
San Francisco Bay Regional Water Quality Control Board

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August 25, 2016
CIWQS Place ID 821782
CIWQS Reg. Meas. 404547

Loewke Planning Associates
547 Wycombe Court
San Ramon, CA 94583
Attn. Mr. Richard T. Loewke, AICP
Email: dick@loewke.com

Subject: Conditional Water Quality Certification for the Canyon Estates Project, City of American Canyon, Napa County

Dear Mr. Loewke:

Loewke Planning Associates (Applicant) has applied to the San Francisco Bay Regional Water Quality Control Board (Water Board) for a Clean Water Act (CWA) Section 401 Water Quality Certification (Certification) for the proposed Canyon Estates Project (Project). We received the Certification application (Application) on February 5, 2016. On March 11, 2016, we notified you that the Application was incomplete and requested additional information on Project design, Project impacts, compensatory mitigation, and post-construction stormwater management. We received supplemental information needed to complete the Application on March 18, May 23, and June 27, 2016.

Project Description: The proposed Project is located in the City of American Canyon with Newell Drive and the Standard Pacific Homes Vintage Ranch Residential Development to the west, the Newell Preserve to the northeast, a California red-legged frog preserve to the east, and the Newell Property to the south. The Project will construct a low density executive housing community within a 37.3 acre portion of the 108.68 acre Project site. Newell Creek, an intermittent creek, borders the Project site along its northwestern boundary. Two ephemeral tributaries traverse the Project site draining westward to Newell Creek.

Impacts to waters of the State will result from (1) construction of a stormwater outfall structure in an ephemeral tributary to Newell Creek, (2) relocation of two existing potable water lines owned by the City of Vallejo across an ephemeral drainage, (3) replacement and expansion of an existing culvert in an ephemeral drainage to widen a road crossing, and (4) installation of a clear span/soft bottom arch crossing across an ephemeral drainage and installation of utilities under the crossing.

A water quality detention basin will be located at the south end of the Project site, and will discharge to an ephemeral creek. To prevent these discharges from causing erosion and sedimentation, a stormwater outfall structure will be installed. The outfall will require the

placement of riprap on the banks of the ephemeral tributary and down into the bottom of the tributary. The riprap will be backfilled with native soils and hydroseeded.

The City of Vallejo's water lines will be relocated downslope from their existing locations to provide access to these pipelines as needed. The pipelines will be installed across an ephemeral drainage via a 20-foot wide open cut trench with a minimum of 3.5 feet cover.

The Project will require road improvements to provide a Fire District-required connection between Circle "D" and Circle "E". To accomplish this, an existing 18-inch culvert in an ephemeral drainage will be replaced with a new longer culvert of the same diameter, and a 25-foot wide access road will be constructed on top of the new culvert.

A soft bottom arch will be installed across the ephemeral drainage at a second location to provide an additional access road into the development. The concrete footings for the culvert will be placed outside the top of bank to provide a free-span crossing of the ephemeral drainage. A 24-inch joint trench will be installed within the arch culverted crossing to accommodate gas, cable, and electrical lines. Remaining utilities, including a 12-inch storm drain pipe, an 8-inch sanitary sewer pipe, an 8-inch reclaimed water line, and an 8-inch potable water line, will be installed via an open cut trench under the crossing. The top of the utilities will be installed a minimum of four feet below the bottom of the arch culvert.

Impacts: The stormwater outfall structure will result in the permanent placement of 5.4 cubic yards of riprap in 146 square feet (0.003 acre) and 6 linear feet of an ephemeral drainage. Relocation of the City of Vallejo's water lines will temporarily impact 246 square feet (0.006 acre) and 20 linear feet of an ephemeral drainage. The culvert expansion will temporarily impact 185 square feet (0.004 acre) and 50 linear feet, and permanently impact 53 square feet (0.001) and 53 linear feet of an ephemeral drainage. The soft bottom arch crossing will span 1,800 square feet (0.04 acre) and 45 linear feet of an ephemeral drainage. Installation of utilities under the soft bottom arch crossing will temporarily impact 43 square feet (0.001 acre) and 43 linear feet of an ephemeral drainage. Total temporary impacts to the ephemeral drainage are 474 square feet (0.01 acre) and 113 linear feet, and total permanent impacts to the ephemeral drainage are 1,999 square feet (0.04 acre) and 104 linear feet.

During implementation of the Project, ground disturbing activities may impact water quality by increasing erosion and sedimentation, and discharging debris and other waste materials. After construction, impervious surfaces created and replaced by the Project (522,370 square feet) may impact water quality by increasing erosion and sedimentation through hydromodification and by collecting and concentrating pollutants in stormwater runoff.

