

# Appendix P



# ASHBY USA, LLC

Mailing Address: 39252 Winchester Rd. #107-393, Murrieta CA 92563  
Site Address: 39600 Pourroy Rd., Temecula CA 92591  
Phone: (951) 699-0207 Fax: (951) 699-0209

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June 7, 2007

Mr. John H. Robertus, Executive Officer  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego CA 92123-4353  
Attn: Kristen Schwall

Reference: NWU:18-2001091.02schwk

Project: Roripaugh Ranch Residential Development Project (File No. 01C-091)  
Waste Discharge Identification No. 9 00001C091

Subject: Request for an Extension of Time

Dear Kristen:

We are in receipt of the third amendment to the 401 dated April 2, 2007 in which there are several date sensitive milestones. As you may be aware, a significant portion of the budget for this project is being funded by a Communities Facilities District. Due to circumstances beyond our control the Community Facilities District for this project has been placed on a temporary hold. As a result of this hold, the finances for this project have been temporarily impacted and we have limited the construction onsite. We will be in the position to contract with the consultants to perform the additional work needed to complete the milestones by July 2007. Consequently, we respectfully request the following extensions:

- a. An extension of six months to January 31, 2008 for Ashby USA LLC to provide the draft Habitat Mitigation and Monitoring Plan
- b. An extension of three months to October 31, 2008 to implement the Habitat Mitigation and Monitoring Plan
- c. An extension of six months to January 31, 2008 for Ashby USA LLC to provide the Non-Native Species Removal Program
- d. An extension of six months to January 31, 2008 for Ashby USA LLC to provide the Channel Vegetation Monitoring Program

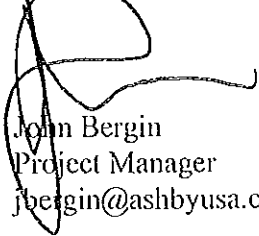
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Mr. John H. Robertus, Executive Officer  
Request for an Extension of Time  
June 7, 2007  
Page 2 of 2

Our consultants are aware of these issues and the consensus is that with these extensions, we will be able to meet the requirements set forth in the 401.

Thank you once again for considering these extensions to the Section 401 certification for the onsite portion of Roripaugh Ranch. If you have any questions regarding this request, please do not hesitate to contact me at your earliest convenience.

Respectfully,

A handwritten signature in black ink, appearing to read "John Bergin", with a long horizontal flourish extending to the right.

John Bergin  
Project Manager  
jbergin@ashbyusa.com

cc:  
James Smith, California Regional Water Quality Control Board  
Laurie Monarres, Army Corps of Engineers

**John Bergin**

**From:** Kristin Schwall [KSchwall@waterboards.ca.gov]  
**Sent:** Monday, June 11, 2007 2:11 PM  
**To:** john@ashbyusa.com  
**Cc:** laurie.a.monarres@usace.army.mil; James Smith; Rebecca Stewart  
**Subject:** Re: Letter requesting an extension of time for Roripaugh Ranch

John,

Minor Modification 3 to Certification 01C-091 was issued on April 2, 2007 after much negotiation. You were well aware of the dates before the modification was issued. The dates will not be changed at this time. Please make every effort to submit the required information by the due dates. Any late submittals may include a detailed explanation of the reasons for the delay. The Regional Board can consider this information if further enforcement action is pursued.

Thank you,  
Kristin

Kristin K. Schwall  
Associate Water Resources Control Engineer  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4353  
Ph: (858) 467-2345  
Fax: (858) 571-6972  
E-mail: [kschwall@waterboards.ca.gov](mailto:kschwall@waterboards.ca.gov)

Please take the time to fill out our electronic customer service survey located at <http://www.calepa.ca.gov/Customer/>

>>> "John Bergin" <[john@ashbyusa.com](mailto:john@ashbyusa.com)> 6/7/2007 2:45 PM >>>  
Kristen,

Please find attached an email copy of the official request I mailed via the USPS for an extension to some of the date sensitive special conditions required by the 3<sup>rd</sup> amendment to the 401 Certification.

I am working on several items myself and have forwarded working documents to you under a separate cover.

Please know we are working on rectifying the issues.

