State of California
California Regional Water Quality Control Board
Santa Ana Region

April 25, 2014

Staff Report

ITEM: *10

SUBJECT: Waiver of Waste Discharge Requirements for Rancho Paseo de Valencia, LLC, dba "Forest Park" Residential Development, City of Corona - Order No. R8-2014-0009

DISCUSSION:

Rancho Paseo de Valencia, LLC (the Discharger) has proposed the development of 49.6 acres of a 64.4 acre site, most of which is currently an avocado and lemon grove located in the City of Corona, on foothill terrain in the southwest part the City, into 34 residential lots, streets, and manufactured slopes. Remaining acreage would be kept as open space. The Project is known as Rancho Paseo de Valencia, LLC, dba "Forest Park" (Tentative Tract Map No. 34760). The Project site shares a common boundary with the Cleveland National Forest, in Sections 11 and 14, T4S, R7W, SBB&M, as shown on the Corona South, California USGS quadrangle map, at latitude 33.8308°, longitude -117.5836°. A portion of the site was in an unincorporated area of Riverside County in the lower foothills of the Santa Ana Mountains, but has been annexed into the City.

The Discharger proposes to discharge fill to waters of the state. Generally, waste discharge requirements (WDRs) are issued by the Regional Board for discharges of fill to waters of the state where the U.S. Army Corps of Engineers does not have or assert its jurisdiction. In accordance with California Water Code (CWC) section 13260, the Discharger submitted a Report of Waste Discharge (ROWD) on November 14, 2013 and requested that waste discharge requirements be waived pursuant to CWC section 13269. Additional information to complete the Report of Waste Discharge was submitted on February 14, 2014.

The Discharger submitted the ROWD under protest, and reserved its right to challenge the need for WDRs and the application of CWC section 13260, on the grounds (among others) that the proposed development project will not result in the "discharge of waste" into any waters of the State, because merely grading a site with clean soil (and in this case, without the use of imported soil) does not constitute a "discharge of waste" and because there are no State waters on the project site, or any actual or designated uses of State waters, that will be adversely impacted by the Discharger's planned grading activities. The Discharger also makes the point that there are no wetlands existing on the project site or that will be otherwise impacted by the project.

The Discharger has further asserted that its project grading activities are already extensively regulated under other State and local laws, including under the National

Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (General Construction Permit), the City of Corona's stormwater ordinance and its Municipal NPDES Permit, through the water quality management plan (WQMP) requirements set forth in the City's Municipal Code, as well as through the requirements of the California Department of Fish and Wildlife (CDFW) under the State Fish and Wildlife Code.

The Discharger, however, has indicated it is desirous of moving forward with its Project in accordance with a waiver issued pursuant to CWC 13269, and that it will agree to acceptable waiver conditions, so long as it is clear from the Order that the Discharger is not waiving and is expressly reserving all of its rights in connection with the Project in issue or any future project(s) it may pursue.

After a careful review of the Report of Waste Discharge, Regional Board staff has determined that it is appropriate to issue a conditional waiver of waste discharge requirements for the project in accordance with CWC section 13269.

The Site's Waters and their Beneficial Uses

There are eight channels (also referred to as drainage courses, see Exhibits 1 and 2 and Table 1 of the Order) within the Project site. Three of these drainage courses are man-made agricultural drainages that lack beneficial uses and are therefore not considered waters of the state subject to regulation under this Order. The Discharger is proposing to fill seven of the eight drainage courses. Five of the drainages on the Project site, designated Drainage A, Drainage B, Drainage C, Drainage E, and Drainage E1, as shown on Exhibits 1 and 2, are waters of the state (see Table 1 of the Tentative Order). The filling activities will impact a total of 3,223 linear feet and 0.577 acre of these drainage courses.

Beneficial uses[1] (BUs) that are supported by the waters of the state on the Project site include: Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), Groundwater Recharge (GWR), Agricultural Supply (AGR), and Non-Contact Water Recreation (REC2) (which is limited by fencing). Biological surveys have not found special-status plant or animal species present in or associated with these channels, and therefore the beneficial use of "rare, threatened or endangered species habitat" is not present. Regional Board staff has concluded that the beneficial uses that are well-supported and that would be the most severely impacted by the project are Wildlife Habitat, Warm Freshwater Habitat, and Groundwater Recharge. To mitigate these impacts to beneficial uses, it is appropriate for the Regional Board to require compensatory mitigation.

The project site overlies the Temescal Groundwater Management Zone (GMZ), the beneficial uses of which include: Municipal and Domestic Supply (MUN),

[1] Beneficial uses for all waters in the Santa Ana Region are established in the Water Quality Control Plan for the Santa Ana River Basin (Region 8), 1995, as amended (Basin Plan). The Basin Plan defines these uses.

Agricultural Supply (AGR), Industrial Service Supply (IND), and Industrial Process Supply (PROC).

The Discharger has asserted that there are no State surface waters within the project site that are listed in the Basin Plan, and thus, that none of the asserted beneficial uses (BUs) listed in the Basin Plan are applicable; that no evidence exists to show the above referenced BUs are actually supported by State waters on the project site; that the proposed grading will not result in a discharge to groundwater; and that, according to Board staff, where there is "no discernable bed and bank, and the vegetation/habitat [is] negligible," as is the case with the Project site, that the BUs are considered to primarily consist of Groundwater Recharge (GWR), except that in this case, even GWR is not a supportable use for the project site because of the steep grade of the site.

In short, the Discharger claims that its proposed grading of the project site does not qualify as a "discharge of waste" under the CWC, and nor would the grading in any event adversely impact any actual or designated beneficial use of State waters.

Staff disagrees with the Discharger's position and therefore recommends that the project be regulated pursuant to conditional waiver.

In October 22, 2009, the U.S. Army Corps of Engineers determined that the drainage courses within the project site are not within its jurisdiction. In cases where a CWA sections 401 Certification and 404 permits are not required, the State can regulate dredge and fill operations to waters of the state under the California Water Code if the subject area is determined to be a water of the state. Here, Regional Board staff has determined that the drainages identified above are waters of the state and, therefore, are subject to regulation by the Regional Board.

