



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT  
915 WILSHIRE BOULEVARD, SUITE 930  
LOS ANGELES, CALIFORNIA 90017-3489

August 8, 2019

SUBJECT: Nationwide Permit (NWP) Verification

Susan Lindquist  
Trumark Homes  
450 Newport Center Drive, Suite 300  
Newport Beach, California 92660

Dear Ms. Lindquist:

I am responding to your request (SPL-2018-00467-PKK) for a Department of the Army permit for your proposed project, the Rancho Miramonte Riparian Habitat Restoration Project. The proposed project is located within the city of Chino, San Bernardino County, California (Lat: 33.939861° N, Long: -117.62317° W).

Because this project would result in a discharge of dredged and/or fill material into waters of the U.S., a Department of the Army permit is required pursuant to Section 404 of the Clean Water Act (33 USC 1344; 33 CFR parts 323 and 330).

I have determined construction of your proposed project, if constructed as described in your application, would comply with Nationwide Permit (NWP) No. 27: *Aquatic Habitat Restoration, Establishment, and Enhancement Activities*. Specifically, and as shown in the enclosed figures (Exhibit 1-2, Exhibit 6, Figure 4), you are authorized to:

1. Temporarily impact 0.12 acre of waters of the United States through grading new contours along a backwater of Mill Creek;
2. Permanently impact 0.14 acre of non-wetland waters of the United States through placement of loose rock protection, a flow diversion, and a stilling basin in an outlet channel.

For this NWP verification letter to be valid, you must comply with all of the terms and conditions in Enclosure 1. Furthermore, you must comply with the non-discretionary Special Conditions listed below:

1. This Corps permit does not authorize you to take any threatened or endangered species, in particular the least Bell's vireo (*Vireo bellii pusillus*) or adversely modify its designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). Pursuant to the FWS correspondence dated July 23, 2019, including the required avoidance and minimization measures, the Corps Regulatory Division has determined and the FWS has concurred that your activity is not likely to adversely affect the above species. Your authorization under this Corps

permit is conditional upon your compliance with all of the required avoidance and minimization measures, which are incorporated by reference in this permit. Failure to comply with the required avoidance and minimization measures would constitute non-compliance with your Corps permit.

2. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:

- A) Date(s) work within waters of the U.S. was initiated and completed;
- B) Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
- C) Color photographs (including map of photopoints) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S. such that the extent of authorized fills can be verified;
- D) One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
- E) Signed Certification of Compliance (attached as part of this permit package).

This verification is valid through March 18, 2022. If on March 18, 2022 you have commenced or are under contract to commence the permitted activity you will have an additional twelve (12) months to complete the activity under the present NWP terms and conditions. However, if I discover noncompliance or unauthorized activities associated with the permitted activity I may request the use of discretionary authority in accordance with procedures in 33 CFR part 330.4(e) and 33 CFR part 330.5(c) or (d) to modify, suspend, or revoke this specific verification at an earlier date. Additionally, at the national level the Chief of Engineers, any time prior to March 18, 2022, may choose to modify, suspend, or revoke the nationwide use of a NWP after following procedures set forth in 33 CFR part 330.5. It is incumbent upon you to comply with all of the terms and conditions of this NWP verification and to remain informed of any change to the NWPs.

A NWP does not grant any property rights or exclusive privileges. Additionally, it does not authorize any injury to the property, rights of others, nor does it authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

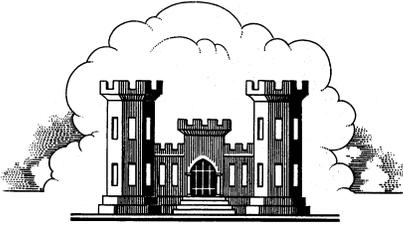
Thank you for participating in the Regulatory Program. If you have any questions, please contact me at (424) 541-6001 or via email at [Pamela.K.Kostka@usace.army.mil](mailto:Pamela.K.Kostka@usace.army.mil). Please help me to evaluate and improve the regulatory experience for others by completing the [customer survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey) form at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey).

Sincerely,



Pam Kostka  
Senior Regulatory Project Manager  
Los Angeles and San Bernardino Counties Section  
North Coast Branch  
Regulatory Division

Enclosures



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

**CERTIFICATE OF COMPLIANCE WITH  
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT**

**Permit Number:** *SPL-2018-00467-PKK*

**Name of Permittee:** *Susan Lindquist, Trumark Homes*

**Date of Issuance:** *August 8, 2019*

Upon completion of the activity authorized by this permit and the mitigation required by this permit, sign this certificate, and return it by **ONE** of the following methods;

1) Email a digital scan of the signed certificate to Pamela.K.Kostka@usace.army.mil

**OR**

2) Mail the signed certificate to

U.S. Army Corps of Engineers

ATTN: Regulatory Division, SPL-2018-00467-PKK

915 Wilshire Boulevard, Suite 930

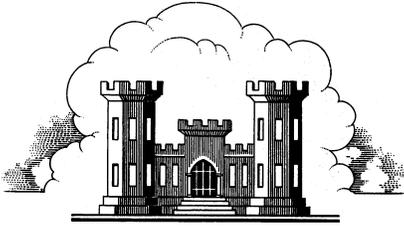
Los Angeles, California 90017

I hereby certify that the authorized work and any required compensatory mitigation has been completed in accordance with the NWP authorization, including all general, regional, or activity-specific conditions. Furthermore, if credits from a mitigation bank or in-lieu fee program were used to satisfy compensatory mitigation requirements I have attached the documentation required by 33 CFR 332.3(1)(3) to confirm that the appropriate number and resource type of credits have been secured.

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Signature of Permittee

Date



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

**COMPLIANCE DELIVERABLES CHECKLIST FOR  
DEPARTMENT OF ARMY PERMIT**

**Permit Number:** *SPL-2018-00467-PKK*

**Name of Permittee:** *Susan Lindquist, Trumark Homes*

**Date of Issuance:** *August 8, 2019*

Please submit this checklist along with all required compliance deliverables (listed in the table below) to the Corps via email to [splreglasb@usace.army.mil](mailto:splreglasb@usace.army.mil). Upon receipt, the Corps will review proffered deliverables for sufficiency and, if approved, return an electronically-signed/dated copy of this checklist to you.

<b>Condition #</b>	<b>Compliance deliverable</b>	<b>Corps approval</b>
N/A	Notification of Commencement of Work	
Special Condition #2	Post Project Implementation Report	
General Condition #30	Certificate of Compliance with Department of the Army Nationwide Permit	

**Upon receipt and approval of all items listed in the table above, the Corps will consider you in full compliance with compliance deliverable requirements in your permit authorization. Note, however, that any ongoing reporting obligations associated with the permit may remain unaffected by this compliance deliverables determination.**

## **Enclosure 1: NATIONWIDE PERMIT NUMBER 27 - Aquatic Habitat Restoration, Establishment, and Enhancement Activities**

### **1. Nationwide Permit (NWP) 27 - Aquatic Habitat Restoration, Establishment, and Enhancement Activities Terms:**

27. Aquatic Habitat Restoration, Enhancement, and Establishment Activities. Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services. To be authorized by this NWP, the aquatic habitat restoration, enhancement, or establishment activity must be planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological reference may be based on the characteristics of an intact aquatic habitat or riparian area of the same type that exists in the region. An ecological reference may be based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area. To the extent that a Corps permit is required, activities authorized by this NWP include, but are not limited to: the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms, as well as discharges of dredged or fill material to restore appropriate stream channel configurations after small water control structures, dikes, and berms, are removed; the installation of current deflectors; the enhancement, rehabilitation, or re-establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to enhance, rehabilitate, or re-establish stream meanders; the removal of stream barriers, such as undersized culverts, fords, and grade control structures; the backfilling of artificial channels; the removal of existing drainage structures, such as drain tiles, and the filling, blocking, or reshaping of drainage ditches to restore wetland hydrology; the installation of structures or fills necessary to restore or enhance wetland or stream hydrology; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; shellfish seeding; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; re-establishment of submerged aquatic vegetation in areas where those plant communities previously existed; re-establishment of tidal wetlands in tidal waters where those wetlands previously existed; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities. Only native plant species should be planted at the site. This NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services. Except for the relocation of non-tidal waters on the project site, this NWP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., the conversion of a stream to wetland or vice versa) or uplands. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type. This NWP does not authorize stream channelization. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments. Compensatory mitigation is not required for activities authorized by this NWP since these activities must result in net increases in aquatic resource functions and services. Reversion. For enhancement, restoration, and establishment activities conducted: (1) In accordance with the terms and conditions of a binding stream or wetland enhancement or restoration agreement, or a wetland establishment agreement, between the landowner and the U.S. Fish and Wildlife Service (FWS), the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), U.S. Forest Service

(USFS), or their designated state cooperating agencies; (2) as voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) on reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE) or the applicable state agency, this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or establishment activities). The reversion must occur within five years after expiration of a limited term wetland restoration or establishment agreement or permit, and is authorized in these circumstances even if the discharge occurs after this NWP expires. The five-year reversion limit does not apply to agreements without time limits reached between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS, or an appropriate state cooperating agency. This NWP also authorizes discharges of dredged or fill material in waters of the United States for the reversion of wetlands that were restored, enhanced, or established on prior-converted cropland or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or establishment activity did not require a section 404 permit). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before conducting any reversion activity the permittee or the appropriate Federal or state agency must notify the district engineer and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the Corps Regulatory requirements are applicable to that type of land at the time. The requirement that the activity results in a net increase in aquatic resource functions and services does not apply to reversion activities meeting the above conditions. Except for the activities described above, this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion. Reporting. For those activities that do not require pre-construction notification, the permittee must submit to the district engineer a copy of: (1) The binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement, or a project description, including project plans and location map; (2) the NRCS or USDA Technical Service Provider documentation for the voluntary stream enhancement or restoration action or wetland restoration, enhancement, or establishment action; or (3) the SMCRA permit issued by OSMRE or the applicable state agency. The report must also include information on baseline ecological conditions on the project site, such as a delineation of wetlands, streams, and/or other aquatic habitats. These documents must be submitted to the district engineer at least 30 days prior to commencing activities in waters of the United States authorized by this NWP. Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing any activity (see general condition 32), except for the following activities: (1) Activities conducted on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS or their designated state cooperating agencies; (2) Voluntary stream or wetland restoration or enhancement action, or wetland establishment action, documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) The reclamation of surface coal mine lands, in accordance with an SMCRA permit issued by the OSMRE or the applicable state agency. However, the permittee must submit a copy of the appropriate documentation to the district engineer to fulfill the reporting requirement. (Authorities: Sections 10 and 404) Note: This NWP can be used to authorize compensatory mitigation projects, including mitigation banks and in-lieu fee projects. However, this NWP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory mitigation is generally intended to be permanent.

