



PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT**

BUILDING STRONG®

**EXTENSION OF PUBLIC NOTICE COMMENT PERIOD
RE-EVALUATION OF PERMIT
Phase 1 Villages at Vigneto**

Public Notice/Permit No.: SPL-2003-00826-KAT

Project: Phase 1 Villages at Vigneto

Initial Comment Period: October 6, 2017 to November 4, 2017

EXTENDED COMMENT PERIOD: November 4, 2017 to December 4, 2017

Project Manager: Kathleen Tucker; (602) 230-6956; Kathleen.A.Tucker@usace.army.mil

Applicant

Michael T. Reinbold
El Dorado Benson, LLC
8501 N. Scottsdale Rd, Suite 120
Scottsdale, AZ 85253

Contact

Jim Tress
Westland Resources Inc.
4001 E. Paradise Falls Dr.
Tucson, Arizona 85712

Location

Phase 1 of Villages at Vigneto (formerly known as Whetstone Ranch) (Project) is located on private land south of U.S. Interstate 10 and east of Arizona State Route 90 in the City of Benson, Cochise County, Arizona, within Township 17 South, Range 20 East, Sections 32-33, E½ Section 31 and Township 18 South, Range 20 East, Sections 3-5, 8-10, 15-17, E ½ Sections 6, 7, and 18.

Activity

The Department of Army permit was issued effective June 21, 2006 for a term of 20 years. The permit authorizes the discharge of dredged and/or fill material into 51 acres of waters of the United States associated with the construction of an 8,212-acre master planned community, including pad fills, golf course, and road and utility crossings. Please see attached drawings. For more information see Additional Information section below.

On October 6, 2017, the U.S. Army Corps of Engineers issued a public notice (SPL-2003-00826) for the Villages at Vigneto development.

Interested parties are hereby notified that numerous requests for extension of the public notice comment period have been received. Therefore, **the Corps is extending the public notice comment period through December 4, 2017.** Interested parties are invited to provide their views on the proposed work prior to the close of the extended comment period. Comments received by December 4, 2017 will become a part of the record and will be considered in the decision. This permit application will be issued or denied under Section 404 of the Clean Water Act (33 U.S.C. 1344). Comments can be mailed to:

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: Kathleen Tucker
3636 N CENTRAL AVENUE, SUITE 900
PHOENIX, ARIZONA 85012-1939

Alternatively, comments can be sent electronically to: Kathleen.A.Tucker@usace.army.mil

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

The Department of Army permit authorizing discharge of dredged or fill material was issued effective June 21, 2006. On July 20, 2016, the Corps issued a Notice of Permit Suspension having determined that it was in the public interest to suspend the permit while consultation with the United States Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act and the Corps' permit re-evaluation are pending.

During the permit re-evaluation process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public; the extent of the permittee's compliance with the terms and conditions of the permit; whether or not circumstances relating to the authorized activity have changed since the permit was issued or extended, and the continuing adequacy of or need for the permit conditions; any significant objections to the authorized activity which were not earlier considered; revisions to applicable statutory and/or regulatory authorities; and the extent to which modification, suspension, or other action would adversely affect plans, investments and actions the permittee has reasonably made or taken in reliance on the permit.

Evaluation Factors

The decision whether to reinstate, modify, or revoke the permit will be based on an evaluation of the probable impact including cumulative impacts of the permitted project on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, because the permit

authorizes discharges dredged or fill material into waters of the United States, the re-evaluation of the activity will include reconsideration of compliance with the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this permitted project. Any comments received will be considered by the Corps to determine whether to reinstate, modify, or revoke the permit. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an environmental assessment and/or an environmental impact statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for permit re-evaluation.

Water Quality- The permittee has obtained a water quality certification, under Section 401 of the Clean Water Act, from the Arizona Department of Environmental Quality (ADEQ).

Essential Fish Habitat- No Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and no EFH is affected by the Project.

Cultural Resources- The Corps has initiated consultation pursuant to Section 106 of the National Historic Preservation Act with the State Historic Preservation Office, Arizona State Museum, Advisory Council on Historic Preservation, and tribes.

Endangered Species- The Corps has initiated consultation under Section 7 of the Endangered Species Act with United States Fish and Wildlife Service.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this permit. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the Project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). The basic project purpose for the Project is to construct a **master planned community**, which **is not** water dependent. The EPA Guidelines at 40 C.F.R. § 230.10(a)(3) set forth two rebuttable presumptions when the activity associated with a discharge is proposed in a special aquatic site, as defined at 40 C.F.R. Part 230, subpart E. Because the Project does not discharge dredged or fill material into a special aquatic site, these rebuttable presumptions do not apply.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' Clean Water Act Section 404(b)(1) alternatives analysis and is determined by further defining the basic

project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose identified in the original permit decision is to develop a master-planned community consisting of residential, commercial, and recreational facilities, including all appurtenant features such as building pads, roads and utilities, in the Benson, Arizona area that is proximate to local, regional and national transportation facilities.

Additional Project Information

Baseline information- In 2006, the Corps issued a 20-year Department of the Army permit pursuant to Section 404 of the Clean Water Act authorizing discharges of dredged or fill material into waters of the United States associated with the 8,212 acre master-planned community within Whetstone Ranch near Benson in Cochise County, Arizona. Whetstone Ranch was a 15,550-acre project annexed into the City of Benson in 1993. Whetstone Partners L.L.P., in conjunction with Pulte Homes, proposed development of the 8,212-acre master planned community within the boundaries of the larger project area. In May 2014, El Dorado Benson L.L.C. purchased all undeveloped land (totaling 12,339 acres) within the larger project area, including the 8,212-acre master-planned community, and renamed the larger project area Villages at Vigneto. The entire property would be developed in phases; Phase I of the project involves the development of Planning Units 1 through 9 on 8,212 acres of the property, which includes residential, employment centers, a town center, shopping centers, schools, and parks. As part of this transaction, Whetstone Partners L.L.P. also transferred its 2006 section 404 permit to El Dorado Benson L.L.C. Since acquisition of the project, El Dorado Benson L.L.C. has moved forward with the development process and secured updated local approvals. Project components and planned land uses, and anticipated discharge of fill to 51 acres of waters of the United States have not changed from what was authorized by the Corps in 2006. The compensatory mitigation plan approved by the Corps in 2006 has not changed. No discharge of dredged or fill material has occurred.

Project description- Build out of the Phase I development is projected to take 15 years. The Phase I project area contains 475 acres of waters of the United States, all of which are ephemeral streams. Phase I involves the filling of 51 acres of waters of the United States for construction of roadway crossings, utility crossings, trails, bank protection, and building pads, and preserving 1,624 acres of natural open space (424 acres of unfilled jurisdictional washes, 385 acres of buffer established through preserving the upland area within 25 feet of the ordinary high water mark on both sides of preserved washes [the “primary buffer”], and 815 acres of additional upland open space which would include pedestrian and equestrian trails [the “secondary buffer”]). In addition, Phase I involves habitat improvements at a 144-acre offsite compensatory mitigation area located between Benson and St. David, Cochise County, Arizona. The Department of the Army permit relates only to the first phase of the project (i.e., Planning Units 1 through 9). There are an additional 4,000 acres of land owned by El Dorado Benson, L.L.C. within the Community Master Plan (CMP) that are beyond the boundaries of the Project. El Dorado has not submitted a permit application for any future phases of the project. The timing and nature of the development for the remainder of the CMP is uncertain at this time. Further, on June 1, 2016, the City of Benson passed Resolution 16-2016, authorizing execution of a new Development Agreement between the City of Benson and El Dorado Benson, L.L.C. The new Development Agreement allows for the Villages at Vigneto to expand by another 2,433 acres. Similar to the 4,000 acres of additional lands included in the CMP, any development of this 2,433 acres would occur many years from now and has not yet been planned at a level to determine whether Department of the Army permits under Section 404 of the Clean Water Act are necessary

Mitigation– The mitigation required pursuant to the permit may change as a result of comments received in response to this public notice, the permittee's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the mitigation sequence (avoidance/minimization/compensation), as applied to the Project in the original permit decision is summarized below:

Avoidance: This project would avoid 424 acres of waters of the United States, which will in turn be preserved within natural corridors including buffers of at least 25 feet on either side of the ordinary high water mark of the waters of the United States. Impact avoidance for waters of the U.S. was accomplished through an alternatives analysis conducted pursuant to the 404(b)(1) Guidelines.