On April 9, 2014, the Discharger submitted the project's revised draft Mitigation Plan, as requested, after having worked diligently with Board staff to resolve differences concerning Regional Board regulation of the proposed project.

Project Impacts, Determining Areas of Impacts, and Mitigation Measures

Discharges of fill to Drainages A, B, E, and E1 necessary to make the site suitable for the proposed development will result in the permanent loss of the beneficial uses of these naturally occurring water courses. Drainage C will be temporarily impacted by construction of a manufactured slope and erosion control measures required by the City. The Discharger has chosen to stabilize Drainage C against erosion by installing an erosion control mat system within the channel bed to the elevation of the calculated 10-year probability storm flow, plus freeboard.

Mitigation for the permanent impacts to beneficial uses of Drainages A, B, E, and E1, and temporary impacts to Drainage C, will include restoration of native vegetation and habitat within and surrounding Drainage C, once the erosion control measures are installed. Drainage C crosses the southeastern corner of the project site within the 4.9-

acre Lot G that has been designated for preservation. The native habitat restoration proposed to take place in and along Drainage C will satisfy mitigation conditions of both the California Department of Fish and Wildlife (CDFW) and the Regional Board.

The CDFW has taken jurisdiction over 0.075 acre of wildlife habitat along a vegetated, 84-foot long section of Drainage A, in the central part of the site and within the footprint of the proposed development. To compensate for this loss of habitat, the Discharger proposed to re-grade an area within Lot G where intermittent flows currently pond, and to establish 0.225 acres of willow and mulefat riparian habitat.

Regional Board staff's estimate of impacts included the 84-foot long section of wildlife habitat present along Drainage A, discussed above, for which a mitigation of 0.225 acres is proposed. In addition, the Discharger is proposing to substitute riprap along Drainage C with erosion control matting. This results in 0.133 acres of avoided permanent impacts to Drainage C. Board staff recommends mitigating for the remaining permanent impacts, 0.219 acres (0.577acre - 0.225 acre - 0.133 acre = 0.219 acre), at a 1:1 ratio.

The Discharger proposes to mitigate for all of Project's permanent impacts to waters along Drainage C, beginning immediately upstream of the 0.225 acre CDFW mitigation site. The mitigation site will have an average width of 20 feet, which includes the average 12-foot width of the 10-year storm flow in Drainage C. A planned maintenance road will divide the 484-foot proposed mitigation area into segments of approximately 415 feet and 69 feet. The drainage will be excavated and graded to provide for the design flow and the proposed mitigation. To meet City erosion control standards, the Discharger will stabilize the 10-year storm flow channel width (plus freeboard) of Drainage C with erosion-control turf reinforcement matting installed according to manufacturer's specifications. The Discharger will cover the matting to re-establish the streambed surface and will install riparian and upland plant species listed in the Mitigation Plan, in order to create conditions that will support the beneficial uses.

In addition, the Discharger is also proposing to construct bioretention swales (total of 1,820 linear feet) and two earthen-bottomed detention basins (a total of 1.16 acres) in accordance with the Water Quality Control Plan that was developed in conformance with Board Order No. R8-2010-0033, the Municipal Storm Water Permit for Riverside County[2]. These devices are expected to increase the site's infiltration capability, thereby mitigating for any loss of groundwater recharge beneficial use. Manufactured slopes will provide additional open space.

[2] Order No. R8-2010-0033, NPDES Permit No. CAS618033, "Waste Discharge Requirements for Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Incorporated Cities of Riverside County within the Santa Ana Region, Areawide Urban Runoff Management Program."

Board staff recognizes that the Discharger is also taking steps to avoid impacts to:

- Lot G (4.9 acres) in the southeastern corner of the project, which includes a remnant of the orchard and Drainage C (where mitigation will take place), and;
- Lot H (7.7 acres) in the western portion of the project. This lot includes steep terrain and a segment of a natural watercourse known as Lord's Canyon, adjacent to the project footprint. The watercourse terminates in an existing detention basin.

Proposed Conditional Waiver

Pursuant to Water Code Section 13269, the Regional Board may waive requirements for a specific discharge if the waiver is consistent with the Basin Plan and is not against the public interest. Further, waivers must not exceed five years in duration, are subject to minimum conditions established in section 13269, including monitoring, and may be subject to an annual fee.

The waiver proposed by Regional Board staff establishes conditions for the discharge of waste (in this case, fill consisting of soil and soil-like material excavated on the Project site) to waters of the state. Proposed special conditions include successful implementation of the Mitigation Plan described in the project's approved Mitigation Plan. The Mitigation Plan may be approved on the condition that an appropriate party be identified in the near future to maintain the mitigation area in its completed state, in perpetuity. Other special conditions include monitoring and reporting on the status of mitigation until its success criteria are met, and allowing inspections.

This waiver will be reviewed in 2019, and considered for renewal if appropriate. The Discharger anticipates, however, that grading activities covered by this waiver will be completed within five (5) years from the date of issuance.

RECOMMENDATION:

1) Adopt Order No. R8-2014-0009 conditionally waiving WDRs for this project's discharge of fill to waters of the state, and Monitoring and Reporting Program No. R8-2014-0009.

Comments were solicited from:

Rancho Paseo de Valencia, LLC - Manuel Valencia
Rutan and Tucker, LLP, Costa Mesa - Richard Montevideo
Dennis Armstrong, Armstrong & Brooks Consulting Engineers, Corona
State Water Resources Control Board, Division of Water Quality, Water Quality Certification Unit – William Orme
State Water Resources Control Board, Office of Chief Counsel - David Rice
California Department of Fish and Wildlife, Ontario office – Jeff Brandt
City of Corona, Principal Civil Engineer - Maria Sambito

State of California
California Regional Water Quality Control Board
Santa Ana Region

Order No.R8-2014-0009

Waiver of Waste Discharge Requirements
For

Rancho Paseo De Valencia, LLC, dba Forest Park

Malaga Street at Shepard Crest Drive
City of Corona, Riverside County

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

1. Rancho Paseo De Valencia, LLC (hereinafter Discharger) submitted a Report of Waste Discharge (ROWD) on November 14, 2013, for the discharge of fill to waters of the state related to the proposed construction of the "Forest Park" residential development project (the Project). In the ROWD, the Discharger requested that the Regional Board waive waste discharge requirements (WDRs) for the Project.