**2. General Conditions:** The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in

writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this

permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWP 3 only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

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(Transferee)

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(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by

33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-

construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district

engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWP, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

### **3. Regional Conditions for the Los Angeles District:**

1. For all activities in waters of the U.S. that are suitable habitat for federally listed fish species, including designated critical habitat for such species, the permittee shall design all new or substantially reconstructed linear transportation crossings (e.g. roads, highways, railways, trails, bridges, culverts) to ensure that the passage and/or spawning of fish is not hindered. In these areas, the permittee shall employ bridge designs that span the stream or river, including pier- or pile-supported spans, or designs that use a bottomless arch culvert with a natural stream bed, unless determined to be impracticable by the Corps.
2. Nationwide Permits (NWP) 3, 7, 12-15, 17-19, 21, 23, 25, 29, 35, 36, or 39-46, 48-54 cannot be used to authorize structures, work, and/or the discharge of dredged or fill material that would result in the "loss" of wetlands, mudflats, vegetated shallows or riffle and pool complexes as defined at 40 CFR Part 230.40-45. The definition of "loss" for this regional condition is the same as the definition of "loss of waters of the United States" used for the Nationwide Permit Program. Furthermore, this regional condition applies only within the State of Arizona and within the Mojave and Sonoran (Colorado) desert regions of California. The desert regions in California are limited to four USGS Hydrologic Unit Code (HUC) accounting units (Lower Colorado -150301, Northern Mojave-180902, Southern Mojave-181001, and Salton Sea-181002).
3. When a pre-construction notification (PCN) is required, the Los Angeles District shall be notified in accordance with General Condition 32 using either the South Pacific Division PCN Checklist or a signed application form (ENG Form 4345) with an attachment providing information on compliance with all of the General and Regional Conditions. The PCN Checklist and application form are available at: <http://www.spl.usace.army.mil/Missions/Regulatory/PermitProcess.aspx>. In addition, unless specifically waived by the Los Angeles District, the PCN shall include:

- a. A written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States;
  - b. Drawings, including plan and cross-section views, clearly depicting the location, size and dimensions of the proposed activity as well as the location of delineated waters of the U.S. on the site. The drawings shall contain a title block, legend and scale, amount (in cubic yards) and area (in acres) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The ordinary high water mark or, if tidal waters, the mean high water mark and high tide line, should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation. All drawings shall follow the Updated Map and Drawing Standards for the South Pacific Division Regulatory Program (Feb 2016), or most recent update (available at the South Pacific Division website at: <http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences.aspx/>);
  - c. Numbered and dated pre-project color photographs showing a representative sample of waters proposed to be impacted on the project site, and all waters proposed to be avoided on and immediately adjacent to the project site. The compass angle and position of each photograph shall be documented on the plan-view drawing required in subpart b of this regional condition.
  - d. Delineation of aquatic resources in accordance with the current Los Angeles District's Minimum Standards for Acceptance of Aquatic Resources Delineation Reports (available at: <http://www.spl.usace.army.mil/Missions/Regulatory/Jurisdictional-Determination/>).
4. Submission of a PCN pursuant to General Condition 32 and Regional Condition 3 shall be required for specific regulated activities in the following locations:
- a. All perennial waterbodies and special aquatic sites throughout the Los Angeles District as well as intermittent waters within the State of Arizona for any regulated activity that would result in a loss of waters of the United States. The definition of "loss of waters of the United States" for this regional condition is the same as the definition used for the Nationwide Permit Program.
  - b. All areas designated as Essential Fish Habitat (EFH) by the Pacific Fishery Management Council, and that would result in an adverse effect to EFH, in which case the PCN shall include an EFH assessment and extent of proposed impacts to EFH. EFH Assessment Guidance and other supporting information can be found at: [http://www.westcoast.fisheries.noaa.gov/habitat/fish\\_habitat/efh\\_consultations\\_go.html](http://www.westcoast.fisheries.noaa.gov/habitat/fish_habitat/efh_consultations_go.html).
  - c. All watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south.

- d. The Santa Clara River watershed in Los Angeles and Ventura counties, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River.
  - e. The Murrieta and Temecula Creek watersheds in Riverside County, California for any regulated activity that would result in a loss of waters of the U.S. The definition of “loss of waters of the United States” for this regional condition is the same as the definition used for the Nationwide Permit Program.
  - f. All waterbodies designated by the Arizona Department of Environmental Quality as Outstanding Arizona Waters (OAWs), within 1600 meters (or 1 mile) upstream and/or 800 meters (1/2 mile) downstream of a designated OAW, and on tributaries to OAWs within 1600 meters of the OAW (see <http://www.azdeq.gov/index.html>).
  - g. All waterbodies designated by the Arizona Department of Environmental Quality as 303(d)-impaired surface waters, within 1600 meters (or 1 mile) upstream and/or 800 meters (1/2 mile) downstream of a designated impaired surface water, and on tributaries to impaired waters within 1600 meters of the impaired water (see <http://www.azdeq.gov/index.html>).
5. Individual Permits shall be required for all discharges of fill material in jurisdictional vernal pools, with the exception that discharges for the purpose of restoration, enhancement, management or scientific study of vernal pools may be authorized under NWPs 5, 6, and 27 with the submission of a PCN in accordance with General Condition 32 and Regional Condition 3.
  6. Within the Murrieta Creek and Temecula Creek watersheds in Riverside County the use of NWPs 29, 39, 42 and 43, and NWP 14 combined with any of those NWPs shall be restricted. The loss of waters of the U.S. cannot exceed 0.25 acre. The definition of “loss of waters of the United States” for this regional condition is the same as the definition used for the Nationwide Permit Program.
  7. Individual Permits (Standard Individual Permit or 404 Letter of Permission) shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.
  8. In conjunction with the Los Angeles District's Special Area Management Plans (SAMPs) for the San Diego Creek Watershed and San Juan Creek/Western San Mateo Creek Watersheds in Orange County, California, the Corps' Division Engineer, through his discretionary authority has revoked the use of the following 26 selected NWPs within these SAMP watersheds: 03, 07, 12, 13, 14, 16, 17, 18, 19, 21, 25, 27, 29, 31, 33, 39, 40, 41, 42, 43, 44, 46, 49, and 50. Consequently, these NWPs are no longer available in those watersheds to authorize impacts to waters of the United States from discharges of dredged or fill material under the Corps' Clean Water Act section 404 authority.

9. Any requests to waive the applicable linear foot limitations for NWP 13, 21, 29, 39, 40 and 42, 43, 44, 51, 52, and 54, must include the following:
  - a. A narrative description of the affected aquatic resource. This should include known information on: volume and duration of flow; the approximate length, width, and depth of the waterbody and characters observed associated with an Ordinary High Water Mark (e.g. bed and bank, wrack line, or scour marks) or Mean High Water Line; a description of the adjacent vegetation community and a statement regarding the wetland status of the associated vegetation community (i.e. wetland, non-wetland); surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information.
  - b. An analysis of the proposed impacts to the waterbody in accordance with General Condition 32 and Regional Condition 3;
  - c. Measures taken to avoid and minimize losses, including other methods of constructing the proposed project; and
  - d. A compensatory mitigation plan describing how the unavoidable losses are proposed to be compensated, in accordance with 33 CFR Part 332.
10. The permittee shall complete the construction of any compensatory mitigation required by special condition(s) of the NWP verification before or concurrent with commencement of construction of the authorized activity, except when specifically determined to be impracticable by the Corps. When mitigation involves use of a mitigation bank or in-lieu fee program, the permittee shall submit proof of payment to the Corps prior to commencement of construction of the authorized activity.

**4. Further information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
  - Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
  - Section 404 of the Clean Water Act (33 U.S.C. 1344).
  - Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
  - (a) This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
  - (b) This permit does not grant any property rights or exclusive privileges.
  - (c) This permit does not authorize any injury to the property or rights of others.
  - (d) This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
  - (a) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - (b) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - (c) Damages to persons, property, or to other permitted or unpermitted activities or structures caused

by the activity authorized by this permit.

(d) Design or construction deficiencies associated with the permitted work.

(e) Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
  - (a) You fail to comply with the terms and conditions of this permit.
  - (b) The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
  - (c) Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.
7. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition H below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
8. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Source: ESRI World Street Map



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community



# RANCHO MIRAMONTE RIPARIAN HABITAT RESTORATION PROJECT

## Regional Map

# GLENN LUKOS ASSOCIATES

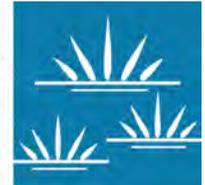
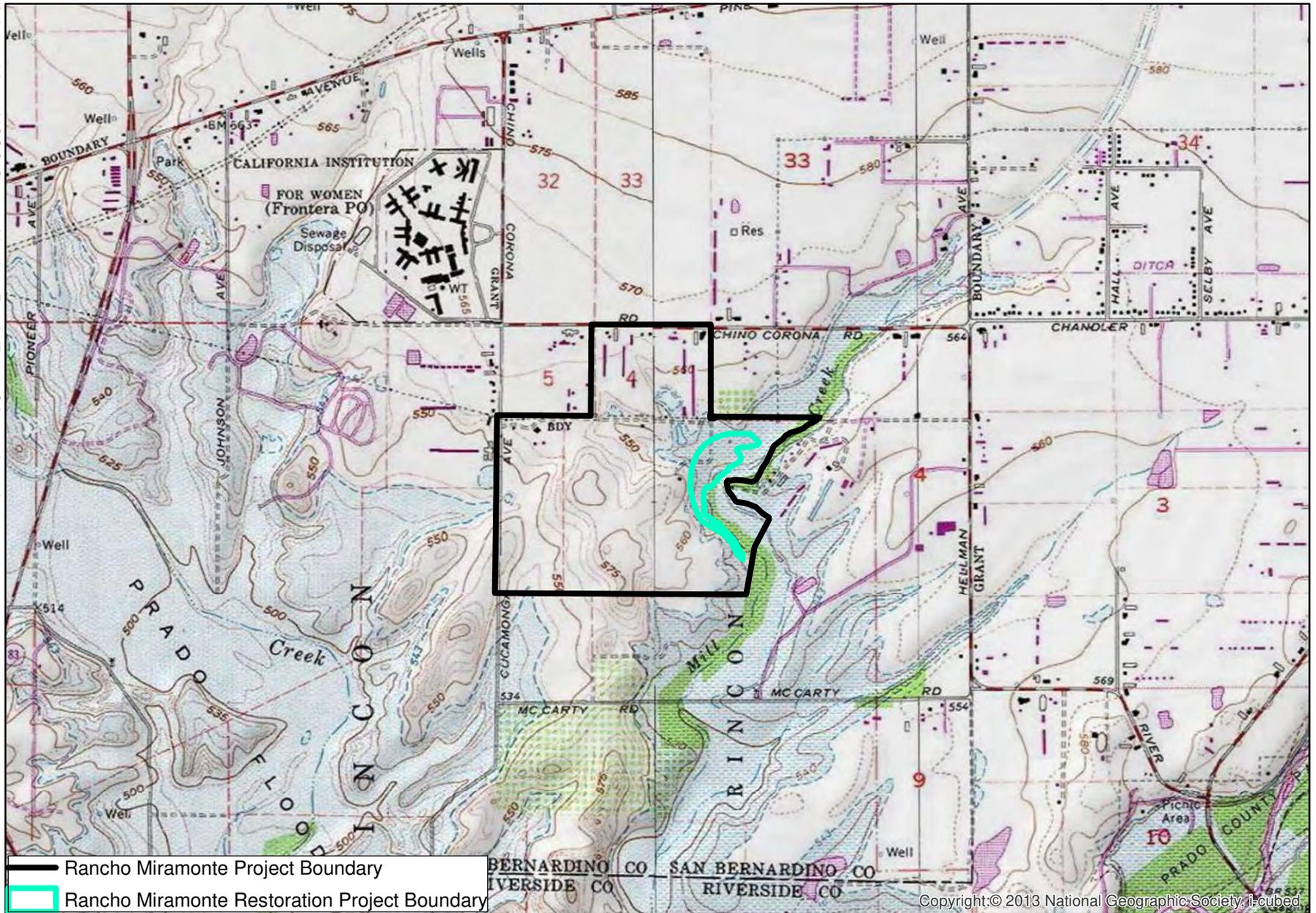