Minimization: The arterial road system has been designed to minimize impacts by being constructed in the uplands and parallel to the drainages. The number of roads crossing the waters of the United States will be minimized. Construction activities are subject to the conditions of the Clean Water Act Section 401 water quality certification issued by ADEQ, which are designed to ensure that discharges to waters of the United States from the Project will meet applicable surface water quality standards. In addition, the Project must comply with the requirements of the construction general permit (CGP) issued by the ADEQ under the Arizona Pollution Discharge Elimination System program. The basic terms of that permit require implementation of a stormwater pollution prevention plan, which is designed to limit the discharge of pollutants including sediment from disturbed construction sites to waters of the United States. The Project will be subject to the most recent CGP applicable at the time of construction.

Compensation: Preservation within the Project's primary and secondary buffers. The compensatory mitigation proposal also includes habitat improvements at a 144-acre offsite compensatory mitigation area located between Benson and St. David, Cochise County, Arizona. These habitat improvements will include fencing the area to exclude herbivores, planting of native riparian vegetation and repairing areas that have erosional headcutting.

Permit Special Conditions

The Corps' re-evaluation process may result in changes to the special conditions of the original permit.

For additional information please call Kathleen Tucker of my staff at (602) 230-6956 or via e-mail at Kathleen.A.Tucker@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



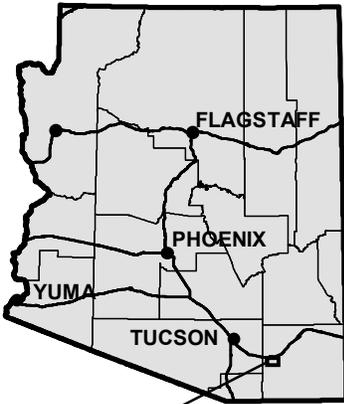
Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

**DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
3636 N CENTRAL AVENUE, SUITE 900
PHOENIX, ARIZONA 85012-1939**

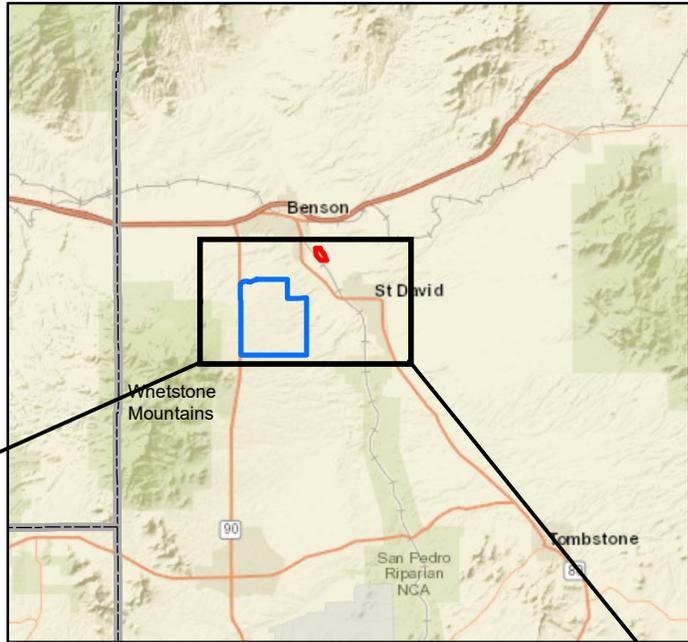
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ARIZONA