2. The Project, also known as Tentative Tract Map (TTM) No. 34760, is located in the City of Corona (the City). The Discharger proposes to remove most of an orchard and construct manufactured slopes, infrastructure, and 34 residential lots, on 49.6 acres of a 64.4-acre Project site. The Project site is adjacent to the Cleveland National Forest in the lower foothills of the Santa Ana Mountains, in Sections 11 and 14, T4S, R7W, SBB&M, at latitude 33.8308^{o}, longitude -117.5836^{o}.

3. There are eight channels (also referred to as drainage courses, see Exhibits 1 and 2 and Table 1) within the Project site. Three of these drainage courses are man-made agricultural drainages that lack beneficial uses and are therefore not considered waters of the state for the purpose of this Order. The Discharger is proposing to fill seven of the eight drainage courses. Five channels on the Project site, designated Drainage A, Drainage B, Drainage C (this drainage will not be filled; instead it will be used for onsite mitigation), Drainage E, and Drainage E1, as shown on Exhibits 1 and 2, are waters of the state (see Table 1). The filling activities will impact 3,223 linear feet and 0.577 acre of these drainage courses. The Discharger expects grading of the site and the discharge of fill to the drainage courses on the site to be completed within five (5) years from the date of issuance of this Order.

4. Table 1, below, identifies the impacts to waters of the state that will result from filling the five channels.

Table 1. Channel Impacts Rancho Paseo de Valencia, LLC, dba Forest Park					
Drainage	**Length, feet**	**Average Width, feet**	**Square Feet (sf)**	**Acreage (ac) (sf / 43,560 sf/ac)**	**Notes**
A	**1,067.2**	**4.79**	**5,111.89**	**0.117**	**To be permanently impacted. 84 LF jurisdictional to both CDFW and RWQCB. RWQCB credits to Discharger the 0.225-ac mitigation area for CDFW, for habitat impacts in "A".**
B	**1,200.0**	**10.5**	**12,600**	**0.289**	**To be permanently impacted. Mitigation to be conducted for loss of beneficial uses (BU) in Drainage C.**
C	**415 $_{\text{Reach 1}}$ + 69 $_{\text{Reach 2}}$ = 484**	**12**	**5,808**	**0.133**	**To be temporarily impacted by installation of erosion control matting. Location for mitigation to be conducted for loss of BU, as specified in Mitigation Plan.** **Reach 1 = 415 LF upstream of CDFW mitigation site, to the proposed maintenance road.** **Reach 2 = 69 LF upstream of proposed maintenance road to the existing road along southerly property line.**
E	**230.2 $_{\text{Reach 1}}$ + 71 $_{\text{Reach 2}}$ = 301.2**	**4.86**	**1,463.83**	**0.034**	**To be permanently impacted.** **Reach 1 = less dense upland/ riparian vegetation from road upstream.** **Reach 2 = dense upland/riparian vegetation up into natural slope.**
E1	**170.6**	**1.04**	**177.42**	**0.004**	**To be permanently impacted. Drainage E Tributary; Upland/ riparian vegetation in natural slope.**
SUM	**3,223 LF**	**varies**	**25,161.14 sf**	**0.577 ac**	**Total impacts to beneficial uses**

5. The Water Quality Control Plan for the Santa Ana River Basin (Basin Plan), identifies water quality standards (water quality objectives and beneficial uses) for waters in the Santa Ana Region. The conditions specified in this Order are consistent with the Basin Plan.

6. Each of the drainages on the Project site currently support some or all of the following beneficial uses:

   a. Wildlife Habitat (WILD);
   b. Warm Freshwater Habitat (WARM);
   c. Groundwater Recharge (GWR);
   d. Non-Contact Water Recreation (REC2); and
   e. Agricultural Supply (AGR).

7. The Project site overlies the Temescal Groundwater Management Zone (GMZ), the beneficial uses of which include: Municipal Supply (MUN), Agricultural Supply (AGR), Industrial Process Supply (PROC), and Industrial Service Supply (IND).

8. The discharge of waste, in this case, fill material, to Drainages A, B, E, and E1 will cause permanent loss of the beneficial uses of these drainages. Construction of erosion control measures within Drainage C will temporarily impact its beneficial uses.

9. On February 14, 2014, the Discharger submitted a Mitigation Plan that includes mitigation for all the identified impacts to waters of the state from the proposed Project.

10. In 2009, the City, acting as a lead agency in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, *et seq*.), circulated a draft Environmental Impact Report (EIR) for the Project. The Regional Board, acting as a Responsible Agency in compliance with California Code of Regulations Title 14, Section 15096, reviewed the Project's draft EIR and commented on its significant and potentially significant impacts on water quality standards in April 30, 2009, and March 18, 2011, letters to the City. These letters requested that the City direct the Project proponent to submit a Report of Waste Discharge to the Regional Board. The City issued a Notice of Determination on May 4, 2011, confirming certification of the Final EIR for the Project. In its role as a Responsible Agency under CEQA, the Regional Board has considered the EIR and has determined that the Project's water quality impacts shall be fully mitigated by the mitigation identified in the EIR and the conditions specified herein.

11. In part, California Water Code (CWC) Section 13269 authorizes the Regional Board to waive issuance of waste discharge requirements if the Regional Board determines that the waiver is consistent with the applicable Basin Plan and is in the public interest. CWC Section 13269 specifies, among other criteria, that waivers shall be conditional, monitoring shall be included as a condition of waivers, and that waivers may not exceed five years in duration, but may be renewed. For this project, the grading activities are expected to be completed within five (5) years from the date of the issuance of this Order, and accordingly, under such circumstances a renewal of this Order would not be necessary.

12. The Discharger will be responsible for establishment, successful completion, maintenance and monitoring of mitigation measures identified in the Mitigation Plan.

13. The construction activities at the site will be conducted in accordance with a City-approved Water Quality Management Plan (WQMP) and the State's General Permit for Stormwater Discharges Associated with Construction Activities, Order No. 2009-0009-DWQ.

14. The Regional Board recognizes that the Discharger disagrees with the legal and factual basis for this Order and submitted its ROWD under protest. The Regional Board further recognizes that the Discharger, desiring to move this Project forward, has generally agreed to the conditions in this Order without waiving any of its rights in connection with this Project or any future project(s) it may pursue.

15. Any person aggrieved by this action of the Regional Board may petition the State Water Resources Control Board to review the action, in accordance with CWC Section 13320 and California Code of Regulations Title 23, Sections 2050 and following. The State Water Board must receive the petition not later than by 5:00 p.m., 30 days after the date of this Order, except if the thirtieth day after the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by 5:00 p.m. of the following business day. The law and regulations applicable to filing petitions may be found at http://www.waterboards.ca.gov/public_notices/petitions/water_quality or provided upon request.

16. The Regional Board has considered State Board Resolution No. 68-16 and finds that the discharge is consistent with this resolution because this order will not result in the lowering of water quality.

17. The Regional Board has notified the Discharger and other interested agencies and persons of its intent to adopt a waiver of waste discharge requirements for the discharge and has provided them with an opportunity to submit their written views and recommendations, and for a public hearing.

18. The Regional Board, in a public meeting, heard and considered all comments pertaining to this order.

IT IS HEREBY ORDERED that the Santa Ana Regional Water Quality Control Board waives waste discharge requirements for the discharge of fill materials to the drainage courses identified in Table 1, above, pursuant to California Water Code section 13269, provided that the Discharger complies with the following conditions:

A. GENERAL CONDITIONS:

1. No activities associated with the Project shall cause or threaten to cause a nuisance or pollution as defined in Section 13050 of the California Water Code.

2. The discharge of fill materials shall be limited to the placement of native fill and inert materials, as defined in California Code of Regulations Title 27, Division 2, Section 20230.
3. Except as otherwise permitted by this Order, the groundwater or surface water in the vicinity of the Project site shall not be degraded as a result of Project activities or placement of fill for the Project.

4. There shall be no fueling, lubrication, maintenance, or storage of construction equipment within drainages or other surface runoff conveyances during the grading and filling operation.

B. SPECIAL CONDITIONS:

1. Except as otherwise permitted by this Order, the discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid or liquid wastes into channels or other surface waters, or to any place where they would be eventually transported to surface waters, is prohibited.

2. The discharge of oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

3. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

4. Discharges to surface waters of wastes or pollutants which are not otherwise regulated by this Order, or a separate National Pollutant Discharge Elimination System (NPDES) permit, is prohibited.

5. The discharge of any substance in concentrations toxic to animal or plant life is prohibited.

6. The discharge of fill as identified above is contingent upon the Discharger's timely implementation of the approved Mitigation Plan, and satisfactory and timely completion of all activities specified in the approved Plan. Implementation of the approved Mitigation Plan shall occur concurrently with earthmoving or construction activities that discharge waste to waters of the state.

7. The Discharger shall comply with Monitoring and Reporting Program (M&RP) No. R8-2014-0009, which is a part of this Order. The M&RP may be modified by the Executive Officer at any time during the term of this Order.

8. The Discharger shall implement the approved Mitigation Plan, which includes the following:

    a. Drainage C (in southeastern corner of the Project site, in Lot G) has been chosen by the Discharger to be an appropriate location on which to

implement mitigation for impacts to beneficial uses subject to the Regional Board's jurisdiction and for impacts to wildlife habitat under the authority of California Department of Fish and Wildlife.

b. A minimum of 0.219 acre of mitigation area that will support warm freshwater habitat and wildlife habitat beneficial uses will be implemented within and along the 484-foot segment of Drainage C that is between the upstream side of the proposed 0.225 acre California Department of Fish and Wildlife mitigation site and the existing road that follows the Project site's property line at its southernmost corner. The area where mitigation is to occur is shown on Exhibit 4. This width of the mitigation area is expected to average 20 feet, and will not be less than 12 feet.

c. The work necessary to implement the mitigation will include grading and excavation of Drainage C as necessary to conform to the approved Mitigation Plan concept, which includes installation of erosion-control matting in a manner specified by the manufacturer. The approved plan calls for covering the installed matting with soil and planting Drainage C according to the approved Mitigation Plan.

d. Plants that will be used to implement the approved Mitigation Plan are to be propagated from locally collected seeds and cuttings, to the extent possible. Locally collected seed shall be used in re-seeding operations.

e. Mitigation areas shall meet specified success criteria, which are:

1) Cover of herbaceous plantings in the riparian mitigation area should be approximately 80 to 90 percent in the first year, and maintained at that percentage over a subsequent five-year period.

2) After 1 year, cover for the woody species would be at least 20 percent of the planted area. At least 80 percent of all the initial plantings survive.

3) After 2 years, cover for the woody species would be at least 30 percent of the planted area. Survivorship during all remaining years should be a minimum of 80 percent.

4) After 3 years, cover for the woody species would be at least 50 percent of the planted area.

5) After 4 years, cover for the woody species would be at least 70 percent of the planted area.

6) After 5 years, cover for the woody species would be at least 80 percent of the planted area.

9. The mitigation will be considered successful upon the establishment of a self-sustaining riparian habitat.

10. The mitigation site shall be monitored regularly from when installation of plants specified by the approved Mitigation Plan is completed to when the mitigation meets Year 5 success criteria.

11. The mitigation site shall have an operating irrigation system for as long as necessary to ensure successful germination and growth of plant species specified by the approved plan.

12. All measures established to comply with mitigation specified in this Order shall be protected from conflicting uses in perpetuity by appropriate covenants, conditions and restrictions (CC&Rs), conservation easements, deed restrictions, or similar instruments. The CC&Rs, conservation easements, deed restrictions, or similar instruments shall be recorded with the Riverside County Recorder's office, and shall expressly grant the Regional Board the authority to enter upon and inspect the property, and to enforce the terms of the Approved Mitigation Plan.

13. The Project's Mitigation Plan has been reviewed and approved by the Executive Officer. Agreements must be put in place by the Discharger designating a party who will be responsible for implementing the conditions of this Order and maintaining the integrity of the Drainage C mitigation site, copies of which shall be provided to the Regional Board. The Discharger must advise Regional Board staff of any changes of this responsible party.

