

# CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

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## Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Discharge of Dredged and/or Fill Materials

**PROJECT:** Orchard Run  
Certification Number R9-2015-0039  
WDID: 9000002977

Reg. Meas. ID: 404469  
Place ID: 821407  
Party ID: 554432  
Person ID: 554433

**APPLICANT:** Touchstone Communities  
9909 Mira Mesa Blvd, Suite 150  
San Diego, CA 92131

### ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004-DWQ
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017-DWQ	

### PROJECT DESCRIPTION

An application dated January 28, 2016 was submitted by Touchstone Communities (hereinafter Applicant), for Water Quality Certification pursuant to section 401 of the Clean Water Act (United States Code (USC) Title 33, section 1341) for the proposed Orchard Run Project (Project). The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) deemed the application to be complete on February 25, 2016. The Applicant proposes to discharge dredged or fill material to waters of the United States and/or State associated with construction activity at the Project site. The Applicant has also applied for a Clean Water Act section 404 Nationwide Permit 29 from the United States Army Corps of Engineers for the Project (USACE File No. SPL-2016-00132-WSZ).

The Project is located within Valley Center, San Diego County, California between Mirar De Valle Road and Lilac Road. The Project center reading is located at latitude 33.21621 and longitude -117.04004. The Applicant has paid all required application fees for this Certification in the amount of \$6,974.00. On an annual basis, the Applicant must also pay all active discharge fees and post discharge monitoring fees, as appropriate<sup>1</sup>. On June 16, 2016, the San Diego Water Board provided public notice of the Project application pursuant to California Code of Regulations, title 23, section 3858 by posting information describing the Project on the

<sup>1</sup>Additional information regarding fees can be found electronically on the State Water Resources Control Board web site at the following location: <http://www.waterboards.ca.gov/resources/fees/>

San Diego Water Board's web site and providing a period of twenty-one days for public review and comment. No comments were received.

The Applicant proposes to construct a development of five residential neighborhoods consisting of a total of 248 attached homes and 52 duplexes with designated open space within a 118 acre area. Additionally, the project proposes a 16 foot wide bridge that will span Moosa Creek, a trail system with two pedestrian bridges over an unnamed tributary to Moosa Creek, and roadway improvements to Mirar De Valle Road, Lilac Road, Betsworth Road. Off-site flow that bypasses the development will flow into a created channel bed consisting of 630 linear feet that will then enter Moosa Creek. Overflow from water quality detention basins will also enter the created channel bed. Riparian vegetation will be planted adjacent to the new channel bed totaling 0.32 acre.

The Project will convert approximately 38 acres of pervious ground cover to impervious surfaces. Runoff leaving the developed Project area would be significantly greater in volume, velocity, peak flow rate, and duration than pre-development runoff from the same area without mitigation. Post-construction best management practices (BMPs) to manage and control the effects of these runoff increases will consist of infiltration areas and bioretention basins. These BMPs will be designed, constructed, and maintained to meet San Diego County Low Impact Development (LID) Capture Volume and hydromodification treatment requirements.

The Project application includes a description of the design objective, operation, and degree of treatment expected to be attained from equipment, facilities, or activities (including construction and post-construction BMPs) to treat waste and reduce runoff or other effluents which may be discharged. Compliance with the Certification conditions will help ensure that construction and post-construction discharges from the Project will not cause on-site or off-site downstream erosion, damage to downstream properties, or otherwise damage stream habitats in violation of water quality standards in the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan).

Project construction will permanently impact 0.06 acre (861 linear feet) of non-wetland waters of the United States and/or State. The Applicant reports that the Project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impacts to aquatic resources considering all potential practicable alternatives, such as the potential for alternate available locations, designs, reductions in size, configuration or density. Additionally, the creation of the channel bed and riparian area will impact 0.05 acre of Moosa Creek. However, this impact will be considered self-mitigating because the area will be restored to a better condition with the addition of 630 linear feet of new channel bed and 0.32 acre of adjacent riparian vegetation. The project avoided a total of 0.78 acres (4,061 linear feet) of waters of the United States and/or State.

The Applicant reports that compensatory mitigation for the permanent loss of 0.06 acre of jurisdictional waters will be achieved through the purchase of 0.12 acres of re-established river credits from the Brook Forest Mitigation Bank, a federally approved mitigation bank located within the same watershed as the project.

Additional Project details are provided in Attachments 1 through 4 of this Certification.

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### Attachments:

- 1. Definitions**
- 2. Project Location Maps**
- 3. Project Site Plans**
- 4. CEQA Mitigation Monitoring and Reporting Program**

## I. STANDARD CONDITIONS

Pursuant to section 3860 of title 23 of the California Code of Regulations, the following three standard conditions apply to all water quality certification actions:

- A. This 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 chapter 28, article 6 (commencing with title 23, section 3867), of the California Code of Regulations.
- B. This Certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to California Code of Regulations title 23, section 3855 subdivision (b), and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. This Certification action is conditioned upon total payment of any fee required under title 23, chapter 28 (commencing with section 3830) of California Code of Regulations and owed by the applicant.

## II. GENERAL CONDITIONS

- A. **Term of Certification.** Water Quality Certification No. R9-2016-0039 (Certification) shall expire upon a) the expiration or retraction of the Clean Water Act section 404 (33 USC Title 33, section 1344) permit issued by the U.S. Army Corps of Engineers for this Project, or b) five (5) years from the date of issuance of this Certification, whichever occurs first.
- B. **Duty to Comply.** The Applicant must comply with all conditions and requirements of this Certification. Any Certification noncompliance constitutes a violation of the Water Code and is grounds for enforcement action or Certification termination, revocation and reissuance, or modification.
- C. **General Waste Discharge Requirements.** The requirements of this Certification are enforceable through Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material that have Received State Water Quality Certification* (Water Quality Order No. 2003-0017-DWQ). This provision shall apply irrespective of whether a) the federal permit for which the Certification was obtained is subsequently retracted or is expired, or b) the Certification is expired. Water Quality Order No. 2003-0017-DWQ is accessible at:  
  
[http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/generalorders/gowdr401regulated\\_projects.pdf](http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/gowdr401regulated_projects.pdf).
- D. **Project Conformance with Application.** All water quality protection measures and BMPs described in the application and supplemental information for water quality certification are incorporated by reference into this Certification as if fully stated herein.

Notwithstanding any more specific conditions in this Certification, the Applicant shall construct, implement and comply with all water quality protection measures and BMPs described in the application and supplemental information. The conditions within this Certification shall supersede conflicting provisions within the application and supplemental information submitted as part of this Certification action.

- E. Project Conformance with Water Quality Control Plans or Policies.** Notwithstanding any more specific conditions in this Certification, the Project shall be constructed in a manner consistent with the Basin Plan and any other applicable water quality control plans or policies adopted or approved pursuant to the Porter Cologne Water Quality Act (Division 7, commencing with Water Code Section 13000) or section 303 of the Clean Water Act (33 USC section 1313). The Basin Plan is accessible at:

[http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/basin\\_plan/index.shtml](http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/index.shtml)

- F. Project Modification.** The Applicant must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of this Certification, to the San Diego Water Board for prior review and written approval. If the San Diego Water Board is not notified of a significant change to the Project, it will be considered a violation of this Certification.
- G. Certification Distribution Posting.** During Project construction, the Applicant must maintain a copy of this Certification at the Project site. This Certification must be available at all times to site personnel and agencies. A copy of this Certification shall also be provided to any contractor or subcontractor performing construction work, and the copy shall remain in their possession at the Project site.
- H. Inspection and Entry.** The Applicant must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents as may be required under law, to:
1. Enter upon the Project or Compensatory Mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Certification;
  2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Certification;
  3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Certification; and
  4. Sample or monitor, at reasonable times, for the purposes of assuring Certification compliance, or as otherwise authorized by the Clean Water Act or Water Code, any substances or parameters at any location.

- I. **Enforcement Notification.** In the event of any violation or threatened violation of the conditions 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.
- J. **Certification Actions.** This Certification may be modified, revoked and reissued, or terminated for cause including but not limited to the following:
1. Violation of any term or condition of this Certification;
  2. Monitoring results indicate that continued Project activities could violate water quality objectives or impair the beneficial uses of Moosa Creek or its tributaries;
  3. Obtaining this Certification by misrepresentation or failure to disclose fully all relevant facts;
  4. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and
  5. Incorporation of any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

The filing of a request by the Applicant for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Certification condition.

- K. **Duty to Provide Information.** The Applicant shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Certification or to determine compliance with this Certification.
- L. **Property Rights.** This Certification does not convey any property rights of any sort, or any exclusive privilege.
- M. **Petitions.** Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with the California Code of Regulations, title 23, sections 3867 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Certification. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

### III. CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. **Approvals to Commence Construction.** The Applicant shall not commence Project construction until all necessary federal, State, and local approvals are obtained.
- B. **Personnel Education.** Prior to the start of the Project, and annually thereafter, the Applicant must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response measures, and BMP implementation and maintenance measures.
- C. **Spill Containment Materials.** The Applicant must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.
- D. **General Construction Storm Water Permit.** Prior to start of Project construction, the Applicant must, as applicable, obtain coverage under, and comply with, the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity*, (General Construction Storm Water Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Storm Water Permit, the Applicant must develop and implement a runoff management plan (or equivalent construction BMP plan) to prevent the discharge of sediment and other pollutants during construction activities.
- E. **Waste Management.** The Applicant must properly manage, store, treat, and dispose of wastes in accordance with applicable federal, state, and local laws and regulations. Waste management shall be implemented to avoid or minimize exposure of wastes to precipitation or storm water runoff. The storage, handling, treatment, or disposal of waste shall not create conditions of pollution, contamination or nuisance as defined in Water Code section 13050. Upon Project completion, all Project generated debris, building materials, excess material, waste, and trash shall be removed from the Project site(s) for disposal at an authorized landfill or other disposal site in compliance with federal, state and local laws and regulations.
- F. **Waste Management.** Except for a discharge permitted under this Certification, the dumping, deposition, or discharge of trash, rubbish, unset cement or asphalt, concrete, grout, damaged concrete or asphalt, concrete or asphalt spoils, wash water, organic or earthen material, steel, sawdust or other construction debris waste from Project activities directly into waters of the United States and or State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited.
- G. **Downstream Erosion.** Discharges of concentrated flow during construction or after Project completion must not cause downstream erosion or damage to properties or stream habitat.

- H. **Construction Equipment.** All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. All equipment used in direct contact with surface water shall be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment.
- I. **Process Water.** Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or State or placed in locations that may be subjected to storm water runoff flows. Pollutants discharged to areas within a stream diversion must be removed at the end of each work day or sooner if rain is predicted.
- J. **Surface Water Diversion.** All surface waters, including ponded waters, must be diverted away from areas of active grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of the receiving water quality objectives. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
- K. **Re-vegetation and Stabilization.** All areas that have 14 or more days of inactivity must be stabilized within 14 days of the last activity. The Applicant shall implement and maintain BMPs to prevent erosion of the rough graded areas. After completion of grading, all areas must be re-vegetated with native species appropriate for the area. The re-vegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be accessed at <http://www.cal-ipc.org/ip/inventory/>.
- L. **Hazardous Materials.** Except as authorized by this Certification, substances hazardous to aquatic life including, but not limited to, petroleum products, unused cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.
- M. **Vegetation Removal.** Removal of vegetation must occur by hand, mechanically, or through application of United States Environmental Protection Agency (USEPA) approved herbicides deployed using applicable BMPs to minimize adverse effects to beneficial uses of waters of the United States and/or State. Discharges related to the application of aquatic pesticides within waters of the United States must be done in compliance with State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, the *Statewide General National Pollution Discharge Elimination System Permit for the Discharge of Aquatic Weed Control in Waters of the United States*, and any subsequent reissuance as applicable.

- N. **Limits of Disturbance.** The Applicant shall clearly define the limits of Project disturbance to waters of the United States and/or State using highly visible markers such as flag markers, construction fencing, or silt barriers prior to commencement of Project construction activities within those areas.
- O. **On-site Qualified Biologist.** The Applicant shall designate an on-site qualified biologist to monitor Project construction activities within or adjacent to waters of the United States and/or State to ensure compliance with the Certification requirements. The biologist shall be given the authority to stop all work on-site if a violation of this Certification occurs or has the potential to occur. Records and field notes of the biologist's activities shall be kept on-site and made available for review upon request by the San Diego Water Board.
- P. **Beneficial Use Protection.** The Applicant must take all necessary measures to protect the beneficial uses of waters of Moosa Creek. This Certification requires compliance with all applicable requirements of the Basin Plan. If at any time, an unauthorized discharge to surface waters (including rivers or streams) occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities shall cease immediately and the San Diego Water Board shall be notified in accordance with Notification Requirement VII.A of this Certification. Associated Project activities may not resume without approval from the San Diego Water Board.
- Q. **Groundwater Dewatering.** If groundwater dewatering is required for the Project, the Applicant shall enroll in and comply with the requirements of San Diego Water Board Order No. R9-2015-0013 NPDES No. CAG919003, *General Waste Discharge Requirements For Groundwater Extraction Discharges to Surface Waters within the San Diego Region* or its successor permit.

#### IV. POST-CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. **Post-Construction Discharges.** The Applicant shall not allow post-construction discharges from the Project site to cause or contribute to on-site or off-site erosion or damage to properties or stream habitats.
- B. **Storm Drain Inlets.** All storm drain inlet structures within the Project boundaries must be stamped or stenciled (or equivalent) with appropriate language prohibiting non-storm water discharges.
- C. **Post-Construction BMP Design.** The Project must be designed to comply with the most current Standard Storm Water Mitigation and Hydromodification Plans for San Diego County. Post-construction BMPs are described in the Major Stormwater Management Plan for Orchard Run Units 1 and 2 and Major Stormwater Management Plan for Orchard Run Unit 3 (SWMPs) dated December 18, 2015 and February 2013 respectively.
- D. **Post-Construction BMP Implementation.** All post-construction BMPs must be constructed, functional, and implemented prior to completion of Project construction, occupancy, and/or planned use, and maintained in perpetuity. The post construction

BMPs must include those described in the SWMPs, dated February 27, 2013 (Unit 3) and December 18, 2015 (Units 1 and 2) repaired on behalf of the Applicant by Chang Consultants; or any subsequent version of the SWMP approved by San Diego County.

