

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

March 22, 2019

Staff Report

ITEM: *8

SUBJECT: Renewal of Individual Conditional Waiver of Waste Discharge Requirements for Rancho Paseo de Valencia, LLC, dba "Forest Park" Residential Development, City of Corona - Order No. R8-2019-0015

DISCUSSION:

An individual conditional waiver of waste discharge requirements (waiver) for the "Forest Park" residential development (Project), proposed by Rancho Paseo de Valencia, LLC (the Discharger), was adopted by the Regional Board on April 25, 2014 (Order No. R8-2014-0009) for discharges of clean fill to waters of the state. California Water Code (CWC) Section 13269(1,2) states that a specific discharge may be waived provided that the waiver is conditional and that its conditions are monitored to verify that they are being followed. Conditions of this waiver included a mitigation plan containing specifications to be followed and verified by a monitoring and reporting program. Since the 2014 adoption of the waiver, the Project's "Riparian Habitat Mitigation Plan" has received minor changes approved by staff of the California Department of Fish and Wildlife (CDFW) and the Regional Board (discussed below). The final Mitigation Plan version is now referred to as "*Riparian Habitat Mitigation Plan, Rancho Paseo de Valencia, LLC, dba Forest Park, Corona California, April 9, 2014 Revised April 15, 2015.*"

A waiver may not exceed five years in duration but may be renewed or terminated (CWC Section 13269(2)). To date, Project construction has not commenced, and the waiver would expire on April 25, 2019. With no changes to the Project proposal, Regional Board staff recommends renewal of the waiver (as Order No. R8-2019-0015) for another five years, until reconsideration by March 22, 2024 if necessary. Pursuant to requirements for waiver review by regional or state boards under CWC Section 13269(1), Regional Board staff believes that this waiver is consistent with the Santa Ana River Basin Water Quality Control Plan (Basin Plan), is in the public interest, and may simply be continued.

Project Background

Rancho Paseo de Valencia, LLC, has proposed the development of 49.6 acres of a 64.4-acre site into 34 residential lots, manufactured slopes, and streets. Remaining acreage would be kept as open space. Most of the Project site currently consists of an avocado and lemon grove located on foothill terrain in the southwestern part of the City of Corona (City). The Project is known as Rancho Paseo de Valencia, LLC, dba "Forest Park" (Tentative Tract Map No. 34760). The Project site shares a common boundary with the Cleveland National Forest, in Sections 11 and 14, T4S, R7W, SBB&M, as shown on the Corona South,

California USGS quadrangle map, at latitude 33.8308°, longitude -117.5836°. A portion of the site was annexed into the City from an unincorporated area of Riverside County in the lower foothills of the Santa Ana Mountains (Exhibit 1).

As Lead Agency under the California Environmental Quality Act (CEQA), the City of Corona circulated a Draft Environmental Impact Report (DEIR) for the Project in 2009. On May 4, 2011, the City issued a Notice of Determination confirming adoption and certification of the Final EIR for the Project.

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

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

The Discharger has further asserted that its Project grading activities are already extensively regulated under other State and local laws, including under the National Pollutant Discharge Elimination System (NPDES) *General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities* (General Construction Permit; currently State Board Order No. 2009-0009-DWQ, as amended); and through the City of Corona’s stormwater ordinance and approved Water Quality Management Plan (WQMP), the Municipal Storm Water Permit for Riverside County (see below), and the requirements of the California Department of Fish and Wildlife (CDFW) under the State Fish and Wildlife Code.

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

After careful review of the existing waiver, Regional Board staff has determined that it is appropriate to renew and re-issue this individual conditional waiver of waste discharge requirements for the Project in accordance with CWC Section 13269.

The Site’s Waters and their Beneficial Uses

There are eight channels (also referred to as drainage courses or Drainages A, B, C, D, E, E1, F, and an eighth minor drainage found during site investigation) within the Project site.

Since cessation of agricultural activities at least a decade ago, three former man-made agricultural drainages, D, F (Exhibit 2¹), and an unnamed eighth drainage (not shown on Exhibits), have degraded into minor discontinuous erosional features within the landscape and no longer function as conveyance structures. These remnant drainages do not have any existing or potential beneficial uses that would be impaired by the proposed discharge of fill and are not regulated by this Order.

The Discharger is proposing to fill seven of the drainages identified on the Project site as part of construction of the "Forest Park" residential development (Exhibit 3). Five of these drainages, designated Drainage A, Drainage B, Drainage C, Drainage E, and Drainage E1 will impact the quality of these waters of the state and will be regulated by this Order (Exhibit 1 and Table 1 of this Order). The Discharger has proposed complete infilling of four of these five drainage courses, while retaining one drainage course, Drainage C, as the mitigation site for the other four. In Drainage C, infilling by the installation of turf mat and plantings will be conducted as temporary impacts to waters of the state, serving as onsite mitigation for the infilling of Drainage A, Drainage B, Drainage E, and Drainage E1 (permanent impacts to waters of the state) (see Exhibits 3 and 4, and Table 1 of this Order). This discharge of fill will impact a total of 3,223 linear feet (LF) and 0.577 acre of these five drainages (Table 1 of this Order).

Beneficial uses² (BUs) that are supported by the waters of the state on the Project site include: Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), Groundwater Recharge (GWR), Agricultural Supply (AGR), and Non-Contact Water Recreation (REC2) (which is limited by fencing). Biological surveys have not found special-status plant or animal species present in, or associated with, these channels; therefore, the beneficial use of "rare, threatened or endangered species habitat" (RARE) is not present. Regional Board staff has concluded that the beneficial uses that are well-supported and that would be the most severely impacted by the Project are WILD, WARM, and GWR. To mitigate for impacts to beneficial uses, it is appropriate for the Regional Board to require compensatory mitigation.

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

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

¹ Exhibit 2 depicts the subject development superimposed on the site drainage courses as identified by the Discharger in the May 4, 2011 Final Environmental Impact Report.

² Beneficial uses for all waters in the Santa Ana Region are established in the Water Quality Control Plan for the Santa Ana River Basin (Region 8), 1995, as amended (Basin Plan). The Basin Plan defines these uses.

because of the steep grade of the site, according to the Discharger. In short, the Discharger claims that its proposed grading of the Project site does not qualify as a “discharge of waste” under the CWC, nor would the grading in any event adversely impact any actual or designated BU of State waters. Regional Board staff disagrees with the Discharger’s position and recommends that the Project be regulated pursuant to the waiver.

