



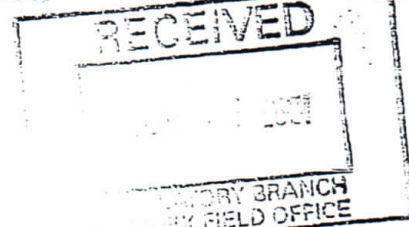
Jane Dee Hull
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Jacqueline E. Schafer
Director



May 16, 2001

Applicant: **Tierra Rica Development, Inc.**
Attn: Harlyn Griffiths
P.O. Box 11313
Casa Grande, Arizona 85230

Agent: Coen Engineering
Attn: S. Daniel Coen, P.E., RLS
879 North Plaza Drive, #F101
Apache Junction, Arizona 85220

Subject: **CWA 401 Water Quality Certification for: Las Montanas, (Sections 29 and 30, T5S, R7E), Pinal County, Arizona, U.S. Army Corps of Engineers Public Notice/Application No. 2000-01207-SDM**

Dear Mr. Griffiths:

The Arizona Department of Environmental Quality (ADEQ), Water Quality Division, has reviewed information submitted for water quality certification pursuant to Section 401 of the Clean Water Act for Las Montanas, a residential subdivision. Section A of this document describes the activities to be certified. The references listed in Section B were used as the basis for certification. Section C lists the Approval Conditions.

ADEQ's review has determined that when the applicant adheres to the Conditions in Section C.1 through C.9, the certified activities should comply with State surface water quality standards. Subject to these conditions, this letter certifies that the activities in the Las Montanas development should not have a negative impact to the chemical, physical or biological integrity of jurisdictional waters of the U.S. (WUS).

A. DESCRIPTION OF ACTIVITIES TO BE CERTIFIED

1. The proposed Las Montanas subdivision is a 700 acre development consisting of 305 homes and 155 acres of natural open space in Pinal County (Figure 3).
2. The Las Montanas development will require the discharge of dredged and/or fill material for the construction of five at grade concrete road crossing (with utilities buried under the roadway). The project will maintain where appropriate, linkage and natural pathways between open space areas in order to support the existing wildlife habitat. The activities will impact approximately 0.269 acres of unnamed ephemeral washes.

3. Fill material will consist of onsite native soils, rock, concrete and other construction materials.

B. BASIS FOR CONDITIONAL STATE 401 WATER QUALITY CERTIFICATION

1. State of Arizona Water Quality Standards for Surface Waters, Arizona Administrative Code (A.A.C.) Title 18, Chapter 11, Section 108, Narrative Water Quality Standards, Section 109 Numeric Water Quality Standards, Appendix A. Designated Uses include: **Aquatic and Wildlife, ephemeral (A&We) and Partial Body Contact (PBC)** (A.A.C. R18-11-104, Appendix B).
2. ADEQ Water Quality Division Form 404-015, CWA 401 Certification Application signed May 4, 2001, and received by ADEQ on May 14, 2001 from Harlyn Griffiths representing Tierra Rica Development, Inc. Additional documents submitted with the application include the following:
 - a. Applicant's Response to ADEQ Policy for Protecting Water Quality During Facility Construction.
 - b. Description of Activity.
 - c. Narrative Report For "Las Montanas" Subdivision, Pinal County, Arizona, prepared by Coen Engineering, April 2, 2001.
 - d. Maps, design drawings and aerial photos.
3. U.S. Army Corps of Engineers Public Notice/Application No. 2000-01207-SDM Comment period May 1, 2001 through May 15, 2001, downloaded from the L.A. District's website April 30, 2001.

C. CONDITIONS FOR STATE 401 WATER QUALITY CERTIFICATION

This State Water Quality Certification is issued by the ADEQ under the authority of Section 401(a) of the federal Clean Water Act (33 U.S.C. §1251 et seq.). The conditions listed below are in addition to conditions in CWA 404 Permit No. 2000-01207-SDM issued by the U.S. Army Corps of Engineers (ACOE). These conditions are enforceable by the U.S. Environmental Protection Agency and ACOE. Civil penalties up to a maximum of \$25,000 per day of violation may be levied if these certification conditions are violated. Criminal penalties may also be levied if a person knowingly violates any provision of the federal Clean Water Act. The following conditions are in addition to any special conditions developed by the ACOE for 404 Permit No. 2000-01207.

1. General Conditions

- a. This Certification is only for the activities described in Section A of this Certification for 0.269 acres of impact to WUS within the Las Montanas development and is valid for the same period as the ACOE 404 permit. If project construction has not been started by the time specified in the ACOE 404 permit, the applicant shall notify as follows:

Arizona Department of Environmental Quality
Water Quality Division
Federal Permits and Program Development Unit
Attention: Surface Water Quality 401 Certification
3033 North Central Avenue, Phoenix, Arizona 85012
ADEQ File No. 4779, ACOE PN# 2000-01207-SDM

ADEQ will have the option of extending, modifying or denying this Certification.

