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July 19, 2009

Mr. Mike Misenhelter  
1586 First Street  
Norco, CA 92860-2909

Subject: Jurisdictional Determination for the Rancho de Paseo Valencia Project, Corona

Dear Mr. Misenhelter:

At your request, I visited the Rancho de Paseo Valencia project with you on Saturday, July 18, 2009 to evaluate the various drainages on site. My findings are below.

## **Rancho de Paseo Valencia**

Based on correspondence between you and the City of Corona, there is some confusion regarding jurisdictional and non-jurisdictional waters. I reviewed the previous analysis you prepared as part of your biological assessment for project, and I augmented the information provided in the analysis with the field review on Saturday. I believe I can assist you in clearing up the confusion.

The project site lies in a mountainous region of Corona, on the northwestern slopes of the Santa Ana Mountains. The natural topography in this area consists of well-defined ridges and folds. The folds typically convey water during rain events, but are otherwise dry and generally do not support riparian plant species.

The Rancho de Paseo Valencia property is a citrus orchard that was created by following the ridges and folds of the site, rather than flattening the topography. As a result, the project has mostly retained the original topography in a somewhat altered condition.

## **Field Evaluation**

We looked at all the channel areas of the property, surveying the length of each channel where accessible. We also evaluated the plant communities of the channels within the property limits and outside the property when possible.

All of the channels found on site lack true bed and banks. The bed and banks defined in the previous report are completely artificial and are clearly intended to convey excess runoff from the citrus orchard. Inspections of the uphill portions of these artificial channels show the dry folds representative of this topography, and clearly definable bed and banks are not present.

The channel located just outside the property line lies in a well defined wash and supports individual willow (*Salix* sp.), western sycamore (*Platanus racemosa*), and California walnut (*Juglans californica*) trees that appear to have persisted over time. The presence of these trees might indicate a high water table and therefore may represent a native stand of riparian habitat. However, even the finding of "native stand" is

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questionable given the past history of the site and the lack of riparian habitat upstream and on adjacent properties.

The channel proposed for preservation in the open space currently supports a stand of willows and mulefat along portions of its length. However, the section of the channel above the orchard limit shows the typical dry fold, with no definable bed and banks and supporting only chaparral habitat.

From the narrow fold found on at the uphill side of the orchard, the proposed open space channel is wider, and probably has been widened and flattened for citriculture purposes. However, the widening of the channel may be more natural than appears. It is possible that there may have historically been riparian plant species along this section of the channel, but that cannot now be established.

A few of the other channels support individuals of riparian species such as mulefat (*Baccharis salicifolia*) and cattails (*Typha* sp.) but none of these other channels support substantial stands of these or other riparian species. It is clear that the riparian species present in these channels have grown solely in response to the artificial presence of water from orchard irrigation, and would disappear if the orchard were abandoned. Your personal observation that much of the growth we observed was not present in your earlier surveys supports this finding.

### **Agency Jurisdiction**

As you discuss in your report, jurisdictional definitions are different for the Army Corps of Engineers (Corps) and the California Department of Fish and Game (CDFG). The Corps relies on connections to waters of the U.S. they already have jurisdiction over (such as the Santa Ana River) and wetland habitat characteristics, while the CDFG relies on definable bed and banks and the presence of riparian habitat.

As I mentioned earlier, none of the drainages on site possess clearly definable bed and banks. The only bed and banks are those of artificial channels created to drain excess irrigation water, and are regularly maintained. The plant communities along these channels are composed of mostly non-native or artificially maintained riparian plants.

All of the channels drain into a debris basin that was constructed in the past to hold runoff. The debris basin has an outlet structure to allow for the draining of floodwaters that exceed the basin's capacity, but otherwise retains local flows.

There is no significant nexus to the Santa Ana River. Because all flows are stopped by the debris basin, any material in the flows is also stopped by the basin, and would only reach the Santa Ana River during extreme flood events that overwhelmed the basin and all subsequent catchments downstream. In my professional judgement, none of the channels come under the jurisdiction of the Corps.

It is also my judgement that none of the channels on site would fall under the jurisdiction of the CDFG due to a lack of bed and banks. Only the off-site channel would meet that definition.

### **Findings**

There is no significant nexus to the Santa Ana River and no wetland habitat along any of the drainages on site. Of the various drainages delineated in the prior study, only the one outside of the property supports definable bed and banks. The remaining "drainages" are better defined as channels or erosional features that were created either by the orchard management or by uncontrolled erosion, and primarily convey

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excess water generated by the citrus orchard. Based on upstream and downstream conditions, as well as an evaluation of undisturbed habitat in the vicinity of the property, the channels on site do not currently meet the definition of jurisdictional waters for those two agencies.

If you have any questions or would like to discuss these findings further, please feel free to contact me 951 686 1141 or by e-mail at [nrainc@earthlink.net](mailto:nrainc@earthlink.net).

Sincerely,



Karen Kirtland  
President