

Santa Ana Regional Water Quality Control Board

August 22, 2014

Gordon Youde
Stonegate Development Company, LLC
26071 Merit Circle, Suite 101
Laguna Hills, CA 92653

RENEWAL OF CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE DEER CANYON ESTATES PROJECT, CITY OF ANAHEIM, COUNTY OF ORANGE, CALIFORNIA (ARMY CORPS OF ENGINEERS REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 302014-07)

Dear Mr. Youde:

On March 3, 2014, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Stonegate Development Company, LLC, to renew a previously issued Certification for the 32.3 acre, 35 single-family unit residential development project in the northeastern portion of Anaheim, Orange County, known as Deer Canyon Estates. The Regional Board issued a Certification for this project on November 25, 2005. Subsequent to submittal of the renewal application, the applicant submitted a filing fee of \$24,084.00, which satisfies this project's fee requirement for consideration of the renewal of the Certification for the proposed project. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site, which is based on the current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3). This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

Project Description: Construction of 35 hillside residential homes on a 32.3-acre site south of State Route (SR) 91 and west of SR-241, in the northeast portion of the City of Anaheim. More specifically, the project site is located within the Deer Canyon Preserve and Park, south of Santa Ana Canyon Road, east of Eucalyptus Drive, and west of Festival Drive. The project involves the discharge of fill to ephemeral drainages, some of which support riparian vegetation, and the preservation of 0.45-acre of a perennial, riparian drainage. The latter is fed by nuisance runoff discharges from an upslope residential development. The proposed project also includes: grading

and excavation of native soils to create individual building pads, internal access roads, drainage features, and fuel modification zones. Required infrastructure (e.g., fire hydrants, utility lines and connections, etc.) would also be constructed. The proposed design also includes the construction of a retaining wall approximately 1,225 feet in length, at heights ranging from two to ten feet. A north-south running Regional Trail is also proposed to be constructed along the western edge of the project.

The work will take place within Section 31 of Township 3 South, Range 8 West, of the U.S. Geological Survey *Orange* 7.5 minute topographic quadrangle map (33.863108° N/ - 117.757647° W).

Receiving water: Unnamed ephemeral drainages tributary to the Santa Ana River which have present or potential beneficial uses, including: agricultural supply (AGR), groundwater recharge (GWR), contact recreation (REC1), non-contact recreation (REC2), wildlife habitat (WILD), rare/threatened/endangered species habitat (RARE), municipal and domestic supply (MUN), and warm freshwater habitat (WARM).

Fill area:

Permanent Impact to Streambed Habitat	0.09 acres	1,905 linear feet
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Dredge/Fill volume: 147 cubic yards

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 29

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.
- 0.45-acre (1,144 linear feet) of Waters of the U.S., west of the part of the project site that was initially proposed to be graded, will now be avoided and preserved as a conservation easement through perpetuity.

Offsite Water Quality Standards Mitigation Proposed:

- None.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. 2009-0009 DWQ, State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR or Negative Declaration prepared by the lead agency in determining whether to approve a project. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board has considered the January 24, 2005 draft EIR prepared for the proposed project in approving this Certification. More specifically, the Regional Board has considered those sections of the EIR relating to water quality. Based on the mitigation proposed in the EIR, and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. Therefore, the Regional Board independently finds that changes or alterations have been required in, or incorporated into the project, which avoid or mitigate impacts to water quality to a less than significant level.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) Provide documentation showing that a conservation easement has been established for the 0.45-acre (1,144 linear feet) of Waters of the U.S., located on the western part of the project site that is proposed to be preserved.

- 3) All materials generated from construction activities associated with this project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified.
- 4) The project proponent shall utilize BMPs during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.
- 5) Substances resulting from project-related activities that could be harmful to aquatic life, including, but 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, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.
- 6) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.
- 7) This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 9) Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions 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 Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby certify that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law.

Gordon Youde
Stonegate Development, LLC
RWQCB #: 302014-07 CIWQS #: 804741

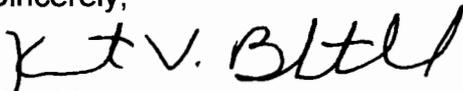
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This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at: www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

RBF Consulting – Tom Millington – tommillington@rbf.com
U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Wildlife – Russell M. Barabe
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme