

California Regional Water Quality Control Board, San Diego Region

May 17, 2012

Mr. Dan Boyd
D.R. Horton
2280 Wardlow Circle, Suite 100
Corona, California 92880

Certified Mail – Return Receipt Requested
Article Number: 7010 1060 0000 4952 7747

In reply refer to:
266647:dbradford

Subject: Amendment No. 2 to Clean Water Act Section 401 Water Quality Certification No. 03C-002 for the TT #29484 at Briggs Road (Country Roads) Project.

Mr. Boyd:

On February 27, 2012, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), received a request to amend Section 401 Water Quality Certification No. 03C-002 (Certification) for the TT #29484 at Briggs Road (Country Roads) Project.

The original Certification (Attachment 1) was issued on June 23, 2003 to develop 242 residential units and three open space lots on a 90.61 acre property in Tentative Tract #29484. The project included impacts from widening an existing culvert crossing at Briggs Road south of Los Alamos Road and north of Winchester Road. The Certification was first amended (Attachment 3) on July 13, 2009 to allow D.R. Horton an additional 16.27 linear feet (0.053 acre) of permanent impacts and 60.06 linear feet (0.078 acre) of temporary impacts. Mitigation for the additional impacts, as well as mitigation for the delayed implementation of the original mitigation site was established as follows:

- 1) Creation of 0.30 acre of wetlands/waters of the U.S within lot 243, located southeastern portion of the original project site, and
- 2) Purchase of 0.618 acre of enhancement credit from the Mission and/or Elsinore Murrieta Anza Resource Conservation Districts (RCD).

The proposed impacts associated with the culvert widening at Briggs Road will no longer occur. Therefore, creation of 0.30 acre of wetlands/waters of the U.S within lot 243 will no longer be required. Additional Condition 19(a) of the July 13, 2009 amendment is rescinded as shown below. In addition, there currently remains no availability of enhancement credits within the RCD, therefore, D.R. Horton shall provide 0.60 acre of restoration within the Wilson Creek restoration area.

Except as amended below all the conditions of 03C-002 are still in force. All conditions of the original Certification and all supporting documents submitted to the San Diego Water Board must be followed. Amendments to Water Quality Certification No. 03C-002 are shown in bold underline/strikeout format below. Revisions shown in **bold underline** are additions, and revisions shown in ~~strikeout~~ are deletions.

Additional Condition 19 is amended as follows:

D.R. Horton shall provide mitigation for ~~additional permanent discharges (including "seasonal" impacts) to 0.053 acre (16.27 linear feet) of waters of the State/U.S., and temporary impacts to 0.078 acre (60.06 linear feet)~~ **delayed implementation of the original mitigation site** must be achieved as follows:

- a. ~~Creation of (0.30 acre) of wetlands/waters of the U.S. within lot 243, located southeastern portion of the original project site.~~
- b. D.R. Horton must submit an updated version Habitat Mitigation and Monitoring Plan to the Regional Board within 30 days of **this** amendment issuance.
- c. ~~Purchase of 0.618 acre of enhancement credit from the Mission and/or Elsinore Murrieta Anza Resource Conservation Districts. Proof of purchase must be provided to the Regional Board within 90 days of amendment issuance.~~ **Restoration of a minimum of 0.60 acre within the Wilson Creek restoration area (See Map, Attachment 1).**

Additional Condition 21 is amended as follows:

Within **90 days** of the issuance of this amendment, D.R. Horton must provide the Regional Board a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. At a minimum, the areas that must be included in the preservation mechanism are the ~~0.30~~ **0.60 acre creation Wilson Creek Restoration Area**. Within **one year** of the issuance of this certification, D.R. Horton must submit proof of a completed preservation mechanism that will protect all mitigation areas and their buffers in perpetuity. The conservation easement, deed restriction, or other legal limitation on the mitigation property must be adequate to demonstrate that the site will be maintained without future development or encroachment on the site which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the U.S. that it supports. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the site. The preservation mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.

Additional Condition 27 is amended as follows:

The construction of proposed mitigation must be concurrent with Project grading and completed no later than **9 months** following the initial discharge of dredge or fill material into on-site waters **approval of this amendment**. Delays in implementing mitigation must be compensated for by an increased mitigation implementation of **10% of the cumulative compensatory mitigation** for each month of delay.


Additional Condition 28 is amended as follows:

Throughout the mitigation monitoring program ~~m~~Mitigation areas must be maintained, in perpetuity, free of perennial exotic plant species including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the onsite or offsite mitigation areas.

Any petition for reconsideration of this Certification amendment must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that OC Parks has accepted and will comply with all the conditions of this Certification. Failure to comply with all conditions of this Certification may result in enforcement actions against OC Parks.

In the subject line of any response, please include the information located in the heading of this letter: "In reply refer to." For questions or comments, please contact Darren Bradford by phone at (858) 637-7137, or by email DBradford@waterboards.ca.gov.

Respectfully,



for James G. Smith, AEO
David W. Gibson
Executive Officer
San Diego Regional Water Quality Control Board

Enclosures:

- Attachment 1: Clean Water Act Section 401 Water Quality Certification No. 03C-002 for TT #29484 at Briggs Road (Country Roads) Project, dated June 23, 2003.
- Attachment 2: Amendment No. 1, Addendum to Clean Water Act Section 401 Water Quality Certification No. 03C-002 for TT #29484 at Briggs Road (Country Roads) Project.
- Attachment 3: Wilson Creek Restoration Area Mitigation Site Map.

cc (via email):

James Mace, U.S. Army Corps of Engineers, Regulatory Division
James.E.Mace@usace.army.mil

Joanna Gibson, California Department of Fish and Game
jgibson@dfg.ca.gov

U.S. EPA, OWOW, Region 9
75 Hawthorne St.
San Francisco, CA 94105
R9-WTR8-Mailbox@epa.gov