14. The Discharger, for so long as it owns the land, and thereafter the successor owner or owners of the land, or other party to whom responsibility for compliance with this Order has been assigned and who has accepted this assignment, or who has control over the Project (collectively, Successor), must comply with all conditions of this waiver. Any violation of the waiver conditions, including provisions of the M&RP, may be grounds for administrative and/or judicial enforcement action, termination of this waiver, revocation and re-issuance of this waiver, denial of an application for re-issuance of this waiver, or a combination thereof.

15. The Discharger shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

16. The conditions of this waiver are severable, and if any condition of this waiver, or the application of any condition or specification of this waiver to any circumstance, is held invalid, the application of such condition or specification to other circumstances, and the remainder of this Order shall not be affected thereby.

17. The filing of a request for modification, revocation and re-issuance, or termination of this waiver or a notification of planned changes or anticipated noncompliance does not stay any requirements of this waiver.

18. The conditions prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the Discharger from liabilities under federal, state, or local laws, nor guarantee the Discharger a capacity right in the receiving waters.

19. This waiver does not convey any property rights of any sort, or any exclusive privilege.

20. This Order may be transferred to subsequent owners of the affected land, and to other Successors who control the Project. For a transfer of the Order to occur, all parties must submit a written request for transfer to the Executive Officer. The transfer of the Order is complete upon approval by the Executive Officer.

21. In the event of any change in control or ownership of the Project, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to the Regional Board. The Discharger must also provide the Executive Officer with the name(s) and contact information for successor owner(s) of the Project.

22. The Regional Board and other authorized representatives shall be allowed:

    a. Entry upon premises where a regulated facility or activity is located or conducted, or where records are kept under the requirements of this Order;

    b. Access to copy any records that are kept under the requirements of this Order;

    c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and to photograph, sample and monitor for the purpose of assuring compliance with this Order.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Regional Board, Santa Ana Region, on April 25, 2014.

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Kurt V. Berchtold
Executive Officer

State of California
California Regional Water Quality Control Board
Santa Ana Region

Monitoring And Reporting Program No. R8-2014-0009

for
Rancho Paseo De Valencia, LLC, dba Forest Park

Riverside County

California Water Code Section 13269 authorizes the Regional Board to require monitoring as a condition of a waiver of waste discharge requirements. This Monitoring and Reporting Program establishes the monitoring and reporting necessary to verify compliance with the conditions of Order No. R8-2014-2009.

A. GENERAL MONITORING REQUIREMENTS

1. All reports and records required by this program must be retained by the Rancho Paseo De Valencia, LLC, dba Forest Park, Riverside County (Discharger) for as long as it owns the affected land and operates the project, and thereafter by the successor owner or operator of the project, including other party or parties to whom responsibility for compliance with Order No. R8-2014-0009 has been assigned and who accept this assignment (collectively, Successor), for a period of not less than 5 years from when year five success criteria for the Forest Park mitigation site have been met. This period of retention shall be extended during the course of any unresolved litigation regarding this discharge, or by the request of the Regional Board at any time. Records of monitoring information shall include, but are not limited to:

    a. The date(s) and approximate time (s) that site monitoring occurred;
    b. The individual(s) who performed the monitoring;
    c. Field worksheets used to record monitoring information;
    d. Photographic images taken during monitoring;
    e. Reports in which collected field data are summarized.

2. All monitoring instruments and devices used to fulfill this prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy.

3. Reports and records required by this program, including photographic images, shall be maintained on the Project site, and shall be made available to Board staff upon request.

4. For every item where the conditions of the Order and Monitoring and Reporting Program are not met, the Discharger or its Successor shall timely submit a report and time schedule of the actions undertaken or proposed which will bring the discharge into full compliance at the earliest time.

5. All reports shall be signed by the Discharger or its Successor or their authorized representative and shall be submitted under penalty of perjury.

B. MONITORING LOCATIONS

1. The Discharger or its Successor shall establish permanently marked photo points, locations from which representative photographs or images views of the mitigation area[1], and upstream and downstream of the area, can be obtained. GPS coordinates of these photo points shall be recorded. Photo point markings shall include the direction of the representative view(s) that are taken from that location.

2. The Discharger or its Successor shall establish a minimum of four (4) transects across the mitigation area from which data can be collected as to the composition and condition of the plant and animal species present. GPS coordinates of these transects shall be recorded, and the ends of the transects shall be permanently marked. One of these transects shall be between the existing access road along the project site's southerly property line and the planned maintenance road. The remaining transects shall be representative of the remainder of the mitigation area. The general guidelines to delineate assessment areas, in the most recent version of "California Rapid Assessment Method for Wetlands and Riparian Habitats" (CRAM), should be followed when selecting transect locations.

C. MONITORING

1. The Discharger or its Successor shall conduct regular monitoring of the mitigation site. This monitoring shall include observations of the site from at least the established photo points and transects, to inspect the condition and growth of installed plant materials, the irrigation system, the need for herbivore control, and the need for weed control. Each time the site is monitored for reporting under this program:

    a. The site shall be photographed from the established photo points.
    b. Observations shall be made of indications of trespass, vandalism, the need to replace dead plant materials, extraordinary maintenance needs, or other conditions that threaten the viability or success to the mitigation.
    c. Percent coverage by the approved plant palette shall be estimated.
    d. Colonization by desirable and undesirable plant species from surrounding areas shall be reported.
    e. Observations and indications of wildlife on the site shall be reported.

2. Quarterly, beginning with installation of the plant pallette specified in the approved Mitigation Plan and continuing until 5-year success criteria are met to the

[1] "Mitigation area" includes both the 0.225-acre CDFW riparian habitat mitigation site and the 0.219-acre Regional Board beneficial use mitigation site that are to be located in and along Drainage C, in Lot G of TM 34760.

satisfaction of the Executive Officer, the Discharger or its Successor shall monitor the mitigation site as described in C.1, above.

3. In monitoring years 2 and 4, the condition of the mitigation area shall be assessed using the procedures specified in the most recent version of CRAM for wetland and riparian habitats. These assessments shall be conducted at the end of the growing season.

D. REPORTING

1. The Discharger or its Successor shall notify Board staff two weeks prior to commencement of construction work necessary to prepare Drainage C for implementation of the approved Mitigation Plan. This notification shall include a construction schedule.