Mitigation: The Project will implement best management practices (BMPs) to avoid temporary impacts from construction activities. All construction work in jurisdictional areas will be scheduled during the dry season (May 1 – October 15) and when there is no flow in the ephemeral drainages. Construction equipment will work from above the top of bank. There will be no vehicle passage, vehicle parking, or materials storage below the top of bank.

The Applicant will mitigate for temporary and permanent impacts by restoring 0.46 acres and 435 linear feet of riparian habitat along Newell Creek. A total of 20 trees and 50 shrubs will be planted including California buckeye (*Aesculus californica*), coast live oak (*Quercus agrifolia*), valley oak (*Quercus lobate*), California rose (*Rosa californica*), snowberry (*Symphoricarpos albus*), coffeeberry (*Rhamnus californica*), and California mugwort (*Artemisia douglasiana*). The Applicant will also dedicate a conservation easement over the remaining 67.18 acres to

establish an Open Space Preserve to mitigate for indirect impacts to federally listed species that could result from development of the Project site.

Post-construction stormwater management will incorporate site design measures and low impact development strategies including optimization of site layout, use of permeable pavements, dispersal of runoff to pervious areas, stormwater control measures, and integrated management practices.

California EcoAtlas: It has been determined through regional, state, and national studies that tracking of mitigation/restoration projects must be improved to better assess the performance of these projects, following monitoring periods that last several years. In addition, to effectively carry out the State's Wetlands Conservation Policy of no net loss to wetlands, the State needs to closely track both wetland losses and mitigation/restoration project success. Therefore, we require that the applicant use the California Wetlands Form to provide Project information related to impacts and mitigation/restoration measures (see Condition No. 5 of this Certification). An electronic copy of the form and instructions can be downloaded at: <http://www.waterboards.ca.gov/sanfranciscobay/certs.shtml>. Project information concerning impacts and mitigation/restoration will be made available at the web link: <http://www.ecoatlas.org/regions/ecoregion/bay-delta/projects>.

California Environmental Quality Act (CEQA): The City of American Canyon, as lead under CEQA, prepared a Mitigated Negative Declaration on January 1, 2015. A Notice of Determination was submitted to the Office of Planning and Research on February 4, 2015. The Water Board, as a responsible agency, has considered the MND and finds that the Project's significant environmental effects within the Water Board's purview and jurisdiction have been identified and will be mitigated to less-than-significant levels. Specifically, significant impacts pertaining to aquatic habitat and water quality will be mitigated to less-than-significant levels through implementation of mitigation measures identified in the MND and the mitigation identified above, all of which are required to be implemented and reported on by this Certification.

Certification: I hereby issue an order certifying that any discharge from the proposed 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. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this Certification. The following conditions are associated with this Certification:

1. The Project shall be constructed in conformance with the Project as described in the Application materials. Any additional work or variation from the Project as described is not authorized unless approved in writing by the Water Board Executive Officer prior to implementation.
2. Disturbance or removal of vegetation shall be minimized. The site shall be stabilized through incorporation of appropriate BMPs, including the successful reestablishment of native vegetation, to enhance wildlife habitat values, and to prevent and control erosion and sedimentation.

3. No debris, soil, sand, cement, concrete, or washings thereof, or other construction related materials or wastes, petroleum products, or other organic or earthen material shall be allowed to enter into, or be placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed or otherwise discharged into waters of the State.
4. All work performed within waters of the State shall be completed in a manner that minimizes impacts to water quality, beneficial uses, and riparian and aquatic habitat. No fueling, cleaning, or maintenance of vehicles or equipment shall take place within any areas where accidental discharge to waters of the State may occur.
5. The Applicant is required to use the standard California Wetlands Form to provide Project information describing impacts and restoration measures within 14 days from the date of this certification. An electronic copy of the form can be downloaded at: <http://www.waterboards.ca.gov/sanfranciscobay/certs.shtml>. The completed form shall be submitted electronically to habitatdata@waterboards.ca.gov or shall be submitted as a hard copy to both: 1) The Water Board (see the address on the letterhead), to the attention of EcoAtlas; and 2) The San Francisco Estuary Institute, 4911 Central Avenue, Richmond, CA, 94804, to the attention of EcoAtlas.
6. The Applicant shall apply for coverage under, and comply with the provisions of, the State Water Resources Control Board NPDES General Permit for Storm Water Discharges Associated with Construction Activities, Order No. 2009-0009-DWQ (as amended by Order Nos. 2010-0014-DWQ and 2012-0006-DWQ).
7. The Applicant shall construct and implement post-construction stormwater management BMPs, including permeable pavements and bioretention facilities, as described in the *Stormwater Control Plan for Canyon Estates* (Bellecci & Associates, Inc.) dated March 2016.
8. No later than 30 days after completing Project construction activities, the Applicant shall submit, acceptable to the Water Board Executive Officer, a Notice of Project Construction Completion. The Notice of Construction Completion shall include the date Project construction activities (defined as construction of both the Project and any compensatory mitigation habitat) were completed and reference CIWQS Place ID 821782. The Notice of Construction Completion shall be sent via e-mail to Agnes Farres at agnes.farres@waterboards.ca.gov or by mail to the attention of Agnes Farres at the Water Board (see the address on the letterhead).
9. The Applicant shall mitigate for temporary and permanent impacts by restoring riparian habitat along 0.46 acres and 435 linear feet of Newell Creek as described in the revised *Riparian Restoration and Monitoring Plan*. Monitoring methods and performance criteria to determine the success of the mitigation shall also be as specified in the revised *Riparian Restoration and Monitoring Plan*. The Riparian Restoration Area shall be monitored for at least ten years, and the monitoring interval shall depend on how long the plantings are irrigated to ensure that monitoring is frequent enough for three years after irrigation is discontinued. If plantings are irrigated for two years, monitoring shall occur during Years 1-5, 7, and 10. If plantings are irrigated for three years, monitoring shall occur during Years 1-6, 8, and 10. The final survival rate for trees and shrubs shall be 75%, and riparian species shall have good vigor and no signs of disease at the end of