State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
P.O. Box 100
Sacramento, CA 95812-0100
Stateboard401@waterboards.ca.gov

Beth Martinez
PCR Services Corporation
B.Martinez@pcrnet.com

Tech Staff Info & Use	
File No.	03C-002
WDID	9000001127
Reg. Measure ID	377254
Place ID	266647
Party ID	459599



California Regional Water Quality Control Board

San Diego Region



Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/~rwqcb9/>
9174 Sky Park Court, Suite 100, San Diego, California 92123
Phone (858) 467-2952 • FAX (858) 571-6972

Gray Davis
Governor

ATTACHMENT 1

Action on Request for
Clean Water Act Section 401 Water Quality Certification and
Application/Report of Waste Discharge for
Discharge of Dredged and/or Fill Materials

PROJECT: TT #29484 at Briggs Road (File No. 03C-002)
Waste Discharge Identification No. 9 000001127

APPLICANT: Sunny Days Properties, LLC
Mr. Joseph Rivani
2222 Figueroa Street #300
Los Angeles, CA 90007

ACTION:

- Order for Standard Certification
- Order for Technically-conditioned Certification
- Order for Denial of Certification

STANDARD CONDITIONS:

The following three standard conditions apply to all certification actions, except as noted under Condition 3 for denials (Action 3).

- 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 and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
- This certification action is not intended and shall not be construed to apply to any discharge from 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 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.
- The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

California Environmental Protection Agency

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ADDITIONAL CONDITIONS:

The following additional conditions shall apply to this project:

1. Sunny Days Properties, LLC shall, at all times, fully comply with the engineering plans, specifications and technical reports submitted with this application for Section 401 Water Quality Certification and all subsequent submittals required as part of this certification.
2. Sunny Days Properties, LLC shall comply with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.
3. This certification is not transferable to any person except after notice to the Executive Officer of the San Diego Regional Water Quality Control Board (Regional Board). Sunny Days Properties, LLC shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new owner containing a specific date for the transfer of this certification's responsibility and coverage between the current owner and the new owner. This agreement shall include an acknowledgement that the existing owner is liable for violations up to the transfer date and that the new owner is liable from the transfer date on.
4. 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.
5. In response to a suspected violation of any condition of this certification, the Regional Board 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 Regional Board deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
6. In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
7. Sunny Days Properties, LLC shall notify the Regional Board, in writing, of the start of project grading, the start of mitigation installation, and the completion of mitigation installation. All notifications shall be submitted within 3 days of the start of the action, and shall reference File No. 03C-002.
8. The 0.038 acre of temporary impacts associated with this project shall be restored and revegetated upon completion of construction.

9. As mitigation for permanent impacts to approximately 0.13 acre of waters of the U.S., Sunny Days Properties, LLC shall create/enhance approximately 0.75 acre of riparian area/waters of the U.S. on site by relocating a portion of Drainage A and planting the Drainage with native riparian vegetation. Portions of the detention areas on the west side of the site will also be planted with native riparian and wetland vegetation. Mitigation shall be conducted in accordance with the Habitat Mitigation and Monitoring Plan, dated April 27, 2003, and the revised engineering plans submitted to this office on June 20, 2003.
10. The areas of the mitigation that will be in, or adjacent to, the detention basins shall be separate from the detention and water quality treatment areas. These mitigation areas shall be distinguished so that they are not mowed or excavated along with maintenance of the detention basins. No maintenance activities, except those described in the Habitat Mitigation and Monitoring Plan, dated April 27, 2003, shall occur in these mitigation areas.
11. Sunny Days Properties, LLC shall submit a report (including topography maps and planting locations) to the Regional Board within 90 days of completion of mitigation site preparation and planting, describing as-built status of the mitigation project. If the site grading and planting are not completed within six weeks of each other, separate reports will be submitted describing those specific as-built conditions.
12. The construction of the proposed mitigation shall be completed within the same calendar year as impacts to waters of the U.S. occur, or at least no later than 9 months following the close of the calendar year in which impacts first occur (e.g., if impacts occur in June 2003, construction of mitigation for all impacts must be completed no later than September 2004).
13. The mitigation area shall be monitored at least quarterly during the first year following installation, semi-annually during the second and third years, and annually until mitigation has been deemed successful. Mitigation monitoring reports shall be submitted annually until the site has been deemed successful. Monitoring reports shall be submitted no later than 30 days following the end of the monitoring period. Monitoring reports shall include, but not be limited to, the following:
 - a. Names, qualifications, and affiliations of the persons contributing to the report;
 - b. Tables presenting the raw data collected in the field as well as analyses of the physical and biological data;
 - c. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results; and
 - d. Photodocumentation from established reference points.
14. Sunny Days Properties, LLC shall submit, within 90 days of the issuance of this certification, a draft conservation easement or deed restriction that prohibits development within, mowing, and/or other activities that would result in permanent or temporary disturbance of the mitigation areas. Sunny Days Properties, LLC shall submit proof of a completed conservation easement or deed restriction within one year of the issuance of this certification.

15. The water quality treatment basins shall be vegetated with native grasses (e.g., *Distichilis* sp.), and no low-flow channel, or other structure that would compromise the water purification functions of the basins, shall be constructed. The area of the water quality treatment basins shall not be included in the mitigation acreage for impacts to waters of the U.S.
16. Prior to any grading on site, Sunny Days Properties, LLC shall submit a water quality management plan describing the post-construction best management practices (BMPs) that will be implemented to treat urban runoff from the residential development. The plan shall include final designs, including sizing criteria, of the water quality treatment basins, and a maintenance plan, including the party or association responsible for maintenance of the water quality treatment basins.
17. Prior to the initiation of construction in waters of the U.S., Sunny Days Properties, LLC shall submit to the Regional Board any final requirements the Riverside County Flood Control and Water Conservation District (RCFCWCD) has placed on the project. This certification does not allow additional impacts to waters of the U.S. based upon any RCFCWCD requirement other than those specifically authorized. Should the RCFCWCD require additional impacts to waters of the U.S., Sunny Days Properties, LLC must reapply for a Section 401 Water Quality Certification.
18. This certification does not address dewatering; separate authorization will be required from the Regional Board for any dewatering impacts.


REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Megan Quigley
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-268-5363

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the TT #29484 at Briggs Road Project (File No. 03C-002, WDID No. 9 000001127) 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. The proposed project as conditioned is consistent with conditions specified in the Water Quality Control Plan for the San Diego Basin (9) (Basin Plan) for a waiver of waste discharge requirements. Although the adoption of waste discharge requirements is being waived at this time, we may issue waste discharge requirements should new information come to our attention that indicates a water quality problem.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).



John H. Robertus
Executive Officer
Regional Water Quality Control Board

23 June, 2003
Date

Attachments 1 and 2

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: Sunny Days Properties, LLC
Joseph Rivani or Daryoush Dayan
2222 Figueroa Street #300
Los Angeles, CA 90007
(213) 489-4638
(213) 489-4953 (f)

**Applicant
Representatives:** Biological and Regulatory Consulting
Lisa Kegarice
4057 Rosabell Street
Los Angeles, CA 90066
(310) 821-0028

Project Name: TT #29484 at Briggs Road (File No. 03C-002, WDID No. 9 000001127)

Project Location: ✓ The proposed project is located west of Briggs Road approximately 1/8th of a mile north of Los Alamos Road in the French Valley area of Riverside County. It is within the Murrieta Quadrangle, Section 31, T 6 S, R 3 W.

Type of Project: ✓ Residential Development

Project Description: ✓ Sunny Days Properties, LLC proposes to develop 242 residential units, three open space lots, and three detention areas on the 90.61-acre property. The project also includes widening Briggs Road for circulation improvements.

Federal Agency/Permit: U.S. Army Corps of Engineers/Section 404 Permit – NWP 39

**Other Required Regulatory
Approvals:** California Department of Fish and Game Streambed Alteration Agreement

**California Environmental
Quality Act (CEQA)
Compliance:** The County of Riverside approved a Negative Declaration on December 18, 2001.

Receiving Water: ✓ Tributaries to Warm Springs Creek

Impacted Waters of the United States:	The proposed project will permanently impact 0.13 acre of ephemeral and intermittent waters of the U.S. Impacts include filling ephemeral Drainages B and C, and the extension of the culvert under Briggs Road at the French Valley Tributary to Warm Springs Creek b. The culvert will be extended by 10 feet on the east and west sides and will result in 0.005 acres of discharge into the channel.
Dredge Volume:	Not applicable
Related Projects Implemented/to be Implemented by the Applicant(s):	None
Avoidance/Minimization Measures:	One third of Drainage A will be avoided, and the remaining two thirds will be relocated into the proposed open space buffer zone.
Compensatory Mitigation:	The impacts to the channels associated with this project will be mitigated by creating/enhancing approximately 0.75 acre of riparian habitat on site. This will be accomplished by relocating two thirds of Drainage A in the open space area and planting the existing and relocated portions of the drainage, as well as portions of the on-site detention areas, with native riparian vegetation. The areas of the detention basins used as mitigation will be separate from the water quality treatment areas.
Best Management Practices:	Runoff from the developed site will flow into 3 different basin areas before leaving the site. Each area consists of a detention area to mitigate the increase in runoff flow rates and a water quality treatment area. All runoff from the development (not including the open space area) will be treated prior to its discharge into Drainage A, or any other waters of the U.S.

**ATTACHMENT 2
DISTRIBUTION LIST**

Ms. Deanna Cummings
U.S. Army Corps of Engineers
Los Angeles District/Regulatory Branch
911 Wilshire Blvd.
Los Angeles, CA 90017-3401

Ms. Lisa Kegarice
Biological And Regulatory Consulting
407 Rosabell Street
Los Angeles, CA 90066

State Water Resources Control Board
Division of Water Quality

ATTACHMENT 2



California Regional Water Quality Control Board San Diego Region

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July 13, 2009

In reply refer to: WPN: 03C-002: CLOFLEN

Steve Rowland
D.R. Horton
2280 Wardlow Circle, Suite 100
Corona, CA 92880

Certified Mail Number:
7008-1140-0002-8455-9770

File No. 03C-002

CIWQS
Place ID: 266647

Dear Steve Rowland:

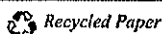
SUBJECT: Amendments to CWA Section 401 Water Quality Certification
No. 03C-002

On June 10, 2009 the California Regional Water Quality Control Board, San Diego Region (Regional Board) received a request from Vandermost Consulting Services, Inc., on behalf of the D.R. Horton, to amend the TT #29484 at Briggs Road (Country Roads) Project (Project) Section 401 Water Quality Certification, File No. 03C-002 (Certification), to allow for proposed changes to the Project's total impacts and additional mitigation for those impacts, as well as for delays in implementing the original mitigation site. An initial amendment request was received and denied with prejudice on November 24, 2008 due to violations of the original Certification, including delays in the implementation of the original mitigation site.

The existing Certification was issued on June 23, 2003 to develop 242 residential units and three open space lots on a 90.61 acre property on Tentative Tract #29484. Additionally, the project also included impacts associated with widening an existing culvert crossing at Briggs Road South of Los Alamos Road and North of Winchester Road. The existing Certification allows for 0.13 acres of permanent impacts to waters of the United States, of which 0.005 acres (20 linear feet) are associated with the Briggs Road crossing. To date, all impacts associated with construction of the residential development have occurred. D.R. Horton proposes changes in impacts to the Briggs Road culvert crossing, with an additional 16.27 linear feet (0.053 acre) of permanent impacts and 60.06 linear feet (0.078 acre) of temporary impacts. Impact changes are requested due to changes in the culvert crossing design requirements from the County of Riverside and City of Murrieta. Mitigation for the additional impacts, as well as punitive mitigation for the delayed implementation of the original mitigation site, has been proposed as follows:

1. Creation of 0.30 acre within lot 243, an upstream tributary of the impact site, and
2. Purchase of 0.618 acre of enhancement credit from the local Conservation District.