2. The Discharger or its Successor shall notify Board staff within two weeks of completion of the installation of the mitigation in Drainage C.

3. Reports of quarterly monitoring shall be submitted quarterly, by the last working day of January, April, July and October, until approved success criteria are met to the satisfaction of the Executive Officer.

4. If appropriate, quarterly reports shall include a discussion of remedial actions taken or needed, and a schedule for future actions.

5. CRAM assessment findings shall be reported to the wetland tracker website www.sfei.org/wetlandtracker, and to the Board, by the last working day of December of the year in which the assessments are conducted.

6. December reports shall include a comparison of the condition of the mitigation area to the approved success criteria.

7. December reports shall include agreements between the Discharger or its Successor and others concerning implementation of the Mitigation Plan, including responsibility for its perpetual management and oversight.

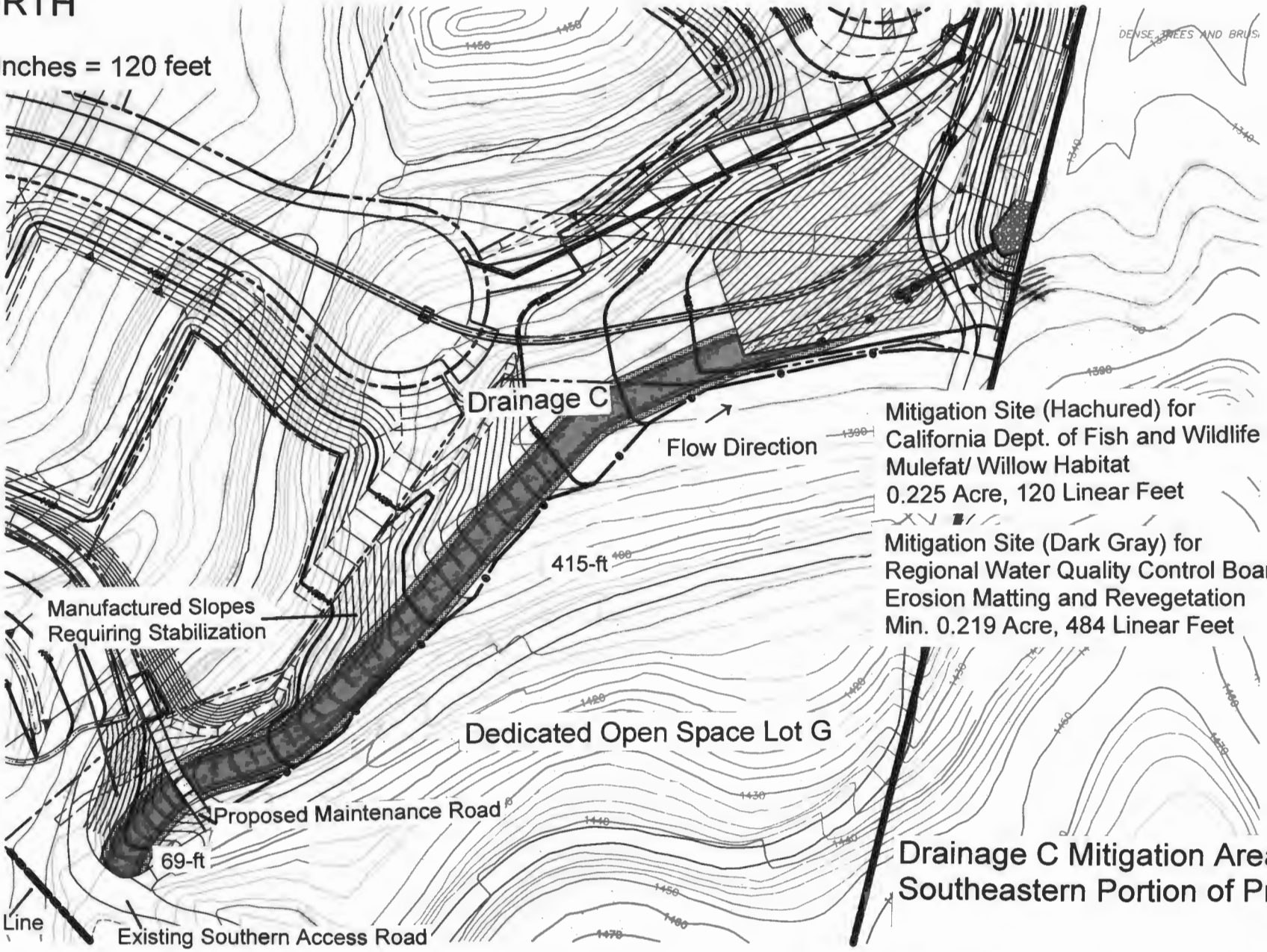
8. Within one year of meeting success criteria, a Final Report summarizing the measures that have been taken to satisfy the conditions of the Order shall be submitted.