- E. Post-Construction BMP Maintenance.** The post construction BMPs must be designed, constructed, and maintained in accordance with the most recent California Storm Water Quality Association (CASQA)<sup>2</sup> guidance. The Applicant shall:
1. No less than two times per year, assess the performance of the BMPs to ensure protection of the receiving waters and identify any necessary corrective measures;
  2. Perform inspections of BMPs, at the beginning of the wet season no later than October 1 and the end of the wet season no later than April 1, for standing water, slope stability, sediment accumulation, trash and debris, and presence of burrows;
  3. Regularly perform preventative maintenance of BMPs, including removal of accumulated trash and debris, as needed to ensure proper functioning of the BMPs;
  4. Identify and promptly repair damage to BMPs; and
  5. Maintain a log documenting all BMP inspections and maintenance activities. The log shall be made available to the San Diego Water Board upon request.

## **V. PROJECT IMPACTS AND COMPENSATORY MITIGATION**

- A. Project Impact Avoidance and Minimization.** The Project must avoid and minimize adverse impacts to waters of the United States and/or State to the maximum extent practicable.
- B. Project Impacts and Compensatory Mitigation.** Unavoidable Project impacts to Moosa Creek and its unnamed tributaries within the San Luis Rey Watershed must not exceed the type and magnitude of impacts described in the table below. At a minimum, compensatory mitigation required to offset unavoidable temporary and permanent Project impacts to waters of the United States and/or State must be achieved as described in the table below:

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<sup>2</sup> California Storm Water Quality Association (*California Storm Water BMP Handbook, New Development and Redevelopment 2003*), available on-line at: <http://www.cabmphandbooks.org/> [Accessed on January 15, 2012]

	Impacts (acres)	Impacts (linear ft.)	Mitigation for Impacts (acres)	Mitigation Ratio (area mitigated :area impacted)	Mitigation for Impacts (linear ft.)	Mitigation Ratio (linear feet mitigated :linear feet impacted)
<b>Permanent Impacts</b>						
Stream Channel	0.06	861	0.12 Restablishment <sub>1</sub>	2:1	N/A <sup>2</sup>	N/A

1. Project compensatory mitigation river re-establishment credits will be used from the Brook Forest Mitigation Bank, San Diego County, CA.
2. Compensatory mitigation is being provided in a contiguous area at the Brook Forest Mitigation Bank

C. **Mitigation Credit Purchase.** The Applicant must provide the San Diego Water Board proof of mitigation credit purchase(s) from the Brook Forest Mitigation Bank prior to the start of construction.

D. **Temporary Project Impact Areas.** The Applicant must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge of pollutants to waters of the United States and/or State. Restoration must include grading of disturbed areas to pre-project contours and re-vegetation with native species. The Applicant must implement all necessary BMPs to control erosion and runoff from areas associated with the Project.

## VI. MONITORING AND REPORTING REQUIREMENTS

- A. **Representative Monitoring.** Samples and measurements taken for the purpose of monitoring under this Certification shall be representative of the monitored activity.
- B. **Monitoring Reports.** Monitoring results shall be reported to the San Diego Water Board at the intervals specified in section VI of this Certification.
- C. **Monitoring and Reporting Revisions.** The San Diego Water Board may make revisions to the monitoring program at any time during the term of this Certification and may reduce or increase the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.
- D. **Records of Monitoring Information.** Records of monitoring information shall include:
  1. The date, exact place, and time of sampling or measurements;
  2. The individual(s) who performed the sampling or measurements;
  3. The date(s) analyses were performed;

4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

- E. Geographic Information System Data.** The Applicant must submit Geographic Information System (GIS) shape files of the Project impact sites within 30 days of the start of project construction and GIS shape files of the Project mitigation sites within 30 days of mitigation installation. All impact and mitigation site shape files must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.
- F. Annual Project Progress Reports.** The Applicant must submit annual Project progress reports describing status of BMP implementation and compliance with all requirements of this Certification to the San Diego Water Board prior to **March 1** of each year following the issuance of this Certification, until the Project has reached completion. Annual Project Progress Reports must be submitted even if Project construction has not begun. The monitoring period for each Annual Project Progress Report shall be January 1<sup>st</sup> through December 31<sup>st</sup> of each year. Annual Project Progress Reports must include, at a minimum, the following Project status and compliance information:
1. The names, qualifications, and affiliations of the persons contributing to the report;
  2. The status, progress, and anticipated schedule for completion of Project construction activities including the installation and operational status of best management practices project features for erosion and storm water quality treatment;
  3. A description of Project construction delays encountered or anticipated that may affect the schedule for construction completion; and
  4. A description of each incident of noncompliance during the annual monitoring period and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- G. Final Project Completion Report.** The Applicant must submit a Final Project Completion Report to the San Diego Water Board **within 30 days of completion of the Project**. The final report must include the following information:
1. Date of construction initiation;
  2. Date of construction completion;

3. BMP installation and operational status for the Project;
4. As-built drawings of the Project, no bigger than 11”X17”;
5. Photo documentation of implemented post-construction BMPs and all areas of permanent and temporary impacts, prior to and after project construction. Photo documentation must be conducted in accordance with guidelines posted at [http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/401\\_certification/docs/401c/401PhotoDocRB9V713.pdf](http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf). In addition, photo documentation must include Global Positioning System (GPS) coordinates for each of the photo points referenced; and

H. **Reporting Authority.** The submittal of information required under this Certification, or in response to a suspected violation of any condition of this Certification, is required pursuant to Water Code section 13267 and 13383. Civil liability may be administratively imposed by the San Diego Water Board for failure to submit information pursuant to Water Code sections 13268 or 13385.

I. **Electronic Document Submittal.** The Applicant must submit all reports and information required under this Certification in electronic format via e-mail to [SanDiego@waterboards.ca.gov](mailto:SanDiego@waterboards.ca.gov). Documents over 50 megabytes will not be accepted via e-mail and must be placed on a disc and delivered to:

California Regional Water Quality Control Board  
San Diego Region  
Attn: 401 Certification No. R9-2016-0039:821407:ngergans  
2375 Northside Drive, Suite 100  
San Diego, California 92108

Each electronic document must be submitted as a single file, in Portable Document Format (PDF), and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: Certification No. R9-2016-0039:821407:ngergans.

J. **Document Signatory Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be signed as follows:

1. For a corporation, by a responsible corporate officer of at least the level of vice president.
2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.

3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
4. A duly authorized representative may sign applications, reports, or information if:
  - a. The authorization is made in writing by a person described above.
  - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
  - c. The written authorization is submitted to the San Diego Water Board Executive Officer.

If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.

- K. **Document Certification Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be certified as follows:

*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

## VII. NOTIFICATION REQUIREMENTS

- A. **Twenty Four Hour Non-Compliance Reporting.** The Applicant shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the San Diego Water Board within **24 hours** from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The San Diego Water Board, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- B. **Hazardous Substance Discharge.** Except as provided in Water Code section 13271(b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the State, shall as soon as (a) that person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the County of San Diego, in accordance with

California Health and Safety Code section 5411.5 and the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State toxic disaster contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.17), and immediately notify the State Water Board or the San Diego Water Board of the discharge. This provision does not require reporting of any discharge of less than a reportable quantity as provided for under subdivisions (f) and (g) of section 13271 of the Water Code unless the Applicant is in violation of a Basin Plan prohibition.

- C. **Oil or Petroleum Product Discharge.** Except as provided in Water Code section 13272(b), any person who without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, shall, as soon as (a) such person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State oil spill contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.1). This requirement does not require reporting of any discharge of less than 42 gallons unless the discharge is also required to be reported pursuant to Clean Water Act section 311, or the discharge is in violation of a Basin Plan prohibition.
- D. **Anticipated Noncompliance.** The Applicant shall give advance notice to the San Diego Water Board of any planned changes in the Project or the Compensatory Mitigation project which may result in noncompliance with Certification conditions or requirements.
- E. **Commencement of Construction Notification.** The Applicant must notify the San Diego Water Board in writing at least 5 days prior to the start of initial Project construction ground disturbance
- F. **Transfers.** This Certification is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board in accordance with the following terms:
1. **Transfer of Property Ownership:** The Applicant must notify the San Diego Water Board of any change in ownership of the Project area. Notification of change in ownership must include, but not be limited to, a statement that the Applicant has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the San Diego Water Board **within 10 days of the transfer of ownership.**
  2. **Transfer of Mitigation Responsibility:** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in this Certification must include a signed statement from an authorized representative of the new party

(transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board **within 10 days of the transfer date.**

3. **Transfer of Post-Construction BMP Maintenance Responsibility:** The Applicant assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred the Applicant must submit to the San Diego Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Applicant must provide such notification to the San Diego Water Board within **10 days** of the transfer of BMP maintenance responsibility.

Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the Applicant will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the Applicant of responsibility for compliance with this Certification in the event that a transferee fails to comply.

## **VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE**

- A. The County of San Diego is the Lead Agency under the California Environmental Quality Act (CEQA) (Public Resources Code section 21000, et seq.) section 21067, and CEQA Guidelines (California Code of Regulations, title 14, section 15000 et seq.) section 15367, and has filed a Notice of Determination dated June 17, 1998 for the Final Environmental Impact Report (FEIR) titled Final Environmental Impact Report of the Orchard Run Specific Plan (SP#95-004), and Tentative Map (TM# 5087), Environmental Log # 95-8-33 Valley Center, California (State Clearing House Number 96101050). The Lead Agency has determined the Project will have a significant effect on the environment and mitigation measures were made a condition of the Project.
- B. The San Diego Water Board is a Responsible Agency under CEQA (Public Resources Code section 21069; CEQA Guidelines section 15381). The San Diego Water Board has considered the Lead Agency's FEIR and finds that the Project as proposed will have a significant effect on resources within the San Diego Water Board's purview.
- C. The San Diego Water Board has required mitigation measures as a condition of this Certification to avoid or reduce the environmental effects of the Project to resources within the Board's purview to a less than significant level.
- D. The Lead Agency has adopted a mitigation monitoring and reporting program pursuant to Public Resources Code section 21081.6 and CEQA Guidelines section 15097 to ensure that mitigation measures and revisions to the Project identified in the FEIR are implemented. The Mitigation Monitoring and Reporting Program (MMRP) is included

within San Diego County's Resolution of Approval for Specific Plan SP 95-004 and incorporated by reference in Attachment 4 to this Certification. The Applicant shall implement the Lead Agency's MMRP described in the FEIR, as it pertains to resources within the San Diego Water Board's purview. The San Diego Water Board has imposed additional MMRP requirements as specified in sections V and VI of this Certification.

- E. As a Responsible Agency under CEQA, the San Diego Water Board will file a Notice of Determination in accordance with CEQA Guidelines section 15096 subdivision (i).

#### IX. SAN DIEGO WATER BOARD CONTACT PERSON

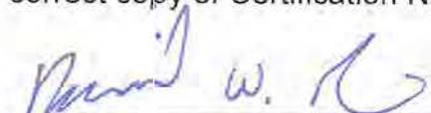
Nicole Gergans, Environmental Scientist  
Telephone: 619-521-3969  
Email: [nicole.gergans@waterboards.ca.gov](mailto:nicole.gergans@waterboards.ca.gov)

#### X. WATER QUALITY CERTIFICATION

I hereby certify that the proposed discharge from the **Orchard Run** (Certification No. R9-2016-0039) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)*," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue individual waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited to, and all proposed mitigation being completed in strict compliance with, the applicants' Project description and/or the description in this Certification, and (b) compliance with all applicable requirements of the Basin Plan.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Certification No. R9-2016-0039 issued on November 2, 2017.

  
\_\_\_\_\_  
DAVID W. GIBSON  
Executive Officer  
San Diego Water Board

2 November 2017  
Date

## ATTACHMENT 1 DEFINITIONS

**Activity** - when used in reference to a permit means any action, undertaking, or project including, but not limited to, construction, operation, maintenance, repair, modification, and restoration which may result in any discharge to waters of the state.

**Buffer** - means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.

**California Rapid Assessment Method (CRAM)** - is a wetland assessment method intended to provide a rapid, scientifically-defensible and repeatable assessment methodology to monitor status and trends in the conditions of wetlands for applications throughout the state. It can also be used to assess the performance of compensatory mitigation projects and restoration projects. CRAM provides an assessment of overall ecological condition in terms of four attributes: landscape context and buffer, hydrology, physical structure and biotic structure. CRAM also includes an assessment of key stressors that may be affecting wetland condition and a "field to PC" data management tool (eCRAM) to ensure consistency and quality of data produced with the method.

**Compensatory Mitigation Project** - means compensatory mitigation implemented by the Applicant as a requirement of this Certification (i.e., applicant -responsible mitigation), or by a mitigation bank or an in-lieu fee program.

**Discharge of dredged material** – means any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States and/or State.

**Discharge of fill material** – means the addition of fill material into waters of the United States and/or State.

**Dredged material** – means material that is excavated or dredged from waters of the United States and/or State.

**Ecological Success Performance Standards** – means observable or measurable physical (including hydrological), chemical, and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.

**Enhancement** – means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

**Establishment** – means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist. Creation results in a gain in aquatic resource area.

**Fill material** – means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body.

**Isolated wetland** – means a wetland with no surface water connection to other aquatic resources.

**Mitigation Bank** – means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing mitigation for impacts authorized by this Certification.

**Preservation** - means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Re-establishment** - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/ historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

**Rehabilitation** - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/ historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Restoration** - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

**Start of Project Construction** - For the purpose of this Certification, "start of Project construction" means to engage in a program of on-site construction, including site clearing, grading, dredging, landfilling, changing equipment, substituting equipment, or even moving the location of equipment specifically designed for a stationary source in preparation for the fabrication, erection or installation of the building components of the stationary source within waters of the United States and/or State.

**Uplands** - means non-wetland areas that lack any field-based indicators of wetlands or other aquatic conditions. Uplands are generally well-drained and occur above (i.e., up-slope) from nearby aquatic areas. Wetlands can, however, be entirely surrounded by uplands. For example, some natural seeps and constructed stock ponds lack aboveground hydrological connection to other aquatic areas. In the watershed context, uplands comprise the landscape matrix in which aquatic areas form. They are the primary sources of sediment, surface runoff, and associated chemicals that are deposited in aquatic areas or transported through them.