California Environmental Protection Agency



Steve Rowland
03C-002 Amendments

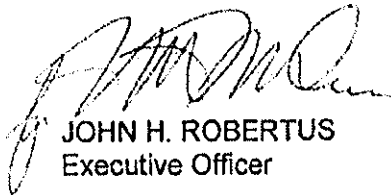
- 2 -

July 13, 2009

After a review of the Project's file, proposed changes to impacts, and proposed mitigation, including punitive mitigation, I concur that the proposed changes to the are reasonable modifications to the original Section 401 Water Quality Certification. As a result, the Section 401 Water Quality Certification for the TT #29484 at Briggs Road (Country Roads) has been amended to reflect these proposed changes. The amendments are included as Enclosure 1.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter. If you have any questions regarding this notification, please contact Chad Loflen at (858) 467-2727 or cloflen@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

Enclosures

1. Addendum to Clean Water Act Section 401 Water Quality Certification No. 03C-002
2. Clean Water Act Section 401 Water Quality Certification No. 03C-002, dated June 23, 2003
3. Map of Proposed Additional Impacts
4. Map of Proposed Mitigation Area
5. Photo Documentation Procedure

cc (via email only):

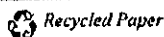
Beth Martinez, Vandermost Consulting Services, Inc., bmartinez@vandermostconsulting.com

Forrest Vanderbilt, United States Army Corps of Engineers,
Forrest.B.Vanderbilt@usace.army.mil

Bill Orme, State Water Resources Control Board, Stateboard401@waterboards.ca.gov

David Smith, Wetlands Regulatory Office, U.S. Environmental Protection Agency, Region 9,
R9-WTR8-Mailbox@epa.gov

California Environmental Protection Agency



Steve Rowland
03C-002 Amendments

- 3 -

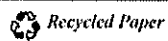
July 13, 2009

Bob Moehling, City of Murrieta, BMoeling@murrieta.org

John Marcinek, County of Riverside, JMARCINE@rclma.org

Laurie Dobson Correa, County of Riverside, LDCORREA@rclma.org

California Environmental Protection Agency



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
SAN DIEGO REGION**

ADDENDUM TO

**CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION NO. 03C-002**

FOR

TT #29484 at Briggs Road (Country Roads) Project

Additional Condition 19 Is added:

D.R. Horton shall provide mitigation for additional permanent discharges (including "seasonal" impacts) to 0.053 acre (16.27 linear feet) of waters of the State/U.S., and temporary impacts to 0.078 acre (60.06 linear feet) must be achieved as follows:

- a. Creation of (0.30 acre) of wetlands/waters of the U.S. within lot 243, located southeastern portion of the original project site.
- b. D.R. Horton must submit an updated version Habitat Mitigation and Monitoring Plan to the Regional Board within 30 days of amendment issuance.
- c. Purchase of 0.618 acre of enhancement credit from the Mission and/or Elsinore Murrieta Anza Resource Conservation Districts. Proof of purchase must be provided to the Regional Board within 90 days of amendment issuance.

Additional Condition 20 Is added:

The upstream, downstream and lateral limits of Project disturbance and associated staging areas must be clearly defined and marked in the field and reviewed by a qualified Project biologist prior to the initiation of work. Construction employees must strictly limit their activities, vehicles, equipment, and construction materials to these designated areas. All construction markers, such as orange snow screen, must be removed upon completion of construction activities.

Additional Condition 21 is added:

Within **90 days** of the issuance of this **amendment**, D.R. Horton must provide the Regional Board a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. At a minimum, the areas that must be included in the preservation mechanism are the 0.30 acre creation area. Within **one year** of the issuance of this certification, D.R. Horton must submit proof of a completed preservation mechanism that will protect all mitigation areas and their buffers in perpetuity. The conservation easement, deed restriction, or other legal limitation on the mitigation property must be adequate to demonstrate that the site will be maintained without future development or encroachment on the site which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the U.S. that it supports. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the site. The preservation mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.

Additional Condition 22 is added:

Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each work day or sooner if rain is predicted.

Additional Condition 23 is added:

All surface waters, including ponded waters, must 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. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.

Additional Condition 24 is added:

Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States

and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.

Additional Condition 25 is added:

D.R. Horton must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the United States/State. Restoration must include grading of disturbed areas to pre-Project contours and revegetation with native species. D.R. Horton must implement all necessary BMPs to control erosion and runoff from areas associated with the Project.

Additional Condition 26 is added:

D.R. Horton must submit a report (including topography maps and planting locations) to the Regional Board within **90 days** of completion of mitigation site preparation and planting, describing as-built status of the mitigation Project.

Additional Condition 27 is added:

The construction of proposed mitigation must be concurrent with Project grading and completed no later than **9 months** following the initial discharge of dredge or fill material into on-site waters. Delays in implementing mitigation must be compensated for by an increased mitigation implementation of **10% of the cumulative compensatory mitigation** for each month of delay.

Additional Condition 28 is added:

Throughout the mitigation monitoring program mitigation areas must be maintained free of perennial exotic plant species including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the onsite or offsite mitigation areas.

Additional Condition 29 is added:

Any maintenance activities that do not contribute to the success of the mitigation site and enhancement of beneficial uses and ecological functions and services are prohibited. Maintenance activities are limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species and remedial measures deemed necessary for the success of the restoration program.

Additional Condition 30 is added:

If at any time during the implementation and establishment of the mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, D.R. Horton is responsible for repair and replanting of the damaged area(s).

