

Attachment 10: Letter from Cox, Castle, & Nicholson dated February 7, 2020



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February 7, 2020

File No. 71989

VIA E-MAIL AND OVERNIGHT MAIL

Ms. Lisa Plowman
Director of Planning and Development
County of Santa Barbara
123 East Anapamu Street
Santa Barbara, CA 93101-2058

Re: Santa Barbara Ranch – Inland Development Agreement Compliance

Dear Ms. Plowman:

Section 10.04 of the Inland Development Agreement for Santa Barbara Ranch (“IDA”) requires the County to annually conduct a “Periodic Review” of the Developer’s good faith compliance with the IDA. Pursuant to Section 10.04, SBRHC, Inc. (“SBRHC”) requests that the County conduct such a review.

As you know, SBRHC is the Developer under the IDA. SBRHC has designated Standard Portfolios Asset Management Co. LLC (“Standard Portfolios”) as its agent and has authorized Standard Portfolios to carry out the Developer’s obligations under the IDA on its behalf. Standard Portfolios has been carrying out the Developer’s obligations in that capacity since January 29, 2015.

The County conducted the last Periodic Review last year. On March 27, 2019, Dianne Black, on behalf of the Director, issued a written determination that the Developer was in good faith compliance with the IDA. Specifically, the County determined:

Section 2.02(a) of the Agreement sets forth provisions for the Developer to pay \$100,000 to a non-profit organization to *“initiate planning to enhance areas of natural, scenic, wildlife, biological, open space, and drainage corridors within the Dos Pueblos Creek drainage . . .”* and to ultimately implement a creek restoration plan. Consistent with this requirement, the Developer has 1) deposited \$100,000 with the California Rangeland Trust (CRT), a non-profit conservation organization fully independent from the developer; 2) managed and funded preparation of the *Dos Pueblos Creek Restoration, Maintenance and Monitoring Plan*, 3) submitted to Santa Barbara County the completed *Dos Pueblos Creek Restoration, Maintenance and Monitoring Plan*; and, 4) Received peer review by the County biological resources consultant, Storrer Environmental, which found the *Dos Pueblos*

Creek Restoration, Maintenance and Monitoring Plan to be acceptable.

Section 2.02(a) of the Agreement states that the Developer “*shall pay the sum of three hundred thousand dollars (\$300,000) to a non-profit conservation organization of Developer’s choice to be used to implement the Creek Restoration Plan . . .*” Consistent with this requirement, the Developer has 1) deposited \$300,000 with the California Association of Resource Conservation Districts (CARCD); and, 2) entered into an agreement with the California Association of Resource Conservation Districts (CARCD) for CARCD to use the funds for creek restoration, consistent with the requirements of Section 2.02(a) of the IDA. In addition, the CARCD has retained the Cachuma Resource Conservation District (CRCD) and Mauricio Gomez of South Coast Habitat Restoration (SCHR) for assistance with implementation of the restoration. CRCD expended \$103,345.50 of the \$300,000 to implement the Creek Restoration Project to date, and another \$70,413 is earmarked as matching funds to secure grant funding of \$222,104.00 for Dos Pueblos Creek Restoration designs, which was awarded to Mauricio Gomez/SCHR by the California Department of Fish and Wildlife. Section 2.02(a) of the Agreement states, “*the expressed intent of this subsection and the Developer’s obligation hereunder is to initiate planning and restoration efforts with the expectation that the Developer’s financial contribution will be used to attract other resources to complete the Creek Restoration Plan.*” Receipt of the California Department of Fish and Wildlife grant funding is consistent with the intent of subsection 2.02(a).

Therefore, based on documents referenced above, including the specific facts presented in the letter from Cox, Castle & Nicholson on behalf of Standard Portfolios dated February 20, 2019, and the accompanying supporting documentation, the Developer’s current efforts to further implement the Creek Restoration Plan constitute good-faith compliance with the terms of the Agreement.