On October 22, 2009, the U.S. Army Corps of Engineers determined that the drainage courses within the Project site are not within its jurisdiction. In cases where Clean Water Act (CWA) Sections 401 Certification and 404 permits are not required, the State can regulate dredge and fill operations to waters of the state under the California Water Code if the subject area is determined to be a water of the state. Here, Regional Board staff has determined that these drainages, which erode into or otherwise cross the Project site’s landscape from higher to lower elevations, are waters of the state and subject to regulation by the Regional Board.

The Discharger worked diligently with Regional Board staff on draft revisions of a mitigation plan to resolve differences concerning Regional Board regulation of the proposed Project. On April 9, 2014, the Discharger submitted the Project’s “Riparian Habitat Mitigation Plan, Rancho Paseo de Valencia LLC, dba Forest Park, Corona, California” as requested for mitigation that would satisfy the requirements of both the Regional Board and CDFW. The April 9, 2014 version of the mitigation plan was approved by a letter from the Executive Officer on April 23, 2014, in time for waiver adoption. Subsequently for a year, the Discharger discussed the mitigation plan with CDFW staff (corroborated with Regional Board staff) during development of a Streambed Alteration Agreement (SAA); the plan remained generally unchanged except for minor sentences reflecting the waiver and altering the native plant palette. The final version commemorated in this Order as the approved “final Mitigation Plan” is entitled “*Riparian Habitat Mitigation Plan, Rancho Paseo de Valencia, LLC, dba Forest Park, Corona California, April 9, 2014 Revised April 15, 2015*” and was approved by CDFW staff and Regional Board staff on May 14, 2015.

Monitoring and Reporting Program (M&RP) No. R8-2019-0015 incorporates the final Mitigation Plan and requires that assessments of the Drainage C mitigation area be conducted according to the “California Rapid Assessment Method for Wetlands and Riparian Habitats” or CRAM.

As with the 2014 Order, the Mitigation Plan has been approved on the condition that an appropriate party be identified in the near future to maintain the mitigation area in its completed state, in perpetuity. This perpetuity requirement is reiterated in the Mitigation Plan (p. 1,15), in the inclusion of mitigation measure BIO-3 from the Final EIR, and in the discussion of recording a future conservation easement maintained by a relevant party once five-year success criteria is achieved. The Executive Officer’s April 23, 2014 letter required early submittal of this recorded easement, with contact information for the party or agency that will hold this easement.

Project Impacts, Determining Areas of Impacts, and Mitigation Measures

Discharges of fill to Drainages A, B, E, and E1 necessary to make the site suitable for the proposed development will result in the permanent loss of the beneficial uses of these

naturally occurring water courses (Exhibit 3). Drainage C will be temporarily impacted by construction of a manufactured slope and erosion control measures required by the City. The Discharger has chosen to stabilize Drainage C against erosion by installing an erosion control mat system within the channel bed to the elevation of the calculated 10-year probability storm flow, plus freeboard (specifications in the final Mitigation Plan).

Mitigation for the permanent impacts to beneficial uses of Drainages A, B, E, and E1, and temporary impacts to Drainage C, will include restoration of native vegetation and habitat within and surrounding Drainage C, once the erosion control measures are installed (see Order, Table 1). Drainage C crosses the southeastern corner of the Project site within the 4.9-acre Lot G that has been designated for preservation. The native habitat restoration proposed to take place in and along Drainage C will satisfy mitigation conditions of both the Regional Board and the CDFW.

The CDFW has taken jurisdiction over 0.075 acre of wildlife habitat along a vegetated, 84-foot long section of Drainage A exhibiting bed and bank structure, in the central part of the site and within the footprint of the proposed development. To compensate for this loss of habitat, the Discharger proposed to re-grade an area within Lot G where intermittent flows currently pond, and to establish 0.225 acres of willow and mulefat riparian habitat. A Streambed Alteration Agreement (SAA) was issued by the CDFW on November 7, 2017. The final Mitigation Plan is reflected in CDFW's Streambed Alteration Agreement (SAA) No. 1600-2013-0134-R6 (Revision 3), with concurrence agreed upon between Manuel Valencia, and Bruce Kinney and Claire Ingel of the CDFW, on October 11, 2017.

Regional Board staff's estimate of impacts included the 84-foot long section of wildlife habitat present along Drainage A, discussed above, for which a mitigation of 0.225 acres is proposed under CDFW oversight, and so will be credited to the Discharger toward the total of 0.577 acre impacted. In addition, the Discharger is proposing to substitute for riprap along Drainage C with erosion control matting. This results in 0.133 acres of avoided permanent impacts to Drainage C. Regional Board staff recommends mitigating for the remaining permanent impacts, or 0.219 acres, at a 1:1 ratio ($0.577 \text{ acre} - 0.225 \text{ acre} - 0.133 \text{ acre} = 0.219 \text{ acre}$).

The Discharger proposes to mitigate all Project permanent impacts to waters at a site located along Drainage C, beginning immediately upstream of the 0.225-acre CDFW mitigation site (Exhibit 4). The mitigation site will have an average width of 20 feet, which includes the average 12-foot width of the 10-year storm flow in Drainage C. A planned maintenance road will divide the 484-foot proposed mitigation area into segments of approximately 415 feet and 69 feet. The drainage will be excavated and graded to provide for the design flow and the proposed mitigation. To meet City erosion control standards, the Discharger will stabilize the 10-year storm flow channel width (plus freeboard) of Drainage C with erosion-control turf reinforcement matting, installed according to manufacturer's specifications. The Discharger will cover the matting to re-establish the streambed surface and will install riparian and

upland plant species listed in the final Mitigation Plan, in order to create conditions that will support the beneficial uses.

In addition to the Drainage C mitigation, Regional Board staff recognizes that the Discharger is also taking steps to avoid impacts to:

- Lot G (4.9 acres) in the southeastern corner of the project, which includes a remnant of the orchard and Drainage C (where mitigation will take place), and;
- Lot H (7.7 acres) in the western portion of the project. This lot includes steep terrain and a segment of a natural drainage course in Lord's Canyon, all adjacent to but outside of the Project footprint. This drainage course terminates in one of two existing offsite detention basins.

Stormwater Management

The Discharger is proposing to construct bioretention swales (total of 1,820 linear feet), as well as two onsite earthen-bottomed detention basins (a total of 1.16 acres) that in turn will respectively discharge into the two offsite detention basins. This will conform to the final Water Quality Management Plan (WQMP; May 28, 2014 and any subsequent iterations) developed for the City and Regional Board Order No. R8-2010-0033³, the Municipal Storm Water Permit for Riverside County.

The detention basins noted above, as well as retention of sediment and other pollutants, are discussed in the Storm Water Pollution Prevention Plan (SWPPP, April 9, 2015 and any subsequent iterations) developed in accordance with the General Construction Permit. To date, the Discharger has not enrolled under the General Construction Permit itself.

