
Santa Ana Regional Water Quality Control Board

October 1, 2019

Ms. Marie Luna
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Planning Division
City of Lake Forest
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Lake Forest, CA 92630

Governor's Office of Planning & Research

SEP 30 2019

STATE CLEARINGHOUSE

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DRAFT ENVIRONMENTAL IMPACT REPORT, NAKASE NURSERY/TOLL BROTHERS PROJECT, SOUTH OF THE INTERSECTION OF RANCHO PARKWAY AND BAKE PARKWAY, CITY OF LAKE FOREST, SCH # 2018071035

Dear Ms. Luna:

Staff of the Regional Water Quality Control Board, Santa Ana Region (Regional Water Board) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed "Nakase Nursery/Toll Brothers Project" (Project) in the Serrano Creek watershed in the City of Lake Forest. The 124.6-acre project is bounded on three sides by Bake Parkway, Rancho Parkway and Serrano Creek. The fourth (southwest) side is bounded by a tract of commercial property adjacent to Dimension Drive.

Project Description

The Project proposes the approval of the "Nakase Property Area Plan" which would facilitate the development of the 122-acre Project site as a master-planned community. The Project site is currently operated as a wholesale nursery. The Project would change the zoning of the site from "Agriculture" to "Planned Community." The Area Plan would establish guidelines for the future development of the planned community, which would consist of up to 675 single-family residential units (contained in 5 distinct neighborhoods), 101 affordable housing units for senior citizens, an elementary school, parks and open space, and an internal traffic circulation system.

The Project would have the following impacts on waters of the United States that are subject to the jurisdiction of the Regional Water Board:

1. The Project would permanently eliminate 0.92 acres of an intermittent stream channel that is currently the main drainage feature for the site. The channel would be replaced by an underground concrete pipe.
2. The Project would permanently eliminate 0.07 acres of an ephemeral drainage at the southwestern perimeter of the site.
3. The Project would temporarily impact 0.01 acres of Serrano Creek which borders the site to the southeast.

The Project proposes to mitigate these impacts through a minimum 1:1 mitigation within a 4.19-acre riparian vegetation zone adjacent to the existing riparian canopy of Serrano Creek. The riparian vegetation zone currently consists of an area of upland within the Nakase site boundary.

Comments on the DEIR

1. Page 4.4-2, Existing Environmental Setting: *"A water quality treatment ditch designed to infiltrate flows from nursery operations prior to leaving the Project site bisects the site and is routinely maintained free of vegetation."*

The term "water quality ditch" to describe the interior drainage channel that bisects the site is inappropriate. The ditch is generally coincident with a pre-existing ephemeral wash. This natural drainage feature is marked on the USGS's 1949 "El Toro" topographic quadrangle map (scale 1:24000) with a dashed blue line extending through the orchard that predated Nakase nursery. After passing through the orchard, the drainage joins Serrano Creek downstream at the current junction of Serrano Creek and County RCP/channel F19S02.

This same ditch is referred to later in the hydrology and water quality section as *"an on-site natural and partly paved drainage system"* (page 4.10-2) and appears to coincide with one of the "three distinct canyons" mentioned on page 4.7-2 in Section 4.7 (Geology and Soils).

2. Page 4.4-2; Existing Environmental Setting:
 - a. Beneficial Uses: The water quality control plan for the Santa Ana River Basin (Basin Plan) has established the following beneficial uses for Serrano Creek on an intermittent basis: warmwater aquatic habitat (WARM), wildlife habitat (WILD), primary and secondary contact recreation (REC-1 and REC-2), and groundwater recharge (GWR). These beneficial uses apply to tributaries of Serrano Creek, including the Nakase property's interior drainage channel, unless a use attainability analysis has been performed. Replacement of the interior drainage channel with an underground concrete pipe will eliminate these uses.
 - b. Groundwater Recharge: Based on the site's monthly inflow and outflow data as reported by Nakase Nursery, some of the site's incoming flow is probably from urban runoff, but additional contributions from springs are possible.

According to these data, this inflow volume is greater than that of the dry weather runoff leaving the nursery and a significant fraction of the flow entering the property infiltrates into the ground within the interior drainage channel. Based on a complete dataset collected over the past six years (2013-18), net infiltration has averaged about 10.6 million gallons per year (33 acre-feet/year).