If you have any questions, please do not hesitate to contact me

Respectfully,

John

John W. Bergin  
Project Manager  
951.699.0207 office  
951.699.0209 Fax  
951.232.5976 Cell  
[john@ashbyusa.com](mailto:john@ashbyusa.com)

8/15/2007



# ASHBY USA, LLC

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August 28, 2007

Mr. John R. Robertus  
Executive Director  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, California 92123-4353

Attn: Rebecca Stewart

Re: Administrative Civil Liability Complaint No. R9-2007-0064  
File No. CA: 18-2001091.02:Rstewart

Dear Mr. Robertus:

This letter responds to your July 31, 2007 letter to Ashby USA, LLC (Ashby) regarding alleged violations of Water Quality Certification 01C-091 at the Roripaugh Ranch Residential Development located in Temecula, California. On August 20, 2007, we met with four members of your staff, Mark Albert, Rebecca Stewart, Jimmy Smith, and Kristin Schwall, to discuss the administrative civil liabilities complaint and to ask for a continuance of the hearing.

At that meeting, I explained that Ashby has not been and is not currently in the financial position to move the project forward due to funding for the project being frozen since May 2006. A significant component of the budget for this project is being funded by a Communities Facilities District (CFD) which is being administered by the City of Temecula Public Financing Authority. As a result of a third party action, the CFD reimbursements for this project have been placed on hold. With the exception of minimal operating expenses, such as payroll and utilities, the remaining funds for this project have been placed on hold. Ashby has negotiated with KB Homes, which after completing a due diligence process, will provide enough capital to circumvent the CFD and release overall financing for the Project until the CFD issues have been resolved.

While we are working through these financial issues, Ashby is also committed to provide a response to the complaint and work with Board staff in an attempt to resolve the outstanding issues at the level our limited resources allow. While we expect funding to be in place by October, there are no assurances that this will be the case. Funding is necessary to again engage our consultants to provide the information we need to adequately address the issues raised by the complaint.

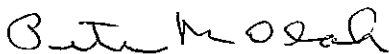
To provide assurance to the federal and state agencies regarding completion of the mitigation for this project, a bond was issued on March 6, 2003 in the amount of \$550,000.00 by Developers Surety and Indemnity Company and is being held by the U.S. Army Corps of Engineers.

John Robertus  
Extending the ACL Hearing Date  
August 28, 2007  
Page 2 of 2

In order to work through its financial issues, Ashby requests an indefinite extension of the hearing date. As soon as we know the funding dates, we will provide them to you, with a schedule for completing the response. Because of this request to extend the date to prepare a response for the hearing before the Board, Ashby also waives its right to an expeditious hearing.

Should you have questions regarding this request, please let me know. I look forward to hearing from you regarding this request and working with you and your staff to resolve this complaint.

Sincerely,



Pete Olah  
Project Director

cc: Aldo Licitra, City of Temecula, P.O. Box 9033, Temecula CA 92589-9033  
Laurie Monnarres, U.S. Army Corps of Engineers, Regulatory Branch, 16885 West Bernardo Drive, Suite 300A, San Diego CA 92127  
Jeff Brant, California Department of Fish and Game, 3602 Inland Empire Blvd., Suite C-220, Ontario CA 91764  
Bill Orme, State Water Resources Control Board, Division of Water Quality, P.O. Box 100, Sacramento, CA 95812  
David W. Smith, Wetlands Regulatory Office, U.S. EP, Region 9, 75 Hawthorne Street, Mail Code WTR-8, San Francisco, CA 94105  
Elizabeth Goldman, U.S. EP, Region 9, 75 Hawthorne Street, Mail Code WTR-4, San Francisco, CA 94105  
Kristen Schwall, California Regional Water Quality Control Board, San Diego Region, Northern Watershed Protection Unit, 9174 Sky Park Court, Suite 100, San Diego CA 92123-4353  
James Smith, California Regional Water Quality Control Board, San Diego Region, Northern Watershed Protection Unit, 9174 Sky Park Court, Suite 100, San Diego CA 92123-4353  
Mark J. Alpert, California Regional Water Quality Control Board, San Diego Region, 9174 Sky Park Court, Suite 100, San Diego CA 92123-4353