



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

June 1, 2016

Mr. Sam Shakib
16461 Sherman Way, Suite 140
Van Nuys, CA 94106

Via Certified Mail
Return Receipt Requested
No. 7008 1140 0002 8671 9912

DENIAL WITHOUT PREJUDICE OF CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ASSOCIATED WITH THE OLD RANCH ROAD RESIDENTIAL PROJECT, 1834 & 1838 OLD RANCH ROAD, UNNAMED TRIBUTARY OF SULLIVAN CANYON CREEK, CITY OF LOS ANGELES, LOS ANGELES COUNTY, CALIFORNIA (File No. 13-091)

Dear Mr. Shakib:

The Old Ranch Road Residential Project (Project) is a project to construct two single-family homes on a divided 12-acre lot (Assessor Parcel Number (APN) 4432-010-012 and APN 4492-012-024) located at 1834 and 1838 Old Ranch Road in Los Angeles, California.

BACKGROUND

A Clean Water Act (CWA) section 401 Water Quality Certification (File No. 13-091) (Section 401 Certification) was issued to Mr. Sean Namvar for the Project by the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) on February 12, 2014. On July 7, 2014, responsibility and liability for compliance with the Section 401 Certification were transferred to Mr. Sam Shakib, identified as the new owner. An amendment to the Section 401 Certification was issued by the Los Angeles Water Board on July 28, 2014 to modify requirements for compensatory mitigation.

The Section 401 Certification discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "*General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification*" which requires compliance with all conditions of the Section 401 Certification. Order No. 2003-0017-DWQ is issued to all persons proposing to discharge dredged or fill material to waters of the United States where such discharge is also subject to the water quality certification requirements of CWA section 401 of the federal Clean Water Act, and such certification has been issued by the applicable Regional Water Quality Control Board. Such persons include both the operator of the project resulting in the discharge of dredged or fill material, and the owner of the property where the discharge is proposed to occur.

On October 7, 2014, the Los Angeles Water Board issued a Notice of Violation (NOV) to you for violations of the CWA associated with the Project.

On October 8, 2014, Los Angeles Water Board staff and California Department of Fish and Wildlife staff inspected the Project site and scope of work.

With respect to the October 8, 2014 inspection, Los Angeles Water Board staff further reviewed the Section 401 Certification, the Section 401 Certification application, and materials submitted in support of the Section 401 Certification application. Based on the inspection and review, staff found that the work-in-progress on the Project had additional impacts to waters of the State and United States that were not described in the application materials or in the revised submittal requesting amendment of the Section 401 Certification. On October 29, 2014, the Los Angeles Water Board issued a letter to you to require additional information such that the project could be re-evaluated and the certification could be amended or the revised project denied (October 29, 2014 letter).

Los Angeles Water Board staff, in addition to staff from the U.S. Army Corps of Engineers and California Department of Fish and Wildlife (CDFW), met with your consultants several times at the Project site in spring 2015 to update the delineation of waters.

In November 2015, Los Angeles Water Board staff conducted a joint site inspection with Jim Anderson of Envicom.

On January 15, 2016, Los Angeles Water Board staff received an updated delineation of waters of the United States for the subject project. The updated delineation is one of the additional required materials included in the October 29, 2014 letter. However, the updated delineation is still not complete. In addition, other information required by the October 29, 2014 letter has not been submitted.

DISCUSSION

As noted in the following sections, the incomplete items pertain to (1) jurisdictional delineation; (2) project description; and (3) documentation of ownership.

Jurisdictional Delineation

Los Angeles Water Board staff have reviewed the updated delineation received on January 15, 2016 and have determined there are additional waters of the State which need to be included in the delineation, as was discussed during the 2015 site meetings.

In particular, we note that the delineation was performed during very dry periods, when evidence of vegetation and/or hydric soils may have been not evident. For this specific site, the wetlands indicators of vegetation, soil and/or hydrology may be absent due to the on-going drought. An

accurate delineation, according to indicators that would exist if there were to have been *normal or more average* rain seasons in the past few years, is necessary. In problematic sites, when possible, the delineation should be reviewed by returning to the site during the "normal" wet portion of the growing season in order to re-examine the site for indicators of hydrophytic vegetation and/or hydrology. More specifically, the delineation needs to ensure that **all** wetland and non-wetland jurisdictional water areas are identified and mapped and that consideration be made per Difficult Wetland Situations in the Arid West (Chapter 5) (US Army Corps of Engineers, 2008).