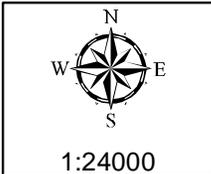
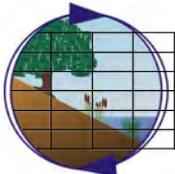
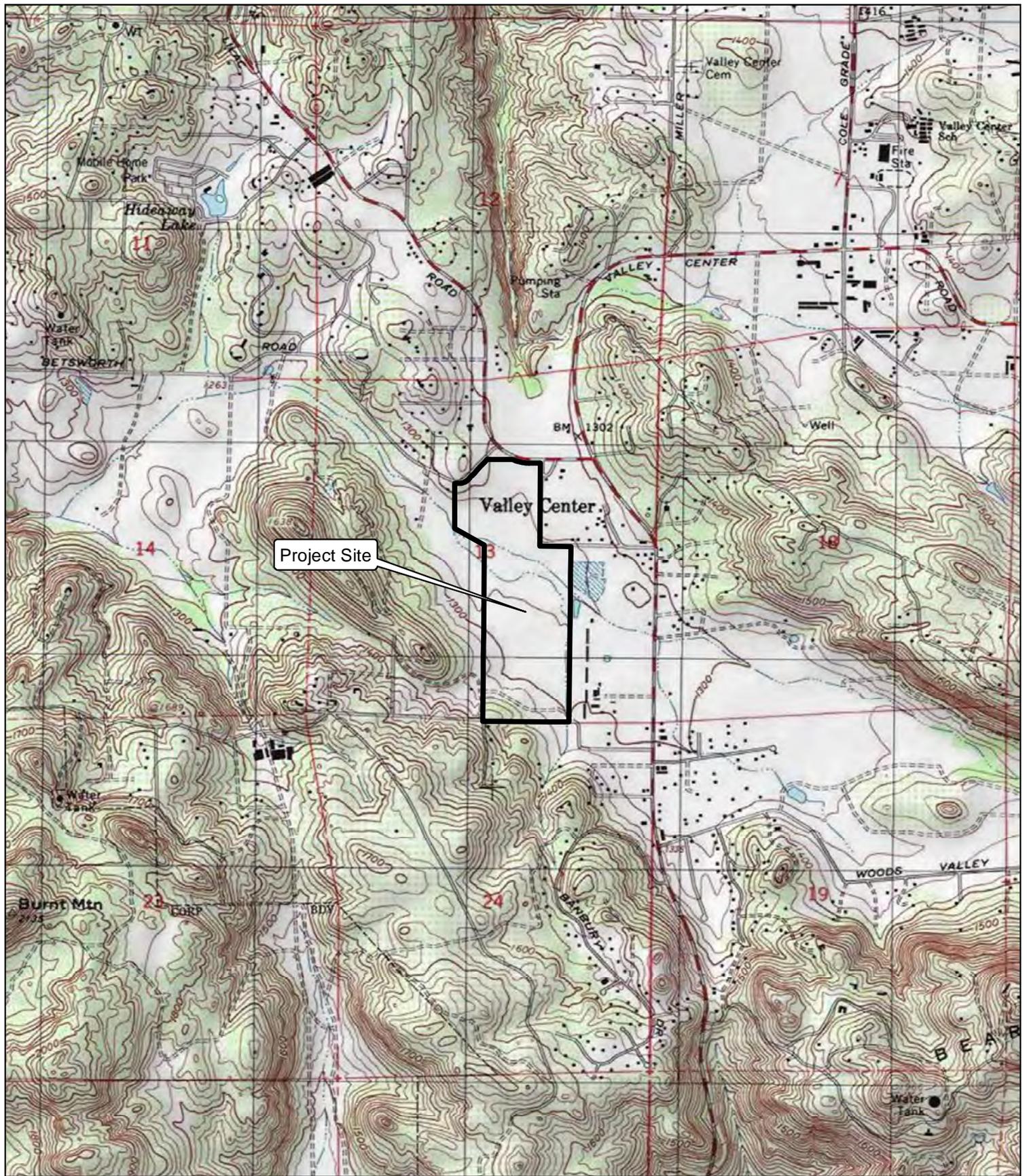
**Water quality objectives and other appropriate requirements of state law** – means the water quality objectives and beneficial uses as specified in the appropriate water quality control plan(s); the applicable provisions of sections 301, 302, 303, 306, and 307 of the Clean Water Act; and any other appropriate requirement of state law.

**Waters of the State** - means any surface water or groundwater, including saline waters, within the boundaries of the State. [Water Code section 13050, subd. (e)].

Touchstone Communities  
Orchard Run Project  
Certification No. R9-2016-0039

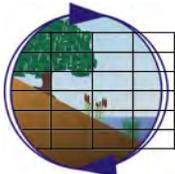
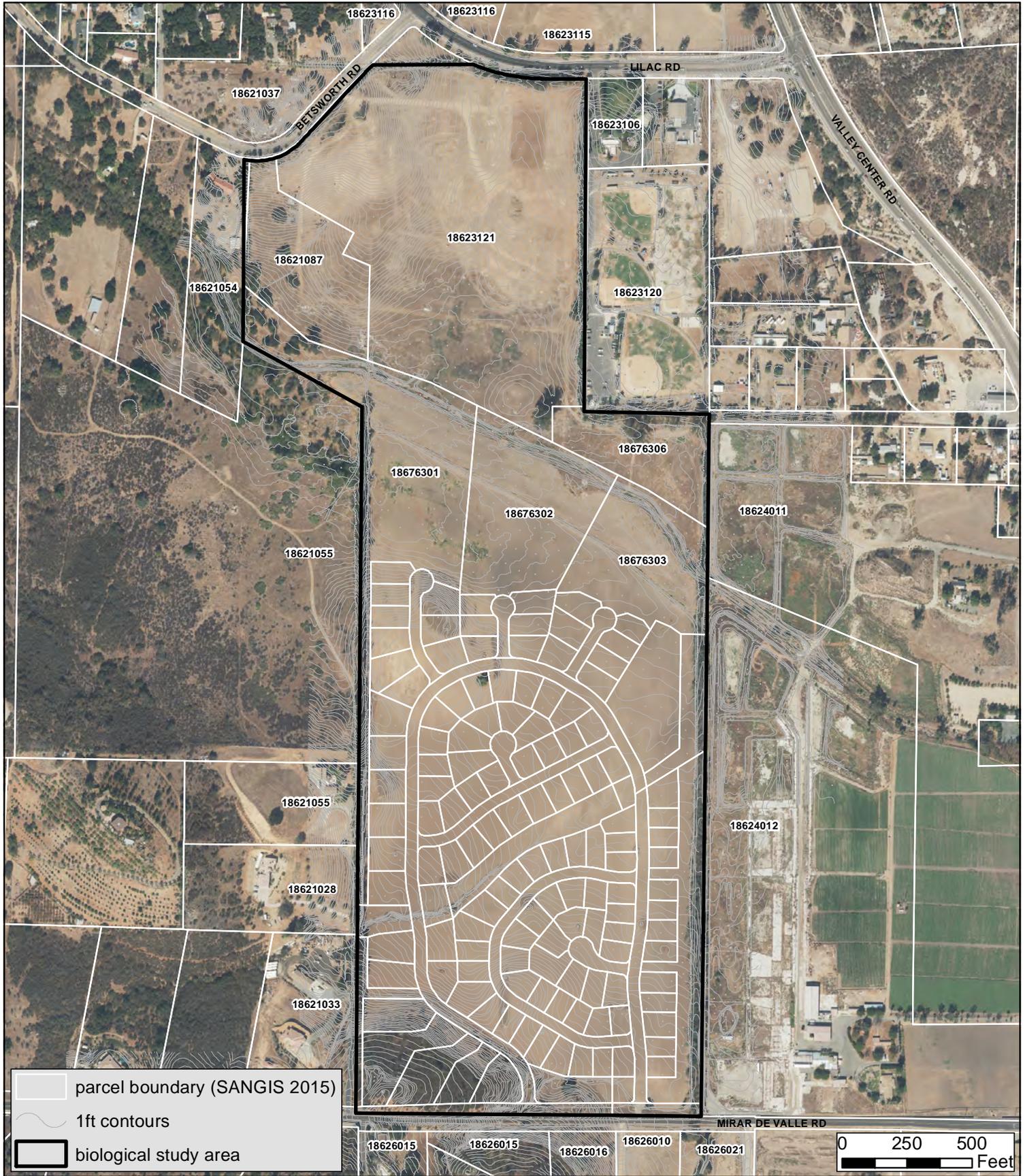
**ATTACHMENT 2  
PROJECT LOCATION MAPS**

- 1) Figure 1 – Project Vicinity Map – Orchard Run Project**
- 2) Figure 2 – Local Setting Map – Orchard Run Project**



