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California Regional Water Quality Control Board San Diego Region

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September 14, 2009

Certified Mail – Return Receipt Requested

Article Number: 7009 1410 0002 2347 6217

Mike Freeman
KB Home Coastal, Inc.
36310 Inland Valley Drive
Wildomar, CA 92565

In reply refer to:
260754: cloflen

Dear Mr. Freeman:

SUBJECT: Amendments to CWA Section 401 Water Quality Certification
No. 03C-027 the Seraphina Road Residential Development.

On July 3, 2008 the San Diego Regional Water Quality Control Board (Regional Board) received a request from HELIX Environmental Planning, Inc., on behalf of KB Homes Coastal, Inc. (KB Homes), to amend the Seraphina Road Residential Development (Project) Section 401 Water Quality Certification (File No. 03C-027) (Certification) to reflect proposed changes to the Project's mitigation plan. Additional information regarding the amendment request from HELIX Environmental Planning, Inc. was received on August 11, 2009.

The proposed project is a residential development consisting of 79 single family dwelling units on 26.5 acres of the 32.1-acre site located in the City of Temecula, Riverside County, CA. The remaining 5.6 acres will remain as open space.

Per the Certification, mitigation is required to be carried out through the restoration/enhancement of 0.17 acre of waters of the U.S. adjacent to Tusalota Creek. However, after the Certification was issued, the landowner of the Tusalota Creek mitigation site decided against selling an easement to allow the restoration. Subsequently, KB Homes proposed to carry out the required mitigation off-site at the Vereeken property, Tract 32151, which is owned by Barratt American Homes. However, because of the downturn in the residential home building market, implementation of the Vereeken project is being delayed by Barratt American Homes indefinitely. KB Homes is therefore proposing to implement mitigation at an alternate location known as the Brighton Woods mitigation site.

The Brighton Woods mitigation site is located south of Magnetite Street, between Pitman Lane and Lindenberger Road within the same watershed as the Project. The Brighton Woods mitigation site was constructed as part of the Warmington Tentative Tracts 29226, 29227, 29228 and 29228 Project (Warmington Project) which received

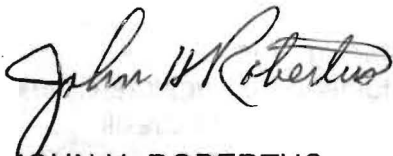
California Environmental Protection Agency

401 Certification No. 01C-030 on June 15, 2001. The Warmington Project was required by 401 Certification No. 01C-030 to restore 0.75 acre of riparian habitat at the adjacent Brighton Woods mitigation site. As a result of the restoration efforts, 1.53 acres of waters of the United States was created in addition to the required 0.75 acre of restoration. KB Homes is requesting to use 0.17 acre of the extra 1.53 acres as compensatory mitigation for the Project.

After review of the Project's file and the supplemental information submitted by HELIX Environmental Planning, Inc., we concur that the proposed change to the compensatory mitigation plan is a reasonable modification to the original Certification. The created habitat at Brighton Woods would provide equal or better compensation for the fill of waters of the United States associated with the Project than the original mitigation proposal. In addition, there is minimal uncertainty associated with the Brighton Woods site because it has already been constructed and has met its five-year success criteria. As a result, the Certification has been amended to reflect the proposed changes. The amendments are included as Enclosure 1.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter. If you have any questions regarding this notification, please contact Chad Loflen at (858) 467-2727 or cloflen@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

Mike Freeman
03C-027 Amendments

- 3 -

September 14, 2009

Enclosures:

1. Addendum to Clean Water Act Section 401 Water Quality Certification No. 03C-027
2. Map of the Brighton Woods mitigation site
3. Clean Water Act Section 401 Water Quality Certification No. 03C-027

cc (via email only):

Crystel Doyle, US Army Corps of Engineers Regulatory Division Office,
crystal.l.doyle@usace.army.mil

Jeff Brandt, California Department of Fish and Game
JBrandt@dfg.ca.gov

Bill Orme, State Water Resources Control Board,
Stateboard401@waterboards.ca.gov

David W. Smith, U.S. Environmental Protection Agency, Region 9
R9-WTR8-Mailbox@epa.gov

Barry Jones, HELIX Environmental Planning Inc.
barryj@helixepi.com

Tech Staff Info & Use	
File No.	03C-027
Reg. Measure ID	214222
Place ID	260754

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
SAN DIEGO REGION**

ADDENDUM TO

**CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION NO. 03C-027**

FOR

**KB HOMES COASTAL, INC.
SERAPHINA ROAD RESIDENTIAL DEVELOPMENT**

Condition II.A.8 is added:

A.10. KB Homes and successor owners must submit Annual Project Reports to the Regional Board prior to **August 1** of each year following the issuance of this Certification until the project has reached completion. Annual reports must include, but not be limited to, the date of initiation of construction and a summary of activities done under this Certification. If no progress has been made on the project, the annual report must state this.