Exhibit 1

Adapted from USGS Corona North & Prado Dam, CA quadrangles



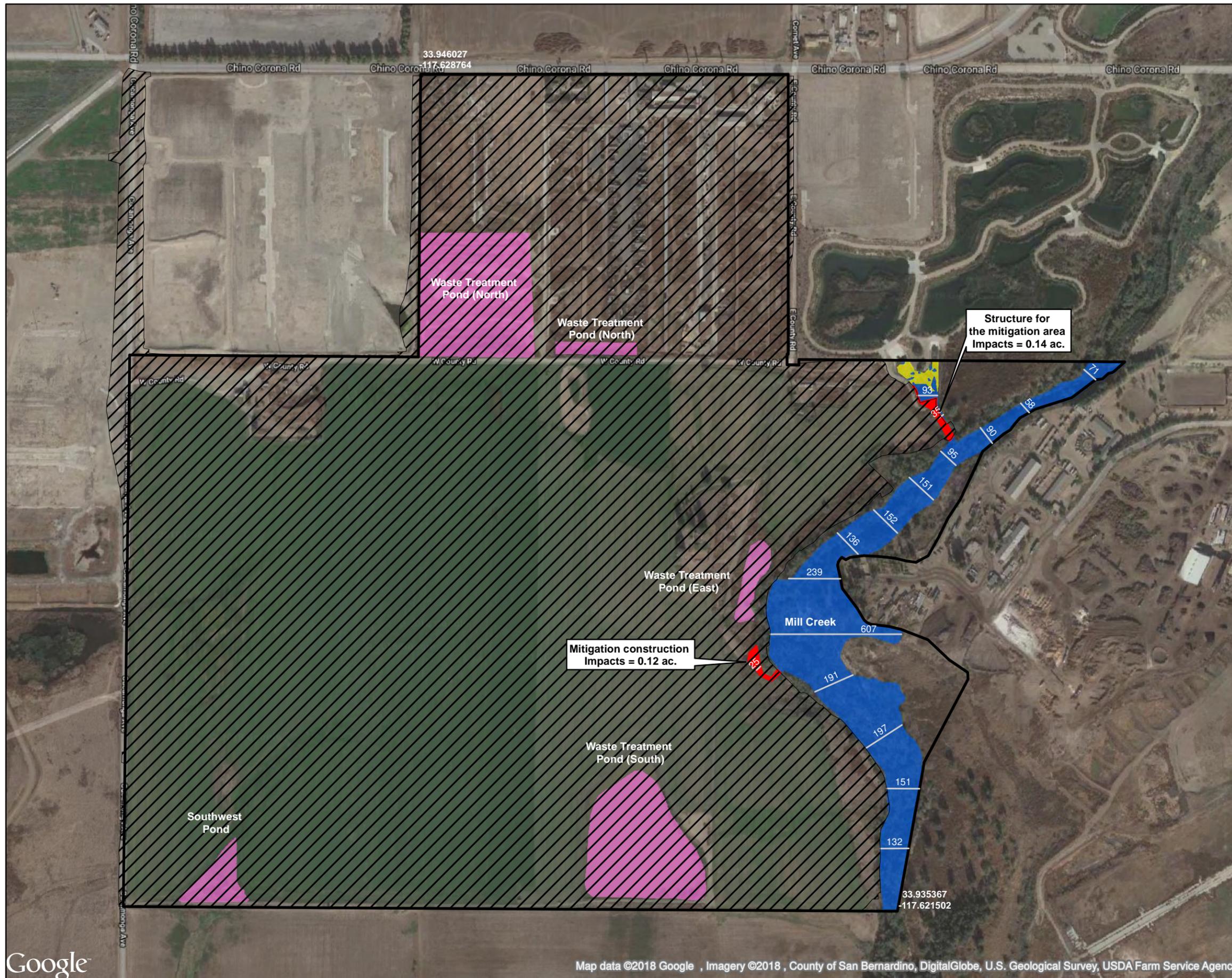
# RANCHO MIRAMONTE RIPARIAN HABITAT RESTORATION PROJECT

Vicinity Map

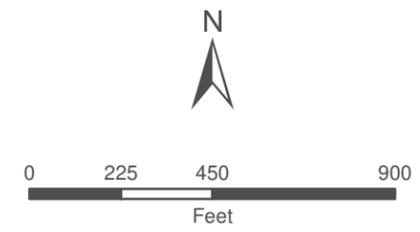
GLENN LUKOS ASSOCIATES



Exhibit 2



- Rancho Miramonte Project Boundary
- Grading Limits
- Corps/RWQCB Non-Wetland Waters
- Corps/RWQCB Wetland Waters
- Non-Jurisdictional Waste Treatment Pond
- Impacted Corps/RWQCB Wetland Waters - (0.26 ac.)
- Width in Feet



1 inch = 450 feet

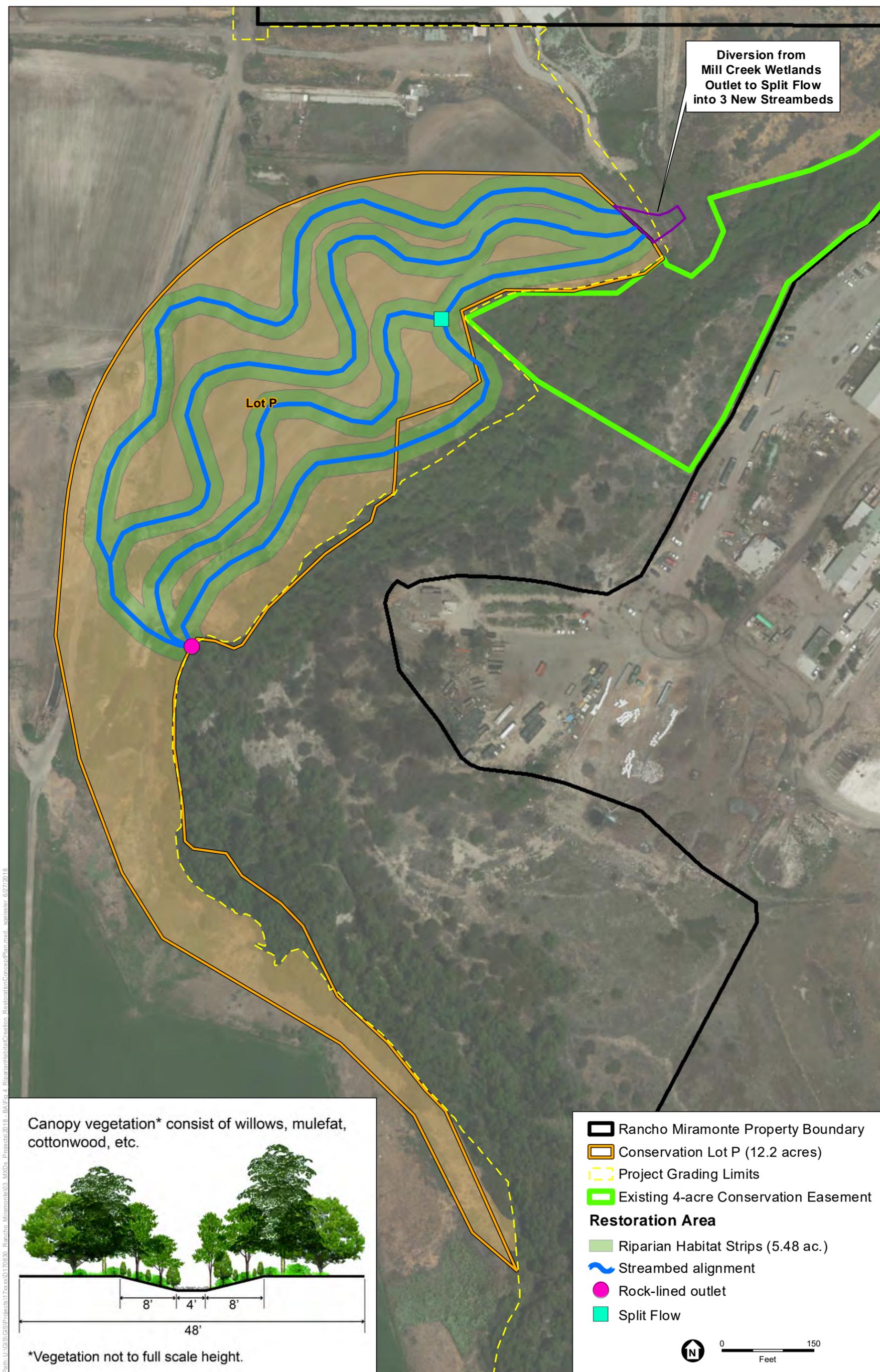
Coordinate System: State Plane 5 NAD 83  
 Projection: Lambert Conformal Conic  
 Datum: NAD83  
 Map Prepared by: K. Kartunen, GLA  
 Date Prepared: July 5, 2018

## RANCHO MIRAMONTE RIPARIAN HABITAT RESTORATION PROJECT

Corps Impact Map

GLENN LUKOS ASSOCIATES

Exhibit 6



Path:\U:\GIS\Projects\7xxxx\070830\_Rancho\_Miramonte\93\_MXD\Projects\2018\_BA\Fig\_4\_RiparianHabitatCreation\_RestorationConceptPlan.mxd\_splaisler\_6/27/2018

SOURCE: ESRI 2015

Rancho Miramonte Riparian Habitat Restoration Project – Biological Assessment

**Figure 4**  
Riparian Habitat Creation and Restoration Concept Plan





## United States Department of the Interior

### U.S. FISH AND WILDLIFE SERVICE

Ecological Services  
Palm Springs Fish and Wildlife Office  
777 East Tahquitz Canyon Way, Suite 208  
Palm Springs, California 92262



In Reply Refer to:  
FWS-SB-19B0157-19I1044

July 23, 2019  
*Sent by Email*

Ms. Pam Kostka  
U.S. Army Corps of Engineers  
Los Angeles District  
915 Wilshire Boulevard, Suite 930  
Los Angeles, California 90017

Subject: Informal Section 7 Consultation for Rancho Miramonte Riparian Habitat  
Restoration Project, Chino, San Bernardino County, California

Dear Ms. Kostka:

This letter is in response to your correspondence received on September 6, 2018, requesting our concurrence with your determination that construction of the Rancho Miramonte Riparian Habitat Restoration Project (Project) in the City of Chino, San Bernardino County, California may effect, is not likely to adversely affect the federally endangered least Bell's vireo (*Vireo bellii pusillus*, LBV), the federally endangered southwestern willow flycatcher (*Empidonax trailii extimus*, SWFL), or their designated critical habitats in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*).

This informal consultation is based on information from the June 2018 Rancho Miramonte Riparian Habitat Restoration Project Biological Assessment (ESA 2018a), LBV and SWFL focused surveys from 2018 (ESA 2018b, ESA 2018c), project design features outlined in the 2007 Biological Technical Report (Glen Lukos Associates 2007), and email communications.

The Project is associated with the larger 272-acre Rancho Miramonte residential housing development (Figure 1). Original documents from 2007 considered the housing development and habitat restoration areas as one project. The residential development has included measures to minimize effects from the development on the restoration Project.

The current Project action encompasses 62.98 acres which is divided into four lots: O, P, Q, and R (Figure 2). The U.S. Army Corps of Engineers' (Corps) has identified their scope as the 0.13 acres of permanent impact to Waters of the U.S. with a 500 ft. noise buffer. As such, the Project action area defined by the Corps for section 7 consultation includes those areas associated with the 404 permit and wherever planned habitat restoration activities related to the Project (e.g. grading, staging, contouring, planting, maintenance) would occur. The development site is a semi-operational dairy farm. With the exception of the riparian corridor along the east side where

the Project is located, the residential development site doesn't support any federally listed species (Glen Lukos Associates 2007).

### **Project Description**

The Project site is located along Mill Creek approximately 4 miles upstream from Prado Dam in the City of Chino, San Bernardino County, California (Figure 1). Directly northeast of the Project site is the Mill Creek Wetlands project (Service 2012a, Service 2012b). To the west lies the remainder of the Rancho Miramonte development property owned by Trumark Homes, and Prado Regional Park. To the east is a landscaping business, and to the south lies agricultural land, a small regional airport, and the Prado Flood Control Basin. The eastern side of the Project area along Mill Creek contains riparian woodland vegetation the west side contains disturbed agricultural and ruderal vegetation. Two of the four lots in the Project area, lots P and Q, will be conserved permanently through easements and collectively cover 31.09 acres.