Ordered by _____ April 25, 2014
Kurt V. Berchtold
Executive Officer

Exhibit 4, RB8-2014-0009, Individual Waiver

NORTH

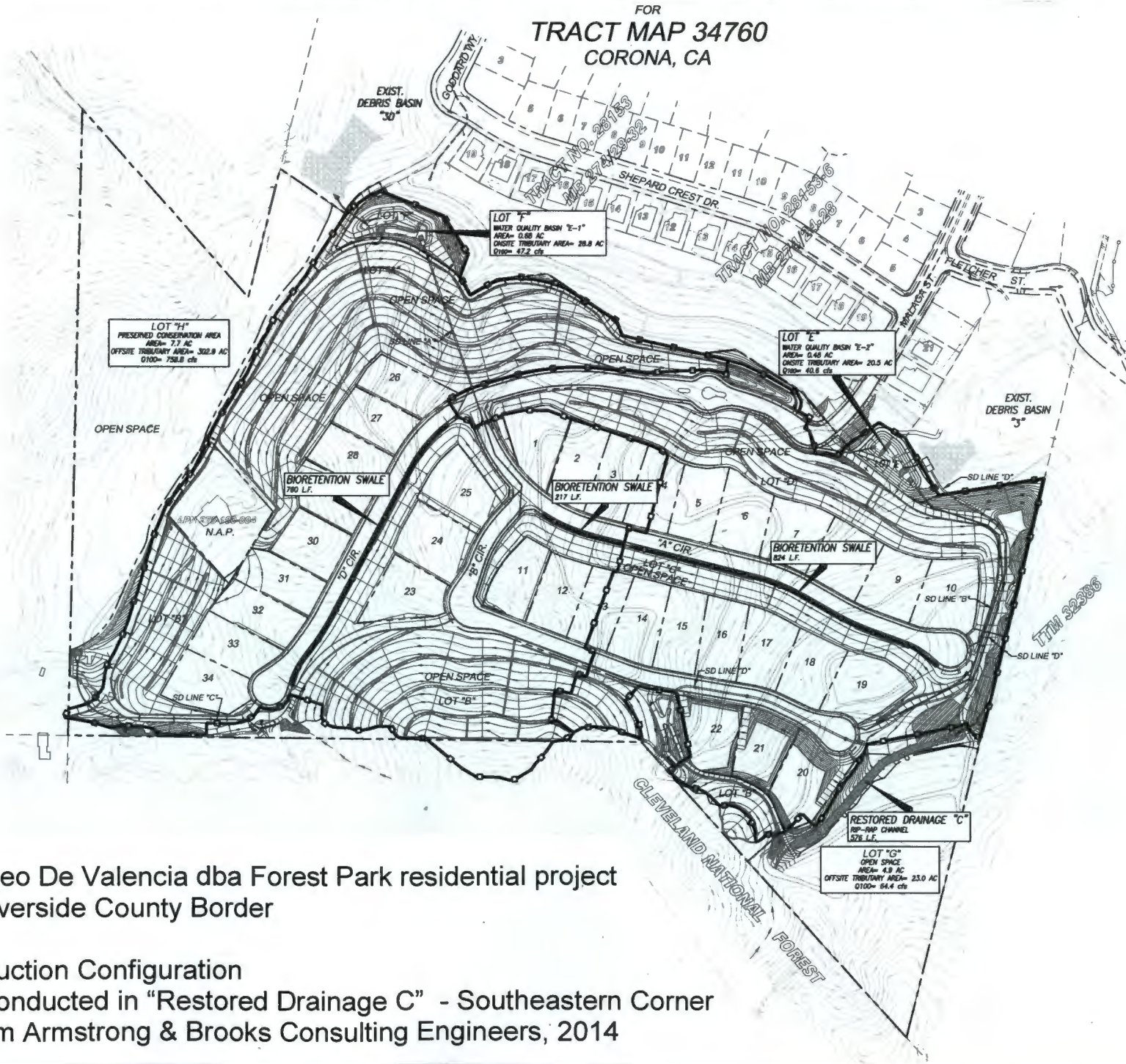
Scale: 1.5 inches = 120 feet



Drainage C Mitigation Area, Lot G
Southeastern Portion of Project Site

Rancho Paseo De Valencia, dba
Forest Park residential project
Tract Map No. 34760

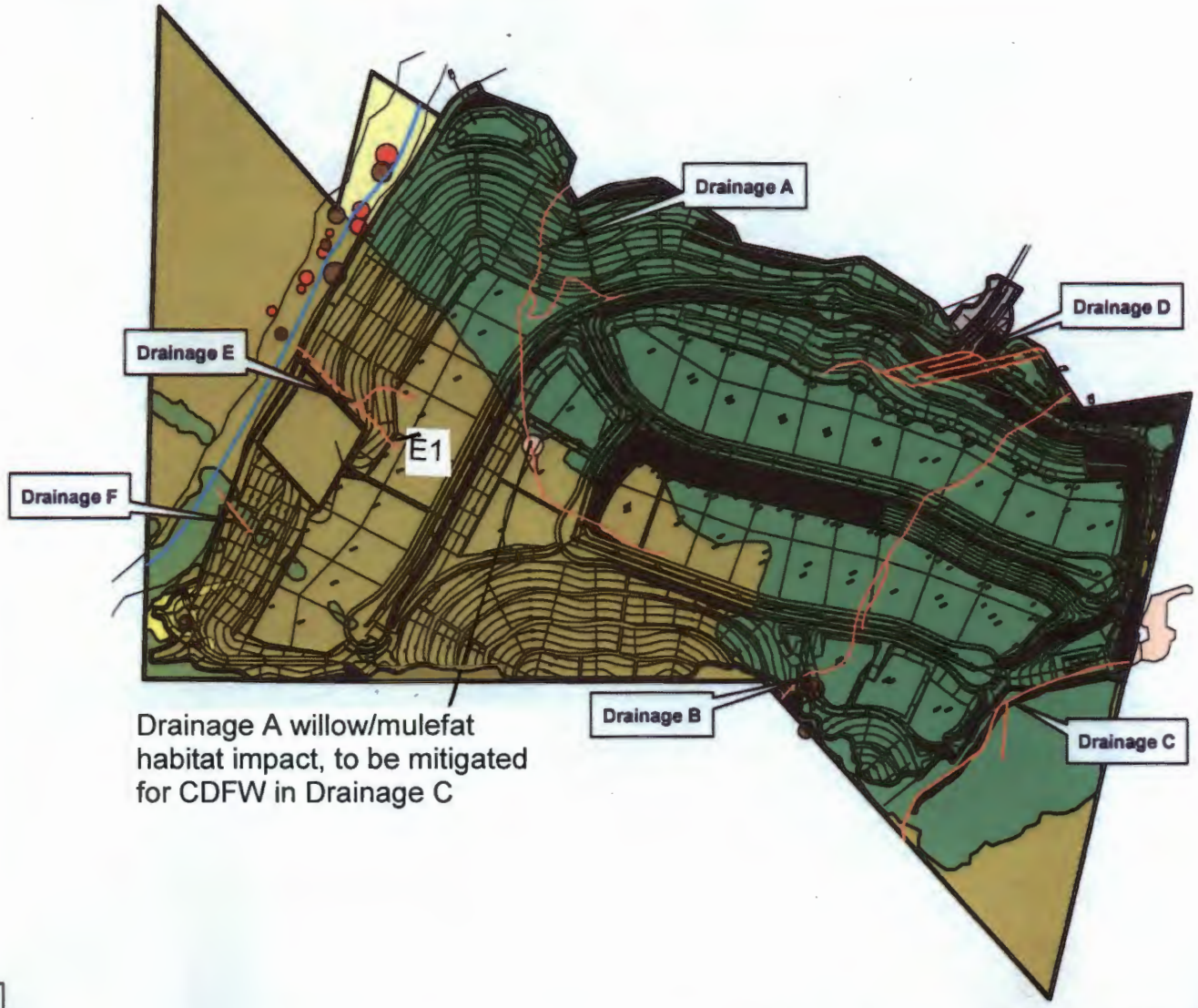
Exhibit 3, Order No. RB8-2014-0009, Individual Waiver