The Best Management Practices above are expected to increase the site's infiltration capability, thereby mitigating for any loss of groundwater recharge beneficial use. Manufactured slopes will provide some additional open space for runoff retention.

Proposed Conditional Waiver

Pursuant to Water Code Section 13269, a waiver may be subject to an annual fee. Alternatively, the Executive Officer's waiver agreement with the Discharger determined payment of a one-time fee calculated to be \$41,132.42, which was remitted as part of a complete ROWD. No further charge accompanies the renewal of this waiver.

The individual conditional waiver proposed by Regional Board staff establishes conditions for the discharge of waste (in this case, fill consisting of soil and soil-like material excavated on the Project site) to waters of the state. Proposed special conditions include successful implementation of the approved final Mitigation Plan described above and maintenance of

³ Order No. R8-2010-0033, NPDES Permit No. CAS618033, "Waste Discharge Requirements for Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Incorporated Cities of Riverside County within the Santa Ana Region, Areawide Urban Runoff Management Program."

the mitigation area in perpetuity. Other special conditions include monitoring and reporting on the status of mitigation until its success criteria are met, as well as allowing inspections. This waiver will be reviewed and considered for renewal before March 22, 2024, if appropriate.

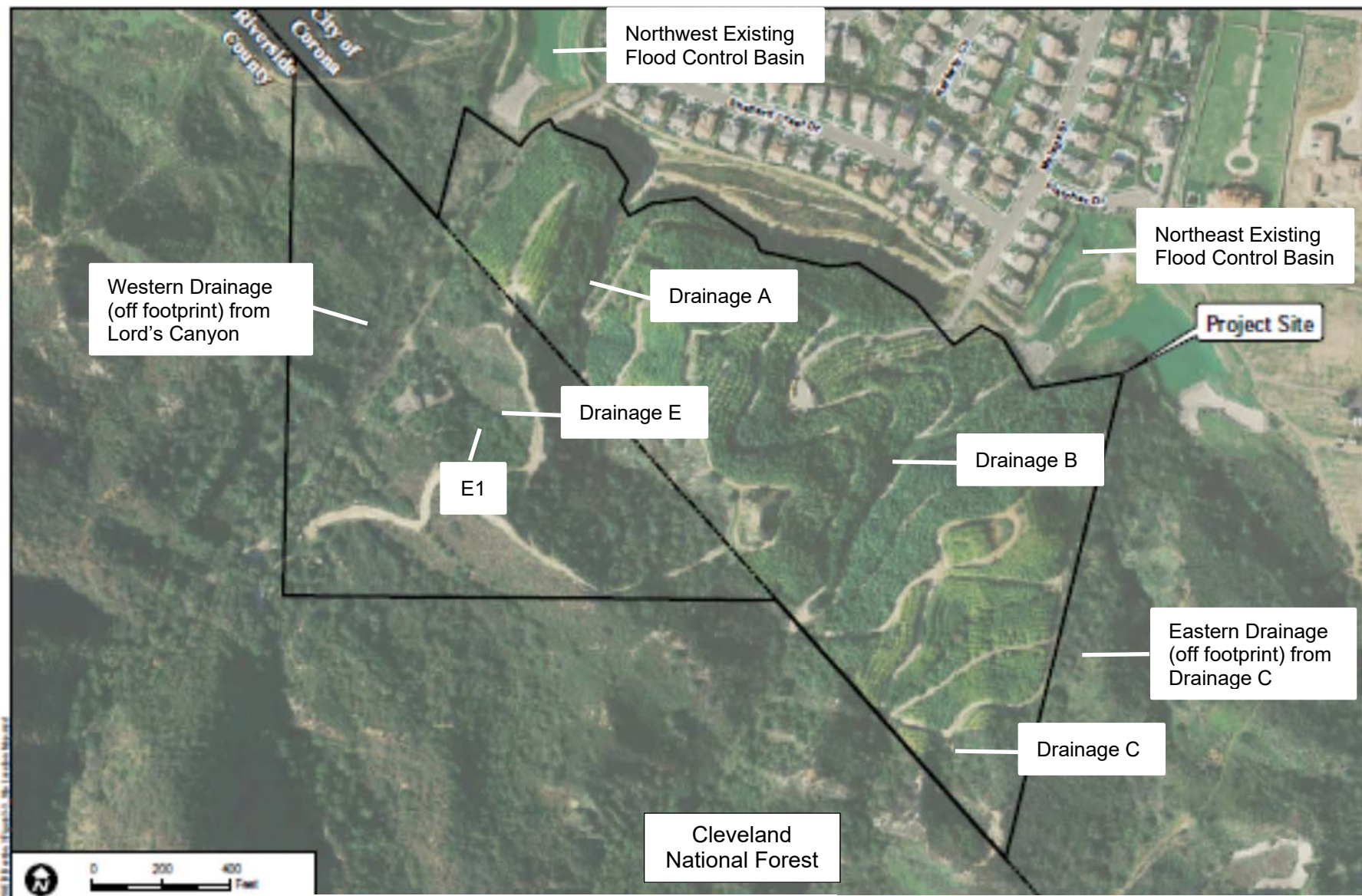
RECOMMENDATION:

- 1) Adopt Order No. R8-2019-0015 conditionally waiving WDRs for this Project's discharge of fill to waters of the state. Adopt Monitoring and Reporting Program No. R8-2019-0015.

Comments were solicited from:

Rancho Paseo de Valencia, LLC - Manuel Valencia
Dennis Armstrong, Armstrong & Brooks Consulting Engineers, Corona
Natural Resources Assessment, Inc., Riverside – Karen Kirtland
Rutan and Tucker, LLP, Costa Mesa – Richard Montevideo
U.S. Forest Service, Cleveland National Forest, general email
U.S. Fish and Wildlife Service, Carlsbad – Eric Porter
California Department of Fish and Wildlife, Ontario office – Jeff Brandt and Claire Ingel
State Water Resources Control Board, Office of Chief Counsel – Teresita Sablan
State Water Resources Control Board, Division of Water Quality – Clifford Harvey
Riverside County Flood Control & Water Conservation District – Teresa Tung
City of Corona, Planning Department – Joanne Coletta
City of Corona, Principal Civil Engineer - Maria Sambito

