

Attachment 2: Periodic Review Letter



County of Santa Barbara Planning and Development

Lisa Plowman, Director

Jeff Wilson, Assistant Director

Steve Mason, Assistant Director

March 30, 2021

Stanley Lamport
Cox, Castle & Nicholson LLP
2029 Century Park East, Suite 2100
Los Angeles, CA 90067

RE: Periodic Review – Santa Barbara Ranch Inland Development Agreement

Dear Mr. Lamport:

Section 10.04 of the Inland Development Agreement requires that the County conduct a “Periodic Review” once every twelve months to review the extent of the Developer’s good-faith compliance with the Agreement. This letter constitutes the County’s Periodic Review for the review period from March 27, 2020 to March 29, 2021. To date, the County has found the Developer to be in good-faith compliance with the Agreement in each annual Periodic Review, relying in part upon information provided by the Developer, and referenced to therein.

Documents used in completing the 2020 Periodic Review include the Santa Barbara Ranch Inland Development Agreement, a letter from Cox, Castle & Nicholson on behalf of Standard Portfolios dated January 29, 2021, a Creek Restoration Implementation Funding Agreement between Standard Portfolios and the California Association of Resource Conservation Districts, a Storrer Environmental Services Peer Review Letter, dated May 31, 2015, accounting Info from the Cachuma Resource Conservation District dated January 2021, and a February 7, 2020 Cox, Castle and Nicholson IDA Review Request letter. These documents were identified in our March 19, 2021 letter sent to your attention consistent with Section 10.04(c) of the Inland Development Agreement.

In reliance on the representations made by the Developer in the documents referenced above, the following findings and determinations have been made regarding the Developer’s good faith compliance with the terms of the Agreement:

Section 2.02(a) of the Agreement requires 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.” The Agreement requires

that the non-profit organization be fully independent from the Developer, fully qualified and experienced in conserving open space and/or natural resources, and use its best faith efforts to complete a Plan within one year of the Effective Date (April 18, 2014) of the Agreement. The Agreement required the Developer to offer all reasonable assistance to accomplish this outcome. Consistent with this requirement, the Developer has 1) deposited \$100,000 with the California Rangeland Trust (CRT), a qualified and experienced non-profit conservation organization fully independent from the Developer (see letter on file from Cox Castle and Nicholson dated March 19, 2015); 2) managed and funded preparation of the *Dos Pueblos Creek Restoration, Maintenance and Monitoring Plan* (see plan on file dated April 2015); 3) submitted to Santa Barbara County the completed *Dos Pueblos Creek Restoration, Maintenance and Monitoring Plan* (see plan on file dated April 2015); 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 (see peer review dated May 31, 2015). No actions related to this requirement were undertaken by Developer during the 2020 Periodic Review Period.

Section 2.02(a) of the Agreement also requires the Developer to “*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.*” The Agreement requires the non-profit organization to use its best faith efforts to fully implement the Plan within three years of the Effective Date of the Agreement. The Agreement required the Developer to: 1) offer all reasonable assistance to accomplish this outcome; and 2) condition its payment of the \$300,000 on the non-profit organization completing an alternative creek restoration project on the Gaviota Coast if the Plan is not implemented within five years of the Effective Date of the Agreement. Consistent with this requirement, the Developer has 1) deposited \$300,000 with the California Association of Resource Conservation Districts (CARCD) (as confirmed in a letter from Cox Castle and Nicholson dated February 2, 2018 and in an email from CARCD dated February 18, 2018); and, 2) entered into an agreement with CARCD for CARCD to use the funds for creek restoration (as confirmed by the Implementation Funding Agreement), consistent with the requirements of Section 2.02(a) of the IDA. In addition, CARCD has retained the Cachuma Resource Conservation District (CRCD) and Mauricio Gomez of South Coast Habitat Restoration (SCHR) for assistance with implementation of the Creek Restoration Plan. CARCD, CRCD and SCHR have expended \$268,000 of the \$300,000 to implement the Creek Restoration Plan to-date (accounting information received from CRCD via email on March 29, 2021). The funds expended were used for the following activities: site visits with team members (CRCD, SCHR staff, engineers, landowners and representatives); communication with various team members and interested parties (CRCD ED, SCHR staff, engineers, SB County Planning, landowners and representatives); grant research and writing to support the successful receipt of a CDFW grant for Dos Pueblos Creek Restoration; and, communication with landowners/managers on potential projects to transfer funding; surveying, mapping, modeling; and, concept level planning.