- b. The applicants shall provide a copy of these State 401 Water Quality Certification Conditions to all appropriate contractors and subcontractors. The applicant shall also post a copy of these conditions in a water resistant location at the construction site where it may be seen by the workers.
- c. This Certification is void if the construction is not consistent with the activities described in Section A of this Certification.
- d. Tierra Rica Development, Inc. is responsible for the construction and maintenance of the project and any adverse cumulative impacts that it may cause.

2. Necessary Permits

Tierra Rica Development, Inc. is responsible for obtaining all other permits, certifications and licenses that may be required by federal, state or local authorities. Activities which may require other approvals include: construction activities disturbing greater than five acres of land [NPDES Stormwater Permit], use of reclaimed wastewater for dust control or irrigation [Reclaimed Water Permit], or dewatering of construction sites to a surface waterbody [NPDES Process Wastewater Permit].

3. Erosion Protection Measures

- a. Erosion control and/or bank protection features (e.g., silt fences, straw bales, rip-rap, or mulching) shall be used, where appropriate, to minimize channel or bank erosion and soil loss. These features shall be maintained, as necessary, during pre-construction and construction periods. Denuded areas shall be revegetated as soon as possible with native plants and seed.
- b. All pipe outlets and box culverts shall have end sections or headwalls that dissipate the water's energy to control erosion.
- c. If construction operations are likely to create an erosion problem, operations shall cease until the problem is resolved or until reasonable control measures have been undertaken.
- d. Earthen fill placed in locations subject to scour shall contain not more than ten percent (10%) of particles finer than 0.25 mm diameter (passing a No. 60 sieve, on a dry weight basis).
- e. Upon completion of construction, the work area shall restore or maintain the stability of upstream and downstream segments of washes with respect to erosion and sedimentation.

4. Contaminated Soils and Materials

- a. The permittee is responsible for ensuring construction material and/or fill, placed within the ordinary high water mark (OHWM), is free from substances that can cause or contribute to pollution of a surface water.
- b. Debris (such as soil, silt, sand, rubbish, cement, asphalt, oil or petroleum products, organic materials, tires or batteries) derived from construction activities shall not be deposited at any site where it may be washed into WUS and shall be properly disposed of after completion of the work.
- c. If water, other than reclaimed wastewater, is used for dust suppression, it shall not contain contaminants that could violate Surface Water Quality Standards.

5. Chemicals and Materials Handling

- a. The permittees shall use designated areas for chemical and petroleum storage, solid waste containment, and equipment washing. These designated areas shall be located entirely outside of jurisdictional waters.
- b. The permittees shall have a spill containment plan and an equipment maintenance plan available on site at all times.

6. Runoff

Runoff and seepage from roadways, embankments and other alterations of the natural environment shall not cause a violation of Water Quality Standards.

7. Conditions Related to Flow Events

- a. Work shall be performed during low water conditions when the area is naturally dewatered. When there is water flow within the construction area, construction activity shall cease and construction equipment relocated outside the watercourse.
- b. Building pads which have been created by converting wash areas to dry land shall not be located within jurisdictional waters after completion of construction except as allowed by the 404 Permit. To the extent that pads are located in washes, provisions will be made to convey stormwater around the pads.

8. Construction Related Activities

- a. Construction materials, including concrete, asphalt, and piping, shall consist of materials that do not leach pollutants into surface waters. Activities shall be conducted and monitored to ensure that pollution from concrete formation and equipment washing does not drain into the washes.
- b. Only concrete shall be used in at grade roadway crossings of jurisdictional waters.
- c. After construction, the work area and all disturbed areas along the bank and streambed shall be restored to an environmentally acceptable condition.