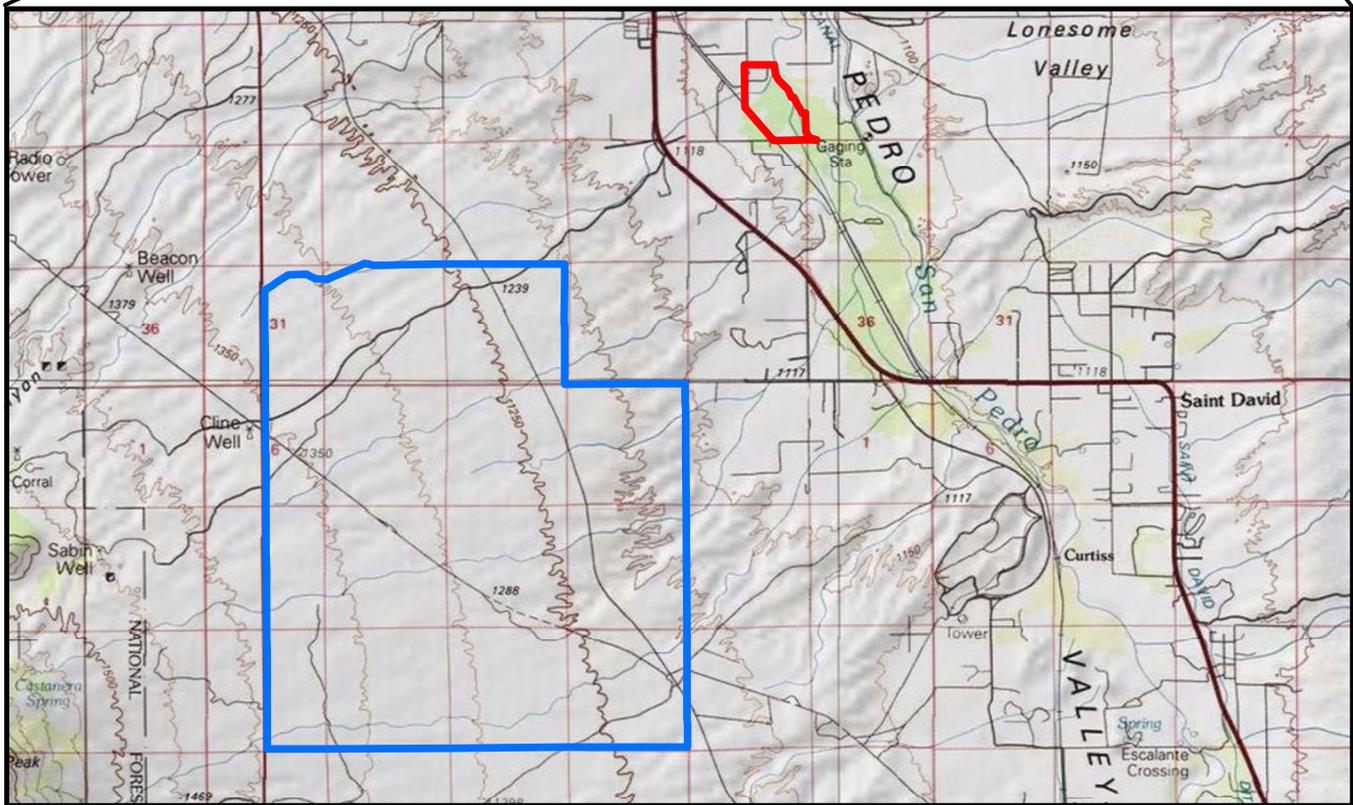


PROJECT LOCATION

Benson, Arizona



Approximate Scale 1 Inch = 10 Miles



T17S, R20E, Portions of Sections 23, 24, 31, 32, and 33
T18S, R20E, Portions of Sections 3-10, and 15-18
Cochise County, Arizona,
USGS Fort Huachuca 1:100,000 Quadrangle

