



California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

Arnold Schwarzenegger
Governor

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Mr. Greg Martin
William Fox Homes
333 Concourse Street, Building 17, Suite 7200
Ontario, CA 91764

WATER QUALITY CERTIFICATION FOR PROPOSED SAN DIMAS GROVE STATION PROJECT (Corps' Project No. 2006-0119-JLB), WALNUT CREEK, CITY OF SAN DIMAS, LOS ANGELES COUNTY (File No. 06-075)

Dear Mr. Martin:

Regional Board staff has reviewed your request on behalf of William Fox Homes (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on October 3, 2006.

I hereby issue an order certifying 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. 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 Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Section 401 Program, at (213) 305-2250.

 [Original signed by]
Jonathan S. Bishop
Executive Officer

 November 16, 2006
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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ATTACHMENT A

Project Information File No. 06-075

1. Applicant: William Fox Homes
333 Concourse Street, Building 17, Suite 7200
Ontario, CA 91764

Phone: (909) 373-8133 Fax: (909) 373-8137

2. Applicant's Agent: Scott Cameron
Ecological Sciences Incorporation
601 Glade Drive
Santa Paula, CA 93060

Phone: (805) 921-0583 Fax: (805) 921-0683

3. Project Name: San Dimas Grove Station

4. Project Location: San Dimas, Los Angeles County
Longitude: 117.8050; Latitude: 34.1048
Longitude: 117.8048; Latitude: 34.1047
Longitude: 117.8053; Latitude: 34.1043
Longitude: 117.8054; Latitude: 34.1045
Longitude: 117.8049; Latitude: 34.1047
Longitude: 117.8049; Latitude: 34.1045
Longitude: 117.8053; Latitude: 34.1044
Longitude: 117.8051; Latitude: 34.1046

5. Type of Project: Residential and Commercial Development

6. Project Description: *Purpose:*
The proposed project is for a residential and commercial development.

Description:
The project will be located on 5.3 acres near the center of the City of San Dimas and will serve as an extension of the downtown area. Currently, the site is 80% vacant and the other 20% is comprised of one acre containing a manufacturing facility that has been out of operation for more than five years. The project will provide 110 residential units and approximately 15,000 square feet of retail and office space.

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In order to completely develop the site, an open drainage feature on the property will be removed. In the 1970's and 80's, urban development in the vicinity resulted in placing the stream into underground pipes to convey stormwater flows. The outlet of a storm drain is at the northern edge of the site. An 8-foot diameter concrete pipe collects water from the storm drain system and delivers it to the upstream end of the drainage feature. There is an approximate 0.38-acre (California Department of Fish and Game (CDFG) jurisdiction) area where water currently pools before being picked up by another storm drain heading southwest. This drain is a 6-foot diameter reinforced concrete pipe which collects the water at the south end of the drainage. The city had originally proposed plans to connect the two drains in the mid 1980's, but never completed the work. The project calls for the completion and realignment of the 72" storm drain. Completing the section will result in the elimination of the area where the water currently pools. The urban runoff flows through the drainage on the site which support a mix of native and non-native vegetation in this area. The proposed project will result in the permanent loss of 0.18 acres of waters of the U.S. and 0.04 acres of wetlands (220 total linear feet).

The Applicant has proposed 3 to 4 months of grading and utility installation. The first phase, consisting of the commercial building and 38 residential units, should be complete by 3rd quarter of 2007. The second phase, and 38 residential units, should be complete within the following year.

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|---|---|
| 7. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 39 (Permit No. 2006-0119-JLB) |
| 8. Other Required
Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement
No. 1600-2006-0145-R5 |
| 9. California
Environmental Quality
Act Compliance: | The City of San Dimas prepared a Mitigated Negative Declaration for the proposed project and filed a Notice of Determination on May 26, 2006. |

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10. Receiving Water: Walnut Creek (Hydrologic Unit No. 405.41)
11. Designated Beneficial Uses: MUN*, GWR, REC-1, REC-2, WARM, WILD, WET
*Conditional beneficial use
12. Impacted Waters of the United States: Federal jurisdictional wetlands: 0.04 permanent acres (50 linear feet)
Non-wetland waters (streambed): 0.14 permanent acres (170 linear feet)
13. Dredge Volume: None
14. Related Projects Implemented/to be Implemented by the Applicant: The project is in-fill of the urbanized portion of San Dimas. The upstream and downstream sections were impacted more than 20 years ago. No other projects in the vicinity are known or planned.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- The Contractor will schedule grading primarily within the dry season to reduce runoff into the City storm drain system. Feasible BMPs to reduce runoff from graded areas into drains and onto public streets will be utilized.
 - All feasible BMPs will be used during installation of the 72-inch pipe to prevent sediment and other materials from entering the storm drain system thereby reducing water quality impacts downstream.
 - The Contractor will implement housekeeping BMPs such as proper vehicle and equipment cleaning, fueling, and maintenance.
 - All requirements of the California Department of Fish and Game Streambed Alteration Agreement will be followed.

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16. Proposed
Compensatory
Mitigation:

The Applicant has proposed to provide a total of 1.14 acres (CDFG jurisdiction) of riparian restoration and enhancement. This includes 0.54 acres of waters of the U.S. The mitigation proposed will occur along Lemon Creek in the City of Walnut. The goal of the mitigation plan is to enhance native habitat in the Lemon Creek Watershed and provide long-term benefits for wildlife.

17. Required
Compensatory
Mitigation:

The Regional Board will require a compensatory mitigation ratio of 3:1 for all impacts associated with the proposed project for a total of 0.54 acres waters of the U.S. within Lemon Creek. Of this mitigation area, 0.12 acres shall consist of wetland area restoration or enhancement. In addition, at least 440 linear feet through Lemon Creek shall be included in the mitigation area (2:1 ratio for linear impacts).

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

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STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 15, are incorporated as additional conditions herein.

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5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
14. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
15. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities involving clearing. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
16. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
17. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
18. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls,

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and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:

- pH
- temperature
- dissolved oxygen
- turbidity
- total suspended solids(TSS)
- Downstream TSS shall be maintained at ambient levels
- Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

19. The Applicant shall restore any areas of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
20. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed proposed permanent impacts to **0.14 acres** of vegetation within waters of the United States and **0.04 acres** Federal jurisdictional wetlands by creating or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum **3:1** area replacement ratio, **0.42 acres** and **0.12 acres**; respectively. The mitigation site shall be located within Lemon Creek unless otherwise approved by this Regional Board. The boundary of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any

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- agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.
21. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
 22. In accordance with the mitigation plan dated October 2006, the mitigation shall consist of enhancement of native habitat within Lemon Creek in the City of Walnut. The enhancement shall include removal of non-native invasive plant species and increasing native willow riparian habitat.
 23. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1st** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
 - (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
 24. Prior to any subsequent maintenance activities within the project area, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the existing condition/capacity; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing

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aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.

25. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
26. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)”

27. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **06-075**. Submittals shall be sent to the attention of the 401 Certification Unit.
28. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
29. The project shall comply with the local regulations associated with the Regional Board’s **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under

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NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.

30. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
31. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
32. *Enforcement:*
 - (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
 - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a

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reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
33. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.