At the time of last year’s compliance review, the Developer informed the County that discussions were continuing between Standard Portfolios, on behalf of the Developer, and Dos Pueblos Creek owners regarding items i through iv under Section 2.02(a) of the IDA that are required to occur prior implementation of the Creek Restoration Plan and that further clarification regarding the implementation of the Creek Restoration Plan will be necessary to complete those discussions.

Since the County’s last Periodic Review, Standard Portfolios, on behalf of the Developer, has been assisting CARCD’s restoration team to implement the Restoration Plan and perform the work on the Dos Pueblos Creek properties covered by the California Department of Fish and Wildlife grant. SCHR executed the grant and contracted with Waterways Consulting to perform conceptual design work.

Standard Portfolios, on behalf of the Developer, facilitated a number of meetings with the owners of Dos Pueblos Ranch North and Dos Pueblos Ranch South to go over the work that would occur under the grant and to secure agreements to carry out the work on those properties. Standard Portfolios coordinated with the property owners to allow SCHR, CARCD and Waterways to tour Dos Pueblos Creek, including the locations identified in *Dos Pueblos Creek Restoration, Maintenance and Monitoring Plan*. On June 5, 2019, Standard Portfolios facilitated a meeting with SCHR and the landowners to provide the further clarification regarding the implementation of the restoration plan and to discuss the work under the grant. Standard Portfolios also facilitated a second meeting with the landowners on September 4, 2019, and had follow up conversations and meetings with the landowners in this regard.

In the course of the meetings with the landowners, the owners of Dos Pueblos Ranch North informed Standard Portfolios that it does not consent to the implementation of the *Dos Pueblos Creek Restoration, Maintenance and Monitoring Plan* on its property. This remains Dos Pueblos Ranch North's position as of the date of this letter. Section 2.02(a) of the IDA states that implementation of the Creek Restoration Plan shall be subject to and shall not occur until...consent of Dos Pueblos Ranch with respect to activities that occur on Dos Pueblos Ranch. As a result, CARCD has been unable to perform the work under the current scope of the grant and is not able to implement the *Dos Pueblos Creek Restoration, Maintenance and Monitoring Plan* at this time.

Pursuant to IDA Section 2.02(a), the Creek Restoration Implementation Funding Agreement with CARCD requires CARCD to: (i) expend the funds for creek restoration elsewhere-on the Gaviota Coast in the event that the Creek Restoration Plan is not implemented within five (5) years of the Effective Date for any reason, (ii) obtain the County's written consent as to the alternative creek restoration project prior to expending said funds, and (iii) complete the alternative creek restoration project within seven (7) years of the Effective Date.

In light of the fact that the five-year anniversary of the Effective Date was April 8, 2019 and that a condition to the implementation of the Creek Restoration Plan has not been met, the Developer is prepared to render reasonable assistance to CARCD to expend the remaining funds for alternative restoration work on the Gaviota Coast.

CARCD has informed the Developer that it has expended \$183,842.49 of the \$300,000 that CARCD received under the Creek Restoration Implementation Funding Agreement, leaving a balance of \$113,657.51 as of December 31, 2019. SCHR on behalf of CARCD has identified the following alternative locations on the Gaviota Coast where the funds could be expended for alternative creek restoration: (i) Jalama Creek – Fish passage & Riparian Restoration, (ii) Gaviota Creek – Fish passage work in collaboration with CalTrans (currently ongoing), (iii) El Capitan Creek – Riparian Restoration, and (iv) Arroyo Hondo – Riparian Restoration. In addition, CARCD has had discussions with Dos Pueblos Ranch South to explore Dos Pueblos Creek restoration opportunities on that property,

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The Developer is continuing to work with CARCD to formalize a request for the County's consent to use the remaining funds for alternative restoration in accordance with the terms of IDA Section 2.02(a) and the Creek Restoration Implementation Funding Agreement.

If you have any questions or require any further information, please do not hesitate to contact us.

Very truly yours,



Stanley W. Lamport

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cc: Ms. Nicole Lieu
Mr. Mason Situ
Ms. Judy Chou
Christian H. Cebrian, Esq.