**Project Vicinity Map**  
Orchard Run Project  
Source: USGS 7.5' Valley Center, CA Quadrangle

**Figure 1**



**Local Setting Map**  
Orchard Run Project

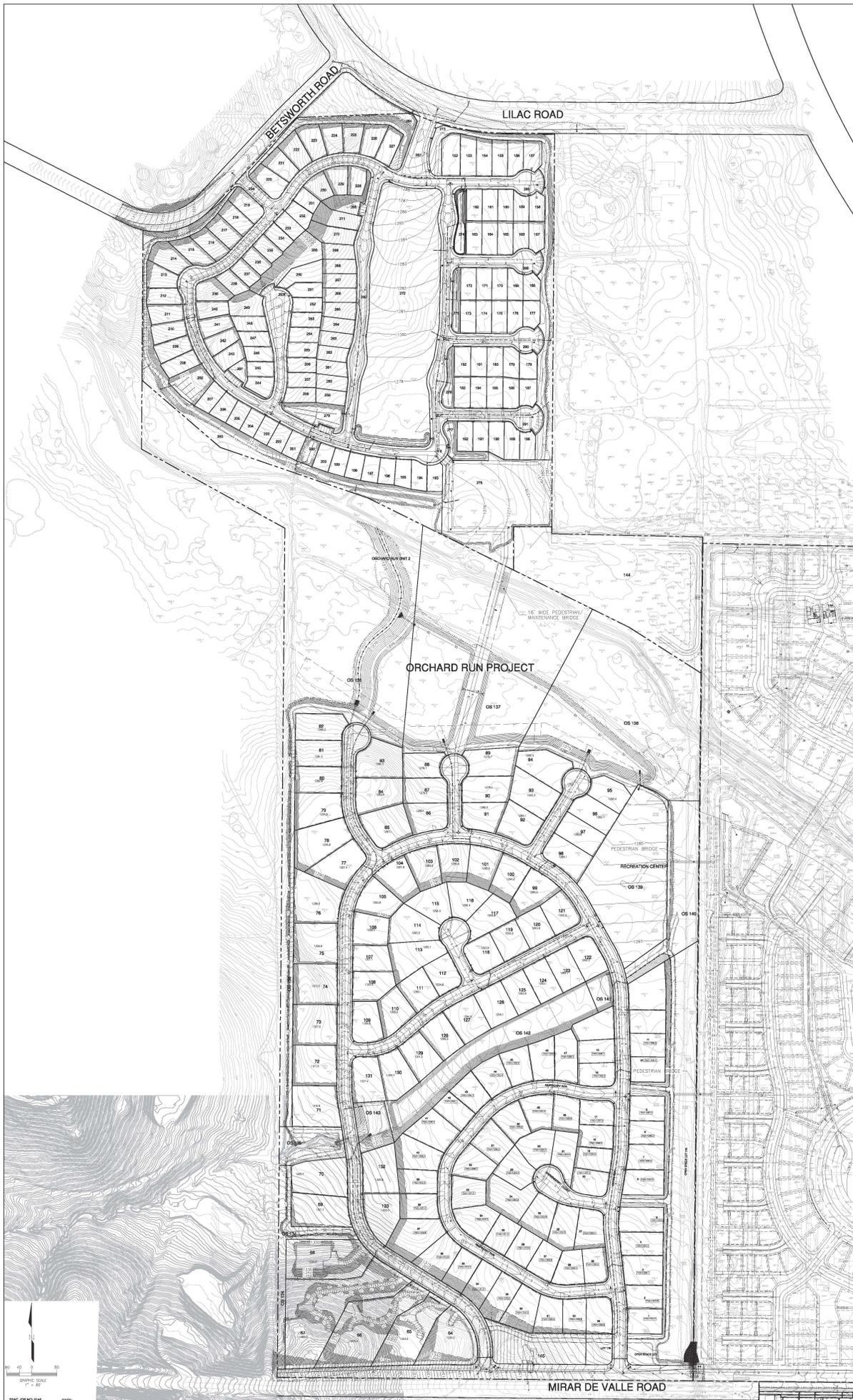
Aerial Source: SANDAG 2014

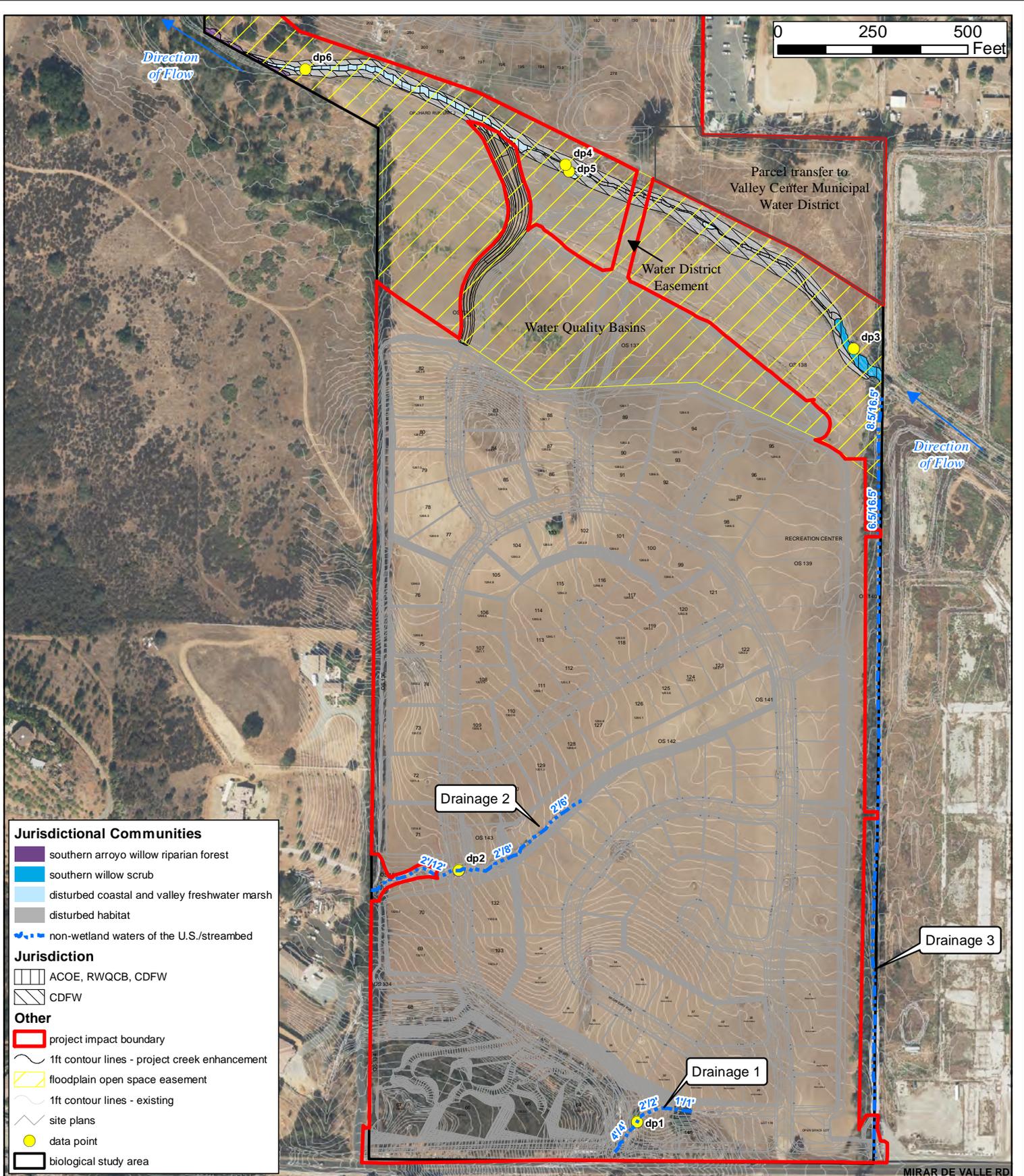
**Figure 2**

Touchstone Communitēs  
Orchard Run Project  
Certification No. R9-2016-0039

**ATTACHMENT 3  
PROJECT SITE PLANS**

- 1) Orchard Run Units 1-3**
- 2) Figure 2 – Jurisdictional Impacts Map**
- 3) Figure 3 – Moosa Creek Floodplain Open Space Drainage – Orchard Run Project**
- 4) Figure 4 – Moosa Canyon Creek Floodplain Open Space Drainage Design – Conceptual Grading Plan – Orchard Run Project**





**Jurisdictional Communities**

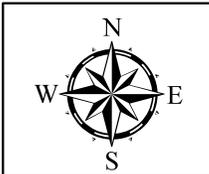
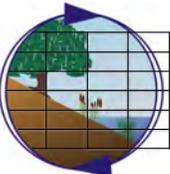
- southern arroyo willow riparian forest
- southern willow scrub
- disturbed coastal and valley freshwater marsh
- disturbed habitat
- non-wetland waters of the U.S./streambed

**Jurisdiction**

- ACOE, RWQCB, CDFW
- CDFW

**Other**

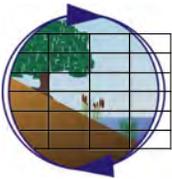
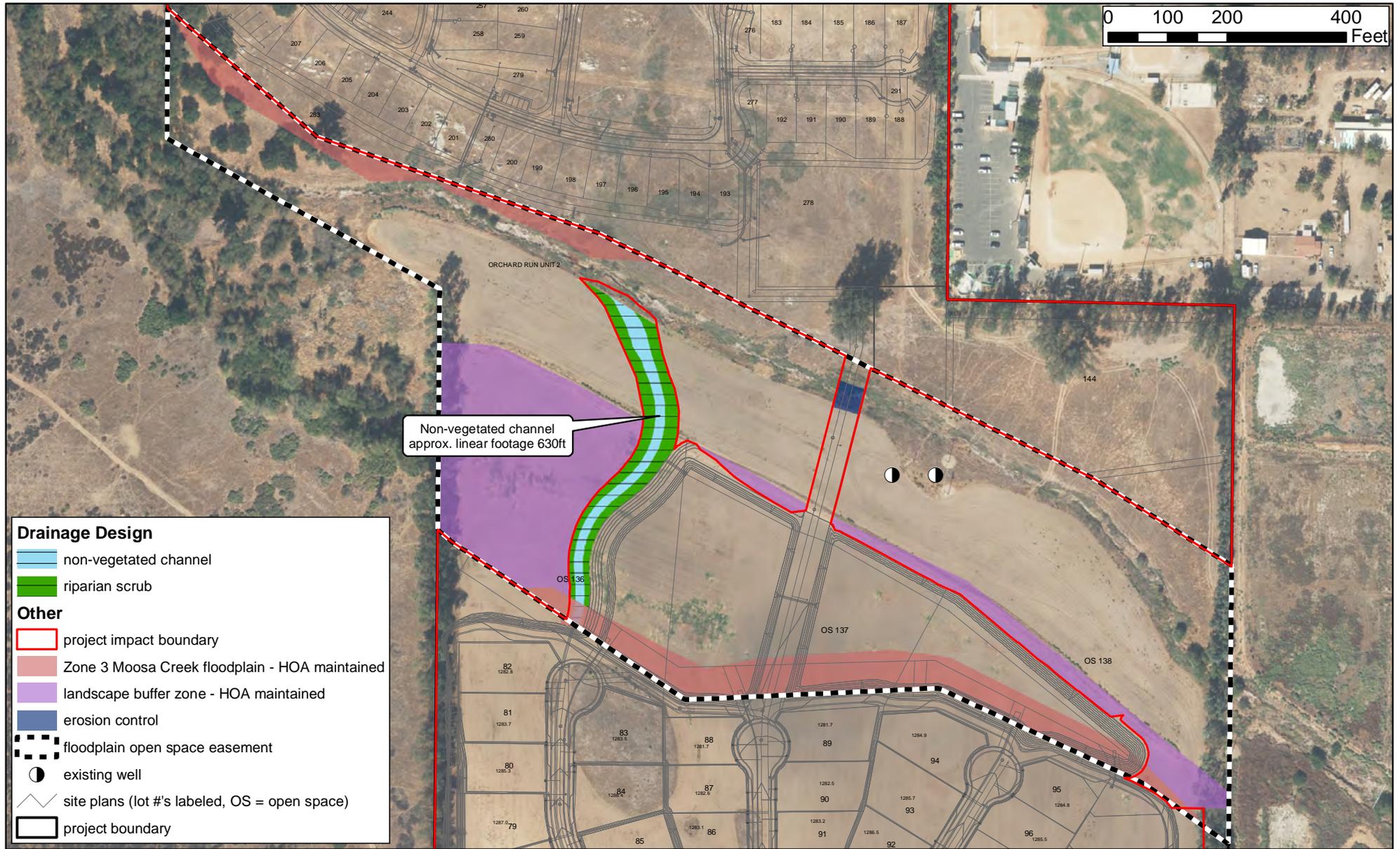
- project impact boundary
- 1ft contour lines - project creek enhancement
- floodplain open space easement
- 1ft contour lines - existing
- site plans
- data point
- biological study area



**Jurisdictional Impacts Map**  
Orchard Run Project

Aerial Source: SANDAG 2014

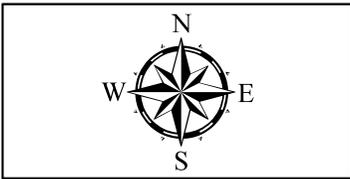
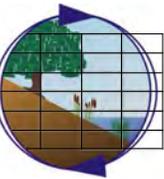
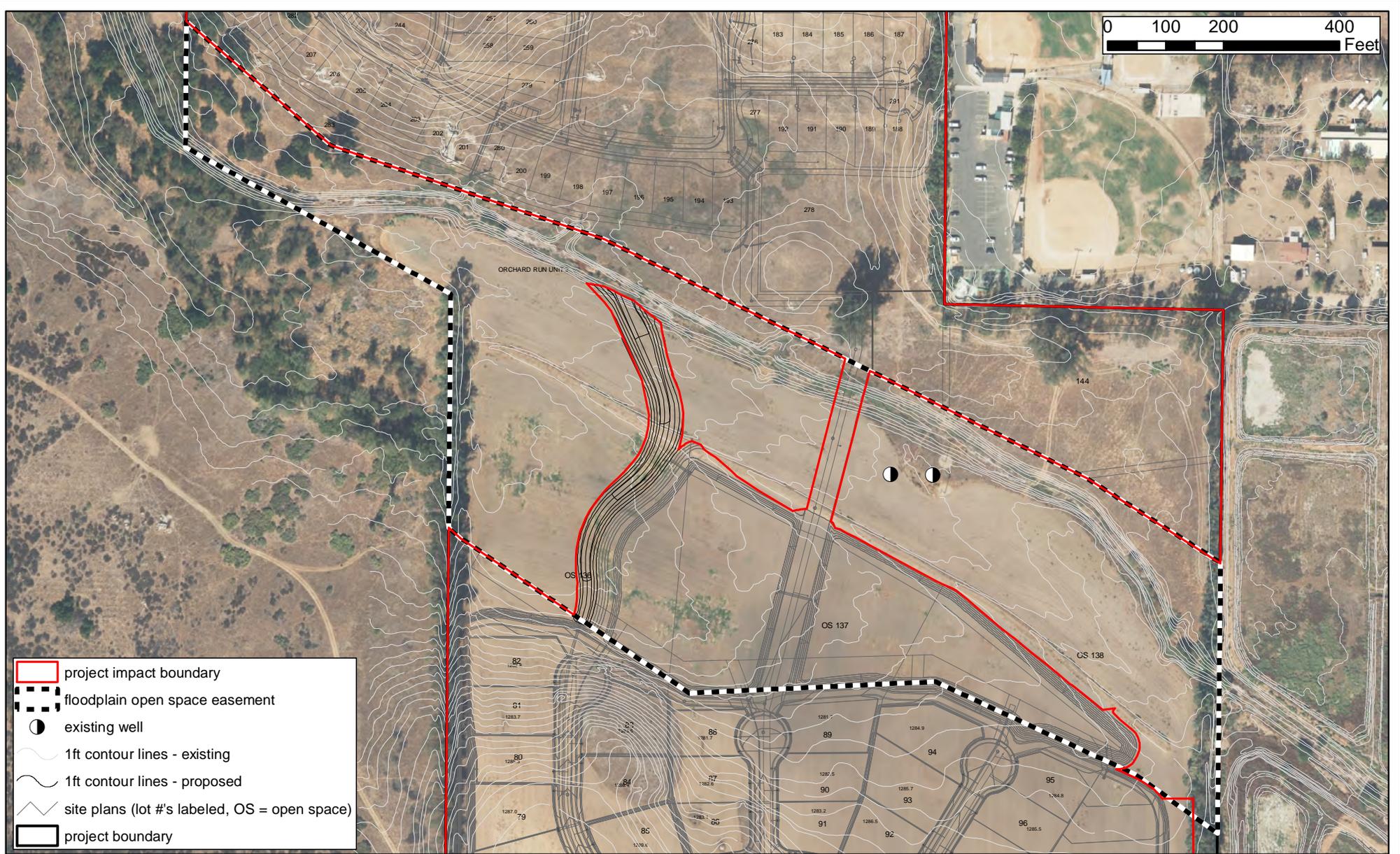
**Figure 2**



**Moosa Canyon Creek Floodplain Open Space Drainage Design**  
Orchard Run Project

Aerial Source: SANDAG 2014

**Figure 3**



**Moosa Canyon Creek Floodplain Open Space Drainage Design -  
Conceptual Grading Plan**  
Orchard Run Project

Aerial Source: SANDAG 2014

**Figure 4**

Applicant  
Project Name  
Certification No. R9-2016-0039

**ATTACHMENT 5**  
**CEQA MITIGATION MONITORING AND REPORTING PROGRAM**

RESOLUTION OF THE SAN DIEGO )  
COUNTY BOARD OF SUPERVISORS )  
APPROVING SPECIFIC PLAN SP 95-004)  
ORCHARD RUN )

ON MOTION of Supervisor Horn, seconded by Supervisor Roberts, the following Resolution is adopted:

WHEREAS, the John A. Belanich Separate Property Trust (hereinafter referred to as the "applicant") submitted an application for the Orchard Run Specific Plan (SP 95-004) on December 22, 1995 for consideration by the Planning Commission and Board of Supervisors, pursuant to Board of Supervisors' Policy I-59, Large Scale Project Review; and

WHEREAS, a Specific Plan known as Orchard Run has been prepared for an area comprising 118.3 acres located approximately 1,250 feet west of Valley Center Road, with portions of the northern boundary of the site adjoining Betsworth and Lilac Roads; the southern boundary of the site abuts Mirar de Valle; and

WHEREAS, said Specific Plan is based upon the Valley Center Community Plan, as adopted by the Board of Supervisors, which designates the site as a (21) Specific Plan Area (with a permitted density of 7.3 dwelling units per acre in the northern portion of the site and 1.5 dwelling units per acre in the southern portion of the site), and provides guidelines for developing the Specific Plan within the Valley Center Community Plan text; and

WHEREAS, said Specific Plan complies with the provisions of Board of Supervisors' Policy I-59; and

WHEREAS, the applicant has stated the intent to:

1. Prepare 118.3 acres of land for construction for a maximum of 300 dwelling units, at a density of 7.3 dwelling units per acre for the northern portion of the site (north of the Moosa Creek floodplain) and 1.5 dwelling units per acre for the southern portion of the site (south of the Moosa Creek floodplain), with active and passive recreation facilities, greenbelt open space areas, and floodplain open space consisting of 18.9 acres within the 100 year floodway of Moosa Creek, and a "Wastewater Treatment Plant".
2. Ensure that such preparation be done in accordance with all applicable adopted plans, programs, ordinances, and policies.
3. Phase the development in accordance with circulation, marketing, and the availability of public services and facilities.

DAVID HULSE, CHIEF  
694-3706

4. Dedicate land and provide required improvements to Circulation Element roads affecting the external boundaries of the property in accordance with County standards and the recommendations of the County Department of Public Works.
5. Preserve the natural topography and characteristics of the property as much as is feasible by means of open space easements and maintenance of natural slopes.

