

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

May 8, 2020

STAFF REPORT

ITEM: 11

SUBJECT: Rancho Diamante (TTM 35393) Residential Development Project, Rancho Diamante Investments, LLC, City of Hemet, Riverside County, Order No. R8-2020-0028

DISCUSSION:

California Water Code (CWC) section 13376 states that any person discharging dredged or fill material or proposing to discharge dredged or fill material into the navigable waters of the United States (U.S.) within the jurisdiction of this State shall file a report of discharge in compliance with CWC section 13260. Section 13260(a) of the CWC requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, that could affect the quality of the waters of the State, file a report of waste discharge (ROWD). Under federal Clean Water Act (CWA) section 401, every applicant for a federal permit or license for any activity that may result in a discharge to waters of the U.S. must obtain State Water Quality Certification (Certification) that the proposed activity will comply with State water quality standards.

Most Certifications are issued in connection with U.S. Army Corps of Engineers (USACE) CWA section 404 permits for dredged and fill material discharges. The State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards administer the Certification program in accordance with the requirements of California Code of Regulations (CCR) Title 23, section 3830 *et seq.* Since November 2003, all Certifications have been issued by the Executive Officer accompanied by authorization to discharge in accordance with 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."

Because of Supreme Court decisions that have limited the authority of the USACE to regulate discharges of dredged and fill material to waters of the U.S., certain proposed discharges of dredged or fill material to surface waters of the State are no longer subject to USACE jurisdiction (these are known as non-federal waters). As a result,

these projects are not subject to a CWA section 404 permit from the USACE and do not require a Certification. In the absence of the need to obtain a Certification, the State Water Board has asserted the State's authority to regulate discharges of dredged and fill materials to waters of the State under the Porter-Cologne Water Quality Control Act.

On May 4, 2004, the State Water Board issued Water Quality Order No. 2004-0004-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to Be Outside of Federal Jurisdiction." Numeric impact thresholds, however, limit the application of Order No. 2004-0004-DWQ to relatively small discharges of dredged or fill material. Therefore, individual WDRs are issued by the applicable Regional Water Quality Control Board.

On October 22, 2019, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) received a Report of Waste Discharge (ROWD) for the Rancho Diamante (TTM 35393) Residential Development Project from Rancho Diamante Investments, LLC (discharger). The Project was assigned the Santa Ana Water Board WDID No. 302019-28. The discharger paid a \$1,638.00 application fee and a \$26,020.00 project fee. The project fee amount was determined as required by CCR, Title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as Category A – Fill and Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

The Project entails 103.8 acres to be subdivided into an approximately 440-lot residential development. Development activities would result in temporary and permanent impacts to waters of the State. Project activities would also include the construction of roads, open space, water quality features, and associated infrastructure.

The Project is located in the City of Hemet within Section 24, Township 5 South, Range 2 West on the Winchester 7.5-minute U.S. Geological Survey topographic quadrangle (latitude 33.4220° N, longitude -117.0236° W). More specifically, the site is situated north of Diamond Valley Lake and south of the Hemet Ryan Airport, and is bordered on the east by an existing housing development and on the west by Warren Road. General land uses near the Project include residential to the east and agriculture to the south. The Project comprises Assessor parcel Numbers 454-020-013, 014, 015, 016, and 460-060-007.

Unavoidable permanent impacts to waters of the State would occur within the Project activities. A total of 1.61 acres (2,228 linear feet) of permanent impacts would occur to isolated, non-wetland waters. These impacts include: <0.01 acre (21 linear feet) to a flood control channel; 0.86 acre (1,820 linear feet) to a drainage swale/sheet flood zone; and 0.75 acre (387 linear feet) to seasonal depressions. Also, a total of 0.01 acre (78 linear feet) of temporary impacts to isolated non-wetland waters would occur as a result of Project activities.

These impacts will be mitigated through the purchase of 1.80 acres of Establishment/ Re-Establishment credits through the Riverpark Mitigation Bank, the purchase of 1.50 acres of off-site preservation waters credits from the Barry Jones (Skunk Hollow) Wetland Mitigation Bank, and the creation of four on-site stormwater management basins. In addition, avoidance and minimization measures and best management practices will be conducted to reduce Project impacts to water quality beneficial uses.

The discharges of fill would occur in receiving waters, including an isolated, man-made flood control basin further to the west of Project site. Salt Creek, which is a tributary of Canyon Lake, is the closest downstream waterway, although no surface water connection exists between this waterway and the man-made basin. Designated beneficial uses (existing or potential) of the receiving waters of Salt Creek include: Intermittent Water Contact Recreation (REC 1), Intermittent Non-contact Water Recreation (REC 2), Intermittent Warm Freshwater Habitat (WARM), and Intermittent Wildlife Habitat (WILD).

The City of Hemet certified an Environmental Impact Report (EIR) for the Project on March 10, 2009 as lead agency for the California Environmental Quality Act. The City of Hemet also filed a Notice of Determination at the Clerk of the Board of Supervisors, County of Riverside, on March 12, 2009.

The Santa Ana Water Board has considered the EIR certified by the City of Hemet and subsequent information provided by the discharger. More specifically, the Santa Ana Water Board considered those sections of the EIR pertaining to impacts to water quality standards. Based on the mitigation proposed in the EIR and the Conditions set forth in the proposed Order, potentially adverse impacts to water quality standards should be reduced to a less than significant level and beneficial uses protected, if all stated mitigation and conditions are performed.

RECOMMENDATION:

Adopt Order No. R8-2020-0028, as presented.

Comments were solicited from the following:

Jim Mace, U. S. Army Corps of Engineers, Los Angeles Office

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Tentative