Condition II.B.1 is modified:

~~II.B.1. CRV Tomecula Estates, L.P.~~ KB Homes Coastal, Inc. shall implement the ~~*Seraphina Road Property Restoration Plan*, dated October 3, 2003,~~ the following as mitigation for impacts to approximately 0.17 acre of Waters of the United States (U.S.). ~~The plan includes the following mitigation measures:~~

- a) ~~A minimum of 0.17 acre of waters of the U.S. will be restored/enhanced along Tualota Creek (approximately 1 mile north of the project site). This off-site mitigation area will also include approximately 0.35 acre of southern willow scrub habitat restoration/enhancement as mitigation for the California Department of Fish and Game, which will serve as a buffer to Tualota Creek. Mitigation has been achieved through the completed creation of 0.17 acre of waters of the U.S. off-site at the Brighton Woods mitigation site. This off-site mitigation area also includes approximately 0.52 acre of riparian habitat buffer.~~
- b) A minimum of 0.51 acre of mitigation credits will be purchased at the Barry Jones Wetland Mitigation Bank.

- c) The construction of the proposed mitigation and the purchase of mitigation credits shall be completed within the same calendar year as impacts occur, or at least no later than 9 months following the close of the calendar year in which impacts first occur (e.g. if impacts occur in October 2004, construction of mitigation for all impacts must be completed no later than September 2005). Proof of purchase of mitigation credits shall be submitted to the Regional Board within this time.
- d) ~~Annual monitoring reports detailed in the plan shall be submitted to the Regional Board and shall refer to file No. 03C-027.~~
- e) If future hydrologic conditions change at the mitigation site (i.e. through a decrease in the input of residential nuisance flows), KB Homes Coastal, Inc. must manage the mitigation site to support native habitat appropriate to the new hydrologic conditions.



JOHN H. ROBERTUS
Executive Officer



Date



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I:\ArcGIS\K\K_AB-51_SeraphinaRoad\Map\B\Orig1_Map\Parcel.mxd - N:\M

Source: Glenn Lukos Associates

Brighton Woods Mitigation Parcel

SERAPHINA ROAD AND BRIGGS ROAD PROJECTS



California Regional Water Quality Control Board (San Diego Region)



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>
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file copy

Action on Request for Clean Water Act section 401 Water Quality Certification and Application/Report of Waste Discharge for Discharge of Dredged and/or Fill Materials

PROJECT:	Seraphina Road Residential Development File No. 03C-027, WDID No. 9 000001173	In reply refer to: WPN:18-2003027.02:mquigley
APPLICANT:	CRV Temecula Estates, L.P. Mr. Alex Zikakis 200 East Washington Avenue, Suite 100 Escondido, CA 92025	Attention: Megan Quigley

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

I. STANDARD CONDITIONS:

The following three standard conditions apply to all certification actions, except as noted under Condition 3 for denials (Action 3).

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

California Environmental Protection Agency

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II. ADDITIONAL CONDITIONS:

A. PROJECT CONDITIONS

1. CRV Temecula Estates, L.P. shall, at all times, fully comply with the engineering plans, specifications and technical reports submitted with this application for 401 Water Quality Certification and all subsequent submittals required as part of this certification.
2. CRV Temecula Estates, L.P. shall, at all times, fully comply with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.
3. This Certification is not transferable to any person except after notice to the Executive Officer of the San Diego Regional Water Quality Control Board (Regional Board). CRV Temecula Estates, L.P. shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new owner containing a specific date for the transfer of this Certification's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgement that the existing owner is liable for violations up to the transfer date and that the new owner is liable from the transfer date on.
4. 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.
5. In response to a suspected violation of any condition of this certification, the Regional Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
6. In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
7. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with the waiver of waste discharge requirements established by the Regional Board pursuant to CWC § 13260.

B. MITIGATION

1. CRV Temecula Estates, L.P. shall implement the *Seraphina Road Property Restoration Plan*, dated October 3, 2003, as mitigation for impacts to approximately 0.17 acre of Waters of the United States (U.S.). The plan includes the following mitigation measures:
 - a) A minimum of 0.17 acre of waters of the U.S. will be restored/enhanced along Tualota Creek (approximately 1 mile north of the project site). This off-site mitigation area will also include approximately 0.35 acre of southern willow scrub habitat restoration/enhancement as mitigation for the California Department of Fish and Game, which will serve as a buffer to Tualota Creek.
 - b) A minimum of 0.51 acre of mitigation credits will be purchased at the Barry Jones Wetland Mitigation Bank.
 - c) The construction of proposed mitigation and the purchase of mitigation credits shall be completed within the same calendar year as impacts occur, or at least no later than 9 months following the close of the calendar year in which impacts first occur (e.g., if impacts occur in October 2004, construction of mitigation for all impacts must be completed no later than September 2005). Proof of purchase of mitigation credits shall be submitted to the Regional Board within this time.
 - d) Annual monitoring reports detailed in the plan shall be submitted to the Regional Board and shall refer to file No. 03C-027.
2. CRV Temecula Estates, L.P. shall submit, within 90 days of the issuance of this certification, a draft conservation easement or deed restriction that prohibits development within, mowing and related maintenance, and/or other activities that would result in permanent or temporary disturbance of the off-site mitigation area adjacent to Tualota Creek. Disturbance does not include the planting of native riparian species, removal of exotic species, or removal of trash and debris. CRV Temecula Estates, L.P. shall submit proof of a completed conservation easement or deed restriction within one year of the issuance of this certification.