The Project is the grading and restoration of 12.19 acres of riparian/riverine vegetation and waters of the U.S. for the benefit of LBV and SWFL. Lot P will be graded to lower the ground elevation and material from lot P will be used as fill in the adjacent Trumark Homes housing development. Approximately 2.48 acres of mulefat scrub and southern willow forest/scrub will be removed during excavation activities.

The Project site will be contoured to create four stream channels for the purpose of conveying flows from a splitting device connected to the Mill Creek Wetlands at the north end of the Project to the output structure further downstream along Mill Creek. A portion of the flows traveling from the Mill Creek Wetlands will be diverted through artificially constructed, meandering streambeds on the project site to support restored riparian vegetation and increase groundwater percolation. The diverted flows will exit the project site and return into Mill Creek approximately 0.25 miles downstream. A minimum of 4.96 acres of riparian habitat (willows, mulefat, and cottonwoods) will be created along the new streambeds to mitigate the temporary impacts to 2.48 acres of the existing vegetation during excavation at a 2:1 ratio.

A flow-splitting device will tie-in to an existing structure on lot R to divert a portion of the Mill Creek Wetland flows into the four new stream channels. Maintenance activities will occasionally be needed to clear sediment from the flow-splitting device in lot R. Maintenance activities will be conducted outside of the LBV nesting season and consistent with the conservation measures below.

### **Conservation Measures**

The following measures have been incorporated into the proposed action to avoid effects to LBV, SWFL, and their designated critical habitats.

- CM 1. Construction activity within 500 feet of riparian will be restricted during the LBV nesting season (March 15<sup>th</sup> through August 31<sup>st</sup>).

- a. If construction activity is required within 500 feet of riparian habitat during the LBV nesting season, a temporary barrier for the purpose of visual obstruction and noise attenuation shall be installed between the construction area and the outer extent of riparian habitat prior to March 15th. This barrier shall consist of certified weed-free straw bales stacked at least 4 to six feet high (depending on site topography, or equivalent, with breaks every 100 meters to allow wildlife passage.
  - b. During activities within 500 feet of LBV suitable habitat, a qualified biologist, with LBV experience, must be on site to monitor nesting activity by LBV or other avian species and determine whether particular activities could be disturbing or disrupting nesting behavior. The monitor will have the authority to halt construction if LBV nesting behavior is disrupted.
- CM 2. Removal of vegetation or other potential nesting bird habitat shall be conducted outside of the avian nesting season (March 15<sup>th</sup>, through August 31<sup>st</sup>).
- a. If removal of vegetation occurs during the avian nesting season, a preconstruction nesting bird survey shall be conducted no more than 3 days prior to this activity.
  - b. If birds are found to be nesting within or near the impact area, a 500 foot buffer where no activities will occur will be established by a qualified biologist. This biologist would also determine if the nest is not currently active or when the nest is no longer active, at which time activities can resume.
- CM 3. Project implementation will restore 30 acres of grassland habitat for the benefit of burrowing owls in lot O, which will also buffer human activity (i.e. lighting, noise, and presence) for the conserved lots.
- CM 4. Vegetation within the restoration areas will not exceed 20% non-native or exotic species.
- CM 5. The Project applicant will provide permanent conservation and long-term management for 31.09 acres of riparian land specifically for the support of LBV nesting habitat.
- a. The Project applicant will develop and execute conservation easements over lots P (12.19 acres) and Q (18.9 acres). Drafts will be submitted to the Service for approval within 6 months of issuance of this consultation and the Corps permit and prior to ground disturbance.
  - b. The Project applicant will conduct a Property Analysis Record (or comparable analysis) to determine the initial deposit required to establish a long-term management fund such as a non-wasting endowment. The funding mechanism will fund support for long-term management, periodic monitoring, and protection of conservation lands specifically supporting nesting habitat for LBV in lots P and Q. The applicant will submit the cost

estimation results to Service for review within 6 months of the issuance of this consultation and the Corps permit and prior to ground disturbance.

- c. Proof of transferred funds shall be furnished within 1 calendar year from written acceptance of the endowment estimate from the Service and prior to ground disturbance.

## **Effects of the Action**

### *Least Bell's vireo and its designated critical habitat*

Mill Creek is a tributary to the Santa Ana River and feeds into the Prado Basin, which contains the most concentrated population of LBV in their range. Presence/absence surveys following Service guidelines were conducted in 2018 along the riparian areas associated within the project footprint in lots P and Q and extended at least 300 feet on either end of the property. Surveys located up to 17 singing males. A minimum of 7 and a maximum of 14 individual male LBV were detected during any single survey. A total of 14 territories were delineated within the survey footprint, and the majority found in designated conservation lot Q. Portions of three territories are within the area that will be affected by grading in lot P. However, due to the distribution of available vegetation around these territories and the small area to be affected in each respective territory, we expect the territories to remain occupied with no discernable effects to returning LBV pairs or individuals. Suitable habitat areas were defined as southern willow forest or scrub, non-native riparian (eucalyptus), disturbed wetland, and riverine wash. Dominant species included arroyo willow (*Salix lasiolepis*), black willow (*Salix gooddingii*), mulefat (*Baccharis salicifolia*), tree tobacco (*Nicotiana glauca*), perennial pepperweed (*Lepidium latifolium*), willow smartweed (*Polygonum lapathifolium*), California bulrush (*Schoenoplectus californicus*), sunflower (*Helianthus annuus*) and California mugwort (*Artemisia douglasiana*).

Grading will remove a narrow strip of LBV designated critical habitat totaling 2.48 acres. This area will be restored and an additional 2.48 acres of new riparian vegetation will be planted within lot P for a combined minimum of 4.96 acres. The Project also includes the conservation of 18.9 acres of designated LBV critical habitat in lot Q. These two lots will be deeded to a conservation agency as described in CM 5 above.

### *Southwestern willow flycatcher and its designated critical habitat*

Surveys for SWFL were conducted May-July 2018 using playback in the same 23 acres surveyed for LBV. Two individuals were detected during the earliest survey on May 21st, however none were identified during the four subsequent surveys. Due to the timing of the detections, these birds are likely migrants and therefore cannot be confirmed as SWFL.

Approximately 1.5 acres of designated SWFL critical habitat are located within the riparian area to be graded. However, only 0.43 acres contain suitable vegetation for supporting SWFL and the remaining area is disturbed/ruderal. Project implementation will restore Lot P for the benefit of riparian species, including 0.43 acres of designated SWFL critical habitat.

If the Project is constructed as described and the above conservation measures are implemented, the Service concurs with your determination that the proposed Rancho Miramonte Conservation Project is not likely to adversely affect LBV or SWFL or their designated critical habitats. Therefore, the interagency consultation requirements of section 7 of the Act have been satisfied. Although our concurrence ends informal consultation, obligations under section 7 of the Act will be reconsidered if new information reveals effects of the agency action that may affect listed species or designated critical habitat in a manner or to an extent not previously considered, or this action is subsequently modified in a manner that was not considered in this assessment.

Thank you for your coordination on this Project. If you have any questions regarding this letter, please contact Emily Hockman of this office at (760) 322-2070, extension 420.

Sincerely,

for  
Kennon A. Corey  
Assistant Field Supervisor

Literature Cited

- [ESA] Environmental Science Associates. 2018a. Rancho Miramonte Riparian Habitat Restoration Project Biological Assessment, Prepared by ESA for Trumark Homes and submitted to the Palm Springs Fish and Wildlife Office, Palm Springs, California. June 2018.
- [ESA] Environmental Science Associates. 2018b. Results of Focused Least Bell's Vireo Surveys on the Rancho Miramonte Riparian Habitat Restoration Project, City of Chino, San Bernardino County, California. Prepared by ESA for Trumark Homes and submitted to the Palm Springs Fish and Wildlife Office, Palm Springs, California. August 13, 2018.
- [ESA] Environmental Science Associates. 2018c. Results of Focused Southwestern Willow Flycatcher Surveys for the Rancho Miramonte Riparian Habitat Restoration Project, City of Chino, San Bernardino County, California. Prepared by ESA for Trumark Homes and submitted to the Palm Springs Fish and Wildlife Office, Palm Springs, California. August 13, 2018.
- Glen Lukos Associates, Inc. 2007. Biological Technical Report for the Approximately 272-Acre Edgewater Communities Property Chino, San Bernardino County, California. Prepared by Glen Lukos Associates, Inc. for Edgewater Associates I, LLC, and submitted to the Palm Springs Fish and Wildlife Office, Palm Springs, California. September 2007.
- [Service] U.S. Fish and Wildlife Service. 2012a. Cucamonga Creek Watershed Regional Water Quality Proposal Alternative 2A, San Bernardino County, California (FWS-SB-12B0014-12I0139). Palm Springs Fish and Wildlife Office, Palm Springs, California.
- [Service] U.S. Fish and Wildlife Service. 2012b. Cucamonga Creek Watershed Regional Water Quality Proposal Alternative 2A, San Bernardino County, California (FWS-SB-12B0014-12I0482). Palm Springs Fish and Wildlife Office, Palm Springs, California.

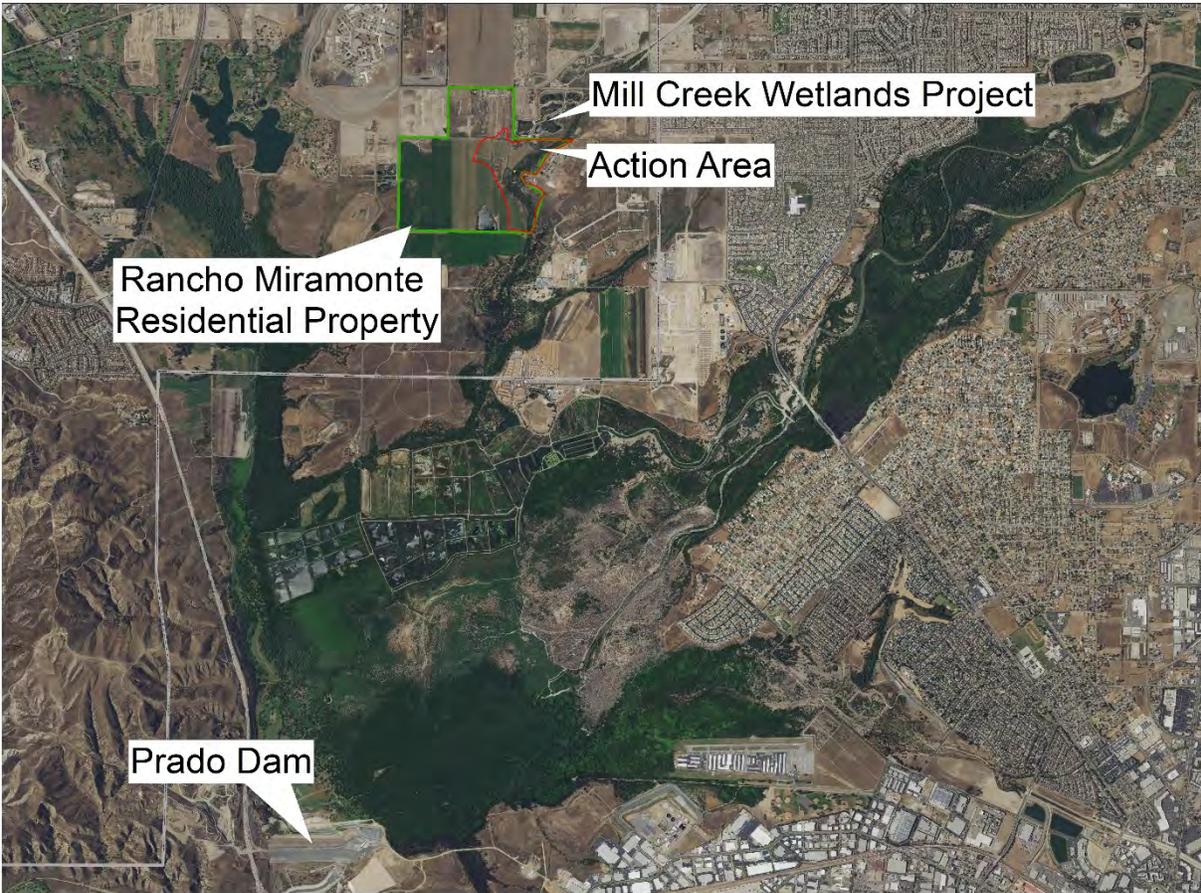


Figure 1: Location of the Rancho Miramonte Riparian Habitat Restoration Project, Chino, San Bernardino County, California