Exhibit 1, Order No. RB8-2019-0015, Individual Waiver



0 200 400 Feet

DUDEK

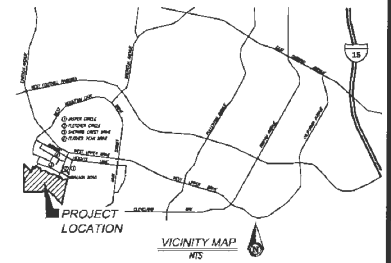
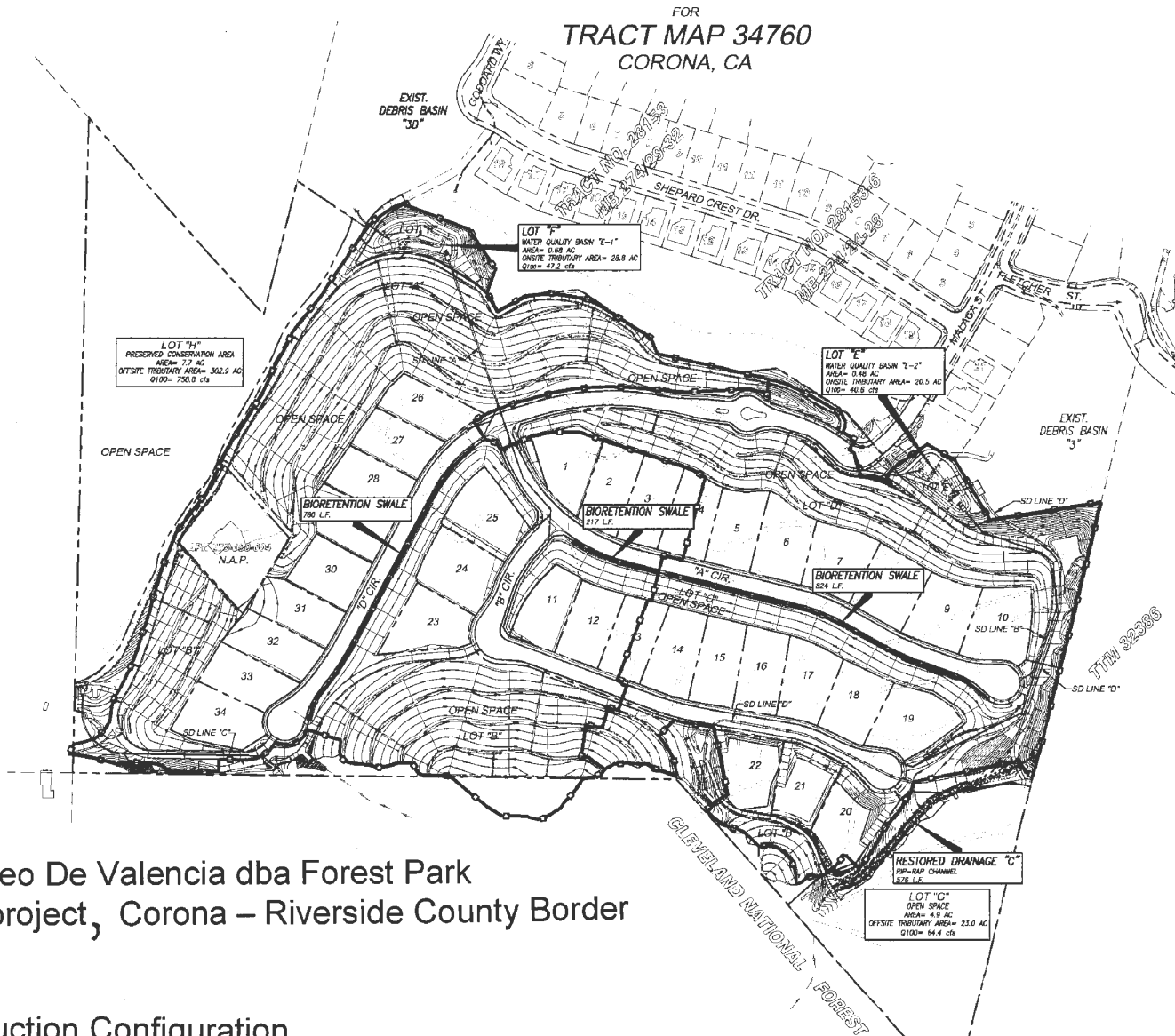
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MARCH 2019

Rancho Paseo De Valencia
Dba Forest Park Residential Project
Southern Terminus of Malaga St., Corona
Tract Map No. 34760

Natural Drainages Before Development

Adapted from Dudek Consultants, 2010
Project Draft Environmental Impact Report

Exhibit 3, Order No. R8-2019-0015, Individual Waiver



OWNER/DEVELOPER
 RANCHO PASEO DE VALENCIA
 1755 OVERSEAS COURT
 CORONA, CA 92902
 PH: (951) 275-6577 FAX: (951) 279-4888

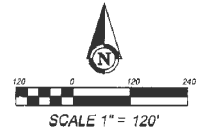
ENGINEER
 ARMSTRONG & BROOKS CONSULTING ENGINEERS
 MAILING ADDRESS:
 P.O. BOX 7008
 CORONA, CA 92977-1998
 OFFICE LOCATION:
 1150 EAST CHASE DRIVE
 CORONA, CA 92881
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ASSESSOR'S PARCEL NO.
 114-949-019,114-240-380, 375-100-003

LEGAL DESCRIPTION:
 BEING A SUBDIVISION OF ALL OF PARCELS 1, PAR 28201 AND PARCEL 2, PAR 28201 OF LOT LINE ADJUTMENT 88-01 RECORDED APRIL 7, 1999 AS INSTRUMENT NO. 132754 OF OFFICIAL RECORDS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 1 (SOUTHWEST QUARTER) OF SECTION 11, TOWNSHIP 4 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN, AS SHOWN BY UNITED STATES GOVERNMENT SURVEY MORE PARTICULARLY DESCRIBED PER DEED RECORDED MAY 29, 1958 AS INSTRUMENT NO. 49852, OFFICIAL RECORDS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