WHEREAS, pursuant to Section 65450 et seq. of the Government Code, the Planning Commission on May 9, 1997 and May 22, 1998, conducted a duly advertised public hearing on the proposed Orchard Run Specific Plan (SP 95-004); and

WHEREAS, pursuant to Section 65354 et seq. of the Government Code, the Planning Commission, on May 9, 1997, by a vote of 4-0-3, reported to the Board of Supervisors with a recommendation to approve the Orchard Run Specific Plan (SP 95-004) because the project is consistent with the General Plan and the Valley Center Community Plan. On May 22, 1998, by a vote of 6-1-0 the Planning Commission reported to the Board of Supervisors with a recommendation to approve the revised project to allow the use of a future, on-site wastewater treatment plant for the Orchard Run Specific Plan; and

WHEREAS, pursuant to Section 65355 of the Government Code, the Board of Supervisors on June 17, 1998, conducted a duly advertised public hearing on the proposed Orchard Run Specific Plan (SP 95-004); and

WHEREAS, the Board of Supervisors finds that the Specific Plan does provide for the reasonable use and development of the area of the County included with said Specific Plan; and

WHEREAS, the Board of Supervisors has considered said Specific Plan (SP 95-004) and the recommendation of the Planning Commission, the Department of Planning and Land Use, the Department of Public Works, the Department of Environmental Health, the Valley Center Community Planning Group, the Valley Center Municipal Water District, and the Valley Center Fire Protection District, and with respect thereto, has determined that the requirements hereinafter enumerated are necessary to ensure that the Specific Plan, and the implementation thereof, will conform to all ordinances, policies, rules, standards, and improvement and design requirements of the County of San Diego except as specifically waived; and

WHEREAS, pursuant to the findings of the final Environmental Impact Report (EIR) for SP 95-004 and TM 5087RPL<sup>1</sup>, the Orchard Run Specific Plan would have

significant land use/community character, visual quality, agriculture, traffic circulation, noise, biological resources, and public service impacts on the environment.

BE IT FURTHER RESOLVED that the Board of Supervisors finds that the Orchard Run Specific Plan (SP 95-004) is consistent with the San Diego County General Plan and the Valley Center Community Plan in that the goals, objectives, and policies of all the elements of the plans have been or will be met.

BE IT FURTHER RESOLVED that the Board of Supervisors finds that the level and intensity of development proposed by the Orchard Run Specific Plan is appropriate because it proposes a range of housing types, densities and lot sizes within the Valley Center Country Town Regional Category which provides a transition from existing commercial uses along Valley Center Road located to the east of the project site and rural residential areas located to the west of the project site.

BE IT FURTHER RESOLVED that the Board of Supervisors finds that the Orchard Run Specific Plan (SP 95-004) is consistent with the San Diego County General Plan because 300 dwelling units, active and passive recreation areas, greenbelt and floodplain open space areas, and a Wastewater Treatment Plant are proposed in conformance with the Valley Center Community Plan designation of (21) Specific Plan Area (with a permitted density of 7.3 dwelling units per acre in the northern portion of the site and 1.5 dwelling units per acre in the southern portion of the site).

BE IT FURTHER RESOLVED that the Board of Supervisors hereby adopts the Orchard Run Specific Plan as Specific Plan SP 95-004, consisting of the text entitled Orchard Run Specific Plan dated February 12, 1998, a map entitled Orchard Run Land Use Plan dated February 12, 1998, and this Resolution.

BE IT FURTHER RESOLVED that the following conditions be met in order to implement the Specific Plan:

1. The applicant shall submit within 30 days of the approval of this Specific Plan revised copies of the Specific Plan text and map that include any additions, deletions, or modifications approved by the Board of Supervisors to the Department of Planning and Land Use.
2. The Specific Plan area shall be developed pursuant to Part A, "Development Review Procedures", Part B, "Land Use Regulations", and Part C, "Lower Income Housing Proposal" of Section V, "Implementation", and Part B, "Design Criteria from the Valley Center Design Guidelines" of Section VI, "Design Guidelines" as stated in the Specific Plan text. All implementing projects and proposed uses (Tentative Map, Major Use

Permit, Administrative Permit, and Site Plan) shall be reviewed for conformance to the development review procedures and land use regulations.

- 3. In addition to those mitigation measures and conditions specified in this Resolution, specific mitigation measures and other required conditions for development of the site are contained in the following concurrent implementing permits: Resolution of Approval for Tentative Map TM 5087RPL<sup>1</sup>.
- 4. Site Plans shall be submitted for review and approval prior to issuance of any building permit for development of single-family Neighborhoods A and E, Neighborhood B townhome site, and the two community recreation sites. Development plans for these sites shall be reviewed for conformance with the Valley Center Design Guidelines as set forth in the Orchard Run Specific Plan text dated February 12, 1998.
- 5. The required Site Plans for the construction of the two community recreation sites shall include all common open space areas (within the respective northern and southern areas) and shall be completed prior to the issuance of any building permit for the respective northern and southern portions of the project site.
- 6. Prior to approval of any final subdivision map, an Administrative Permit shall be submitted and approved by the Director of Planning and Land Use in accordance with Sections 7050 through 7099 of the San Diego County Zoning Ordinance, to establish a homeowners association to be responsible for maintaining the Orchard Run Specific Plan community recreation sites, open space lots, trails, and common area landscaping. The Administrative Permit shall specify the level of maintenance of said community recreation sites, open space lots, trails, and common area landscaping. A caretaker's dwelling may also be permitted by Administrative Permit in one of the two community recreation sites, not to exceed 600 square feet of floor area.
- 7. Greenbelt open space shall be provided as a buffer along the entire perimeter of the Specific Plan Area.
- 8. Any Major Use Permit for a future Wastewater Treatment Plant shall:
  - a. Incorporate a landscaped greenbelt buffer to provide a visual screen between the wastewater treatment plant and the adjacent community recreation site, residences and the dairy.

Form of revision
Approved
CO. CNSL
By <i>PA</i>
Date <i>10/18/98</i>

*MWD*  
*Reviewer & Approver*  
 ↓

- b. Include landscaping to enhance the off-site views of the wastewater treatment plant and storage ponds. Landscaping shall include ornamental trees and groundcover similar to that utilized within other use areas of the Orchard Run Specific Plan.
- c. Include a condition that prior to issuance of a building permit for the wastewater treatment plant, the developer shall demonstrate that noise levels at the property line of the wastewater treatment plant do not exceed the applicable limits established by the County of San Diego Noise Ordinance.
- d. Include a condition that the facility be operated and maintained in compliance with the allowable noise generation levels as discussed in the Noise Element of the General Plan and the one hour sound level limits included in Section 36.404 of the County Code. The applicable sound level limits of Section 36.404 are 50 decibels (7:00 a.m. to 10:00 p.m.) and 45 decibels (10:00 p.m. to 7:00 a.m.) measured at any adjacent residential property line. The design may include construction of a six-foot high masonry wall to limit off-site noise levels.
- e. Include a condition that sludge awaiting off-site transport will be stored within the treatment facility building and bags of sludge will be stacked on wooden pallets up to four high with four bags per layer for a total of 16 bags per pallet. Drains will be located beneath the bagged sludge to catch any moisture that escapes from the bags. The bags of sludge will be stored until a truck load has accumulated. The sludge will be hauled to a landfill approved for the disposal of this type of waste.
- f. Include a condition to provide a minimum of 84 days of on-site storage capacity for reclaimed water for periods of wet weather when irrigation may not be feasible.
- g. Include a condition that irrigation storage ponds be lined to prevent infiltration into the groundwater and will be enclosed within a six-foot high chainlink fence.
- h. Include a condition that any excess soil from excavation of the irrigation storage ponds will be used within the Orchard Run project. No soils will be exported off-site nor placed within the Moosa Creek floodway.

- i. Incorporate the following features into the project's construction plans to the satisfaction of the Director of Planning and Land Use:
  - (1) Noise-attenuating exhaust vents will be directed to the south away from the nearby on-site residential area to the north and the off-site athletic fields to the east and northeast.
  - (2) The influent pump station for the wastewater treatment plant will be completely below ground and will feature submersible pumps. The effluent pump station will feature a wetwell below grade with electric motors mounted at ground level.
  - (3) The emergency power generator will be housed within a sound attenuating enclosure to a maximum height of six feet and will be equipped with a muffler such as required for hospital operations. Intake and exhaust vents shall also be limited to a maximum of six feet above grade.
  - (4) Locate all construction and grading, including the wastewater treatment plant, reclaimed water storage ponds and associated grading and fencing, outside of the floodway of Moosa Creek.
  - (5) A vent unit within an enclosed treatment facility building which will consist of activated carbon units with flow rates of approximately 5,000 cubic feet per minute per unit.
  - (6) The influent and effluent pump stations will be enclosed and exhaust air piped to the odor control unit in the main building.
  - (7) Exhaust vents will be designed to provide 30 air exchanges per hour and be located on the south side of the treatment facility building.
9. A request shall be made in writing to the State Department of Real Estate that the "White Paper" for this subdivision contain the following statement to advise prospective property owners:

"All property owners shall be hereby notified that the subject property is located generally west of an existing dairy operation. Occupants of the subject property may experience or be subject to noise, odors, dust, insects, rodents, and chemicals typically associated with a dairy operation and which may be in excess of the typical suburban community."

10. The following conditions shall be complied with before a Final Map is approved by the Board of Supervisors and filed with the County Recorder of San Diego County and shall be complied with prior to issuance of a grading permit:
- a. The Orchard Run Specific Plan Area shall provide 30 percent of any development north of Moosa Creek floodplain to qualify and be available for purchase or rent to very low, low and moderate income households as defined by the County of San Diego. The overall density of this area will be 7.3 dwelling units per acre and provide a mix of attached and detached housing opportunities.
  - b. Any development within the northern portion of the Orchard Run Specific Plan Area shall require a contractual agreement with the County of San Diego that assures that units constructed within the development are occupied by very low, low, and moderate income households.
  - c. Any development within the northern portion of the Orchard Run Specific Plan Area (located north of Moosa Creek floodplain) shall be subject to a contract with the Department of Housing and Community Development based upon the following requirements:
    - (1) Any development within the northern portion of the Orchard Run Specific Plan Area shall reserve 30 percent of the dwelling units for affordable purchase or rent to very low, low, and moderate income households as defined by the County of San Diego Department of Housing and Community Development. A minimum of 50 percent of this affordable housing will be reserved for low or very low income households as defined by the County of San Diego Department of Housing and Community Development.
    - (2) Thirty (30) percent of the total dwelling units, proposed for the northern portion of the Orchard Run Specific Plan Area, is 52 dwelling units. The number, housing type, and location of the reserved dwelling units shall be in accordance with a contract between the applicant and the County of San Diego Department of Housing and Community Development, and the following:
      - (a) Housing contracts must reflect a formula which will result in the geographic dispersal of low and

moderate income housing throughout Neighborhoods A and B.

(b) For every six units that are built, the developer shall reserve one dwelling unit for purchase or rent to moderate income households, and one unit reserved for low, or very low income households as defined in the contract with the County of San Diego Department of Housing and Community Development as required by the Valley Center Community Plan text and the Orchard Run Specific Plan. The above shall apply until such time as 52 units of low or moderate income units have been provided, of which 26 are for low, and very low income housing.

d. Prior to grading or improvement plans, the applicant shall submit and receive approval of a Major Use Permit for the construction and operation of an on-site wastewater treatment plant in accordance with the Wastewater Treatment Plant Land Use Regulations of the Orchard Run Specific Plan, and the provisions of Board of Supervisors Policy I-78 (Small Wastewater Treatment Facilities), or provide evidence satisfactory to the Director of Planning and Land Use that sewer service is available and committed through another means of sewage disposal. If the wastewater treatment plant is located on-site it shall be sized to serve only the Orchard Run project approved as SP 95-004.

Form of revision
Approved
CO. CNSI
By <i>[Signature]</i>
Date <i>6/18/98</i>

BE IT FURTHER RESOLVED that this Specific Plan (SP 95-004) shall be of no force and effect on June 17, 2006, if a Final Map has not recorded pursuant to this Specific Plan and if no Administrative Permit or Site Plan has been vested in reliance on this Specific Plan. If a moratorium exists or is imposed pursuant to Section 66452.6(b) of the Subdivision Map Act which precludes recordation of a Final Map and the vesting of a Site Plan filed pursuant to this Specific Plan, this Specific Plan shall remain in full force and effect for the same period of time as said Tentative Map and Site Plan, including any time extension(s) which may be granted.

BE IT FURTHER RESOLVED that all references within this Resolution to "applicant" shall be equally applicable to the current property owner and to any successors-in-interest or assigns, whether such successors or assigns own, control, or otherwise have development authority for all, a portion, or portions of that property included within this Specific Plan.

BE IT FURTHER RESOLVED that the following evidence is incorporated herein by this reference and serves as further evidence to support the findings, requirements, and conclusions included herein:

The maps, exhibits, written documents, and material contained in the files regarding applications SP 95-004 and TM 5087RPL<sup>1</sup>, on record at the County of San Diego, the written documents referred to and the oral presentations made at the public hearings.

The following shall be the Mitigation Monitoring or Reporting Program for Specific Plan SP 95-004, Orchard Run.

Public Resources Code Section 21081.6 requires the County to adopt a mitigation reporting or monitoring program for any project that is approved on the basis of a mitigated Negative Declaration or an Environmental Impact Report for which findings are required under Section 21081(a)(1). The program must be adopted for the changes to a project, that the County has adopted, or made a condition of project approval, in order to mitigate or avoid significant effects on the environment. The program must be designed to ensure compliance during project implementation.

The mitigation monitoring program is comprised of all the environmental mitigation measures adopted for the project. The full requirements of the program (such as what is being monitored, method and frequency, who is responsible, and required time frames) are found within the individual project conditions. These conditions are referenced below by category under the mechanism that will be used to ensure compliance during project implementation.