In addition, there has been no additional information submitted, or reviewed for the delineation, from off-site sources of information, such as National Wetland Inventory maps, aerial photography depicting early growing season and any previous reports from the site. Historical aerial photographs and historical topographic maps were required by the October 29, 2014 letter and never received.

Furthermore, we note the following in the delineation received on January 15, 2016:

- (1) Statements indicating our staff provided site-specific interpretation of waters of the State are misleading. Waters of the State were not delineated in coordination with our staff in order to develop updated delineation received on January 15, 2016.
- (2) Figures in the updated delineation received on January 15, 2016 all indicate delineation dates of January 2011. The delineation has been updated several times and none of the iterations have accurate dates to reflect changes in the delineations.
- (3) We cannot concur on the description of Drainage 1 as a nuisance flow. Groundwater in the project area has not been evaluated. To determine whether this drainage is perennial or intermittent, or supported, in part, by nuisance flows, an actual hydrogeological study would be required. To date, there has not been any information provided to the Los Angeles Water Board regarding the water table at this site.

In addition to (1) through (3) noted above, during the November, 2015 joint site inspection with Jim Anderson of Envicom, staff requested that a draft delineation be submitted, based on our discussions in the field. A draft of the delineation would have allowed staff to comment and could have helped to ensure that agencies were in agreement. A draft was never received.

Revised Project Description

A revised project description was required by the October 29, 2014 letter and was never received. California Code of Regulations, title 23, section 3856, subdivision (h) requires a complete project description. Similarly, California Code of Regulations, title 23, section 3856, subdivision (b) requires a full, technical accurate description of the entire activity.

Documentation of Ownership

Documentation of ownership was required by the October 29, 2014 letter and was never received.

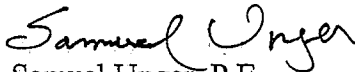
CONCLUSION

For the foregoing reasons, Los Angeles Water Board staff has insufficient information to make a determination on certification. Therefore, the application is not a complete application pursuant to California Code of Regulations, title 23, section 3856 and I hereby deny your request for an amendment to your existing 401 water quality certification without prejudice.

You may choose to submit the required information in order to complete your application in the future. Additional fees may be required, pursuant to California Code of Regulations, title 23, 3833, subdivision (b)(4), if the revised application is not filed within twelve months of the date of this action or the project has changed in scope or in its potential for adverse impact.

If you have any questions, please call Dr. L.B. Nye at (213) 576-6785 regarding this matter.

Sincerely,


Samuel Unger, P.E.
Executive Officer

Attachments:

Clean Water Act Section 401 Water Quality Certification 13-091, issued February 12, 2014
Notice of Violation; issued to Sam Shakib October 7, 2014
Los Angeles Water Board letter of October 29, 2014

cc:

David Coupe, State Water Resources Control Board, Office of Chief Counsel
Mayumi Okamoto, State Water Resources Control Board, Office of Enforcement
Bill Orme, Division of Water Quality, State Water Resources Control Board
Erin Ragazzi, Division of Water Rights, State Water Resources Control Board
Daniel P. Swenson, U.S. Army Corps of Engineers
Erinn Wilson, California Department of Fish and Game, Streambed Alteration Team
Brock Warmuth, California Department of Fish and Game, Streambed Alteration Team
Melissa Scianni, U.S. Environmental Protection Agency, Region 9
Sergio Valenzuela, City of Los Angeles, Building Department
Luke Zamerini, City of Los Angeles, Building Department
Sean Namvar, Trifish, LLC
Travis Cullen, Envicom
City of Los Angeles, Department of Public Works (Tree Removal Permit-Urban Forestry Section)

Patrick G. Mitchell, Mitchell Chadwick LLP
Gideon Kracov, Attorney at Law

Works Cited

US Army Corps of Engineers. (2008). *Regional Supplement to the Corps Wetland Delineation Manual: Arid West Region.*