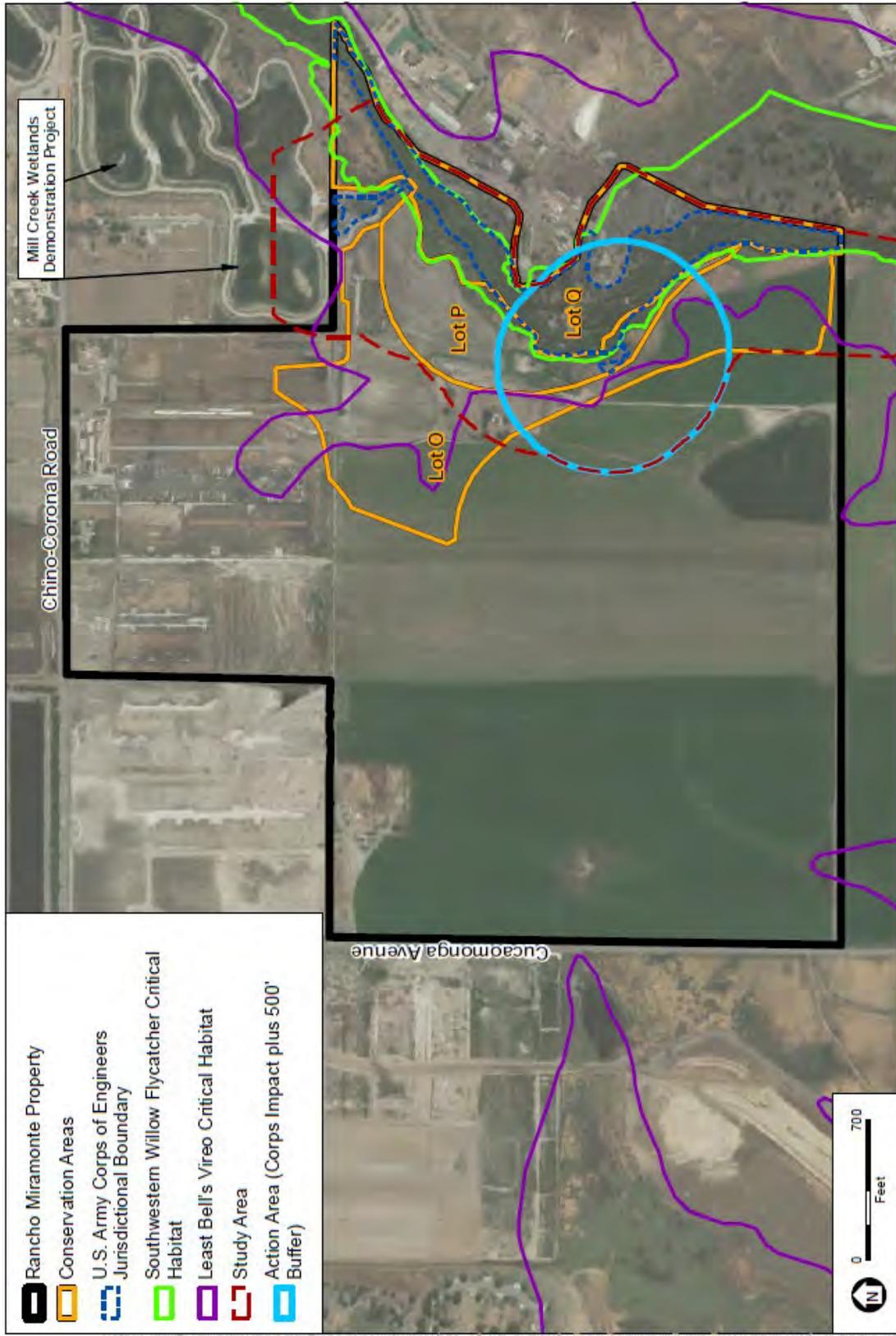


Figure 2: Action area and designated critical habitat (ESA 2018a)



GAVIN NEWSOM  
GOVERNOR



JARED BLUMENFELD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Santa Ana Regional Water Quality Control Board

July 12, 2019

Ms. Susan Lindquist  
Trumark Homes  
450 Newport Center Drive, Suite 300  
Newport Beach, California 92660

[slindquist@trumarkco.com](mailto:slindquist@trumarkco.com)

Dear Ms. Lindquist:

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER FOR THE RANCHO MIRAMONTE RIPARIAN HABITAT RESTORATION PROJECT (SARWQCB WDD # 362018-07)

Enclosed please find a Clean Water Act Section 401 Water Quality Certification and Order, authorized by Santa Ana Regional Water Quality Control Board Executive Officer, Hope Smythe. This Order is issued to you for Rancho Miramonte Riparian Habitat Restoration Project. Attachments A through C of the Enclosure are also part of the Order.

This Order is issued in response to an application submitted by Trumark Homes for proposed Project discharge to waters of the State to ensure that the water quality standards for all waters of the State impacted by the Project are met. You may proceed with your Project according to the terms and conditions of the enclosed Order.

If you require further assistance, please contact me by phone at (951) 782-3295 or by email at [Jason.Bill@Waterboards.ca.gov](mailto:Jason.Bill@Waterboards.ca.gov). You may also contact David Woelfel, Chief of Regional Planning Programs Section, by phone at (951) 782-7960 or by email at [David.Woelfel@waterboards.ca.gov](mailto:David.Woelfel@waterboards.ca.gov).

Sincerely,

A handwritten signature in cursive script that reads "David G. Woelfel".

Jason Bill  
Environmental Scientist  
Regional Planning Programs  
Santa Ana Regional Water Quality Control Board

Enclosures (1): Order for Rancho Miramonte Riparian Habitat Restoration Project

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

Ms. Susan Lindquist  
Trumark Homes  
SARWQCB WDID # 362018-07

- 2 -

July 12, 2019

cc: [Via email only] (w/ enclosure):

U.S Army Corps of Engineers, Los Angeles District – Stephen Estes -  
[Stephen.M.Estes@usace.army.mil](mailto:Stephen.M.Estes@usace.army.mil)

U.S. Environmental Protection Agency, Region 9 – Wetlands Section –  
Megan Fitzgerald – [Fitzgerald.Megan@epa.gov](mailto:Fitzgerald.Megan@epa.gov)  
Melissa Scianni -- [Scianni.Melissa@epa.gov](mailto:Scianni.Melissa@epa.gov)

California Department of Fish and Wildlife – Marissa Caringella -  
[Marissa.Caringella@wildlife.ca.gov](mailto:Marissa.Caringella@wildlife.ca.gov)

State Water Resource Control Board, Office of Chief Counsel -- Teresita Sablan –  
[Teresita.Sablan@waterboards.ca.gov](mailto:Teresita.Sablan@waterboards.ca.gov)

State Water Resources Control Board, Division of Water Quality -- Water Quality  
Certification Unit

Santa Ana Regional Water Quality Control Board – David Woelfel –  
[David.Woelfel@waterboards.ca.gov](mailto:David.Woelfel@waterboards.ca.gov)





GAVIN NEWSOM  
GOVERNOR



JARED BLUMENFELD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Santa Ana Regional Water Quality Control Board

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### CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

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**Effective Date:** July 12, 2019

Reg. Meas. ID: 422730

**Program Type:** Restoration

Place ID: 849060

SARWQCB WDID: 362018-07

USACE #: SPL-2018-00467-PKK

**Project Type:** Permittee Responsible Mitigation Project

**Project:** Rancho Miramonte Riparian Habitat Restoration Project (Project)

**Federal Permit:** United States Army Corps of Engineers (USACE) Nationwide Permit (NWP) 27 - Aquatic Habitat Restoration, Enhancement, and Establishment Activities

**Applicant:** Trumark Homes

**Applicant Contact:** Susan Lindquist  
Trumark Homes  
450 Newport Center Drive, Suite 300  
Newport Beach, California 92660  
Phone: (949) 999-9898  
Email: [slindquist@trumarkco.com](mailto:slindquist@trumarkco.com)

**Applicant's Agent:** Martin Rasnick  
Glenn Lukos Associates  
29 Orchard  
Lake Forest, California 92630  
Phone: (949) 340-3851  
Email: [mrasnick@wetlandpermitting.com](mailto:mrasnick@wetlandpermitting.com)

**Water Board Staff:** Jason Bill  
Environmental Scientist  
3737 Main Street, Suite 500  
Riverside, California 92501  
Phone: (951) 782-3295  
Email: [Jason.Bill@Waterboards.ca.gov](mailto:Jason.Bill@Waterboards.ca.gov)

**Water Board Contact Person:**

If you have any questions, please call Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) staff listed above or (951) 782-4130 and ask to speak with the Regional Planning Programs Section Chief.

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

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- Attachment A** Project Maps
- Attachment B** Report and Notification Requirements
- Attachment C** Signatory Requirements

**I. Order**

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of Trumark Homes (herein after Permittee) for the Project. This Order is for the purpose described in the application and supplemental information submitted by the Permittee. The application was received on July 11, 2018. The application was deemed complete on January 24, 2019. Prior to receiving a complete application, Santa Ana Water Board staff issued a notice of incomplete application, and the Permittee responded to the request for application information, as summarized on Table 1.

<b>Table 1: Record of Notice(s) of Incomplete Application</b>	
Date of Notice of Incomplete Application	Date Requested Information Received
7/20/2018	12/24/2018

Santa Ana Water Board staff requested additional information necessary to supplement the contents of the complete application, and the Permittee responded to the request for supplemental information on the following dates see Table 2:

<b>Table 2: Record of Supplemental Application Information</b>	
Date of Request for Supplemental Information	Date Requested Information Received
1/4/2019	3/6/2019

**II. Public Notice**

The Santa Ana Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from July 16, 2018 to the effective date of the Order. The Santa Ana Water Board did not receive any comments during the comment period.

**III. Project Purpose**

The purpose of the Project is to establish and re-establish wetland/riparian habitat within and adjacent to Mill Creek and to eliminate an existing waste treatment pond next to Mill Creek, which will get established/re-established as waters of the State within the Project site for the benefit of sensitive species in the Prado Basin area. The establishment and re-establishment of waters of the State will serve as mitigation required in the Environmental Impact Report (EIR) for the Rancho Miramonte residential development and the Project's California Department of Fish and Wildlife's Streambed Alteration Agreement.

**IV. Project Description**

The proposed Project will involve the creation or reestablishment of approximately five acres of native riparian woodland and scrub vegetation within a designated conservation area within the Rancho Miramonte property adjacent to the west side of Mill Creek. The Project is associated with the residential development of the Rancho Miramonte property, west of the conservation area. The conservation area consists of three separate lots: Lot O, which will be enhanced to create suitable burrowing owl habitat; Lot Q, which is for long term preservation of existing riparian habitat in Mill Creek; and Lot P, which is the subject of the riparian establishment authorized by this Certification. Excavation of the riparian creation area will

lower the ground elevation within Lot P and provide an area suitable for riparian habitat establishment.