Rancho Paseo De Valencia dba Forest Park residential project
Corona – Riverside County Border

Post-Construction Configuration
Mitigation Conducted in "Restored Drainage C" - Southeastern Corner
Adapted from Armstrong & Brooks Consulting Engineers, 2014

Exhibit 2, Order No. RB8-2014-0009, Individual Waiver



Drainage A willow/mulefat habitat impact, to be mitigated for CDFW in Drainage C

- Project Footprint
- blue line stream
- delineated drainages
- TTM34760
- NAP
- Chaparral
- Entry Way - Landscarp Plants
- Grassland
- Existing Lemon/Avocado Orchard
- Old Olive Orchard
- Pre-basin
- Riparian Vegetation
- Oak
- Sycamore
- Willow

0 100 200 Feet

DUDEK

6327-01
MARCH 2010

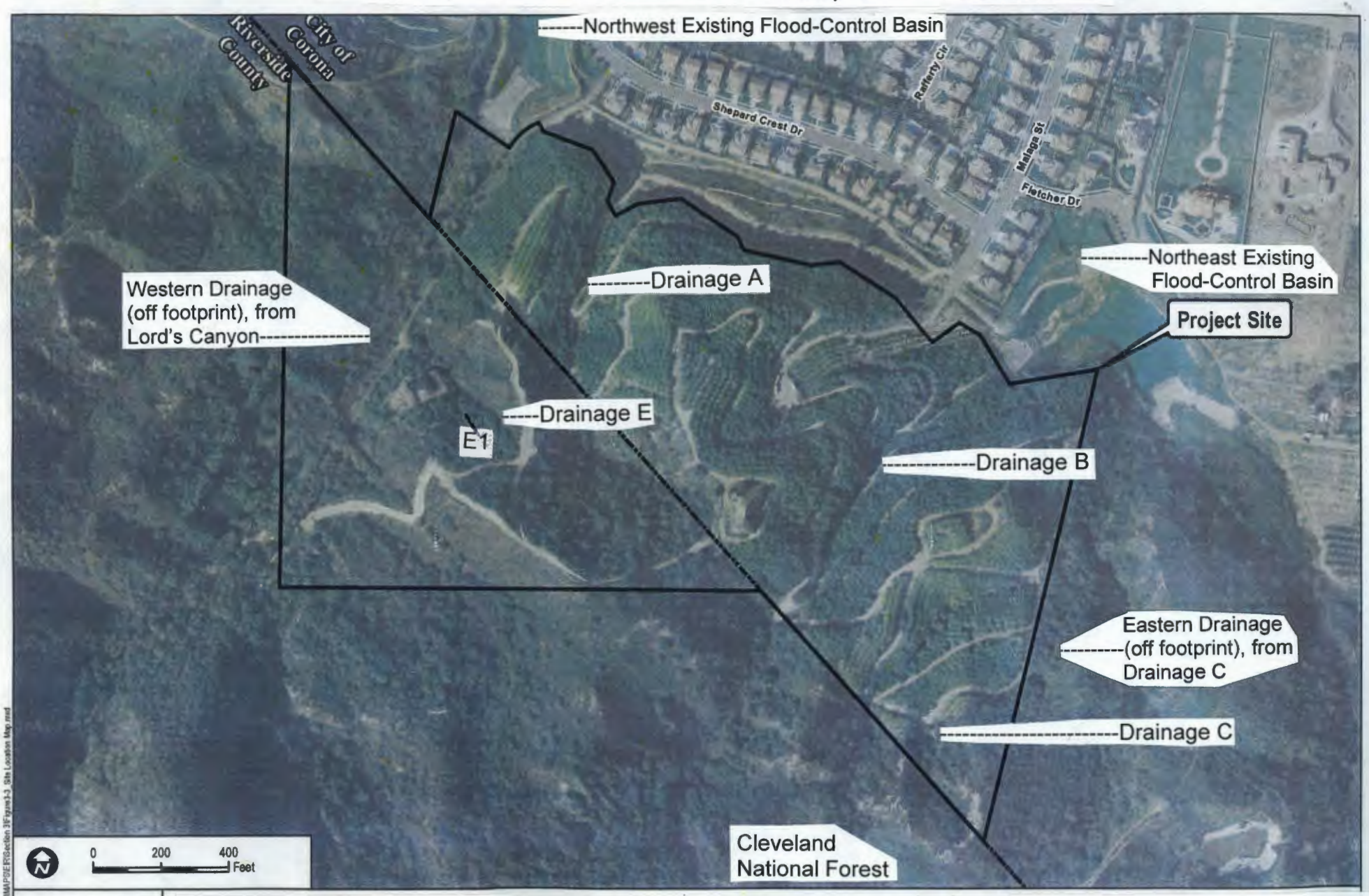
Rancho Paseo De Valencia
dba Forest Park residential project
Tract Map No. 34760

Future Construction Superimposed on Primary Drainages and Vegetation;
Drainages A, B, C, E, and E1 will be mitigated for Regional Board in Drainage C

Adapted from Dudek Consultants, 2010, Project Environmental Impact Report

Z:\Projects\6327\01\MAP\DOC\MAP\SEIR\Section 5\Figure 5-4-3 Biological Resource Impacts.mxd

Exhibit 1, Order No. RB8-2014-0009, Individual Waiver



DUDEK

6327-01
MARCH 2010

Rancho Paseo De Valencia,
dba Forest Park residential project
Southern Terminus of Malaga St., Corona
Tract Map No. 34760

Natural Drainages Before Development

Adapted from Dudek Consultants, 2010, Project Environmental Impact Report