



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

November 3, 2009

Starfield Sycamore Investors, LLC
c/o Foremost Communities, Inc.
Attention: Brian Woods
2151 Michelson Drive, Suite 190
Irvine, CA 92612

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE STABILIZATION OF SYCAMORE CREEK, RIVERSIDE COUNTY (ACOE REFERENCE NO. 200401231 – RRS)

Dear Mr. Woods:

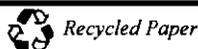
On March 20, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification"), submitted on your behalf by HELIX Environmental Planning, Inc. ("HELIX"), for stabilization of Sycamore Creek within the Sycamore Creek Specific Plan (a.k.a. Specific Plan 256 or SP256). On August 4, 2009, HELIX submitted an amended project plan, and submitted additional detail on August 24, 2009.

This letter responds to your request for certification that the proposed project, described in your application 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 four (4) grouted-rock drop-structures within a reach of Sycamore Creek in the Sycamore Creek Specific Plan. Completed grades will result in basins upstream of each basin, which will be filled in naturally with sediment during subsequent storm events. The sediment will not be removed and will be allowed to accumulate. The affected reach is located within the open space area upstream of an in-line detention basin at the intersection of Indian Truck Trail and Campbell Ranch Road in Sections 11, 12, and 13 of Township 5 South, Range 6 West, of the U.S. Geological Survey *Alberhill, California*, 7.5-minute topographic quadrangle map (33 deg. 44 min. 46 sec. N/ -117 deg. 27 min. 25 sec. W).

Receiving water: un-named ephemeral riparian drainage, tributary to Temescal Wash.

California Environmental Protection Agency



Fill area: 0.15 acre of permanent impact to an ephemeral riparian drainage (425 linear feet).

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 13

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. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. 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 99-08 DWQ, and/or General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ, which ever applies at time of construction, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of pollutants from the project site.

The subject reach of Sycamore Creek was identified for conservation within an open space area of SP 256 denoted as "The Sycamore Creek Nature Preserve" in the project proponent's community maps. The conservation of the Creek was considered in the issuance of a waiver of waste discharge requirements issued by the Executive Officer on April 26, 2000. However, the stability of the reach was compromised when a flow-through (in-stream) detention basin was excavated adjacent to Campbell Ranch Road.

The excavation within the thalweg of the creek resulted in an unstable bed profile in the area where the Creek flowed down the embankment of the basin. A previous attempt to stop the resulting erosion, by constructing a rip-rap chute to convey flows down the embankment, was undermined or flanked by stream flows¹. As a consequence, the Creek has down-cut, with head cuts rapidly progressing upstream and threatening to undermine adjacent development sites. The proposed project addresses this condition.

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act (CEQA), the County of Riverside adopted an environmental impact report for the Sycamore Canyon Specific Plan on June 10, 2002 (State Clearinghouse No. 2006101048).

¹ The rip-rap chute was constructed informally and without the benefit of plan review by Riverside County engineers.

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 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 in approving this Certification. More specifically, the Regional Board has considered those sections of the EIR relating to water quality. Based on the mitigation proposed in the EIRs, 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. Thus, the Regional Board 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. The discharger must pay in an in-lieu fee to the Santa Ana Watershed Association towards the eradication of 0.15 acre of invasive plant species in or adjacent to waters of the State. The fee payment must include funding for a minimum of 10-years of follow-on maintenance and the completion of functional assessments. The functional assessments must be completed according to generally accepted and published methods (i.e. California Rapid Assessment Method), for the purpose of measuring the functional benefit of the eradication effort. Evidence of the fee payment must be provided to the Executive Officer by January 3, 2010.
2. The rip-rap, that may be visible at the finished surface, must be composed of native rock material. The grout that may be visible at the finished surface must be colored in a manner such that it blends with the overall landscape.
3. This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP.
4. 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.

Violation of the conditions of this water quality standards certification may 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 five (5) 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

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

- U. S. Army Corps of Engineers, Los Angeles Office – Forrest Vanderbilt
- State Water Resources Control Board, OCC – David Rice
- State Water Resources Control Board, DWQ – Water Quality Certification Unit
- California Department of Fish and Game, Ontario Office – Jeff Brandt
- U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

APF:401/certifications/sycamore ck basin 13 332008-04