The Developer is required to offer all reasonable assistance to aid in implementation of creek restoration as outlined in the IDA. In addition to providing the funds and entering into an

agreement with CARCD, as discussed above, the developer has provided all reasonable assistance to support implementation of the Creek Restoration Plan. This assistance is detailed in an email dated March 27, 2021 (Stanley Lamport to Nicole Lieu) and in letters submitted by the Developer from 2015-2020 regarding the Periodic Review. To support implementation during the 2014-2019 review periods, the Developer:

- Coordinated with property owners to ensure access to Dos Pueblos Creek and surrounding areas for purposes of preparing a creek restoration plan;
- Provided a tour of Dos Pueblos Creek and the water system;
- Funded peer review of the Dos Pueblos Creek Restoration Plan by the County's consulting biologist;
- Helped to coordinate updates to the Dos Pueblos Creek Restoration Plan recommended by the County's consulting biologist;
- Coordinated with the Santa Barbara Land Trust regarding their potential involvement in the project;
- Hired Dudek Consultants to perform additional hydrologic, geomorphic and aquatic resource field evaluations in Dos Pueblos Creek;
- Coordinated with the owners of Dos Pueblos Ranch north and south about obtaining their consent to implementation of the Creek Restoration Plan and recordation of the Agricultural Conservation Easements;
- Facilitated multiple meetings with CRCD and SCHR and the owners of Dos Pueblos Ranch;
- Facilitated a meetings with CRCD, SCHR and hydrogeological consultants;
- Arranged to have CRCD and SCHR attend a meeting of the holders of the water rights in Dos Pueblos Creek to discuss implementing the Creek Restoration Plan;
- Coordinated meetings with the landowners and the restoration team to go over logistical issues and to assist the restoration team in securing grants to implement the Creek Restoration Plan (supporting the receipt of a grant in the amount of \$222,104 from the California Department of Fish and Wildlife's Proposition 1 Watershed Restoration Grant Program); and,
- Facilitated 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.

During the 2020 Periodic Review Period, the Developer responded to inquiries from Santa Barbara County Planning and Development and made themselves available as a resource to CRCD and SCHR.

Therefore, based on documents referenced above regarding implementation of the Creek Restoration Plan, including the specific facts presented in the letter from Cox, Castle & Nicholson on behalf of Standard Portfolios dated January 29, 2021, and the accompanying supporting documentation, I find the Developer to currently be in good-faith compliance with the terms of the Agreement.

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Because the Dos Pueblos Creek Restoration, Maintenance and Monitoring Plan was not fully implemented within five years of the Effective Date of the Agreement, under the terms of the agreement between the Developer and CARCD, CARCD is required to implement an alternative creek restoration project. The Developer is required to offer all reasonable assistance to accomplish this outcome.

Please contact me at (805) 568-2085 or Nicole Lieu at (805) 884-8068 should you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Plowman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lisa Plowman
Director

c:

Nicole Lieu, Senior Planner

Jeff Wilson, Assistant Director

Travis Seawards, Deputy Director

Alex Tuttle, Supervising Planner

Standard Portfolios, C/O Judy Chow, 1250 Mountain View Circle, Azusa, CA 91702

Mr. Peter Umoff for SBRHC Inc. Seed Mackall LLP 1332 Anacapa Street, Suite 200

Santa Barbara, CA 93101