance of project streets by the City, operations and maintenance of the extended detention basins and infiltration basins shall be the responsibility of the HOA or the City or another entity acceptable to the Regional Board.
5. Within six months of the completion of the extended detention basins and infiltration basins designed to serve this project, easements or other appropriate restrictive instruments shall be recorded for onsite lots containing extended detention basins and infiltration basins. The purpose of these restrictions is to ensure that the basins' water quality functions are not compromised by future, conflicting activities or land uses. The applicant shall provide the Regional Board with evidence of this recordation.
6. The applicant shall mitigate for project effects to jurisdictional areas totaling 0.49 acres of wetland and non-wetland waters of the U.S. This may be accomplished through acquisition of a minimum of 0.53 acres of mitigation credits from the Riverside-Corona Resource Conservation District's Riparian Mitigation Program, or from other approved in-lieu fee programs or mitigation banks, at a minimum ratio of 3:1 for wetlands and 1:1 for ponds and ephemeral drainages. Fee payment must include funding for a minimum of 5-years of follow-on maintenance. To the extent practicable, mitigation should occur within the same sub-watershed as the impacts, and shall replace, in kind, the functions and services of the waters of the state

impacted by the project. Final mitigation credit purchase or in-lieu fee payment shall be subject to approval by Regional Board staff.

Alternatively, the applicant may propose a project-specific mitigation location that satisfies these same criteria, and a Mitigation and Monitoring Plan for carrying out mitigation at this project-specific location. The project-specific alternative mitigation location and its Mitigation and Monitoring Plan shall be subject to approval by Regional Board staff.

7. Implementation of approved mitigation shall occur prior to the discharge of fill to or dredging of waters of the state. For mitigation via purchase of mitigation credits, implementation means submitting to the Regional Board documentation that a purchase agreement with the agency selling the credits was executed. For in-lieu fee payments, implementation means providing the Regional Board with proof of in-lieu fee payment to an approved mitigation bank. For mitigation at a project-specific mitigation location, implementation means that within 6 months of initiating fill or dredge impacts, the mitigation site is providing biological functions and services as scheduled in the mitigation project's approved Habitat Mitigation and Monitoring Plan. Within 30 days of completing the mitigation installation, the applicant shall submit a letter to the Regional Board reporting that the mitigation has been installed.
8. Post-construction BMPs specified in the site's SWPPP and final WQMP shall be timely and consistently implemented.
9. Any revisions to proposed dry weather runoff or storm water treatment facilities shall be reported to the Regional Board.
10. Regional Board staff and other authorized representatives shall be allowed:
  - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification and applicable waste discharge requirements;
  - b. Access to copy any records that are kept under the requirements of this Certification and any applicable waste discharge requirements;
  - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from the project site; and
  - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification and applicable waste discharge requirements.
11. This Certification and any subsequent amendments to it must be maintained on site as a denoted element of any project SWPPP and/or WQMP.
12. This certification shall run with the land. The applicant shall notify any successor or assignee of TTM 35337 of this Certification. This Certification is transferable upon written notice to the Executive Officer by the applicant, applicant's successor or assignee, and approval by the Executive Officer. For Certification transfer to be

approved, notice must include written acknowledgement of this Certification and acceptance of Certification conditions by the transferee's authorized representative.

13. This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability

**Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:**

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of any condition(s) of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

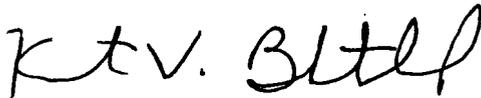
In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office fifteen (15) days before construction begins on this project.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at [www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf](http://www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf)

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Daniel Swensn  
State Water Resources Control Board, OCC – David Rice  
State Water Resources Control Board, DWQ-Water Quality Certification Unit –  
Bill Orme  
California Department of Fish and Game, Ontario Office – Jeff Brandt  
U.S. EPA, Wetlands Regulatory Office WTR- 8 – Eric Raffini  
Helix Environmental - Barry Jones,

MGA/401/Spyglass Ranch TTM 35337