the monitoring period. Remedial planting shall be conducted if this survival rate is not met and replacement trees shall be monitored for an additional three year period.

10. The Applicant shall submit annual monitoring reports, acceptable to the Water Board Executive Officer, by January 31 following each monitoring year. Each annual report shall summarize each year's monitoring results, including the need for, and implementation of, any remedial actions to help meet the performance criteria. The annual reports shall compare data to previous monitoring years and describe progress towards meeting final success criteria. The final monitoring report shall document if the site meets the final performance criteria. If the final criteria are not met, the report shall identify remedial measures to be undertaken, including extension of the monitoring and reporting period until the criteria are met. Success of the mitigation program shall be determined by, and acceptable to, the Water Board Executive Officer. Annual monitoring reports shall be submitted either by uploading them to the California EcoAtlas website at <http://ecoatlas.org/regions/ecoregion/bay-delta/projects>, or sent to Agnes Farres via email to agnes.farres@waterboards.ca.gov, or via mail to the attention of Agnes Farres (see the address on the letterhead).
11. Within 30 days of successfully establishing the Project's compensatory mitigation habitat, the Applicant shall submit, acceptable to the Water Board Executive Officer, a Notice of Mitigation Monitoring Completion notifying the Water Board that mitigation has been completed via e-mail to Agnes Farres at agnes.farres@waterboards.ca.gov or the current Water Board staff member assigned to the Project. This notification shall include the date compensatory mitigation habitat was completed, the Project Name, CIWQS Place ID 821782.
12. The Applicant shall pay annual construction fees to the Water Board until all Project (and mitigation) construction activities are completed in the amount specified by the State Water Resources Control Board (State Water Board) (the current annual construction fee amount is \$600, but is subject to change). After Project construction activities are completed, the Applicant shall pay an annual post discharge monitoring fee to the Water Board in the amount specified by the State Water Board until monitoring activities are completed (the current annual monitoring activities fee amount is \$300, but is subject to change).
13. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code (Water Code), and Section 3867 of Title 23 of the California Code of Regulations (CCR).
14. 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 23 CCR Subsection 3855(b) and that application specifically identified that a FERC license of amendment to a FERC license for a hydroelectric facility was being sought.
15. Certification is conditioned upon total payment of the full fees, including annual fees, required in State regulations and owed by the Applicant. The application fee for the proposed Project, \$2,144, has been paid in full.

This Certification applies to the Project as proposed in the Application materials. Please be advised that failure to implement the Project as proposed is a violation of this Certification. Violation of water quality certification is a violation of state law and subject to administrative civil liability pursuant to Water Code Section 13350. Failure to meet any condition of this Certification may subject you to civil liability imposed by the Water Board to a maximum of \$5,000 per day of violation or \$10 for each gallon of waste discharged in violation of this Certification. Also, any requirement for a report made as a condition of this certification is a formal requirement pursuant to Water Code Section 13267, and failure to submit, late or inadequate submittal, or falsification of such technical report(s) is also subject to civil liability pursuant to Water Code Section 13268.

Should new information come to our attention that indicates a water quality problem with this Project, the Regional Water Board may issue Waste Discharge Requirements pursuant to 23 CCR Section 3857.

If you have any questions concerning this letter, please contact Agnes Farres of my staff at (510) 622-2401 or agnes.farres@waterboards.ca.gov.

Sincerely,

for Bruce Wolfe
Executive Officer

Cc: SWRCB, DWQ, Stateboard401@waterboards.ca.gov
Water Board, Victor Aelion, victor.aelion@waterboards.ca.gov
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