LEGEND


- TRIBUTARY AREA BOUNDARY
- BIORETENTION SWALE
- PROPERTY LINE



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

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

SANTA ANA RWQCB - WDR SITE MAP
 FOR
 TRACT MAP NO. 34760
 CORONA, CA

PREPARED BY:
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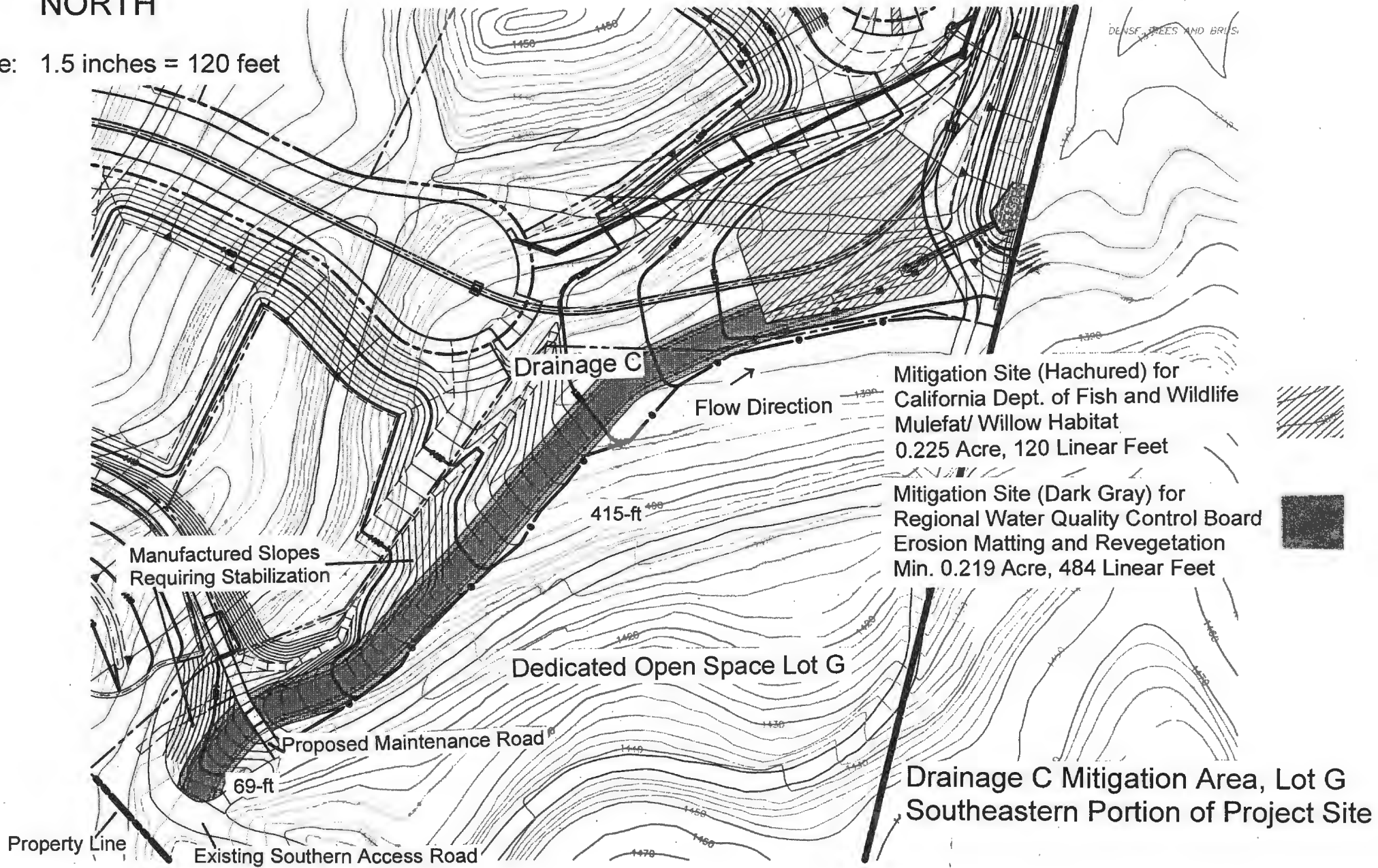
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Exhibit 4, Order No. R8-2019-0015, Individual Waiver



NORTH

Scale: 1.5 inches = 120 feet



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

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

Order No. R8-2019-0015

Renewal of Individual Conditional Waiver of Waste Discharge Requirements

For

Rancho Paseo De Valencia, LLC, dba Forest Park

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

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

1. Rancho Paseo De Valencia, LLC (hereinafter Discharger) submitted a Report of Waste Discharge (ROWD) on November 14, 2013, for the discharge of fill to waters of the state related to the proposed construction of the "Forest Park" residential development project (the Project). In the ROWD, the Discharger requested that the Regional Board waive waste discharge requirements (WDRs) for the Project. An individual conditional waiver of WDRs (Order No. R8-2014-0009) was adopted for the Project on April 25, 2014 for a five-year period, as allowed by California Water Code Section 13269, subdivision (a)(2). Given no change to the construction proposal, and no construction to date, Order No. R8-2019-0015 renews this individual waiver until March 22, 2024. The Project is also permitted by the California Department of Fish and Wildlife (CDFW) under Streambed Alteration Agreement No. 1600-2013-0134-R6, Revision 3 (November 7, 2017).
2. The Project, also known as Tentative Tract Map (TTM) No. 34760, is located in the City of Corona (the City). The Discharger proposes to remove most of an orchard and construct manufactured slopes, infrastructure, and 34 residential lots, on 49.6 acres of a 64.4-acre Project site. The Project site is adjacent to the Cleveland National Forest in the lower foothills of the Santa Ana Mountains, in Sections 11 and 14, T4S, R7W, SBB&M, at latitude 33.8308°, longitude -117.5836°.
3. There are eight channels (also referred to as drainage courses or Drainages A, B, C, D, E, E1, F, and an eighth minor drainage found during site investigation) within the Project site. The drainage courses are waters of the state. Since cessation of agricultural activities at least a decade ago, three former man-made agricultural drainages, D, F (Exhibit 2¹), and an unnamed eighth drainage (not shown on Exhibits), have degraded into minor discontinuous erosional features within the landscape and no longer function as conveyance structures. These remnant drainages do not have any existing or potential beneficial uses that would be impaired by the proposed discharge of fill and are not regulated by this Order.

¹ Exhibit 2 depicts the subject development superimposed on the site drainage courses as identified by the Discharger in the May 4, 2011 Final Environmental Impact Report.

The Discharger is proposing to fill seven of the drainage courses identified on the Project site as part of construction of the "Forest Park" residential development (Exhibit 3). The discharge of fill to five of these drainages, designated Drainage A, Drainage B, Drainage C, Drainage E, and Drainage E1, will impact the quality of these waters of the state (Exhibit 1 and Table 1 of this Order). The Discharger has proposed complete infilling of four of these five drainage courses, while retaining one drainage course, Drainage C, as the mitigation site for the other four. In Drainage C, infilling by the installation of turf mat and plantings will be conducted as temporary impacts to waters of the state, serving as onsite mitigation for the infilling of Drainages A, B, E, and E1 (permanent impacts to waters of the state) (see Exhibits 3 and 4, and Table 1 of this Order). This discharge of fill will impact a total of 3,223 linear feet (LF) and 0.577 acre of these five drainages (Table 1 of this Order).