3. Page 4.4-28: Threshold 4.4.3 relates to substantial adverse effects on federally protected wetlands as defined by Section 404 of the Clean Water Act. The text states that the interior drainage channel ("water quality ditch") will be entirely removed, but that it does not support riparian vegetation "*or provide habitat to plant or wildlife species beyond what adjacent uplands provide.*" This statement appears to exclude benthic macroinvertebrates (BMI) that almost certainly are found in the interior drainage channel. Regional Water Board staff has been conducting a bioassessment program in the Santa Ana River Basin since 2006 and has yet to find a stream that does not contain BMIs. Even intermittent and ephemeral streams are expected to support BMI communities (e.g. see Mazor et al.; 2019: *Assessing the biological condition of dry ephemeral and intermittent streams*. SCCWRP Technical Report No. 1089). The interior drainage channel receives perennial flow from upstream areas, although, as described above, this flow typically infiltrates before exiting the Nakase property. The Basin Plan protects aquatic biological communities including BMIs through, in part, a narrative water quality objective regarding biological degradation (see page 4-6 of the Basin Plan).
4. The DEIR proposes 4.19 acres of riparian habitat along Serrano Creek as Mitigation Measure 4.4.8, to address impacts under Threshold 4.4.3 (substantial adverse effect on federally protected wetlands): "*The proposed Project would remove a 0.99 ac (4,078 linear feet) portion of the existing 1.28 ac (4,971 linear feet) of RWQCB jurisdiction.*"
 - a. The proposed mitigation does not address the loss of soft-bottom streambed habitat currently present in the interior drainage channel nor does it address the lost GWR and WARM beneficial uses. Regional Water Board staff suggest the Project propose additional mitigation to account for the elimination of these beneficial uses.
 - b. The Project maps indicate that about 40 homes with lots that back up to the project perimeter along Serrano Creek will be built. The DEIR needs to assess whether fire codes/ fuelwood management requirements to protect these homes will affect riparian vegetation along Serrano Creek, both the currently existing black willow forest community and the riparian vegetation to be established in the adjacent proposed mitigation strip. Figure 4.19.3 "Fuel Modification Plan" designates the entire [riparian mitigation] zone bordering Serrano Creek as a "Special Maintenance Area (SMA) – Wet Zone with maintenance requirements to reduce the chances of ignition from wildfires. Requirements specified in the SMA include irrigation, plant type, ground cover, removal of dead/dying specimens and branches, and limited use of native grasses. These restrictions diminish the value of the proposed

mitigation for this Project; additional mitigation should be proposed to adequately compensate for the 0.99 acres of aquatic resources subject to Regional Water Board jurisdiction that will be removed by the Project.

5. Page 4.10-21: SARWQCB Groundwater Dewatering Permit: Correct the text to read that Order No. R8-2007-0041 was amended by Order No. R8-2009-0045. (Note that Order No. R8-2007-0041 will be replaced in December 2019 by draft Order No. R8-2019-0061, which is currently under review by U.S. EPA staff).
6. CWA Section 401 Water Quality Certification: The Regional Water Board cannot issue a final CWA §401 certification for the project until we have reviewed the final EIR. A denial without prejudice will be issued if the final EIR is not received before the end of the 60-day review period for the CWA §401 certification. However, Regional Water Board staff will prepare a draft certification in the interim. As noted above, issuance of the CWA §401 certification will likely require additional mitigation measures beyond those identified in the DEIR.
7. Appendix I: Preliminary Hydrology Analyses Report, Page i:
 - a. Please include a standard Table of Contents with using generally accepted numbering formats with the correct page numbers. If the hundreds of pages of computer printout are supposed to be part of Sections 2, 3, and 4 then they need to be numbered accordingly. Otherwise these printouts should be in an appendix and the key results should be discussed in the text. Please include a list of tables and list of figures so readers can easily find the exhibits discussed in the text. In addition, Exhibits (figures) need to be labeled consecutively and the page number where they can be found needs to be listed.
 - b. Please provide a reference for the computer program (Advanced Engineering Software) in the text along with some discussion of the appropriateness of the Rational Method for this Project.
 - c. Please list the assumptions and limitations of this computer program with respect to the Nakase Project, including the size of the drainage area that can be reliably modeled by the Rational Method (the computer program printout refers to the Rational Method). Some of this information is provided at the beginning of each computer printout but this information needs to be presented and explained clearly in the text.
 - d. Please provide the volume of the proposed underground detention basin.
8. Appendix I: Preliminary Hydrology Analysis Report, Page 5 – A figure needs to be included that shows the locations of the nodes used in the computer program and referenced on this page (e.g. add the key nodes to Exhibit 5 or Exhibit 6 and place this figure in the text before the hundreds of pages of computer printouts).
9. Appendix I: Preliminary Hydrology Analysis Report, Page 11 – Is the conclusion based on the assumption that the underground detention basin will have 100 percent capacity prior to all storm events? What safety margin is needed to account for lower initial capacity due to sediment accumulation that cannot be removed in time for the next storm event?

10. As noted in our comment letter on the Notice of Preparation (dated August 15, 2018) increased peak flows due to urban development have already destabilized Serrano Creek downstream of the Nakase Project and necessitated costly restoration projects funded in part by the State of California. It is essential, therefore, that the proposed underground detention basin be adequately sized to meet the requirements for new developments specified in Section XII of the Areawide Urban Stormwater Runoff Permit for Orange County (Order No. R8-2009-0030). A large margin of safety may be needed to address the likelihood that the underground detention basin will be at less than 100 percent capacity during the multi-day storm events that characterize the most damaging storms in this region.
11. Appendix I: Preliminary/Conceptual Draft Water Quality Management Plan (WQMP), Section V, page 32 - The final WQMP should emphasize that sediment and debris removal must occur as soon as possible after each qualifying storm event in order to ensure 100 percent capacity prior to the next storm event.

If you have any questions, please contact Doug Shibberu of my staff at doug.shibberu@waterboards.ca.gov

Sincerely,



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