Subsequent to excavation within Lot P, the area along the west side of Mill Creek will be contoured to create three drainages to convey flows from north to south through that area. Surface flows coming from the Mill Creek Wetlands outlet would be captured before they reach Mill Creek. The flows would be captured by cutting into the outflow line and then directed through a flow splitting device or basin so that the flows will be split relatively evenly among the three drainages. The bottom of each drainage channel will be approximately four feet across and approximately two feet deep with 4:1 sideslopes. Each drainage will be aligned with gentle curves to imitate a naturally sinuous meandering stream. The drainage closest to the main channel of Mill Creek would be split again just past the southwest corner of the existing conservation easement so that some flow can be directed to wrap around the corner of the easement to supply the area where riparian vegetation temporarily impacted by excavation must be replaced. All the channels would rejoin before they reach the planned outlet to Mill Creek to the south.

**V. Project Location**

The work will be located south of the Mill Creek Wetlands, west of Mill Creek and east of the Rancho Miramonte Development in the City of Chino, San Bernardino County in Sections 4 and 5 of Township 3 South Range 7 West of the United States (U.S.) Geological Survey Corona North and Prado Dam 7.5-minute topographic quadrangle maps (33.9399° N/ -117.6232° W). A map showing the Project location is found in Attachment A of this Order.

**VI. Project Impact and Receiving Waters Information**

The Project is located within the jurisdiction of the Santa Ana Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the Water Quality Control Plan for the Santa Ana Basin (1995) and subsequent amendments (Basin Plan) and other plans and policies. The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the State, water quality objectives to protect those uses, and the State and federal antidegradation policies.

Receiving Water:	Mill Creek (Prado Area)
Existing or Potential Beneficial Uses:	Water Contact Recreation (REC1), Non-contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), and Rare Threatened or Endangered Species (RARE)

**VII. Description of Direct Impacts to Waters of the State**

The excavation and establishment of the drainages in Lot P will temporarily impact waters of the State. Vegetation would be removed and drainages excavated to create connections to the outlet of the Mill Creek Wetlands and reconnect the created drainages downstream in Mill Creek.

Total Project fill/excavation quantities for all impacts are summarized in Table 3. Permanent impacts are categorized as those resulting in a physical loss in area and also those degrading ecological condition only. A map of the creation and restoration activities permitted by this Order is included in Attachment A of this Order.

Table 3: Total Project Fill/Excavation Quantity									
Aquatic Resource Type	Temporary Impact <sup>1</sup>			Permanent Impact					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	CY <sup>2</sup>	LF	Acres	CY	LF	Acres	CY	LF
Wetland	0.13	--	230	--	--	--	--	--	--

**VIII. Compensatory Mitigation**

No compensatory mitigation is required for permanent impacts because the purpose of the Project is to create and expand the riparian waters of the State associated with Mill Creek to satisfy the requirements of the Rancho Miramonte Residential Development EIR as approved by the City of Chino.

**IX. California Environmental Quality Act (CEQA)**

Pursuant to the California Environmental Quality Act (CEQA), the City of Chino filed a CEQA Guidelines section 15333 Categorical Exemption with the County of San Bernardino on December 18, 2018. The City of Chino declares that the proposed Project does not exceed five acres and entails the restoration, enhancement, or protection of habitat for fish, plants, or wildlife. The Santa Ana Water Board has independently considered the Permittee Categorical Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed Project are necessary to avoid or mitigate impacts to water quality to a less than significant level. In addition, Santa Ana Water Board considered the City of Chino's EIR prepared for the Edgewater Communities (Rancho Miramonte) Residential Development. The Chino City Council approved the EIR on May 5, 2009 and filed the Notice of Determination on May 6, 2009 with State Clearinghouse and the Clerk of the Board of Supervisors of San Bernardino County.

**X. Petitions for Reconsideration**

Any person aggrieved by this action may petition the State Water Resources Control Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within thirty (30) calendar days of the issuance of this Order.

**XI. Fees Received**

An application fee of \$1,500.00 was received on July 11, 2018. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator. An additional fee of \$225.00 based on total Project impacts was received on June 3, 2019.

**XII. Conditions**

The Santa Ana Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watershed of the Project. In accordance with this Order, the Permittee may proceed with the Project under the following terms and conditions:

<sup>1</sup> Includes only temporary direct impacts to waters of the State and does not include upland areas of temporary disturbance, which could result in a discharge to waters of the State.

<sup>2</sup> Cubic Yards (CY); Linear Feet (LF)

**A. Authorization**

Impacts to waters of the State shall not exceed quantities shown in Table 3.

**B. Reporting and Notification Requirements**

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment B, including specifications for photo and map documentation during the Project construction. Written reports and notifications shall be submitted using the *Reporting and Notification Cover Sheet* located in Attachment B and signed by the Permittee or an authorized representative.

**1. Project Reporting:**

- a. **Annual Reporting.** The Permittee shall submit an Annual Report each year on the anniversary of the effective date. Annual reporting shall continue until a *Notice of Project Complete Letter* is issued to the Permittee.

**2. Project Status Notifications:**

- a. **Commencement of Construction.** The Permittee shall submit a *Commencement of Construction Report* at least seven (7) days prior to start of initial ground disturbance activities.
- b. **Request for Notice of Completion of Discharges Letter.** The Permittee shall submit a *Request for Notice of Completion of Discharges Letter* following completion of active Project construction activities, including any required restoration and Permittee-responsible mitigation. This request shall be submitted to the Santa Ana Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, Santa Ana Water Board staff will issue to the Permittee a *Notice of Completion of Discharges Letter*, which will end the active discharge period and, if appropriate, associated annual fees.
- c. **Request for Notice of Project Complete Letter.** The Permittee shall submit a *Request for Notice of Project Complete Letter* when construction and any required post-construction monitoring is complete<sup>3</sup> and no further Project activities will occur. This request shall be submitted to Santa Ana Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Santa Ana Water Board staff will issue to the Permittee a *Notice of Project Complete Letter*, which will end the post discharge monitoring period and associated annual fees.

- 3. Conditional Notifications and Reports:** The following notifications and reports are required as appropriate.

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<sup>3</sup> Completion of post-construction monitoring will be determined by Santa Ana Water Board staff and will be contingent on successful attainment of restoration and mitigation performance criteria.

(footnote continued on next page)

- a. Accidental Discharges of Hazardous Materials.**<sup>4</sup> Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Water Code, section 13271):
- i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then, the Permittee shall:
    - first call – 911 (to notify local response agency)
    - then call – Office of Emergency Services (OES) State Warning Center at (800) 852-7550 or (916) 845-8911
    - lastly follow the required OES procedures as set forth in the *California Hazardous Materials Spill / Release Notification Guidance*.
  - ii. Following notification to OES, the Permittee shall notify Santa Ana Water Board, as soon as practicable (ideally within twenty-four [24] hours). Notification may be via telephone, email, delivered written notice, or other verifiable means.
  - iii. Within five (5) working days of notification to the Santa Ana Water Board, the Permittee shall submit an *Accidental Discharge of Hazardous Material Report*.
- b. Violation of Compliance with Water Quality Standards.** The Permittee shall notify the Santa Ana Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, email, delivered written notice, or other verifiable means.
- i. Examples of noncompliance events include: lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the State, and water contact with uncured concrete.
  - ii. This notification shall be followed within three (3) working days by submission of a *Violation of Compliance with Water Quality Standards Report* to the Santa Ana Water Board.
- c. In-Water Work.**
- i. The Permittee shall notify the Santa Ana Water Board at least forty-eight (48) hours prior to initiating work in water or stream diversions. Notification may be via telephone, email, delivered written notice, or other verifiable means.
  - ii. Within three (3) working days following completion of work in water or stream diversions, an *In-Water Work/Diversions Water Quality Monitoring Report* shall be submitted to Santa Ana Water Board staff.

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<sup>4</sup> "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health and Safety Code, section 25501.)

- d. **Modifications to Project.** Project modifications may require an amendment of this Order. The Permittee shall give advance notice to Santa Ana Water Board staff by submitting a *Modifications to Project Report*, if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, State, or federal regulatory authority. The Permittee shall inform Santa Ana Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order. Notification may be made in accordance with conditions in the Certification Deviation section of this Order.
- e. **Transfer of Property Ownership.** This Order is not transferable in its entirety or in part to any person or organization except after notice to the Santa Ana Water Board in accordance with the following terms:
  - i. The Permittee shall notify the Santa Ana Water Board by submitting a *Transfer of Property Ownership Report* of any change in ownership or interest in ownership of the Project area. The Permittee and purchaser shall sign and date the notification and provide such notification to the Santa Ana Water Board at least ten (10) days prior to the transfer of ownership. The purchaser shall also submit a written request to the Santa Ana Water Board to be named as the permittee in a revised order.
  - ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.
- f. **Transfer of Long-Term Best Management Practices (BMPs) Maintenance.** If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee shall submit to the Santa Ana Water Board a copy of such documentation and shall provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee shall provide such notification to the Santa Ana Water Board with a *Transfer of Long-Term BMP Maintenance Report* at least ten (10) days prior to the transfer of BMP maintenance responsibility.

### C. Water Quality Monitoring

1. **General:** If surface water is present, continuous visual surface water monitoring shall be conducted to detect accidental discharge of construction related pollutants (e.g., oil, grease, turbidity plume, or uncured concrete).
2. **Accidental Discharges/Noncompliance:** Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Santa Ana Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

**3. In-Water Work or Diversions:**

During planned work in water or stream diversions any discharge(s) to waters of the State shall conform to the following water quality standards:

- a. **Oil and Grease.** Waste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations that result in a visible film or in coating objects in the water, or that cause a nuisance or adversely affect beneficial uses.
- b. **Oxygen.** As a result of controllable water quality factors, the dissolved oxygen content of surface waters shall not be depressed below 5 mg/L for waters designated WARM. In addition, waste discharge shall not cause the median dissolved oxygen concentration to fall below 85% of saturation or the 95th percentile concentration or fall below 75% of saturation or the 95th percentile concentration of fall below 75% of saturation within a 30-day period.
- c. **pH.** The pH of inland surface waters shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharge.
- d. **Turbidity.** Increases in turbidity that result from controllable water quality factors shall comply with the following: where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 10 NTU, and where natural turbidity is greater than 100 NTU, increases shall not exceed 10 percent. Measurements of turbidity shall be taken 100 feet downstream of Project activities.
- e. **Temperature.** As a result of controllable water quality factors, the temperature of waters designated WARM shall not be raised above 90°F June through October or above 78°F during the rest of the year.

Sampling shall be conducted in accordance with Table 4 sampling parameters.<sup>5</sup>

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<sup>5</sup> Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, a description of the method to be used must be submitted to the Santa Ana Water Board staff for approval. Grab samples shall be taken between the surface and mid-depth and not be collected at the same time each day to get a complete representation of variations in the receiving water. A hand-held field meter may be used, provided the meter utilizes a U.S. Environmental Protection Agency-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Oil and Grease	N/A	Visual	Continuous
Dissolved Oxygen	mg/L & % saturation	Grab	Once per day during in-water work
pH	Standard Units	Grab	Once per day during in-water work
Turbidity	NTU	Grab	Once per day during in-water work
Temperature	°F (or as °C)	Grab	Once per day during in-water work

Baseline sampling shall be conducted at least at one location within the Project boundary. All other sampling shall take place at a minimum of two locations: the sample locations shall be upstream and downstream of the construction area. Results of the analyses shall be submitted to the Santa Ana Water Board by the 15<sup>th</sup> day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal.

- 4. Post-Construction:** The Permittee shall visually inspect the Project site during the rainy season for five (5) years to ensure excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If water quality pollution is occurring, contact the Santa Ana Water Board staff member overseeing the Project within three (3) working days. The Santa Ana Water Board may require the submission of a *Violation of Compliance with Water Quality Standards Report*. Additional permits may be required to carry out any necessary site remediation.