Additional Condition 31 is added:

Mitigation monitoring reports must be submitted annually until mitigation has been deemed successful with concurrence by the Regional Board. Annual monitoring reports must be submitted prior to **December 1** of each year. Monitoring reports must include, but not be limited to, the following:

- a. Names, qualifications, and affiliations of the persons contributing to the report;
- b. Tables presenting the raw data collected in the field as well as analyses of the physical and biological data, including at a minimum;
- c. Topographic complexity characteristics at each mitigation site;
- d. Upstream and downstream habitat and hydrologic connectivity;
- e. Source of hydrology;
- f. Width of native vegetation buffer around the entire mitigation site;
- g. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;
- h. Photodocumentation from established reference points;
- i. A Survey report documenting boundaries of mitigation area; and
- j. Other items specified in the final Mitigation and Monitoring Plan Tentative Parcel Map 33488 Revision #1, dated February 2009.

Additional Condition 32 is added:

Responsible Party Updates: D.R. Horton must provide the name and contact information of any third party accepting responsibility for implementing the mitigation requirements of this Certification. The notification must be submitted to the Regional Board within 30 days of the transfer of responsibility. The notification must include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification.

Additional Condition 33 is added:

For purposes of this Certification, establishment is defined as the creation of vegetated or unvegetated waters of the U.S./State where the resource has never previously existed (e.g. conversion of nonnative grassland to a freshwater marsh). Restoration is divided into two activities, re-establishment and


rehabilitation. Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the U.S./State previously existed (e.g., removal of fill material to restore a drainage). Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated or unvegetated waters of the U.S./State (e.g., removal of a heavy infestation or monoculture of exotic plant species from jurisdictional areas and replacing with native species). Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the U.S./State (e.g., removal of small patches of exotic plant species from an area containing predominantly natural plant species). Preservation is defined as the acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the U.S./State (e.g., conservation easement).

Additional Condition 34 is added:

D.R. Horton and its successors must conduct photo documentation of the Project site, including all areas of permanent and temporary impact, prior to and after Project construction. Photo documentation must be conducted in accordance with the State Water Resources Control Board Standard Operating Procedure 4.2.1.4: Stream Photo Documentation Procedure, included as Addendum Number 5. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced. D.R. Horton must submit this information in a photo documentation report to the Regional Board **with the Final Mitigation and Monitoring Report** (see Condition D.10). The report must include a compact disc that contains digital files of all the photos (jpeg file type or similar).

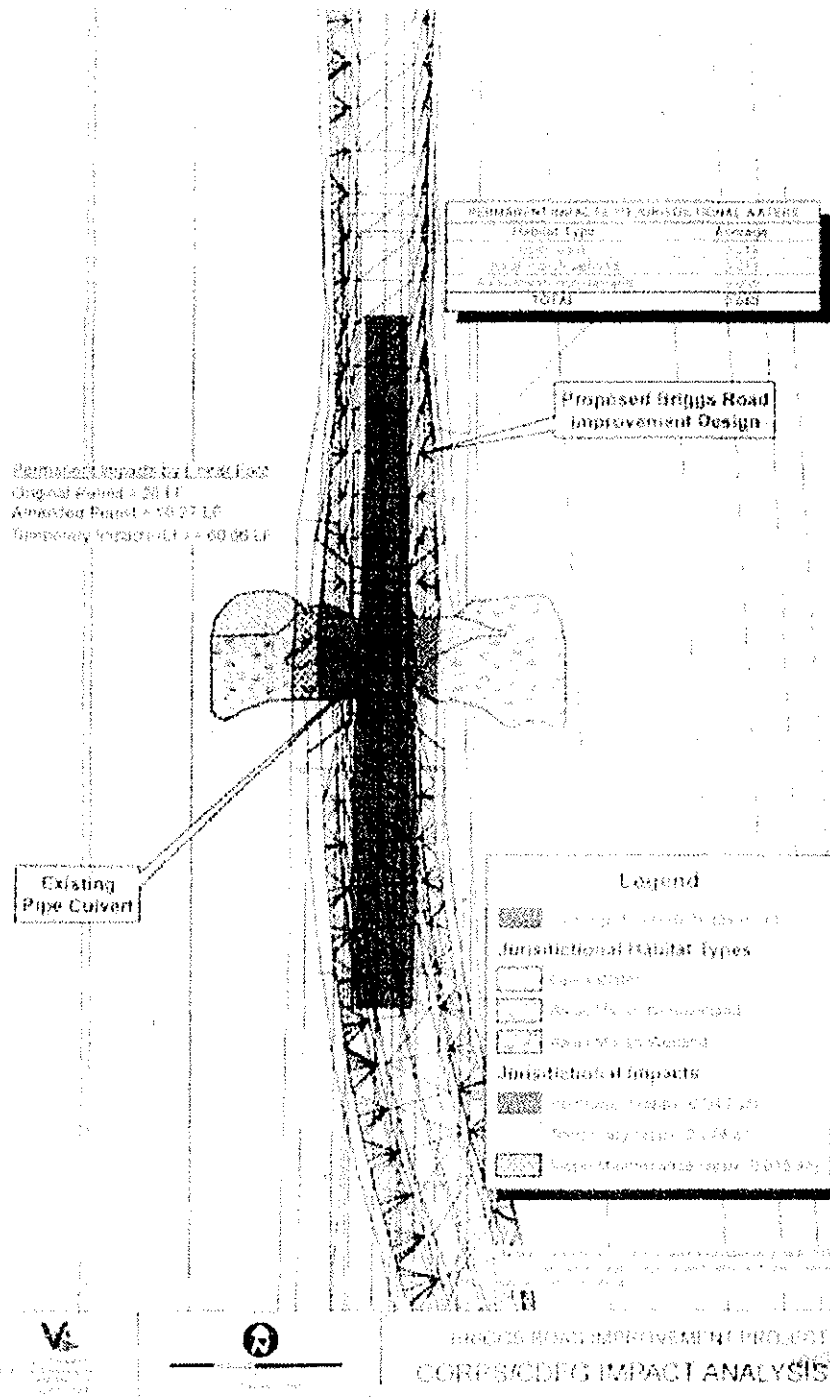
Additional Condition 35 is added:

D.R. Horton must submit Geographic Information System (GIS) shape files of the impact and mitigation areas within **the First Annual Mitigation Monitoring Report**. All impact and mitigation areas shapefiles must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.