A. Subsequent Project Permits

Compliance with the following conditions is assured because specified subsequent permits or approvals required for this project will not be approved until the conditions have been satisfied:

Conditions 8.a. through 8.c., and 10(d)

THE ISSUANCE OF THIS PERMIT BY THE COUNTY OF SAN DIEGO DOES NOT AUTHORIZE THE APPLICANT FOR SAID PERMIT TO VIOLATE ANY FEDERAL, STATE OR COUNTY LAWS, ORDINANCES, REGULATIONS OR POLICIES INCLUDING, BUT NOT LIMITED, TO THE FEDERAL ENDANGERED SPECIES ACT AND ANY AMENDMENTS THERETO.

DEFENSE OF LAWSUITS AND INDEMNITY: The applicant shall: (1) defend, indemnify and hold harmless the County, its agents, officers and employees, from any claim, action or proceeding against the County, its agents, officers or employees to

attack, set aside, void or annul this approval or any of the proceedings, acts of determination taken, done or made prior to this approval, and (2) reimburse the County, its agents, officers and employees for any court costs and attorney's fees which the County, its agents or officers or employees may be required to pay as a result of this approval. At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any obligation imposed by this condition. The County shall notify the applicant promptly of any claim or action and cooperate fully in the defense.

NOTIFICATION TO APPLICANT: The County of San Diego hereby notifies the applicant that State law (A.B. 3158) effective January 1, 1991, requires certain projects to pay fees for purposes of funding the California Department of Fish and Game. If you made this payment at the time of public review of the environmental document pursuant to Administrative Code Section 362, Article XX, effective August 27, 1992, you have met this obligation. If the fee has not been paid, to comply with State law, the applicant should remit to the County Department of Planning and Land Use, within two (2) working days of the effective date of this approval (the "effective date" being the end of the appeal period, if applicable), a certified check payable to "County Clerk" in the amount of \$1,275 for a project with a Negative Declaration, or \$875 for a project with an Environmental Impact Report. These fees include an authorized County administrative fee of \$25. The fees made be waived for projects which are found by the Department of Planning and Land Use and the California Department of Fish and Game to have a de minimis impact on fish and wildlife resources. Failure to remit the required fee in full within the time specified above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation Code. In addition, Section 21089(b) of the Public Resources Code, and Section 711.4(c) of the Fish and Game Code, provide that no project shall be operative, vested, or final until the required filing fee is paid.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Diego, State of California, this 17th day of June 1998 by the following vote:

AYES: Cox, Jacob, Slater, Roberts, Horn

NOES: None

ABSENT: None

BOARD05\SP95004.RES;tf,dld

I hereby certify that the foregoing is a full, true and correct copy of the Original Resolution which is now on file in my office.

THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors

By Adair Gomez  
Adair Gomez, Deputy



TM 5087-2 5087-1

FILE COPY

No. 98-152

WEDNESDAY, JUNE 17, 1998

TECHNICAL

ALL UNITS 5/19/01

VERSION #1

SIGN OFF CITY

RESOLUTION OF THE SAN DIEGO )  
COUNTY BOARD OF SUPERVISORS )  
APPROVING CONDITIONS FOR )  
TENTATIVE MAP NO. 5087RPL<sup>1</sup> )

WHEREAS, Tentative Map No. 5087RPL<sup>1</sup> proposing the division of property located approximately 1,250 feet west of Valley Center Road, with portions of the northern boundary adjoining Betsworth and Lilac Roads, and the southern boundary of the site abutting Mirar de Valle Road, and generally described as:

Portions of the southeast quarter of the northwest quarter, the southwest quarter of the northeast quarter, and the west half of the southeast quarter all in Section 13, Township 11 south, Range 2 west, San Bernardino Meridian, in the County of San Diego, State of California, according to official plat thereof

was filed with the County of San Diego pursuant to the Subdivision Map Act and San Diego County Subdivision Ordinance on December 22, 1995; and

WHEREAS, on May 9, 1997, and May 22, 1998 the Planning Commission of the County of San Diego pursuant to Section 81.307 of the San Diego County Subdivision Ordinance held a duly advertised public hearing on said Tentative Map and received for its consideration, documentation, written and oral testimony, recommendations from all affected public agencies, and heard from all interested parties present at said hearing; and

WHEREAS, the Board of Supervisors of the County of San Diego has determined that the conditions hereinafter enumerated are necessary to ensure that the subdivision and the improvement thereof will comply with the Subdivision Map Act and conform to all ordinances, plans, rules, standards, and improvement and design requirements of San Diego County.

IT IS RESOLVED, THEREFORE, that the Board of Supervisors of the County of San Diego hereby makes the following findings as supported by the minutes, maps, exhibits and documentation of said Tentative Map all of which are herein incorporated by reference:

1. The Tentative Map is consistent with all elements of the San Diego County General Plan and with the (21) Specific Plan Area Land Use Designation of the Valley Center Community Plan because it proposes a residential use type at a density of 7.3 dwelling units per acre for the northern portion of the site (north of the Moosa Creek floodplain) and 1.5 dwelling units per acre for the southern portion of the site (south of the Moosa Creek floodplain), in the S88 (Specific Planning Area) Use Regulation and complies with the provisions of the State Subdivision Map Act and the Subdivision Ordinance of the San Diego County Code;

\* ADD ROAD ESMT VACATION TO BRD. LTR.

2. The design and improvements of the proposed subdivision are consistent with all elements of the San Diego County General Plan and with the Valley Center Community Plan, and comply with the provisions of the State Subdivision Map Act and the Subdivision Ordinance of the San Diego County Code;
3. The site is physically suitable for the residential type of development because the site consists of gently sloping terrain that rises to the north and south from Moosa Creek, which will be placed in a floodplain open space easement. Over 40 percent of the project site will be placed in open space and recreation areas, including greenbelt open space areas, the Moosa Creek floodplain open space and private yards;
4. The site is physically suitable for the proposed density of development because the project proposes a phased residential development with a density of 7.3 dwelling units per acre for the northern portion of the site (north of the Moosa Creek floodplain) and 1.5 dwelling units per acres for the southern portion of the site (south of Moosa Creek), which is consistent with urban residential densities allowed in the Country Town regional category for Valley Center. Furthermore, the proposed project has been designed to minimize visual impacts to surrounding development, adequate facilities and services have been made available to serve the property, and the overall density is compatible with densities in the surrounding areas;
5. The design of the subdivision and the type of improvements will not cause public health problems because adequate water supply and sewage disposal services have been found to be available or can be provided concurrent with need;
6. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat based upon the findings of an Environmental Impact Report dated April 28, 1997, and the Additional Information document dated April 26, 1998;
7. The design of the subdivision or the type of improvements do not conflict with easements, acquired by the public at large, for access through, or use of property within the proposed subdivision, as defined under Section 66474 of the Government Code, State of California; and

The division and development of the property in the manner set forth on the approved Tentative Map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement;

8. The discharge of sewage waste from the subdivision into the proposed sewer system, to be operated by the Valley Center Municipal Water District or other

entity approved by the Board of Supervisors, will not result in violation of existing requirements prescribed by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code, as specified by Government Code Section 66474.6; and

9. Because adequate facilities and services have been assured and adequate environmental review and documentation have been prepared, the regional housing opportunities afforded by the subdivision outweigh the impacts upon the public service needs of County residents and fiscal and environmental resources.
10. This project has been found to be subject to the County's Resource Protection Ordinance. The project site contains the following sensitive lands: floodplains; sensitive habitat lands; and wetlands. If the mitigation measure(s) listed under Conditions C.6.a, C.11.b., C.11.e., and C.13.l. are taken, the location, size, design, and operating characteristics of the proposed project is thereby found to be in compliance with the Resource Protection Ordinance.

IT IS FURTHER RESOLVED, DETERMINED AND ORDERED, that based on these findings, said Tentative Map is hereby approved subject to the following conditions:

- A. The approval of this Tentative Map expires on June 17, 2001, at 4:00 p.m., unless prior to that date a request for a time extension has been filed and subsequently approved as provided by Section 81.308 of the County Subdivision Ordinance. This Tentative Map may record in units. If the Director of Public Works can determine that Tentative Map 5087RPL<sup>1</sup> meets the requirements of Section 66452.6(a) of the State Map Act, the expiration date shall be extended pursuant to that Section.

PLEASE NOTE: Time extension requests cannot be processed without updated project information including new Health Department Certification of septic systems. Since Health Department review may take several months, applicants anticipating the need for time extensions for their projects are advised to submit applications for septic certification to the Health Department several months prior to the expiration of their Tentative Map.

- B. The "Standard Conditions for Tentative Subdivision Maps" approved by the Board of Supervisors on April 10, 1991, and filed with the Clerk as Document No. 740858(a), shall be made conditions of this Tentative Map approval. Only those exceptions to the Standard Conditions set forth in this Resolution or shown on the Tentative Map will be authorized.
- C. The following conditions shall be complied with before a Final Map is approved by the Board of Supervisors and filed with the County Recorder of San Diego

County, (and, where specifically indicated, shall also be complied with prior to issuance of grading or other permits as specified):

PLANS AND SPECIFICATIONS

(Street Improvements and Access)

- 1. Standard Conditions 1 through 10, and 12.
- 2. Specific Conditions:

a. Prior to recordation of the Final Map for Unit 1, improve or agree to improve and provide security for Lilac Road (SC 1415) (a Collector Road) from Betsworth Road along the frontage to a graded width of forty-nine feet (49'), with thirty-nine feet (39') of asphaltic concrete pavement over approved base with Portland cement concrete curbs and gutter and the curb at thirty-nine (39') from centerline. Provide a deceleration lane into Betsworth and provide a twelve feet (12') westbound left turn lane on Lilac Road at ~~Shady Orchard Drive~~ and provide pavement transitions easterly to meet the existing curb at thirty-two feet (32') from centerline per County project (UJ 1101) to the satisfaction of the Director of Public Works. A five foot (5') bike lane shall share the eight foot (8') shoulder with parking prohibition.

DO ✓  
11-17-85

b. Prior to recordation of the Final Map for Unit 1, improve or agree to improve and provide security for Shady Orchard Drive, an access road to Lilac Road (SC 1415) to a graded width of sixty-four feet (64') with asphaltic concrete pavement over approved base with thirty-six feet (36') of Portland cement concrete curb and gutter with the curbs eight and one-half feet (8½') and twenty-six and one-half feet (26½') from centerline. Provide a seventeen foot (17') raised median on the centerline of the road.

c. Prior to recordation of the Final Map for Unit 4, improve or agree to improve and provide security for Betsworth Road on-site (a Residential Collector Road) along the frontage of the tract to a graded width of thirty feet (30'), with twenty feet (20') of asphaltic concrete pavement, Portland cement concrete curb and gutter with the curb at twenty feet (20') from centerline.

d. Prior to recordation of the Final Map for Unit 4, improve or agree to improve and provide security for ~~Holly Tree Drive~~, an access road to Betsworth Road to a graded width of forty-three feet (43'), with thirty-two feet (32') of asphaltic concrete pavement over approved base, with curb and gutter, with the curb at sixteen feet (16') from centerline.

F



Handwritten notes and scribbles on the right side of the page, including a large bracket grouping items 'a' and 'b', and other illegible markings.

(e.)

Prior to recordation of the Final Map for Unit ~~7 or 9~~, improve or agree to improve and provide security for Mirar de Valle Road (SC 990.3) on-site along the tract frontage to a graded width of forty-two feet (42') with thirty-two feet (32') of asphaltic concrete pavement over approved base with Portland Cement Concrete curb and gutter with the curb at thirty-two feet (32') from the centerline on the tract side and asphaltic concrete dike on the other side of the pavement. An extra seven feet (7') shall be required for the left-turn lane at Orchard Run Avenue and Vineyard Terrace to the satisfaction of the Director of Public Works.

SEE AMEND

(f.)

Prior to recordation of the Final Map for Unit ~~7~~, improve or agree to improve and provide security for Unit 7 or the first Unit taking access to Mirar de Valle Road (SC 990.3) off-site from the subdivision easterly one thousand and three hundred feet (1,300') to Valley Center Road (SF 639) to a graded width of forty-two feet (42') with twenty-eight feet (28') of asphaltic concrete pavement over approved base with asphaltic concrete dikes at four feet (4') and thirty-two feet (32') southerly of the ultimate centerline and within the south one-half of the ultimate right-of-way width of forty-two feet (42') to the satisfaction of the Director of Public Works.

SEE AMEND

g.

Prior to recordation of the Final Map for Unit ~~7~~ (or the first unit taking access to Mirar de Valle Road), improve or agree to improve and provide security for a fourteen feet (14') left-turn lane on Mirar de Valle Road at Valley Center Road for one hundred feet (100'). The pavement width shall be forty-two feet (42') with asphaltic concrete dike at four feet (4') and forty-six feet (46') southerly of the ultimate centerline and within the south one-half of the ultimate right-of-way width of forty-nine feet (49').

(h.)

Prior to recordation of the Final Map for Unit ~~7~~ (or the first unit taking access on Mirar de Valle Road), improve or agree to improve and provide security for a left-turn lane on Valley Center Road (SF 639) off-site northbound at Mirar de Valle Road (SC 990.3).

SEE AMEND

DB ✓  
11/17/05

Improve Orchard Run Avenue and Vineyard Terrace on-site access roads to Mirar de Valle (SC 990.3) to a graded width of forty-seven feet (47'), with thirty-six feet (36') of asphaltic concrete pavement over approved base with Portland cement concrete curb and gutter, with the curb at eighteen feet (18') from centerline.

EB ✓  
11/17/05

Improve Pecan Tree Road, Nut Tree Lane, Almond Tree Drive, Grove Terrace, and Walnut Way on-site streets shall be graded to a width of thirty-five feet (35') with twenty-eight feet (28') of asphaltic concrete pavement over approved base with Portland cement concrete curb and gutter.

ORCHARD ROW  
LOOP FRUITWOOD  
11/27/05

DB ✓ k.  
11/17/05  
↓  
✓

Improve Olive Circle, Avocado Way, ~~Acorn Court~~, and ~~Lemon Tree Court~~ on-site streets shall be graded to a width of thirty-five feet (35') with twenty-four feet (24') of asphaltic concrete pavement over approved base with Portland cement concrete curb and gutter twelve feet (12') from centerline.

All the other on-site streets shall be graded to a width of forty-three feet (43'), with thirty-two feet (32') of asphaltic concrete pavement over approved base with Portland cement concrete curb and gutter with the curb at sixteen feet (16') from centerline.

m. The cul-de-sac streets on-site shall terminate with a cul-de-sac graded to a radius of forty-five and one-half feet (45½') and surfaced to a radius of thirty-six feet (36') with asphaltic concrete pavement over approved base with Portland cement concrete curb at thirty-six feet (36') from the radius point.

n. Intersectional sight distance along Lilac Road (SR 1415) from Betsworth Road and from Shady Orchard Drive shall be five hundred fifty feet (550') to the satisfaction of the Director of Public Works.