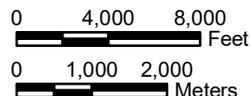
Legend

-  Project Boundary
-  144-Acre Offsite Mitigation Parcel

El Dorado Benson LLC
PHASE I
VIGNETO MASTER PLAN

Clean Water Act
Section 404 Permit
2003-0086-SDM

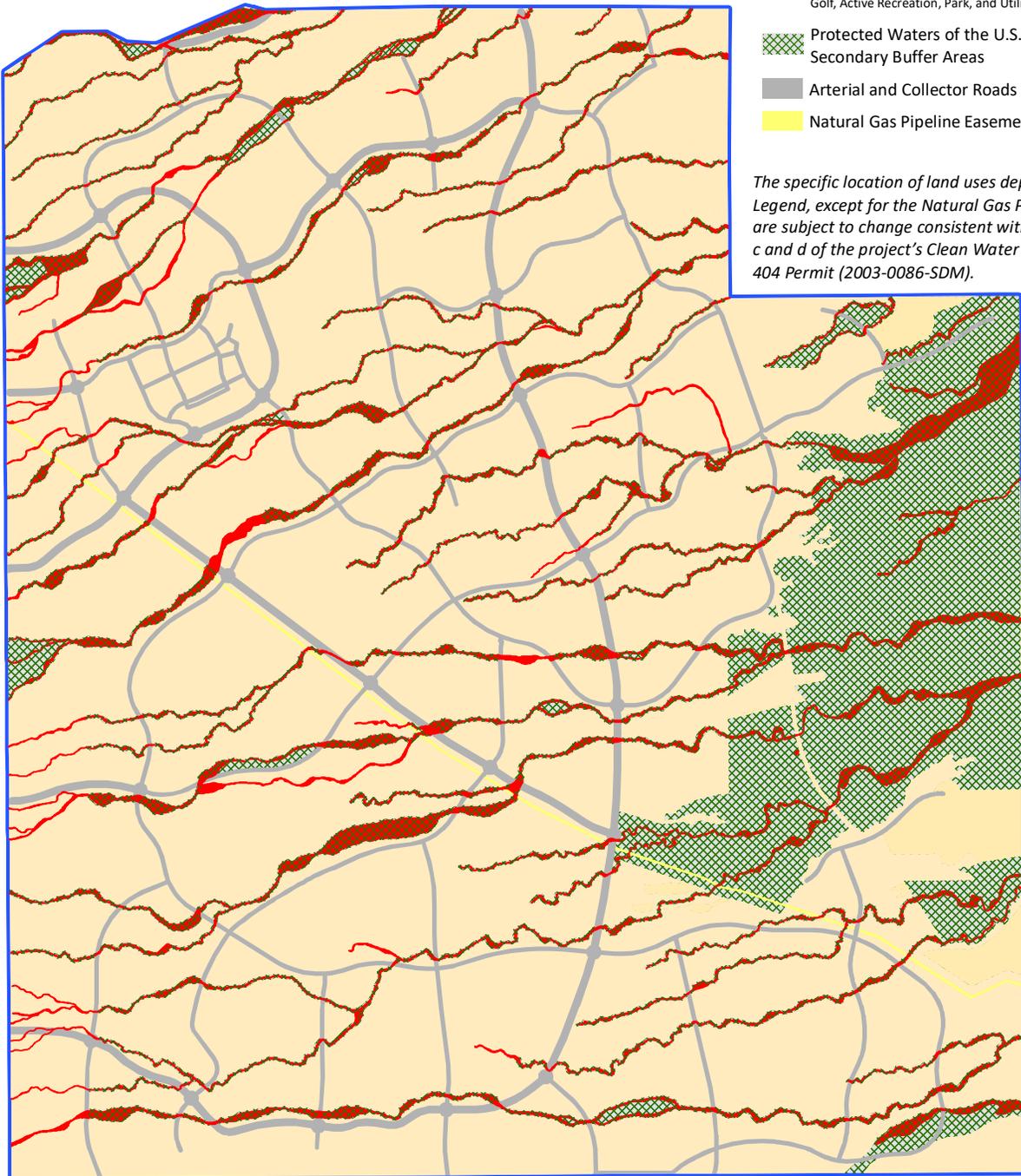

WestLand Resources



Legend

-  Unimpacted Waters of the US
-  Impacted Waters of the US
-  Multiple Use
(Residential Housing, Commercial Development, Golf, Active Recreation, Park, and Utility crossings)
-  Protected Waters of the U.S., Primary, and Secondary Buffer Areas
-  Arterial and Collector Roads
-  Natural Gas Pipeline Easement

The specific location of land uses depicted in the Legend, except for the Natural Gas Pipeline Easement, are subject to change consistent with special conditions c and d of the project's Clean Water Act Section 404 Permit (2003-0086-SDM).



T17S, R20E, Portions of Sections 31-33
 T18S, R20E, Portions of Sections 3-10,
 and 15-18
 Cochise County, Arizona,

Impacts to Waters

<u>Impacts to Waters</u>	<u>Acres</u>
Multiple Use	35.1
Arterial and Collector Roads	14.4
Contingency	<u>1.5</u>
	51.0

**EI Dorado Benson LLC
 PHASE I
 VIGNETO MASTER PLAN**

Clean Water Act
 Section 404 Permit
 2003-0086-SDM



0 1,000 2,000
 Feet

0 300 600
 Meters