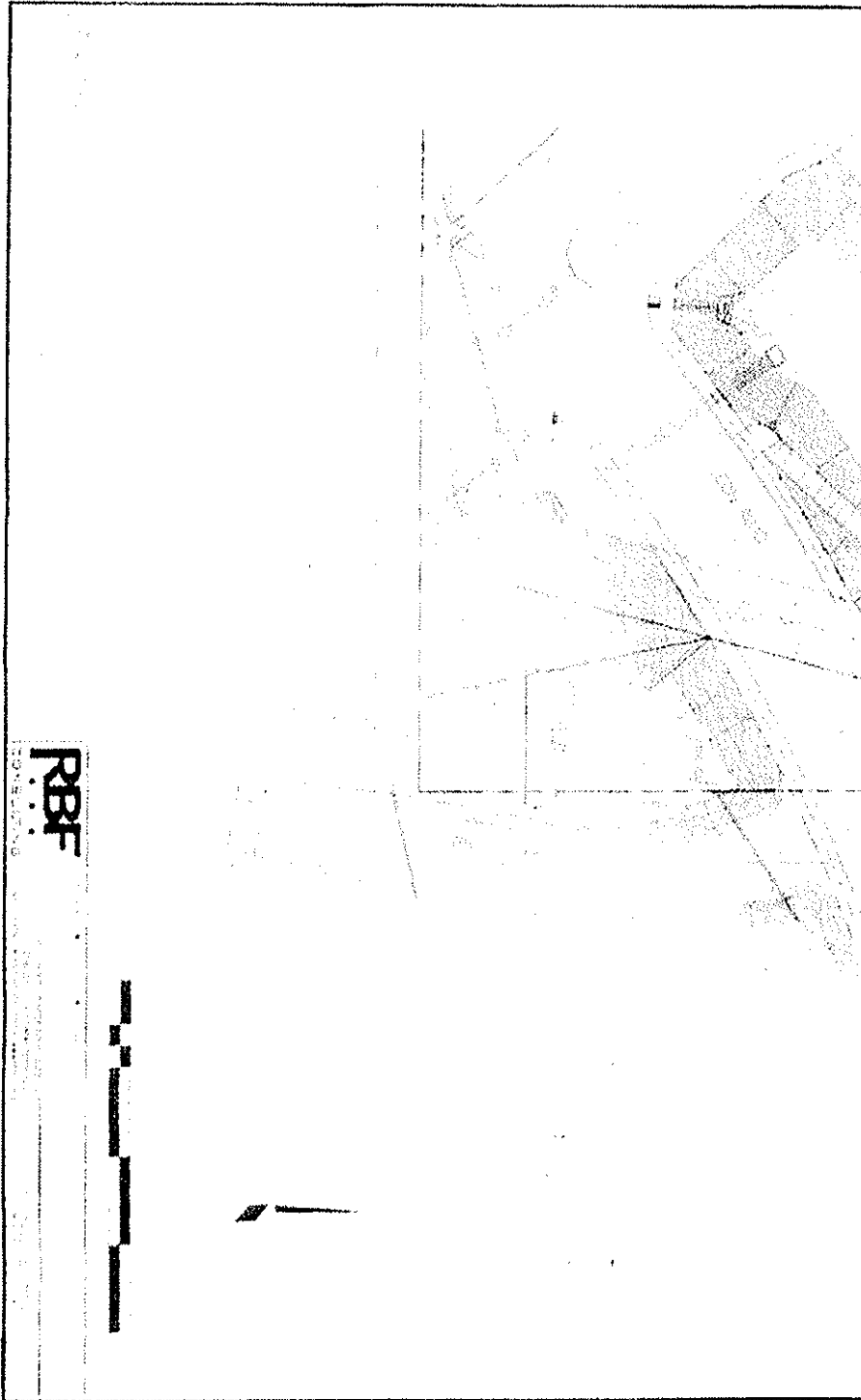

JOHN H. ROBERTUS
Executive Officer

7/13/09
Date

Addendum 3 Site Map



Addendum 4 Mitigation Map



Addendum 5 STREAM PHOTO DOCUMENTATION PROCEDURES

Standard Operating Procedure (SOP)

Stream Photo Documentation Procedure

(CARCD 2001, Written by TAC Visual Assessments work group)

Introduction:

Photographs provide a qualitative, and potentially semi-quantitative, record of conditions in a watershed or on a water body. Photographs can be used to document general conditions on a reach of a stream during a stream walk, pollution events or other impacts, assess resource conditions over time, or can be used to document temporal progress for restoration efforts or other projects designed to benefit water quality. Photographic technology is available to anyone and it does not require a large degree of training or expensive equipment. Photos can be used in reports, presentations, or uploaded onto a computer website or GIS program. This approach is useful in providing a visual portrait of water resources to those who may never have the opportunity to actually visit a monitoring site.