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

**Table 1. Channel Impacts
 Rancho Paseo de Valencia, LLC, dba Forest Park**

Drainage	Length, feet	Average Width, feet	Square Feet (sf)	Acreage (ac) (sf / 43,560 sf/ac)	Notes
A	1,067.2	4.79	5,111.89	0.117	To be permanently impacted. 84 LF jurisdictional to both CDFW and RWQCB. RWQCB credits to Discharger the 0.225-ac mitigation area in and adjacent to Drainage C in Lot G for CDFW, for habitat impacts in "A" (see Exhibit 4 of this Order).
B	1,200.0	10.5	12,600	0.289	To be permanently impacted. Mitigation to be conducted in Drainage C for loss of beneficial uses (BU) in "B".
C	415 Reach 1 + 69 Reach 2 = 484	12	5,808	0.133	To be temporarily impacted by installation of erosion control matting. Location for the mitigation to be conducted for loss of BU in drainages A, B, E, and E1, including credited CDFW drainage A jurisdiction, as specified in final Mitigation Plan. Reach 1 = 415 LF upstream of CDFW mitigation site, to the proposed maintenance road. Reach 2 = 69 LF upstream of proposed maintenance road to the existing road along southerly property line.
E	230.2 Reach 1 + 71 Reach 2 = 301.2	4.86	1,463.83	0.034	To be permanently impacted. Reach 1 = less dense upland/riparian vegetation from road upstream. Reach 2 = dense upland/riparian vegetation up into natural slope.
E1	170.6	1.04	177.42	0.004	To be permanently impacted. Tributary to Drainage E; Upland/riparian vegetation in natural slope.
SUM	3,223 LF	varies	25,161.14 sf	0.577 ac	Total impacts to beneficial uses

5. The Water Quality Control Plan for the Santa Ana River Basin (Basin Plan), identifies water quality standards (water quality objectives and beneficial uses) for waters in the Santa Ana Region. The conditions specified in this Order are consistent with the Basin Plan.
6. Drainages A, B, C, E and E1 currently support some or all of the following beneficial uses:
 - a. Wildlife Habitat (WILD);
 - b. Warm Freshwater Habitat (WARM);
 - c. Groundwater Recharge (GWR);
 - d. Non-Contact Water Recreation (REC2); and
 - e. Agricultural Supply (AGR).
7. The Project site overlies the Temescal Groundwater Management Zone (GMZ), the beneficial uses of which include: Municipal Supply (MUN), Agricultural Supply (AGR), Industrial Process Supply (PROC), and Industrial Service Supply (IND).
8. The discharge of waste, in this case, fill material, to Drainages A, B, E, and E1 will cause permanent loss of the beneficial uses of these drainages. Construction of erosion control measures within Drainage C will temporarily impact beneficial uses.
9. On February 14, 2014, the Discharger submitted a Mitigation Plan for all of the identified impacts to waters of the state from the proposed Project. After several iterations, the Executive Officer approved the April 9, 2014 version on April 23, 2014. CDFW (in coordination with Regional Board staff) reviewed the Mitigation Plan during development of a Streambed Alteration Agreement for the Project and made minor changes to the Mitigation Plan. The final version, "*Riparian Habitat Mitigation Plan, Rancho Paseo de Valencia, LLC, dba Forest Park, Corona California, April 9, 2014 Revised April 15, 2015,*" (Final Mitigation Plan) was approved by CDFW and Regional Board staff on May 14, 2015. The Final Mitigation Plan is incorporated into this Order.
10. The City is the lead agency under the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, *et seq.*) for the Project. The City certified the Final Environmental Impact Report (EIR) for the Project and filed a Notice of Determination on May 4, 2011. The City determined that the Project, without mitigation, will have potentially significant impacts on the environment. The EIR includes mitigation measures to mitigate the Project's impacts on the environment to less than significant. The EIR also determined that certain effects were significant and unavoidable and adopted a Statement of Overriding Considerations. The impacts in the Statement of Overriding Considerations do not pertain to water quality.

The Regional Board is a responsible agency for this Project. As a responsible agency, the Regional Board is "responsible for considering only the effects of those activities involved in a project which it is required to carry out or approve" (Pub. Res. Code § 21002.1, subd. (d).). The Regional Board has reviewed and considered the impacts to water quality in the EIR and finds that the impacts to water quality are less than significant with mitigation.

Pursuant to Public Resources Code section 21081.6 and CEQA Guidelines section 15097, the City adopted a mitigation monitoring and reporting program (MMRP) to ensure that the mitigation measures identified in the EIR are implemented. The MMRP is incorporated herein by reference and the Discharger shall implement mitigation and conditions for water quality impacts as required in the EIR.

11. In part, California Water Code (CWC) Section 13269 authorizes the Regional Board to waive issuance of waste discharge requirements if the Regional Board determines that the waiver is consistent with the applicable Basin Plan and is in the public interest. CWC Section 13269 specifies, among other criteria, that waivers shall be conditional, monitoring shall be included as a condition of waivers, and that waivers may not exceed five years in duration but may be renewed. The Regional Board finds that the renewal of this individual conditional waiver is consistent with the Basin Plan, includes monitoring requirements and is in the public interest.
12. The Discharger will be responsible for establishing, monitoring, successfully completing, and maintaining the measures identified in the final Mitigation Plan. An appropriate party will be identified to maintain the completed mitigation area in perpetuity, through a conservation easement to be copied to the Regional Board.
13. The construction activities at the site will be conducted in accordance with a City-approved Water Quality Management Plan (WQMP), the Municipal Storm Water Permit for Riverside County, and the State Water Resources Control Board's *General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities*, State Water Board Order No. 2009-0009-DWQ.
14. The State Water Resources Control Board established California's antidegradation policy in State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Water in California* (Antidegradation Policy). The Antidegradation Policy requires that WDRs reflect best practicable treatment or control of wastes and that any degradation of high quality waters (a) will be consistent with the maximum benefit to the people of the State, (b) will not unreasonably affect present and anticipated beneficial uses, and (c) will not result in water quality less than that prescribed in state policies (e.g., water quality objectives in Water Quality Control Plans).

Consistent with the Policy, the Discharger may not carry out any activity that may cause or threaten to cause a condition of pollution or nuisance, and any degradation will be consistent with the maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in state policies. The filling of Drainages A, B, E, and E1 will cause permanent loss of the beneficial uses of these drainages. However, the Discharger is required to provide and maintain compensatory mitigation to offset the loss of beneficial uses. Additionally, the development of housing under the Project will benefit the people by providing jobs and accommodating growth in Riverside County.

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

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

A. GENERAL CONDITIONS:

1. No activities associated with the Project shall cause or threaten to cause a nuisance or pollution as defined in Section 13050 of the California Water Code.
2. The discharge of fill materials shall be limited to the placement of native fill and inert materials, as defined in California Code of Regulations Title 27, Division 2, Section 20230.
3. Except as otherwise permitted by this Order, the groundwater or surface water in the vicinity of the Project site shall not be degraded as a result of Project activities or placement of fill for the Project.
4. There shall be no fueling, lubrication, maintenance, or storage of construction equipment within drainages or other surface runoff conveyances during the grading and filling operation.
5. Prior to the start of Project construction, the Discharger must, as applicable, obtain coverage under the State Water 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. The construction activities at the site must be conducted in accordance with a City-approved Water Quality Management Plan (WQMP), the Municipal Storm Water Permit for Riverside County, and the General Construction Storm Water Permit.

B. SPECIAL CONDITIONS:

1. Except as otherwise permitted by this Order, the discharge of wastes, including rubbish, refuse, bark, sawdust, trash, or other solid or liquid wastes into channels or other surface waters, or to any place where they would be eventually transported to surface waters, is prohibited.
2. The discharge of oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

3. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
4. Discharges to surface waters of wastes or pollutants which are not otherwise regulated by this Order, or a separate National Pollutant Discharge Elimination System (NPDES) permit, is prohibited.
5. The discharge of any substance in concentrations toxic to animal or plant life is prohibited.
6. The discharge of fill as identified above is contingent upon the Discharger's timely implementation of the final Mitigation Plan, and the satisfactory and timely completion of all its specified activities. Implementation of the final Mitigation Plan shall occur concurrently with earthmoving or construction activities that discharge waste to waters of the state.
7. The Discharger shall comply with Monitoring and Reporting Program (M&RP) No. R8-2019-0015, which is a part of this Order. The M&RP may be modified by the Executive Officer at any time during the term of this Order.
8. The Project's final Mitigation Plan has been reviewed and approved by the Executive Officer. The Discharger shall implement the final Mitigation Plan, which includes:
 - a. Drainage C (in southeastern corner of the Project site, in Lot G) has been chosen by the Discharger to be an appropriate location in which to implement mitigation for impacts to beneficial uses subject to the Regional Board's jurisdiction and for impacts to wildlife habitat under the authority of the California Department of Fish and Wildlife.
 - b. A minimum of 0.219 acre of mitigation area that will support warm freshwater habitat and wildlife habitat beneficial uses will be implemented within and along the 484-foot segment of Drainage C that is between the upstream side of the proposed 0.225-acre California Department of Fish and Wildlife mitigation site and the existing road that follows the Project site's property line at its southernmost corner. The area where mitigation is to occur is shown on Exhibit 4. The width of the mitigation area is expected to average 20 feet and will not be less than 12 feet.
 - c. The work necessary to implement the mitigation will include grading and the excavation of Drainage C as necessary to conform to the final Mitigation Plan concept, which includes installation of erosion-control matting in a manner specified by the manufacturer. The final Mitigation Plan requires that the installed matting in Drainage C be covered with soil and planted using the plant palette specified in the Mitigation Plan.

- d. To the extent possible, plants that will be used to implement the final Mitigation Plan must be propagated from locally collected seeds and cuttings. Locally collected seed shall be used in re-seeding operations. Undesirable and invasive plants must be removed from the mitigation area to the extent possible to allow establishment of the native plant palette.
- e. The mitigation area (final Mitigation Plan) shall meet specified success criteria, which are:
 - 1) After 1 year, cover of herbaceous plantings shall be at least 80 percent of the planted area; herbaceous cover shall be maintained.
 - 2) After 1 year, cover for the woody species shall be at least 20 percent of the planted area to complement the herbaceous plantings. A minimum of 80 percent of the initial plantings shall survive.
 - 3) After 2 years, cover for the woody species shall be at least 30 percent of the planted area.
 - 4) After 3 years, cover for the woody species shall be at least 50 percent of the planted area.
 - 5) After 4 years, cover for the woody species shall be at least 70 percent of the planted area.
 - 6) After 5 years, cover for the woody species shall be at least 80 percent of the planted area and maintained at that coverage in perpetuity.
9. The mitigation program will be considered successful upon the establishment of a self-sustaining riparian habitat.
10. The mitigation site shall be monitored regularly, from when installation of plants specified by the final Mitigation Plan is completed to when the mitigation meets Year 5 success criteria. Any derivations from the B.8.e.1) – 6) percentages (owing to drought, fire, disease, etc.) shall be explained in the annual December monitoring reports specified in Monitoring and Reporting Program No. R8-2019-0015.
11. The mitigation site shall have an operating irrigation system for as long as necessary to ensure successful germination and growth of plant species specified by the final Mitigation Plan.
12. The Discharger will be responsible for establishing, monitoring, successfully completing, and maintaining the measures identified in the final Mitigation Plan. The Discharger shall obtain a conservation easement for the mitigation site, to protect the site from conflicting uses in perpetuity. The conservation easement shall be recorded with the Riverside County Recorder's office and shall expressly grant the Regional Board the authority to enter upon and inspect the property, and to enforce the terms of the final Mitigation Plan.

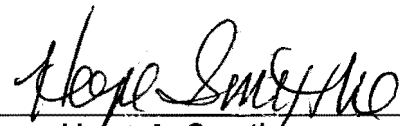
13. An appropriate party will be identified to maintain the completed mitigation area in perpetuity. Agreements must be put in place by the Discharger (and copied to the Regional Board) designating a party who will be responsible for implementing the conditions of this Order and maintaining the integrity of the Drainage C mitigation site. The Discharger must advise Regional Board staff of any change of this responsible party.
14. The Discharger, for so long as it owns the land, and thereafter the successor owner or owners of the land, or other party to whom responsibility for compliance with this Order has been assigned and who has accepted this assignment, or who has control over the Project (collectively, Successor), must comply with all conditions of this waiver. Any violation of the waiver conditions, including provisions of the M&RP, may be grounds for administrative and/or judicial enforcement action, termination of this waiver, revocation and re-issuance of this waiver, denial of an application for re-issuance of this waiver, or a combination thereof.
15. The Discharger shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.
16. The filing of a request for modification, revocation and re-issuance, or termination of this waiver or a notification of planned changes or anticipated noncompliance does not stay any requirements of this waiver.
17. The conditions prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the Discharger from liabilities under federal, state, or local laws, nor guarantee the Discharger a capacity right in the receiving waters.
18. This waiver does not convey any property rights of any sort, or any exclusive privilege.
19. This Order may be transferred to subsequent owners of the affected land, and to other Successors who control the Project. For a transfer of the Order to occur, all parties must submit a written request for transfer to the Executive Officer. The transfer of the Order is complete upon approval by the Executive Officer.
20. In the event of any change in control or ownership of the Project, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to the Regional Board. The Discharger must also provide the Executive Officer with the name(s) and contact information for successor owner(s) of the Project.
21. The Regional Board and other authorized representatives shall be allowed:
 - a. Entry upon premises where a regulated facility or activity is located or conducted, or where records are kept under the requirements of this Order;

- b. Access to copy any records that are kept under the requirements of this Order;
- c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and to photograph, sample and monitor for the purpose of assuring compliance with this Order.