**D. Standards**

1. This Certification will remain valid until the USACE 2017 Nationwide Permits expire on March 18, 2022, or through an extended period beyond the expiration date that is authorized in writing by the USACE.
2. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, chapter 28, Article 6 commencing with sections 3867-3869, inclusive. Additionally, the Santa Ana Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Permittee, if the Santa Ana Water Board determines: that the Project fails to comply with any of the conditions of this Order; or, when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Water Code, sections 13000 et seq.) or federal Clean Water Act section 303 (Title 33, U.S. Code section 1313). For purposes of Clean Water Act section 401(d), the condition constitutes a limitation necessary to assure compliance with water quality standards and appropriate requirements of State law.
3. This Order is not intended and shall not be construed to apply to 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 subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

4. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Permittee.
5. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, processes, or sanctions as provided for under State and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any State law authorizing remedies, penalties, processes, 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 Order.

#### **E. General Compliance**

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
2. If the conditions of this Order are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Santa Ana Water Board may require that the Permittee submit a Report of Waste Discharge and obtain Waste Discharge Requirements.
3. Permitted actions shall not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters, as adopted in the Basin Plan and subsequent Basin Plan Amendments or in any applicable State Water Resources Control Board water quality control plan or policy. The source of any such discharge shall be eliminated as soon as practicable.
4. In response to a suspected violation of any condition of this Order, the Santa Ana Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Santa Ana Water Board deems appropriate, provided that the burden, including costs, of the reports bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of State law.
5. The Permittee shall, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.
6. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a

limitation necessary to assure compliance with the water quality standards and other pertinent requirements of State law.

**F. Administrative**

1. Signatory requirements for all document submittals required by this Order are presented in Attachment C of this Order.
2. This Order does not authorize any act that results in the taking of a threatened, endangered, or candidate species, or any act that is now prohibited or becomes prohibited in the future under either the California Endangered Species Act (Fish and Game Code, sections 2050-2097) or the federal Endangered Species Act (Title 16, U.S. Code sections 1531-1544). If a "take" will result from any act authorized under this Order held by the Permittee, the Permittee shall obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
3. The Permittee shall grant Santa Ana Water Board staff or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
  - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept;
  - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order;
  - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order;
  - d. Sample or monitor for the purposes of assuring Order compliance.
4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
5. A copy of this Order shall be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.
6. **Lake and Streambed Alteration Agreement:** The Permittee shall submit a signed copy of the California Department of Fish and Wildlife's lake and streambed alteration agreement to the Santa Ana Water Board immediately upon execution and prior to any discharge to waters of the State.

## G. Construction

1. **Dewatering:** Construction dewatering discharges, including temporary stream diversions necessary to carry out the Project, are subject to regulation by Santa Ana Water Board Order No. R8 2015-0004, *General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimis) Threat to Water Quality*.
2. **Construction General Permit Requirement:** The Permittee shall maintain compliance with conditions described in, and required by, NPDES *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Order No. 2009-0009-DWQ; NPDES No. CAS000002) and any subsequent approvals.
3. **Good Site Management "Housekeeping":**
  - a. A Storm Water Pollution Prevention Plan (SWPPP) shall be developed by the construction contractor prior to Project implementation. The SWPPP shall include measures to prevent sediment from entering the watercourse during construction.
  - b. BMPs for effective perimeter control shall be in place at all times to control the discharge of pollutants from the Project site during construction. Construction waste shall be contained and protected against wind and exposure to storm water at all times, unless being actively handled. Chemical, fuel, and lubricant containers shall be kept closed and protected from damage or upset at all times, unless being actively used. Dirt and landscaping material stockpiles shall have effective erosion control BMPs in place to prevent their transport in storm water or directly into the channel and shall not be located in any Waters of the United States. Discharges of wastewater from the Project site are prohibited.
  - c. Substances resulting from Project-related activities and that could be harmful to aquatic life shall not be discharged to soils or waters of the State. These substances include but are not limited to petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, Portland cement concrete or asphalt concrete, and washings and cuttings thereof. All waste concrete shall be removed from the Project site.
  - d. Motorized equipment shall not be maintained or parked in or near any stream crossing, channel, or lake margin in such manner that petroleum products or other pollutants from the equipment might enter these areas under any flow conditions. Vehicles shall not be driven, or equipment shall not be operated on-site in waters of the State onsite, except as necessary to complete the proposed Project.
  - e. Prior to construction activities, the Permittee shall delineate the work area with brightly colored fencing or other methods to ensure temporary impacts to waters of the United States and State do not exceed the limits authorized in this Certification.
4. **Hazardous Materials:** During construction activities, the Permittee shall comply with local, State, and federal laws and regulations regarding the handling and storage of hazardous substances.
5. **Invasive Species and Soil Borne Pathogens:** BMPs to stabilize disturbed soils shall include the use of native plant species whenever feasible.

6. **Storm Water:** The Project shall comply with the local regulations associated with the Santa Ana Water Board's Municipal Stormwater Permit issued to San Bernardino County and co-permittees under NPDES No. CAS618036 and Waste Discharge Requirements Order No. R8-2010-0036, and subsequent iterations thereof.

#### **H. Ecological Restoration and Enhancement and Mitigation for Temporary Impacts**

1. The Permittee shall be responsible for achieving the quantity of mitigation and enhancement noted in Tables 5 and 6.
2. The Permittee shall re-vegetate all areas of temporary impacts to waters of the State, all Project-created waters of the State and Project site, and adjacent upland areas of temporary disturbance, which could result in a discharge of waters of the State. The re-vegetation shall be conducted in accordance with a Habitat Mitigation and Monitoring Plan (HMMP) submitted and with written acceptance by Santa Ana Water Board staff prior to the commencement of construction activities. The HMMP shall provide the following: a schedule; plans for grading of disturbed areas to pre-project contours; planting palette with plant species native to the Project area; pole cutting and seed collection location; invasive species management; performance standards; and maintenance requirements (e.g., watering, weeding, and replanting).
3. The Santa Ana Water Board may extend the monitoring period beyond requirements of the restoration plan upon a determination by Santa Ana Water Board Executive Officer that the performance standards have not been met or are not likely to be met within the monitoring period.
4. If restoration of temporary impacts to waters of the State is not completed within ninety (90) days of the impacts, compensatory mitigation may be required to offset temporal loss of waters of the State.
5. The Permittee is responsible for the created and restored waters of the State in perpetuity. However, the Permittee may transfer the created and restored waters of the State associated with long-term management when the following conditions have been met:
  - i. Performance standards are met.
  - ii. A Transfer Agreement to a third party has been approved by Santa Ana Water Board staff.
  - iii. An endowment fund has been provided by the Permittee to a third party for management in perpetuity of the site.
  - iv. A conservation easement, deed restriction, or other appropriate restrictive covenant for the site has been recorded and approved by Santa Ana Water Board staff.

**6. Transfer of Long-Term Permittee-Responsible Compensatory Mitigation and Management Responsibility:**

- i. A transfer agreement shall be submitted from an authorized representative of the new party (transferee) for acceptance by Santa Ana Water Board staff. This agreement shall demonstrate acceptance and understanding of the responsibility to comply with the long-term management conditions. Failure to comply with the conditions and associated requirements may subject the transferee to enforcement by the Santa Ana Water Board under Water Code section 13385, subdivision (a).
- ii. Notification of transfer of responsibilities meeting the above condition must be provided to the Santa Ana Water Board staff. A draft transfer agreement is due to Santa Ana Water Board staff no less than thirty (30) days prior to the transfer of the responsibility. A final transfer agreement is due to Santa Ana Water Board staff within thirty (30) days of the completion of the transfer.

Table 5: Required Project Mitigation Quantity for Temporary Impacts								
Aquatic Resource Type	Mit. Type <sup>6</sup>	Units	Method <sup>7</sup>					
			Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Wetland	PR	Acres	--	0.13	--	--	--	--

Table 6: Total Ecological Creation and Quantity								
Aquatic Resource Type	Res. <sup>8</sup> Type	Units	Method <sup>9</sup>					
			Est.	Re-est.	Reh.	Enh.	Pres.	
Riparian Zone	PR	Acres	4.96	--	--	--	--	--

<sup>6</sup> Mitigation type for onsite restoration of temporary impacts is Permittee-Responsible (PR).

<sup>7</sup> Methods: establishment (Est.), reestablishment (Re-est.), rehabilitation (Reh.), enhancement (Enh.), preservation (Pres.). Unknown applies to advance credits with an unknown method and or location.

<sup>8</sup> Restoration (Res.)

<sup>9</sup> Methods: establishment (Est.), reestablishment (Re-est.), rehabilitation (Reh.), enhancement (Enh.), preservation (Pres.).

**XIII. Certification Deviation**

1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water resources. For purposes of this Certification, a *Certification Deviation* is a Project locational or impact modification that does not require an immediate amendment of the Order because the Santa Ana Water Board has determined that any potential water resource impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.
2. A Project modification shall not be granted a *Certification Deviation* if it warrants or necessitates changes that are not addressed by the Order conditions such that the Project no longer qualifies for a categorical exemption. In this case, a supplemental environmental review and different Order will be required.

**XIV. Water Quality Certification**

I hereby issue the Order (SARWQCB WDID # 362018-07) for the *Rancho Miramonte Riparian Habitat Restoration* Project. This Order certifies that any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act 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), as long as all of the conditions listed in the Order are met.

This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Water Code, sections 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies and the Santa Ana Water Board's Basin Plan and Policies.



Hope A. Smythe  
Executive Officer  
Santa Ana Water Quality Control Board

7/12/19  
Date

**Attachment A** Project Map(s)  
**Attachment B** Report and Notification Requirements  
**Attachment C** Signatory Requirements

## Copies of this Form

In order to identify your Project, it is necessary to include a copy of the Project-specific Cover Sheet below with your report. Please retain for your records. If you need to obtain a blank copy of the Cover Sheet you may download it from [https://www.waterboards.ca.gov/santaana/water\\_issues/programs/401\\_certification/](https://www.waterboards.ca.gov/santaana/water_issues/programs/401_certification/) (go down to *Resources for Applicants* and select *Report Notification Cover Sheet*).

## Report Submittal Instructions

1. Check the box on the *Report and Notification Cover Sheet* next to the report or notification you are submitting.
  - **Part A (Annual Report):** This report shall be submitted annually from the anniversary of Project effective date until a *Notice of Project Complete Letter* is issued.
  - **Part B (Project Status Notifications):** Used to notify the Santa Ana Water Board of the status of the Project schedule that may affect Project billing.
  - **Part C (Conditional Notifications and Reports):** Required on a case-by-case basis for accidental discharges of hazardous materials, violation of compliance with water quality standards, notification of in-water work, or other reports.
2. Sign the *Report and Notification Cover Sheet* and attach all information requested for the Report Type.
3. **Electronic Report Submittal Instructions:**
  - Submit signed *Report and Notification Cover Sheet* and required information via email to: [RB-401Reporting@waterboards.ca.gov](mailto:RB-401Reporting@waterboards.ca.gov)
  - Include in the subject line of the email:  
Subject: ATTN: Rancho Miramonte Restoration Project; Reg. Measure ID: 422730 Report.

## Definition of Reporting Terms

1. **Active Discharge Period:** The active discharge period begins with the effective date of this Order and ends on the date that the Permittee receives a *Notice of Completion of Discharges Letter* or, if no post-construction monitoring is required, a *Notice of Project Complete Letter*. The Active Discharge Period includes all elements of the Project, including site construction and restoration, and any Permittee responsible compensatory mitigation construction.
2. **Request for Notice of Completion of Discharges Letter:** This request by the Permittee to the Santa Ana Water Board staff pertains to projects that have post construction monitoring requirements (e.g., if site restoration were required to be monitored for five (5) years following construction). Santa Ana Water Board staff will review the request and send a *Completion of Discharges Letter* to the Permittee upon approval. This letter will initiate the post-discharge monitoring period and a change in fees from the annual active discharge fee to the annual post-discharge monitoring fee.
3. **Request for Notice of Project Complete Letter:** This request by the Permittee to the Santa Ana Water Board staff pertains to projects that either have completed post-construction monitoring and achieved performance standards, or have no post-construction monitoring requirements and no further Project activities are planned. Santa Ana Water Board staff will review the request and send a *Project*

*Complete Letter* to the Permittee upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.