Equipment:

Use the same camera to the extent possible for each photo throughout the duration of the project. Either 35 mm color or digital color cameras are recommended, accompanied by a telephoto lens. If you must change cameras during the program, replace the original camera with a similar one comparable in terms of media (digital vs. 35 mm) and other characteristics. A complete equipment list is suggested as follows:

Required:

- Camera and backup camera
- Folder with copies of previous photos (do not carry original photos in the field)
- Topographic and/or road map
- Aerial photos if available
- Compass
- Timepiece
- Extra film or digital disk capacity (whichever is applicable)
- Extra batteries for camera (if applicable)
- Photo-log data sheets or, alternatively, a bound notebook dedicated to the project
- Yellow photo sign form and black marker, or, alternatively, a small black board and chalk

Optional:

- GPS unit
- Stadia rod (for scale on landscape shots)
- Ruler (for scale on close up views of streams and vegetation)
- Steel fence posts for dedicating fixed photo points in the absence of available fixed landmarks

How to Access Aerial Photographs:

Aerial Photos can be obtained from the following federal agencies:

USGS Earth Science Information Center
507 National Center
12201 Sunrise Valley Drive
Reston, VA 22092
800-USA-MAPS

USDA Consolidated Farm Service Agencies
Aerial Photography Field Office
222 West 2300 South
P.O. Box 30010
Salt Lake City, UT 84103-0010
801-524-5856

Cartographic and Architectural Branch
National Archives and Records Administration
8601 Adelphi Road
College park, MD 20740-6001
301-713-7040

Roles and Duties of Team:

The team should be comprised of a minimum of two people, and preferably three people for restoration or other water quality improvement projects, as follows:

1. Primary Photographer
2. Subject, target for centering the photo and providing scale
3. Person responsible for determining geographic position and holding the photo sign forms or blackboard.

One of these people is also responsible for taking field notes to describe and record photos and photo points.

Safety Concerns:

Persons involved in photo monitoring should **ALWAYS** put safety first. For safety reasons, always have at least two 2 volunteers for the survey. Make sure that the area(s) you are surveying either are accessible to the public or that you have obtained permission from the landowner prior to the survey.

Some safety concerns that may be encountered during the survey include, but are not limited to:

- Inclement weather
- Flood conditions, fast flowing water, or very cold water
- Poisonous plants (e.g.: poison oak)
- Dangerous insects and animals (e.g.: bees, rattlesnakes, range animals such as cattle, etc.)

- Harmful or hazardous trash (e.g.: broken glass, hypodermic needles, human feces)

We recommend that the volunteer coordinator or leader discuss the potential hazards with all volunteers prior to any fieldwork.

General Instructions:

From the inception of any photo documentation project until it is completed, always take each photo from the same position (photo point), and at the same bearing and vertical angle at that photo point. Photo point positions should be thoroughly documented, including photographs taken of the photo point. Refer to copies of previous photos when arriving at the photo point. Try to maintain a level (horizontal) camera view unless the terrain is sloped. (If the photo can not be horizontal due to the slope, then record the angle for that photo.) When photo points are first being selected, consider the type of project (meadow or stream restoration, vegetation management for fire control, ambient or event monitoring as part of a stream walk, etc.) and refer to the guidance listed on *Suggestions for Photo Points by Type of Project*.

When taking photographs, try to include landscape features that are unlikely to change over several years (buildings, other structures, and landscape features such as peaks, rock outcrops, large trees, etc.) so that repeat photos will be easy to position. Lighting is, of course, a key ingredient so give consideration to the angle of light, cloud cover, background, shadows, and contrasts. Close view photographs taken from the north (i.e., facing south) will minimize shadows. Medium and long view photos are best shot with the sun at the photographer's back. Some artistic expression is encouraged as some photos may be used on websites and in slide shows (early morning and late evening shots may be useful for this purpose). Seasonal changes can be used to advantage as foliage, stream flow, cloud cover, and site access fluctuate. It is often important to include a ruler, stadia rod, person, farm animal, or automobile in photos to convey the scale of the image. Of particular concern is the angle from which the photo is taken. Oftentimes an overhead or elevated shot from a bridge, cliff, peak, tree, etc. will be instrumental in conveying the full dimensions of the project. Of most importance overall, however, is being aware of the goal(s) of the project and capturing images that clearly demonstrate progress towards achieving those goal(s). Again, reference to *Suggestions for Photo Points by Type of Project* may be helpful.

If possible, try to include a black board or yellow photo sign in the view, marked at a minimum with the location, subject, time and date of the photograph. A blank photo sign form is included in this document.

Recording Information:

Use a systematic method of recording information about each project, photo point, and photo. The following information should be entered on the photo-log forms (blank form included in this document) or in a dedicated notebook:

- Project or group name, and contract number (if applicable, e.g., for funded restoration projects)
- General location (stream, beach, city, etc.), and short narrative description of project's habitat type, goals, etc.

- Photographer and other team members
- Photo number
- Date
- Time (for each photograph)
- Photo point information, including:
 - Name or other unique identifier (abbreviated name and/or ID number)
 - Narrative description of location including proximity to and direction from notable landscape features like roads, fence lines, creeks, rock outcrops, large trees, buildings, previous photo points, etc. – sufficient for future photographers who have never visited the project to locate the photo point
 - Latitude, longitude, and altitude from map or GPS unit
- Magnetic compass bearing from the photo point to the subject
- Specific information about the subject of the photo
- Optional additional information: a true compass bearing (corrected for declination) from photo point to subject, time of sunrise and sunset (check newspaper or almanac), and cloud cover.

For ambient monitoring, the stream and shore walk form should be attached or referenced in the photo-log.

When monitoring the implementation of restoration, fuel reduction, or Best Management Practices (BMP) projects, include or attach to the photo-log a narrative description of observable progress in achieving the goals of the project. Provide supplementary information along with the photo, such as noticeable changes in habitat, wildlife, and water quality and quantity.

Archive all photos, along with the associated photo-log information, in a protected environment.