SEE  
AMEND

o.

Intersection sight distance along Mirar de Valle (SC 990<sup>2</sup>) from the access streets shall be four hundred ~~fifty~~ feet (400').

DB ✓ p.  
11/18/05

Minimum centerline radius for Betsworth Road shall be two hundred fifty feet (250').

NORTH

q. Unless stated otherwise, improve roads or agree to improve and provide security for them, with the recordation of the unit the road is within, abuts, or provides access to.

(Drainage and Flood Control)

2/14/06

Standard Conditions 13 through 18.

4. Specific Conditions:

a. A flowage easement shall be granted to the ~~San Diego County Flood~~ ~~Control District~~ for those portions of all lots subject to inundation by a 100-year flood, from a drainage area in excess of one (1) square mile.

(Grading Plans)

5. Standard Conditions 19(a-e).

6. Specific Conditions:

- a. Grading and/or improvement plans shall include the condition that any construction road that crosses the Moosa Creek floodplain shall be temporary and shall be located as to avoid riparian habitat. The Moosa Creek channel shall be spanned with a prefabricated bridge using a railroad flat car or some similar structure that can be placed over the creek using a crane.
- b. Grading indicated on the final grading plans or improvement plans shall be in substantial conformance with that shown on the approved Tentative Map, dated December 9, 1996. Any deviation from the Tentative Map grading plans in excess of ten percent of the total grading quantities may require additional environmental review. Any deviation in maximum slope heights from the approved Tentative Map in excess of three feet may also require additional environmental review. The need for further environmental review will be determined during the grading/improvement plan check process.

Lots 212-216 in Unit 9 of the approved Tentative Map dated December 9, 1996 shall be graded with custom building pads in order to minimize the effects of grading. Grading for each lot shall be confined to the house pad and driveway, while maintaining the remainder of the natural topography and vegetation on each lot.

*SPC ✓  
2/14/06*

*add 4 d.e*

FAIR HOUSING *SEE AMEND FOR CONDITIONS C.b.d. and C.b.e.*

7. Standard Condition 20.

8. Specific Conditions:

- a. The Orchard Run Specific Plan Area shall provide 30 percent of any development north of Moosa Creek floodplain to qualify and be available for purchase or rent to very low, low and moderate income households as defined by the County of San Diego. The overall density of this area will be 7.3 dwelling units per acre and provide a mix of attached and detached housing opportunities.
- b. Any development within the Orchard Run Specific Plan Area shall require a contractual agreement with the County of San Diego that assures that units constructed within the development are occupied by very low, low, and moderate income households.

- c. Any development within the northern portion of the Orchard Run Specific Plan Area (located north of Moosa Creek floodplain) shall be subject to a contract with the Department of Housing and Community Development based upon the following requirements:
- (1) Any development within the northern portion of the Orchard Run Specific Plan Area shall reserve 30 percent of the dwelling units for affordable purchase or rent to very low, low, and moderate income households as defined by the County of San Diego Department of Housing and Community Development. A minimum of 50 percent of this affordable housing will be reserved for low or very low income households as defined by the County of San Diego Department of Housing and Community Development.
  - (2) Thirty (30) percent of the total dwelling units proposed for the northern portion of the Orchard Run Specific Plan Area is 52 dwelling units. The number, housing type, and location of the reserved dwelling units shall be in accordance with a contract between the applicant and the County of San Diego Department of Housing and Community Development, and the following:
    - (a) Housing contracts must reflect a formula which will result in the geographic dispersal of low and moderate income housing throughout Neighborhoods A and B.
    - (b) For every six units that are built, the developer shall reserve one dwelling unit for purchase or rent to moderate income households, and one unit reserved for low, or very low income households as defined in the contract with the County of San Diego Department of Housing and Community Development as required by the Valley Center Community Plan text and the Orchard Run Specific Plan. The above shall apply until such time as 52 units of low or moderate income units have been provided, of which 26 are for low, and very low income housing.

## SANITATION

9. Standard Condition 21.
10. Specific Conditions:

- a. Prior to grading or improvement plans, the applicant shall submit and receive approval of a Major Use Permit for the construction and operation of an on-site wastewater treatment plant in



Form of Revision
Approved CO. CWSL
By <i>PR</i>
Date <i>6/16/98</i>

accordance with the Wastewater Treatment Plant Land Use Regulations of the Orchard Run Specific Plan, and the provisions of Board of Supervisors Policy I-78 (Small Wastewater Treatment Facilities), or provide evidence satisfactory to the Director of Planning and Land Use that sewer service is available and committed through another means of sewage disposal. If the wastewater treatment plant is located on-site it shall be sized to serve only the Orchard Run project approved as SP 95-004.

FIRE PROTECTION AND WATER SUPPLY

- 11. Standard Conditions 23.1., 23.2, and 23.3.

PLANNING AND ZONING ADMINISTRATION

- 12. Specific Conditions:

- a. Prior to the issuance of a grading permit, the subdivider shall obtain approval from the Director of Planning and Land Use of a detailed landscaping plan. The Landscape Plan and review fee shall be submitted to the Current Planning Division. Said Plan shall show the types and locations of all landscaping features including planting and irrigation. The landscape material shall not interfere with any required solar access (plans shall show the proposed solar access/solar panel locations). [DPLU - Current Planning Section]

In addition, the Landscape Plan shall address the following concerns:

- (1) In order to screen and limit views into the project site, trees and shrubs shall be planted in the perimeter open space buffers to supplement the existing Eucalyptus tree stands, which shall remain.
- (2) Wood rail fences shall be used for fencing along Lilac, Betsworth and Mirar de Valle Road frontages.
- (3) If masonry walls are selected for noise attenuation along public streets, these walls shall be shown on the Landscape Plan. If walls are selected for noise attenuation, the walls shall be used in combination with a landscape berm so that the maximum wall height does not exceed six feet. The walls shall include recesses for landscaping at a minimum of 50 foot intervals. Wood rail fences shall be included in front of the noise attenuation wall to provide design continuity with other rail fences. If berms are selected for

noise attenuation along public streets, these berms shall be landscaped.

- (4) A fencing plan with a chainlink fence located between the project site and the adjacent boundary with the dairy in order to limit access into the existing dairy to the east.
- (5) Dense landscaping, a fence or wall shall be located between the project site and the adjacent Valley Center Community Services District property.
- (6) A 30 foot wide landscape strip and enhanced landscape entrance shall be located along the frontage of Lilac Road. A 100-foot landscape strip shall be provided along Mirar de Valle Road, except adjacent to Lots 212-215, and a 10-foot landscape strip shall be provided along Betsworth Road.
- (7) Priority shall be given to retaining existing land forms, trees and rock outcroppings within road edge areas.
- (8) New plantings, such as oaks, sycamores and fruit trees, shall be compatible with existing landscaping to reflect Valley Center's rural character. Groupings of trees shall be random and natural, and not uniform and stylized.
- (9) Fruit trees shall be included in the planting plan. Oak and sycamore trees shall be used within open space lots and as street trees. Other native and naturalizing plant species shall be used where appropriate in the perimeter buffer areas to be compatible with adjacent properties. Plant selection shall be consistent with the Valley Center Design Guidelines selection guide.
- (10) At least one tree of a minimum 15 gallon size shall be provided for each 400 square feet of required landscape area.

b.

Submit to and receive approval from the Director of Planning and Land Use of a revegetation mitigation plan which mitigates losses of one Engelmann oak, seven Engelmann oak hybrid, and two Coast live oak trees. The Engelmann oak hybrids shall be replaced with Engelmann oak trees. Replacement trees, container sizes, and ratios shall conform to those shown in Table 2-8 of the draft Environmental Impact Report dated April 30, 1997. All replacement trees shall be planted in open space lots established as a perimeter buffer. The revegetation mitigation plan shall include (but not be limited to) the following to ensure the establishment of the vegetation: objectives; blueline Tentative Map showing the

revegetation areas; site preparation information; type of planting material (e.g., species ratios, source, size material); planting program; 100 percent success criteria; and detailed cost estimate. The cost estimate shall include planting, plant materials, irrigation, maintenance, fencing around area to be revegetated, monitoring and report preparation. The report shall be prepared by a County certified biologist and a State of California licensed landscape architect.

Enter into a Secured Agreement with the County of San Diego Department of Planning and Land Use consisting of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with the implementation of the revegetation plan and a 10 percent cash deposit not to exceed \$30,000.00. A cost estimate shall be submitted and approved by the Director of Planning and Land Use which includes the cost of the plant stock and its installation, irrigation system and installation, cost of monitoring and maintenance of the revegetated area for the required five year period, and report preparation and staff time to review. This agreement is intended to guarantee commitment to project completion and success. The monitoring time and the length of time the Secured Agreement and cash deposit will be in effect, starts at the time the installation is accepted by a County staff representative. The Secured Agreement and cash deposit shall be released upon completion of the revegetation plan implementation provided the success criteria has been met. One hundred (100) percent success rate shall be considered satisfactory completion of the revegetation plan.

c.

Construct a seven to eight foot high noise attenuation barrier along Lilac Road adjacent to Lots 1-3 and 32-36. The noise barrier can consist of a wall, a combination wall and berm with a total height of 7 to 8 feet, or a 7.5 foot landscaped berm. The maximum wall height shall not exceed six feet.

d.

Construct a six foot high noise attenuation wall along Mirar de Valle adjacent to Lots 212-215. This wall is not required if it can be shown, to the satisfaction of the Director of Planning and Land Use, that based on the final building pad heights, exterior noise levels in the backyards will be 60 decibels (dB) or less.

e.

Provide evidence that impacts to 0.2 acre of Coastal sage scrub have been mitigated off-site at a 1:1 ratio by the purchase and preservation of 0.2 acre of Coastal sage scrub credits in an established habitat mitigation bank to the satisfaction of the Department of Planning and Land Use, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game.

f.

Site Plans shall be submitted for review and approval prior to issuance of a building permit and Final Map recordation for each unit for development of single-family Neighborhoods A and E, Neighborhood B townhome site, and the two community recreation sites. Development plans for these sites shall be reviewed for conformance with the Valley Center Design Guidelines as set forth in the Orchard Run Specific Plan text dated July 22, 1997.

g.

The minimum net lot area for residential lots in Units 1, 2, 3, 4, 5, and 6 shall be 3,600 square feet. The minimum net lot area for residential lots in Units 7 and 8 and Lots 217 through 221 shall be 7,000 square feet. The minimum net lot area for residential Lots 212 through 216 in Unit 9 shall be 21,780 square feet. The minimum net lot area for residential lots in Units 10, 11 and 12 shall be 10,000 square feet.

#### DEVELOPMENT IMPACT FEES

#### 13. Specific Conditions:

- a. Deposit with the County Department of Public Works sufficient funds to cover the cost of inspection of the private road improvements.
- b. Participate in the cost of road improvements for a portion of Lilac Road (SC 1415) off-site realignment from the east tract boundary easterly to Valley Center Road by making a deposit of \$18,000.00 for the developer's portion of planned improvements for Lilac Road. The Board of Supervisors hereby determines that:
  - (1) The deposit is to assist in financing the improvements for Lilac Road (UJ 1101) County project located in the vicinity of Valley Center Road.
  - (2) The deposit will be used to contribute toward the construction of street facilities such as pavements, realignments of horizontal and vertical curves, storm drains, grading, etc., for Lilac Road (SC 1415).
  - (3) The road improvements will help mitigate the additional traffic impact on Lilac Road (SC 1415) caused by the residential subdivision.
  - (4) This residential subdivision will contribute additional traffic to Lilac Road (SC 1415).

- (5) The deposit of \$18,000.00 is based on an estimate of the percentage of traffic this project will contribute to Lilac Road (SC 1415).
  
- c. Participate in the cost of traffic installation at the intersection of Valley Center Road at Mirar de Valle Road. The amount of the developer's portion of the entire cost of the signal shall be \$14,625. The Board of Supervisors hereby determines that:
  - (1) The fee is to assist in financing the construction of a traffic signal to mitigate this project's impact on traffic safety.
  - (2) The fee will be used to contribute toward the installation of a traffic signal at the intersection of Valley Center Road at Mirar de Valle Road.
  - (3) The traffic signal will help mitigate the additional traffic impact on this intersection caused by the residential subdivision.
  - (4) This residential subdivision will contribute additional traffic to the intersection of Valley Center Road at Mirar de Valle Road.
  - (5) The fee of \$14,625.00 is based on an estimate of the percentage of traffic this project will contribute to this intersection.

FINAL MAP RECORDATION

Final Map requirements shall be shown on the Final Map or otherwise accomplished to the satisfaction of the Director of the Department of Public Works prior to submittal for approval by the Board of Supervisors:

(Streets and Dedication)

14. Specific Conditions:

SEE  
AMEND

- (a) Dedicate Mirar de Valle Road (SC 990.3) on-site along the tract frontage to a width of forty-two feet (42') from centerline. An extra seven feet (7') will be required for left-turn lanes at Orchard Run Avenue and Vineyard Terrace to the satisfaction of the Director of Public Works.

SEE  
AMEND

- (b) With the first Unit taking access on Mirar de Valle Road (SC 990.3), cause to be granted right-of-way for Mirar de Valle Road (SC 990.3) off-site from the subdivision easterly one thousand and three hundred feet (1,300') to Valley Center Road (SF 639) to a width of forty-two feet (42') from centerline on the southerly one-half of the ultimate right-of-way. Provide

an additional seven foot (7') of right-of-way for one hundred feet (100') with transitions to accommodate a left-turn lane for a total width of forty-nine feet (49') from centerline on Mirar de Valle Road at Valley Center Road to the satisfaction of the Director of Public Works.

*add  
new c  
d-c*

*the loc. SEE AMEND FOR C. H. C.*

Provide a private road easement on-site for Orchard Run Avenue and Vineyard Terrace to a width of forty-seven feet (47').

*RE-CTR. PER  
AMEND*

*e d*

Provide private road easements for the following on-site roads: Plum Tree Court, Pear Tree Way, Apple Tree Way, Pear Tree Lane, Apricot Court, Gravenstein Circle, Crabapple Court, Pepper Place, and Holly Tree Drive to a width of forty-three feet (43').