4. **Post-Discharge Monitoring Period:** The post-discharge monitoring period begins on the date of the *Notice of Completion of Discharges Letter* and ends on the date of the *Notice of Project Complete Letter* issued by the Santa Ana Water Board staff. The Post-Discharge Monitoring Period includes continued water quality monitoring or compensatory mitigation monitoring.
5. **Effective Date:** Date of Order issuance.

### Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

1. **Map Format Information:**

Preferred map formats of at least 1:24000 (1" = 2000') detail (listed in order of preference):

- **GIS shapefiles:** The shapefiles shall depict the boundaries of all Project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and, if possible, provide map with a North American Datum of 1983 (NAD83) in the California Teale Albers projection in feet.
- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5-minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

2. **Photo-Documentation:** Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.

**REPORT AND NOTIFICATION COVER SHEET**

<b>Project:</b>	Rancho Miramonte Riparian Habitat Restoration Project		
<b>Permittee:</b>	Trumark Homes		
<b>SARWQCB WDID:</b>	362018-07		
<b>Reg. Meas. ID:</b>	422730	<b>Place ID:</b>	849060
<b>Order Effective Date:</b>	July 12, 2019		

**Report Type Submitted**

Part A - Project Reporting	
<b>Report Type 1</b>	<input type="checkbox"/> <b>Annual Report</b>
Part B - Project Status Notifications	
<b>Report Type 2</b>	<input type="checkbox"/> <b>Commencement of Construction</b>
<b>Report Type 3</b>	<input type="checkbox"/> <b>Request for Notice of Completion of Discharges Letter</b>
<b>Report Type 4</b>	<input type="checkbox"/> <b>Request for Notice of Project Complete Letter</b>
Part C - Conditional Notifications and Reports	
<b>Report Type 5</b>	<input type="checkbox"/> <b>Accidental Discharge of Hazardous Material Report</b>
<b>Report Type 6</b>	<input type="checkbox"/> <b>Violation of Compliance with Water Quality Standards Report</b>
<b>Report Type 7</b>	<input type="checkbox"/> <b>In-Water Work and Diversions Water Quality Monitoring Report</b>
<b>Report Type 8</b>	<input type="checkbox"/> <b>Modifications to Project Report</b>
<b>Report Type 9</b>	<input type="checkbox"/> <b>Transfer of Property Ownership Report</b>
<b>Report Type 10</b>	<input type="checkbox"/> <b>Transfer of Long-Term Best Management Practices (BMPs) Maintenance Report</b>

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Print Name <sup>1</sup>

Affiliation and Job Title

Signature

Date

**<sup>1</sup>STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)**

I hereby authorize \_\_\_\_\_ to act in my behalf as my representative in the submittal of this report, and to furnish upon request supplemental information in support of this submittal.

\_\_\_\_\_  
Permittee's Signature

\_\_\_\_\_  
Date

**\*This Report and Notification Cover Sheet must be signed by the Permittee or a duly authorized representative and included with all written submittals.**

**Part A – Project Reporting**

<b>Report Type 1</b>	<b>Annual Report</b>
<b>Report Purpose</b>	Notify the Santa Ana Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
<b>When to Submit</b>	Annual reports shall be submitted each year by effective date. Annual reports shall continue until a <i>Notice of Project Complete Letter</i> is issued to the Permittee.
<b>Report Contents</b>	<p>The contents of the annual report shall include the topics indicated below for each Project period. Report contents are outlined in Annual Report Topics below.</p> <p><b><u>During the Active Discharge Period</u></b></p> <ul style="list-style-type: none"> <li>• <b>Topic 1: Construction Summary</b></li> <li>• <b>Topic 2: Mitigation for Temporary Impacts Status</b></li> <li>• <b>Topic 3: Compensatory Mitigation for Permanent Impacts Status</b></li> </ul> <p><b><u>During the Post-Discharge Monitoring Period</u></b></p> <ul style="list-style-type: none"> <li>• <b>Topic 2: Mitigation for Temporary Impacts Status</b></li> <li>• <b>Topic 3: Compensatory Mitigation for Permanent Impacts Status</b></li> </ul>
<b>Annual Report Topics (1-3)</b>	
<b>Annual Report Topic 1</b>	<b>Construction Summary</b>
<b>When to Submit</b>	With the annual report during the Active Discharge Period.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Project progress and schedule, including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water BMPs. If construction has not started, provide estimated start date and reasons for delay.</li> <li>2. Map showing general Project progress.</li> <li>3. If applicable: <ol style="list-style-type: none"> <li>a. Summary of Conditional Notification and Report Types 6 and 7 (Part C below).</li> <li>b. Summary of Certification Deviations.</li> </ol> </li> </ol>
<b>Annual Report Topic 2</b>	<b>Mitigation for Temporary Impacts Status</b>
<b>When to Submit</b>	With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Planned date of initiation and map showing locations of mitigation for temporary impacts to waters of the State and all upland areas of temporary disturbance which could result in a discharge to waters of the State.</li> </ol>

	<ol style="list-style-type: none"><li>2. If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.</li></ol>
<b>Annual Report Topic 3</b>	<b>Compensatory Mitigation for Permanent Impacts Status</b>
<b>When to Submit</b>	With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.
<b>Report Contents</b>	<p><b>*If not applicable report N/A.</b></p> <p><b>Part A. Permittee Responsible</b></p> <ol style="list-style-type: none"><li>1. Planned date of initiation of compensatory mitigation site installation.</li><li>2. If installation is in progress, a map of what has been completed to date.</li><li>3. If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.</li></ol> <p><b>Part B. Mitigation Bank or In-Lieu Fee (ILF)</b></p> <ol style="list-style-type: none"><li>1. Status or proof of purchase of credit types and quantities.</li><li>2. Include the name of bank/ILF Program and contact information.</li><li>3. If ILF, location of project and type if known.</li></ol>

**Part B – Project Status Notifications**

<b>Report Type 2</b>	<b>Commencement of Construction</b>
<b>Report Purpose</b>	Notify Santa Ana Water Board staff prior to the start of construction.
<b>When to Submit</b>	Must be received at least seven (7) days prior to start of initial ground disturbance activities.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Date of commencement of construction.</li> <li>2. Anticipated date when discharges to waters of the State will occur.</li> <li>3. Project schedule milestones, including a schedule for onsite compensatory mitigation, if applicable.</li> </ol>

<b>Report Type 3</b>	<b>Request for Notice of Completion of Discharges Letter</b>
<b>Report Purpose</b>	Notify Santa Ana Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.
<b>When to Submit</b>	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project construction activities.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Status of storm water Notice of Termination(s), if applicable.</li> <li>2. Status of post-construction storm water BMP installation.</li> <li>3. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.</li> <li>4. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the State, if applicable.</li> <li>5. An updated monitoring schedule for mitigation for temporary impacts to waters of the State and Permittee responsible compensatory mitigation during the post-discharge monitoring period, if applicable.</li> </ol>

<b>Report Type 4</b>	<b>Request for Notice of Project Complete Letter</b>
<b>Report Purpose</b>	Notify Santa Ana Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
<b>When to Submit</b>	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project activities.
<b>Report Contents</b>	<p><b>Part A: Mitigation for Temporary Impacts</b></p> <ol style="list-style-type: none"> <li>1. A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance that could result in a discharge to waters of the State.</li> <li>2. A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the State. Pre- and post-photo documentation of all restoration sites.</li> </ol>

**Part B: Permittee Responsible Compensatory Mitigation**

1. A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.
2. Status on the implementation of the long-term maintenance and management plan and funding of endowment.
3. Pre- and post-photo documentation of all compensatory mitigation sites.
4. Final maps of all compensatory mitigation areas (including buffers).

**Part C: Post-Construction Storm Water BMPs**

1. Date of storm water Notice of Termination(s), if applicable.
2. Report status and functionality of all post-construction BMPs.

**Part C – Conditional Notifications and Reports**

<b>Report Type 5</b>	<b>Accidental Discharge of Hazardous Material Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff that an accidental discharge of hazardous material has occurred.
<b>When to Submit</b>	Within five (5) working days following the date of an accidental discharge. Continue reporting as required by Santa Ana Water Board staff.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. The report shall include the <i>OES Incident/Assessment Form</i>, a full description and map of the accidental discharge incident (i.e., location, time and date, source, discharge constituent and quantity, aerial extent, and photo documentation). If applicable, the <i>OES Written Follow-Up Report</i> may be substituted.</li> <li>2. If applicable, any required sampling data, a full description of the sampling methods, including frequency/dates and times of sampling, equipment, locations of sampling sites.</li> <li>3. Locations and construction specifications of any barriers, including silt curtains or diverting structures and any associated trenching or anchoring.</li> </ol>

<b>Report Type 6</b>	<b>Violation of Compliance with Water Quality Standards Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff that a violation of compliance with water quality standards has occurred.
<b>When to Submit</b>	The Permittee shall report any event that causes a violation of water quality standards within three (3) working days of the noncompliance event notification to Santa Ana Water Board staff.
<b>Report Contents</b>	The report shall include: the cause; the location shown on a map; and the period of the noncompliance, including exact dates and times. If the noncompliance has not been corrected, include: the anticipated time it is expected to continue; the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and any monitoring results, if required by Santa Ana Water Board staff.

<b>Report Type 7</b>	<b>In-Water Work and Diversions Water Quality Monitoring Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff of the completion of in-water work.
<b>When to Submit</b>	Within three (3) working days following the completion of in-water work. Continue reporting in accordance with the approved water quality monitoring plan.
<b>Report Contents</b>	As required by the approved water quality monitoring plan.

<b>Report Type 8</b>	<b>Modifications to Project Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff if the Project, as described in the application materials, is altered in any way or by the imposition of subsequent permit conditions by any local, State, or federal regulatory authority.
<b>When to Submit</b>	If Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, State, or federal regulatory authority.
<b>Report Contents</b>	A description and location of any alterations to Project implementation. Identification of any Project modifications that will interfere with the Permittee's compliance with the Order.

<b>Report Type 9</b>	<b>Transfer of Property Ownership Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff of change in ownership of the Project or Permittee-responsible mitigation area.
<b>When to Submit</b>	At least 10 working days prior to the transfer of ownership.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. A statement that the Permittee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts:             <ol style="list-style-type: none"> <li>a. the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so, and</li> <li>b. responsibility for compliance with any long-term BMP<sup>1</sup> maintenance plan requirements in this Order.</li> </ol> </li> <li>2. A statement that the Permittee has informed the purchaser to submit a written request to the Santa Ana Water Board to be named as the permittee in a revised order.</li> </ol>

<b>Report Type 10</b>	<b>Transfer of Long-Term BMP Maintenance Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff of transfer of long-term BMP maintenance responsibility.
<b>When to Submit</b>	At least 10 working days prior to the transfer of BMPs maintenance responsibility.
<b>Report Contents</b>	A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

<sup>1</sup> Best Management Practices (BMPs) is a term used to describe a type of environmental or water pollution control.

### SIGNATORY REQUIREMENTS

*All Documents Submitted In Compliance With This Order  
Shall Meet The Following Signatory Requirements:*

1. All applications, reports, or information submitted to the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) shall be signed and certified as follows:
  - a) For a corporation, by a responsible corporate officer of at least the level of vice-president.
  - b) For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
  - c) For a municipality, or a State, federal, or other public agency, by either a principal executive officer or ranking elected official.
  
2. A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
  - a) The authorization is made in writing by a person described in items 1.a through 1.c above.
  - b) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
  - c) The written authorization is submitted to the Santa Ana Water Board staff contact prior to submitting any documents listed in item 1 above.
  
3. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."