C. NOTIFICATIONS

- 1. The conditions of this waiver are severable, and if any condition of this waiver, or the application of any condition or specification of this waiver to any circumstance, is held invalid, the application of such condition or specification to other circumstances, and the remainder of this Order shall not be affected thereby.
- 2. This Order becomes effective on the date of adoption by the Regional Board.
- 3. Any person aggrieved by this action of the Regional Board may petition the State Water Resources Control Board (State Water Board) to review the action, in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except if the thirtieth day after the date this Order becomes final falls on a Saturday, Sunday, or state holiday, the petition must be received by 5:00 p.m. on the next business day. The law and regulations applicable to filing petitions may be found at:
http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

I, Hope A. Smythe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Regional Board, Santa Ana Region, on March 22, 2019.



Hope A. Smythe
Executive Officer

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

Monitoring and Reporting Program No. R8-2019-0015
Renewal of Individual Conditional Waiver of Waste Discharge Requirements
For
Rancho Paseo De Valencia, LLC, dba Forest Park
Corona, Riverside County

California Water Code Section 13269 authorizes the Regional Board to require monitoring as a condition of a waiver of waste discharge requirements. This Monitoring and Reporting Program establishes the monitoring and reporting necessary to verify compliance with the conditions of Order No. R8-2019-0015.

A. GENERAL MONITORING REQUIREMENTS

1. All reports and records required by this program must be retained by the Rancho Paseo De Valencia, LLC, dba Forest Park, Riverside County (Discharger) for as long as it owns the affected land and operates the Project, and thereafter by the successor owner or operator of the project, including other party or parties to whom responsibility for compliance with Order No. R8-2019-0015 has been assigned and who accept this assignment (collectively, Successor), for a period of not less than five years from when Year Five success criteria for the Forest Park mitigation site have been met. This period of retention shall be extended during the course of any unresolved litigation regarding this discharge, or by the request of the Regional Board at any time. Records of monitoring information shall include, but are not limited to:
 - a. The date(s) and approximate time (s) that site monitoring occurred;
 - b. The individual(s) who performed the monitoring;
 - c. Field worksheets used to record monitoring information;
 - d. Photographic images taken during monitoring;
 - e. Reports in which collected field data are summarized.
2. All monitoring instruments and devices used to fulfill this prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy.
3. Reports and records required by this program, including photographic images, shall be maintained on the Project site, and shall be made available to Regional Board staff upon request.
4. For every item where the conditions of the Order and Monitoring and Reporting Program are not met, the Discharger or its Successor shall timely submit a report

and time schedule of the actions undertaken or proposed which will bring the discharge into full compliance at the earliest time.

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

B. MONITORING LOCATIONS

1. The Discharger or its Successor shall establish permanently marked photo points, locations from which representative photographs or images of the mitigation area¹, and upstream and downstream of the area, can be obtained. GPS coordinates of these photo points shall be recorded. Photo point markings shall include the direction of the representative view(s) that are taken from that location.
2. The Discharger or its Successor shall establish a minimum of four (4) transects across the mitigation area from which data can be collected as to the composition and condition of the plant and animal species present. GPS coordinates of these transects shall be recorded, and the ends of the transects shall be permanently marked. One of these transects shall be between the existing access road along the Project site's southerly property line and the planned maintenance road. The remaining transects shall be representative of the remainder of the mitigation area. The general guidelines to delineate assessment areas, in the most recent version of "California Rapid Assessment Method for Wetlands and Riparian Habitats" (CRAM), shall be followed when selecting transect locations.

C. MONITORING

1. The Discharger or its Successor shall conduct regular monitoring of the mitigation site. This monitoring shall include observations of the site from at least the established photo points and transects, to inspect the condition and growth of installed plant materials, the irrigation system, the need for herbivore control, and the need for weed control. Each time the site is monitored for reporting under this program:
 - a. The site shall be photographed from the established photo points.
 - b. Observations shall be made of indications of trespass, vandalism, the need to replace dead plant materials, extraordinary maintenance needs, or other conditions that threaten the viability or success of the mitigation.
 - c. Percent coverage by the approved plant palette shall be estimated by standard protocols.

¹ "Mitigation area" includes both the 0.225-acre CDFW riparian habitat mitigation site and the 0.219-acre Regional Board beneficial use mitigation site that are to be located in and along Drainage C, in Lot G of Tentative Tract Map (TTM) 34760. The final Mitigation Plan, approved on May 14, 2015, is named in the Order and Staff Report.

- d. Colonization by desirable and undesirable plant species from surrounding areas, with removal of undesirable species, shall be recorded and reported.
 - e. Observations and indications of wildlife on the site shall be reported.
2. Quarterly, beginning with installation of the plant palette specified in the final Mitigation Plan, and continuing with all procedures therein until five-year success criteria are met to the satisfaction of the Executive Officer, the Discharger or its Successor shall monitor the mitigation site as described in C.1, above.
 3. In monitoring years 2 and 4, the condition of the mitigation area shall be assessed and recorded using the procedures specified in the most recent version of CRAM for wetland and riparian habitats. These assessments shall be conducted at the end of the growing season.

D. REPORTING

1. The Discharger or its Successor shall notify Regional Board staff two weeks prior to commencement of construction work necessary to prepare Drainage C for implementation of the final Mitigation Plan. This notification shall include a construction schedule.
2. The Discharger or its Successor shall notify Regional Board staff within two weeks of completion of the installation of the mitigation in Drainage C.
3. Reports of quarterly monitoring shall be submitted quarterly, by the last working day of March, June, September and December, until approved success criteria are met to the satisfaction of the Executive Officer.
4. If appropriate, quarterly reports shall include a discussion of remedial actions taken or needed, and a schedule for future actions.
5. CRAM assessment findings shall be reported to the wetland tracker website www.sfei.org/wetlandtracker, and to the Regional Board, by the last working day of March of the year following the assessment.
6. December reports shall also constitute an annual report, which shall include a comparison of the condition of the mitigation area to the approved success criteria. Any deviation, and reason for the deviation, of vegetational percent cover and other mitigation area conditions from the approved success criteria shall be explained in the December reports.
7. December reports shall include agreements between the Discharger or its Successor and others concerning implementation of the final Mitigation Plan, including responsibility for its perpetual management and oversight.

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

Ordered by Hope Smythe March 22, 2019
Hope A. Smythe
Executive Officer