C. BEST MANAGEMENT PRACTICES

1. To treat urban runoff and the first flush of storm water runoff from the development, biofiltration basins/swales will be located between lots 62 and 63 in the northwest portion of the site, and south of lot 69 in the east-central portion of the site. To treat runoff from the remainder of the site that does not drain to the biofiltration areas, filters will be installed in all storm drain inlets. These treatment facilities will be maintained by the City of Temecula or a Homeowners Association to ensure adequate treatment of runoff. Within 90 days from the date of this certification, CRV Temecula Estates, L.P. shall submit a maintenance agreement detailing maintenance specifications and the responsible party.
2. Prior to the start of any construction activities (e.g., clearing, grading) within the project site, CRV Temecula Estates, L.P. shall provide written verification that Riverside County Flood Control and Water Conservation District (RCFCWCD) and/or the City of Temecula has

reviewed the proposed storm drain inlet filters and biofiltration areas and agrees to their installation and to the proposed maintenance agreement.

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On March 12, 2003, receipt of this project application was posted on the Regional Board web site to serve as appropriate notification to the public.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:


Megan Quigley
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-268-5363

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to: " In order to assist us in the processing of your correspondence please include this number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the Seraphina Road Residential Development, Tentative Tract No. 30727 (File No. 03C-027, WDID No. 9 000001173) 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. The proposed project as conditioned is consistent with conditions specified in the Water Quality Control Plan for the San Diego Basin (9) (Basin Plan) for a waiver of waste discharge requirements. Although the adoption of waste discharge requirements is being waived at this time, we may issue waste discharge requirements should new information come to our attention that indicates a water quality problem.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).



JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

10/14/2003
Date

Attachments 1 and 2

ATTACHMENT 1

PROJECT INFORMATION

Applicant: CRV Temecula Estates, L.P.
Mr. Alex Zikakis
200 East Washington Avenue, Suite 100
Escondido, CA 92025
760-839-8238
760-839-8246 (fax)

Applicant Representatives: Helix Environmental Planning, Inc.
Barry Jones
8100 La Mesa Blvd., Suite 150
La Mesa, CA 91941
619-462-1515
619-462-0552 (fax)

Project Name: Seraphina Road Residential Development (File No. 03C-027, WDID No. 9 000001173)

Project Location: The project is located north of the City of Temecula in western Riverside County, between Murrieta Hot Springs Road to the north, Nicolas Road to the south, Roripaugh Ranch to the east, and Silverhawk III to the west.

Type of Project: Residential Development

Project Description: The proposed residential development will consist of 79 single-family units on 26.5 acres of the 32.1-acre site (5.6 acres will remain open space).

Federal Agency/Permit: U.S. Army Corps of Engineers Section 404 IP

Other Required Regulatory Approvals: California Department of Fish and Game Streambed Alteration Agreement.

California Environmental Quality Act (CEQA) Compliance: On December 27, 2001, the City of Temecula determined that this project was exempt from the provisions of CEQA.

Public Notification: On March 12, 2003, receipt of this project application was posted on the Regional Board web site to serve as appropriate notification.

Receiving Water: Ephemeral tributary to Santa Gertrudis Creek

Impacted Waters of the United States: The proposed project will permanently impact 0.17 acre of ephemeral waters of the U.S.

Dredge Volume: n/a.

Related Projects: None

Implemented/to be
Implemented by the
Applicant(s):

Avoidance/Minimization
Measures: None

Compensatory Mitigation: As mitigation for impacts to 0.17 acres of waters of the U.S., CRV Temecula Estates, L.P. has proposed to restore/enhance a minimum of 0.17 acre of waters of the U.S. adjacent to Tusalota Creek in an open space area. A minimum of 0.51 acre of mitigation credits will also be purchased from the Barry Jones Wetland Mitigation Bank.

Best Management
Practices: To treat urban runoff and the first flush of storm water runoff from the development, biofiltration basins/swales will be located between lots 62 and 63 in the northwest portion of the site, and south of lot 69 in the east-central portion of the site. To treat runoff from the remainder of the site that does not drain to the biofiltration areas, filters will be installed in all storm drain inlets. These treatment facilities will be maintained by the City of Temecula or a Homeowners Association to ensure adequate treatment of runoff.

**ATTACHMENT 2
DISTRIBUTION LIST**

Mr. Jason Lambert
U. S. Army Corps of Engineers
Regulatory Branch
Los Angeles District
911 Wilshire Blvd.
Los Angeles, CA 90017

Mr. Barry Jones
Helix Environmental Planning, Inc.
8100 La Mesa Blvd., Suite 150
La Mesa, CA 91941-6476

The City of Temecula
43200 Business Park Drive
P.O. Box 9033
Temecula, CA 92589

State Water Resources Control Board
Division of Water Quality