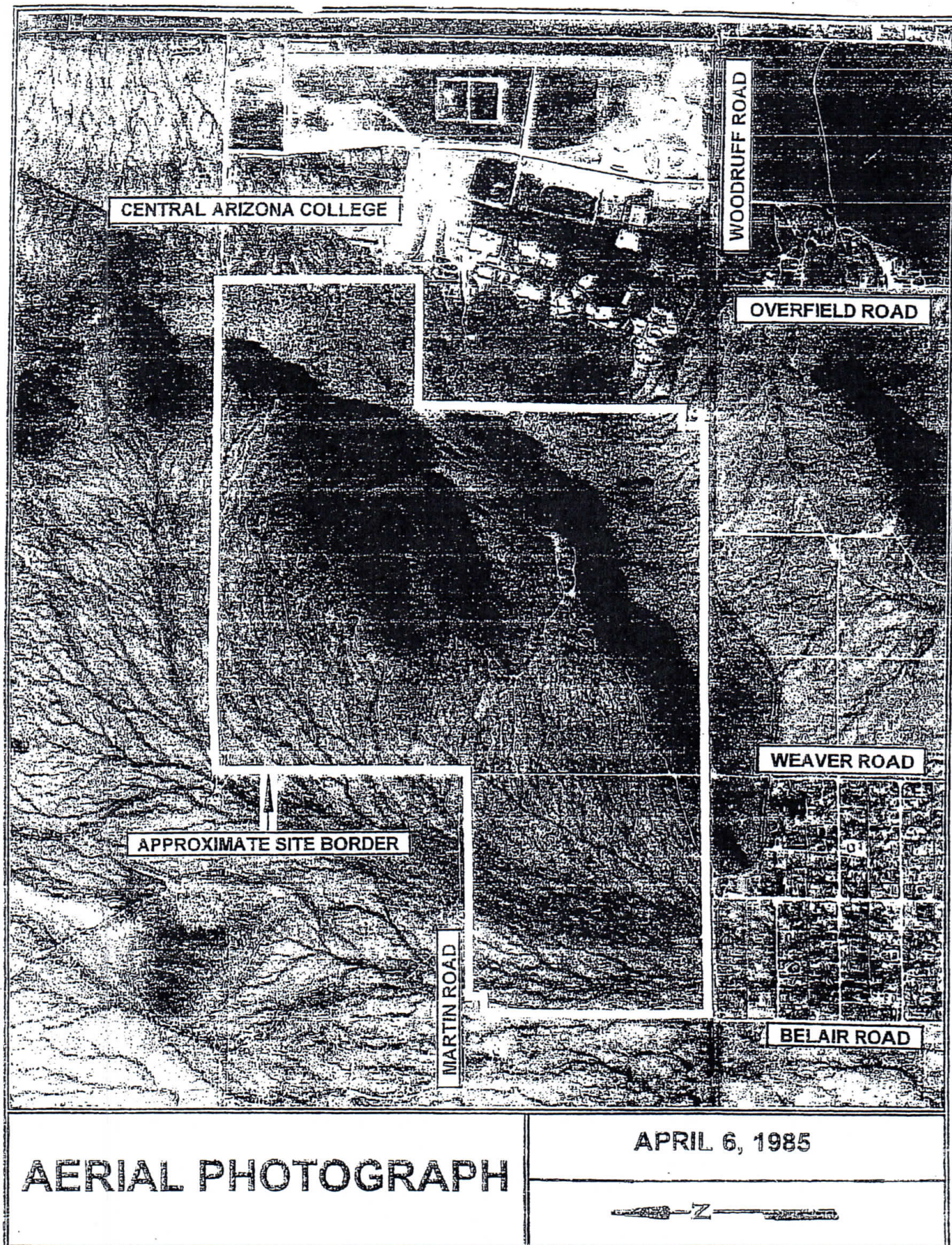


FIGURE - 3

shall be removed from and properly disposed of outside the OHWM.

- d. Rip-rap shall be washed outside of the OHWM of jurisdictional waters prior to placement to remove fines which may cause or contribute to a violation of the turbidity and/or narrative standards.

9. Standard Issues

Any discharge occurring as a result of activities certified for the construction of the Las Montanas development shall not cause a violation of Surface Water Quality Standards. Applicability of this condition is as defined in R18-11-102 of A.A.C.

ADEQ CWA 401 Water Quality Certification of these activities to operate under the terms of the ACOE Individual CWA 404 Permit does not affect or modify in any way the obligations or liability of any person for any damages, injury, or loss, resulting from an impacted area discharge. The Department may modify or withdraw its determination if the information relied upon is inaccurate or not implemented as proposed. If, in the future, the Department determines that the terms and conditions of the Certification have been violated, or discharges from the activities have caused or contributed to a violation to the surface water quality standards, the Director may revoke the Certification. This Certification is not intended to waive any other federal, state or local laws.

Thank you for your cooperation and efforts to protect our finite and precious water resources.

Sincerely,

Authorized ADEQ Signature:

Michele Robertson
Michele Robertson, R.G.
Water Permits Section Manager
Water Quality Division

5-25-01
Date

Enclosure: Figure 1 (1 page)

cc: U.S. Army Corps of Engineers, Regulatory Branch, Attn: Sallie D McGuire, (2000-01207-SDM), 3636 North Central Avenue, Suite 760, Phoenix, Arizona 85012
Mr. Tim Vendlinski, Manager, Wetlands Regulatory Office, USEPA (WTR-8)