*f e*

Provide private road easements for all the other roads on-site to a width of thirty-five feet (35'). The cul-de-sac roads shall terminate with a radius of forty-five and one-half feet (45½').

*g f*

Because private roads are approved as a condition of this subdivision, the following shall apply:

- (1) Maintenance shall be provided through a private road maintenance agreement satisfactory to the Director of Public Works. *PRMA*
- (2) The Director of Public Works shall be notified as to the final disposition of title (ownership) to the private streets, and place a note on the Final Map as to the final title status of said streets.
- (3) Access to each lot shall be provided by private road easement not less than forty-three feet (43') wide.

*h g*

If the private streets are separate lots, they shall have lot numbers consecutive with the other lot numbers within each unit. A street lot will have a different lot number in each unit.

*i h*

Unless stated otherwise, easements shall be provided for roads with the recordation of the unit the road is within, abuts or provides access to.

*j i*

PROPOSED PRIVATE ROAD AND UTILITY EASEMENT

Prior to approval of improvement and/or grading plans, issuance of excavation permits, and issuance of any further grant of approval, the owners of this project will be required to sign a statement that they are aware of the County of San Diego, Department of Public Works, Pavement Cut Policy and that they have contacted all adjacent property owners and solicited their participation in the extension of utilities.

(K)

TM 1-17-06

Relinquish access rights into Lilac Road (S~~0~~ 1415) except for Shady Orchard Drive.

TM

(D) (k) SEE AMEND

Relinquish access rights into Mirar de Valle Road (SC 990.3<sup>2</sup>) except for Orchard Run Avenue and Vineyard Terrace.

TM

1-17-06

(n)

1. Lots 27, 28, 29, 30, 52, 53, 76, 77, 94, 95, 96, 119, 120, 121, 144, 145, 147, 178, 179, 180, 221, 222, 247, 248, 249, 250, 273, 274, 275, and 295 shall each be labeled as "OPEN SPACE, NOT A BUILDING SITE" on the Final Map.

TM

1-17-06

(m)

iii.

Grant to the County of San Diego a noise protection easement over the entire area of Lots 1-3, 32-36, 80-83, 149, 177, 182-185, and 212-215 to mitigate traffic noise. The noise protection easement shall be shown on the Final Map. Construction of residential buildings, patios, and other "noise sensitive" uses can be allowed within the noise protection easement upon approval of a Site Plan showing, to the satisfaction of the Director of Planning and Land Use, that according to the Noise Element of the San Diego County General Plan requirements, the noise levels within the outdoor "noise sensitive" living areas will not exceed Community Noise Equivalent Levels (CNEL)=60 dB and the interior noise levels attributable to outdoor noise sources will not exceed CNEL=45 dB. If a Site Plan demonstrating noise mitigation as specified herein is approved prior to recordation of the Final Map, no noise protection easement need be recorded for the lots with such an approved Site Plan.

TM

1-17-06

(o)

iv.

Grant to the County of San Diego a noise protection easement over the entire area of Lots 24, 70-75, 232, 233, 240, and 241 to mitigate water reclamation plant noise. The noise protection easement shall be shown on the Final Map. Construction of residential buildings, patios, and other "noise sensitive" uses can be allowed within the noise protection easement upon approval of a Site Plan showing, to the satisfaction of the Director of Planning and Land Use, that according to the Noise Element of the San Diego County General Plan requirements, the noise levels within the outdoor "noise sensitive" living areas will not exceed CNEL=60 dB and the interior noise levels attributable to outdoor noise sources will not exceed CNEL=45 dB. If subsequent plans prepared for the water reclamation facility and approved by the County of San Diego prior to recordation of the Final Map, demonstrate noise mitigation as specified herein, no noise protection easement need be recorded.

TM

1-17-06

(p)

The Basis of Bearings for the Subdivision Map shall be in terms of the California Coordinate System Zone 6 NORTH AMERICAN DATUM OF 1983 by use of existing Horizontal Control stations (min. 3rd order accuracy) or by Astronomic Observations to the satisfaction of the

Director of Public Works (Ref. San Diego County Subdivision Ordinance Section 81.506(b)).

②-p:

The Subdivision Map shall be prepared to show two measured ties from the boundary of the subject property to existing Horizontal Control station(s) having California coordinate values of Third order accuracy or better, as published in the County of San Diego's Horizontal Control book.

These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., Grid bearings and Grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of Ground-to-Grid distances shall be shown on the map, all to the satisfaction of the Director of Public Works (Ref. San Diego County Subdivision Ordinance Section 81.506(j)).

TM  
1-17-06

(Miscellaneous)

N/A 2 UNIT NOT MULTIPLE

15. Standard Conditions 25, 26, ~~27~~ 1, and 28.

TM  
11-2-05

①6

Wastewater Treatment Plant Lot 148 may be recorded as a separate unit or included in the Final Map for adjacent Units 1, 3, or 10, and numbered sequentially with the other lots recorded with or prior to said Lot 148. All other lot numbers may be changed as needed to reflect recordation of Lots 147 and 148 out of sequence.

17. A request shall be made in writing to the State Department of Real Estate that the "White Paper" for this subdivision contain the following statement to advise prospective property owners:

"All property owners shall be hereby notified that the subject property is located generally west of an existing dairy operation. Occupants of the subject property may experience or be subject to noise, odors, dust, insects, rodents and chemicals typically associated with a dairy operation, and which may be in excess of the typical suburban community."

18. Prior to approval of any final subdivision map, an Administrative Permit shall be submitted and approved by the Director of Planning and Land Use in accordance with Sections 7050 through 7099 of the San Diego County Zoning Ordinance, to establish a homeowners association to be responsible for maintaining the Orchard Run Specific Plan community recreation sites, open space lots, trails, and common area landscaping. The Administrative Permit shall specify the level of maintenance of said community recreation sites, open space lots, trails, and common area landscaping. A caretaker's dwelling may also be permitted by Administrative Permit in 1 of the 2 community recreation sites, not to exceed 600 square feet of floor area.

19. The applicant shall provide a revised Orchard Run Specific Plan text that is consistent with the Specific Plan Resolution (SP 95-004) and the Tentative Map Resolution for Tentative Map No. 5087RPL<sup>1</sup> to the satisfaction of the Director of Planning and Land Use.
20. The applicant shall remove all references to the "Future Planning Area" prior to recordation of the Final Map.

SEE AMEND FOR C. 21, - TM 11-2-05  
WAIVER AND EXCEPTIONS

Said subdivision is hereby approved pursuant to the provisions of the State Subdivision Map Act, the County Subdivision Ordinance, the County Public and Private Road Standards and all other required ordinances of San Diego County except for a waiver or modification of the:

a. Standard Condition(s) for Tentative Maps:

Standard Condition 11: Said condition pertains to condominium units or a Planned Development. This subdivision is neither a condominium nor a Planned Development.

Standard Condition 22: Said condition applies to projects served by septic systems. The proposed project will hook up to the Valley Center Municipal Water District's sewage system.

Standard 24: Said condition applies to projects located outside a fire protection district. The proposed project is located within the Valley Center Fire Protection District.

Standard Condition 27: Said condition states that the Final Map shall include the entire area shown on the Tentative Map and shall not be filed as units or groups of units. The Final Map for this Tentative Map may be filed in units.

b. County Subdivision Ordinance design requirements:

Section 81.401(b) of the Subdivision Ordinance which requires that every lot contain the minimum lot area specified in The Zoning Ordinance for the zone in which said lot is located; every lot shall contain a net area of no less than 6,000 square feet. This waiver applies to Lots 1-24, 32-51, 56-75, 80-93, 98-118, and 123-143.

Section 81.401(d) of the Subdivision Ordinance to allow a reduction of the required minimum lot width for Lots 1-24, 32-34, 36, 37, 39-47, 49-51, 56-58, 60, 63-68, 73-75, 80-93, 99-118, 123-134, 137-140, 171, 172, 189, 193, 232, 233, 240-242, 261, 262, and 281-283.

Section 81.401(f) of the Subdivision Ordinance to allow panhandle lots for Lots 215, 241, and 281.

Section 81.401(g) of the Subdivision Ordinance prohibits through lots unless vehicular access rights are relinquished to one of the abutting streets. Lots 212-215 are through lots. However, Condition C.13. requires access rights into Mirar de Valle (SC 990.3) to be relinquished except for Orchard Run Avenue and Vineyard Terrace.

Section 81.401(h) of the Subdivision Ordinance requires side lot lines to be at right angles or radial to the street upon which they front, with a maximum deviation of ten degrees allowed. This waiver is requested for Lots 134, 135, 169, 212, 213, 216, 260, 262, and 281-284.

Section 81.401(i) of the Subdivision Ordinance prohibits lots with length to width ratios greater than 3:1. A waiver of this requirement is requested for Lots 213-216, 232, 233, 240-242, 261, 262, and 282-284.

Section 81.403(a)(6) requires all new and existing facilities within the boundaries of a new subdivision or within any half street abutting new subdivision to be placed underground. This waiver will permit the existing power poles, overhead power lines, and underneath telephone cable lines to remain along the frontage of Lilac Road for approximately three hundred sixty feet (360') and on-site across the northwest corner of the subdivision for Shady Orchard Drive four hundred eighty feet (480') to Betsworth Road. Requiring them to be placed underground would be a spot improvement inconsistent with the established system of the area. However, permitting them to be overhead does not preclude relocating them. All other utilities for the project shall be placed underground.

c. County Public and Private Road Standards:

Section 4.2 (Table 2) of the Public Road Standards to reduce the design speed from 30 miles per hour (mph) to 25 mph on Betsworth Road along the project frontage. This waiver will enable the existing centerline curve radius to be improved from 200 feet to 250 feet, rather than to 300 feet, which will minimize the need for off-site grading which would impact existing trees located on the off-site property where the grading would occur.

→ Section 4.2 (Table 2)

The following shall be the Mitigation Monitoring or Reporting Program for Tentative Map, TM 5087RPL<sup>1</sup>, Log No. 95-8-33, Orchard Run.

Public Resources Code Section 21081.6 requires the County to adopt a mitigation reporting or monitoring program for any project that is approved on the basis of a mitigated Negative Declaration or an Environmental Impact Report for which findings

are required under Section 21081(a)(1). The program must be adopted for the changes to a project which the County has adopted, or made a condition of project approval, in order to mitigate or avoid significant effects on the environment. The program must be designed to ensure compliance during project implementation.

The mitigation monitoring program is comprised of all the environmental mitigation measures adopted for the project. The full requirements of the program (such as what is being monitored, method and frequency, who is responsible, and required timeframes) are found within the individual project conditions. These conditions are referenced below by category under the mechanism which will be used to ensure compliance during project implementation.

A. Subsequent Project Permits

Compliance with the following conditions is assured because specified subsequent permits or approvals required for this project will not be approved until the conditions have been satisfied: C.2.e.; C.2.f.; C.6.c; C.9.; C.12.a.(1); C.12.a.(3), C.12.a.(9); C.12.b.-C.11.e.; C.12.b., C.12.e.; C.13.b., C.14.l., C.14.n., and C.17.

NOTICE - The subject property is known to contain Coastal sage scrub plant community. Such plant community is habitat for the Coastal California gnatcatcher. The Federal government recently listed the gnatcatcher as a threatened species under the Federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.). THE LISTING MAY RESULT IN AN APPLICANT'S INABILITY TO PROCEED WITH HIS/HER PROJECT WITHOUT A PERMIT FROM THE FEDERAL GOVERNMENT IF THE SPECIES OR ITS HABITAT ARE PRESENT ON THE PROJECT SITE. It is advisable to contact the United States Fish and Wildlife Service to determine the applicability of the prohibitions under the Act to each applicant's property.

THE ISSUANCE OF THIS PERMIT BY THE COUNTY OF SAN DIEGO DOES NOT AUTHORIZE THE APPLICANT FOR SAID PERMIT TO VIOLATE ANY FEDERAL, STATE OR COUNTY LAWS, ORDINANCES, REGULATIONS OR POLICIES INCLUDING, BUT NOT LIMITED, TO THE FEDERAL ENDANGERED SPECIES ACT AND ANY AMENDMENTS THERETO.

NOTIFICATION TO APPLICANT: The County of San Diego hereby notifies the applicant that State law (A.B. 3158) effective January 1, 1991, requires certain projects to pay fees for purposes of funding the California Department of Fish and Game. If you made this payment at the time of public review of the environmental document pursuant to Administrative Code Section 362, Article XX, effective August 27, 1992, you have met this obligation. If the fee has not been paid, to comply with State law, the applicant should remit to the County Department of Planning and Land Use, within two (2) working days of the effective date of this approval (the "effective date" being the end of the appeal period, if applicable), a certified check payable to "County Clerk" in the

amount of \$1,275 for a project with a Negative Declaration, or \$875 for a project with an Environmental Impact Report. These fees include an authorized County administrative fee of \$25. The fees made be waived for projects which are found by the Department of Planning and Land Use and the California Department of Fish and Game to have a de minimis impact on fish and wildlife resources. Failure to remit the required fee in full within the time specified above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation Code. In addition, Section 21089(b) of the Public Resources Code, and Section 711.4(c) of the Fish and Game Code, provide that no project shall be operative, vested, or final until the required filing fee is paid.

DEFENSE OF LAWSUITS AND INDEMNITY: The applicant shall: (1) defend, indemnify and hold harmless the County, its agents, officers and employees, from any claim, action or proceeding against the County, its agents, officers or employees to attack, set aside, void or annul this approval or any of the proceedings, acts of determination taken, done or made prior to this approval, if the action is brought within the time period specified in Government Code Section 66499.37; and (2) reimburse the County, its agents, officers and employees for any court costs and attorney's fees which the County, its agents or officers or employees may be required to pay as a result of this approval. At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any obligation imposed by this condition. The County shall notify the applicant promptly of any claim or action and cooperate fully in the defense.

ON MOTION of Supervisor Horn, seconded by Supervisor Roberts, this Resolution is passed and approved by the Board of Supervisors of the County of San Diego, State of California, at a regular meeting held on this 17th day of June 1998, in the County Administration Center, 1600 Pacific Highway, Room 310, San Diego, California, by the following vote:

AYES: Cox, Jacob, Slater, Roberts, Horn

NOES: None

ABSENT: None