The Photo Point: Establishing Position of Photographer:

1. Have available a variety of methods for establishing position: maps, aerial photos, GPS, permanent markers and landmarks, etc. If the primary method fails (e.g., a GPS or lost marker post) then have an alternate method (map, aerial photo, copy of an original photograph of the photo-point, etc).
2. Select an existing structure or landmark (mailbox, telephone pole, benchmark, large rock, etc.), identify its latitude and longitude, and choose (and record for future use) the permanent position of the photographer relative to that landmark. Alternatively, choose the procedure described in *Monitoring California's Annual Rangeland Vegetation* (UC/DANR Leaflet 21486, Dec. 1990). This procedure involves placing a permanently marked steel fence post to establish the position of the photographer.
3. For restoration, fuel reduction, and BMP projects, photograph the photo-points and carry copies of those photographs on subsequent field visits.

Determining the Compass Bearing:

1. Select and record the permanent magnetic bearing of the photo center view. You can also record the true compass bearing (corrected for declination) but do not substitute this for the magnetic bearing. Include a prominent landmark in a set position within the view. If possible, have an assistant stand at a fixed distance from both the photographer and the center of the view, holding a stadia rod if available, within the view of the camera; preferably position the stadia rod on one established, consistent side of the view for each photo (right or left side).
2. Alternatively, use the procedure described in *Monitoring California's Annual Rangeland Vegetation* (UC/DANR Leaflet 21486, Dec. 1990). This procedure involves placing a permanently marked steel fence post to establish the position of the focal point (photo center).
3. When performing ambient or event photo monitoring, and when a compass is not available, then refer to a map and record the approximate bearing as north, south, east or west.

Suggestions for Photo Points by Type of Project:**Ambient or Event Monitoring, Including Photography Associated with Narrative Visual Assessments:**

1. When first beginning an ambient monitoring program take representative long and/or medium view photos of stream reaches and segments of shoreline being monitored. Show the positions of these photos on a map, preferably on the stream/shore walk form. Subjects to be photographed include a representative view of the stream or shore condition at the beginning and ending positions of the segment being monitored, storm drain outfalls, confluence of tributaries, structures (e.g., bridges, dams, pipelines, etc.).
2. If possible, take a close view photograph of the substrate (streambed), algae, or submerged aquatic vegetation.
3. Time series: Photographs of these subjects at the same photo points should be repeated annually during the same season or month if possible.
4. Event monitoring refers to any unusual or sporadic conditions encountered during a stream or shore walk, such as trash dumps, turbidity events, oil spills, etc. Photograph and record information on your photo-log and on your Stream and Shore Walk Visual Assessment form. Report pollution events to the Regional Board. Report trash dumps to local authorities.

All Restoration and Fuel Reduction Projects – Time Series:

Take photos immediately before and after construction, planting, or vegetation removal. Long term monitoring should allow for at least annual photography for a minimum of three years after the project, and thereafter at 5 years and ten years.

Meadow Restoration:

1. Aerial view (satellite or airplane photography) if available.

2. In the absence of an aerial view, a landscape, long view showing an overlapping sequence of photos illustrating a long reach of stream and meadow (satellite photos, or hill close by, fly-over, etc.)
3. Long view up or down the longitudinal dimension of the creek showing riparian vegetation growth bounded on each side by grasses, sedges, or whatever that is lower in height
4. Long view of conversion of sage and other upland species back to meadow vegetation
5. Long view and medium view of streambed changes (straightened back to meandering, sediment back to gravel, etc.)
6. Medium and close views of structures, plantings, etc. intended to induce these changes

Stream Restoration/stabilization:

1. Aerial view (satellite or airplane photography) if available.
2. In the absence of an aerial view, a landscape, long-view showing all or representative sections of the project (bluff, bridge, etc.)
3. Long view up or down the stream (from stream level) showing changes in the stream bank, vegetation, etc.
4. Long view and medium view of streambed changes (thalweg, gravel, meanders, etc.)
5. Medium and close views of structures, plantings, etc. intended to induce these changes.
6. Optional: Use a tape set perpendicular across the stream channel at fixed points and include this tape in your photos described in 3 and 4 above. For specific procedures refer to Harrelson, Cheryl C., C.L. Rawlins, and John P. Potyondy, *Stream Channel Reference Sites: An Illustrated Guide to Field Techniques*, United States Department of Agriculture, Forest Service, Rocky Mountain Forest and Range Experiment Station, General Technical Report RM-245.

Vegetation Management for Fire Prevention ("fuel reduction"):

1. Aerial view (satellite or airplane photography) if available.
2. In the absence of an aerial view, a landscape, long view showing all or representative sections of the project (bluff, bridge, etc.)
3. Long view (wide angle if possible) showing the project area or areas. Preferably these long views should be from an elevated vantage point.

4. Medium view photos showing examples of vegetation changes, and plantings if included in the project. It is recommended that a person (preferably holding a stadia rod) be included in the view for scale
5. To the extent possible include medium and long view photos that include adjacent stream channels.

Stream Sediment Load or Erosion Monitoring:

1. Long views from bridge or other elevated position.
2. Medium views of bars and banks, with a person (preferably holding a stadia rod) in view for scale.
3. Close views of streambed with ruler or other common object in the view for scale.
4. Time series: Photograph during the dry season (low flow) once per year or after a significant flood event when streambed is visible. The flood events may be episodic in the south and seasonal in the north.
5. Optional: Use a tape set perpendicular across the stream channel at fixed points and include this tape in your photos described in 1 and 2 above. For specific procedures refer to Harrelson, Cheryl C., C.L. Rawlins, and John P. Potyondy, *Stream Channel Reference Sites: An Illustrated Guide to Field Techniques*, United States Department of Agriculture, Forest Service, Rocky Mountain Forest and Range Experiment Station, General Technical Report RM-245.

PHOTO SIGN FORM: Print this form on yellow paper. Complete the following information for each photograph. Include in the photographic view so that it will be legible in the finished photo.

Location:

Subject Description:

Date:

Time:

ATTACHMENT 3: Wilson Creek Restoration Area Site Map

