

California Regional Water Quality Control Board, San Diego Region

July 7, 2016

Certified Mail – Return Receipt Requested

Article Number: 7011 0470 0002 8952 8165

Mr. Stephen Haase
USA Portola Properties, LLC
610 West Ash Street
Suite 1500
San Diego, CA 92101

**In reply/refer to:
R9-2013-0113:795519:dbradford**

Subject: Amendment No. 2 to Clean Water Act Section 401 Water Quality Certification No. R9-2013-0113 for the Portola Center Project

Mr. Haase:

Enclosed find Amendment No. 2 (Certification Amendment) to Clean Water Act Section 401 Water Quality Certification No. R9-2013-0113 (Certification) issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) in response to an amendment request submitted by USA Portola Properties, LLC for the Portola Center Project (Project). The Certification Amendment shows changes in underline/strikeout format to indicate added and removed language. A complete copy of both the Certification and Amendment No. 1 is located on the San Diego Water Board Website at:

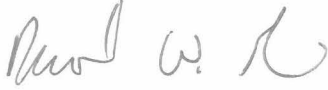
http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/401_certification/docs/projects/2013/R9-2013-0113.pdf

http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/401_certification/docs/projects/2013/R9-2013-0113_Amendment_1.pdf

Failure to comply with Water Quality Certification No. R9-2013-0113 and addenda may subject USA Portola Properties, LLC to enforcement actions by the San Diego Water Board including administrative enforcement orders requiring USA Portola Properties, LLC to cease and desist from violations or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and/or referral to the District Attorney for criminal prosecution.

In the subject line of any response, please include reference number 795519:dbradford. For questions or comments, please contact Darren Bradford by telephone at (619) 521-3356 or by email at darren.bradford@waterboards.ca.gov.

Respectfully,



DAVID W. GIBSON
Executive Officer

Enclosure:

Amendment No. 2 to Clean Water Act Section 401 Water Quality Certification No. R9-2013-0113 for the Portola Center Project

DWG:jgs:eb:dlb

cc:

U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
Corice Farrar
Corice.J.Farrar@usace.army.mil

California Department of Fish and Game
South Coast Region
Habitat Conservation Planning – South
Kevin Hupf
Kevin.Hupf@wildlife.ca.gov

U.S. EPA, OWOW, Region 9
R9-WTR8-Mailbox@epa.gov

State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

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Tech Staff Info & Use	
Certification No.	R9-2013-0031
Party ID	251069
File No.	R9-2013-0031
WDID	9000002616
Regulatory ID	391014
Place ID	795519
Person ID	534961

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

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<http://www.waterboards.ca.gov/sandiego/>

**Amendment No. 2 to Clean Water Act Section 401
Water Quality Certification No. R9-2013-0113**

**PROJECT: Portola Center
Certification Number R9-2013-0113
WDID: 900002616**

Reg. Meas. ID: 391014 Place ID: 795519 Party ID: 251069 Person ID: 534961
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**APPLICANT: USA Portola Properties, LLC
610 West Ash Street, Suite 1500
San Diego, CA 92101**

On July 3, 2014, Clean Water Act Section 401 Water Quality Certification No. R9-2013-0113 (Certification) was issued to USA Portola Properties, LLC (Applicant) for the Portola Center Project (Project). On January 16, 2015, Clean Water Act Section 401 Water Quality Certification No. R9-2013-0113 (Certification) was amended to allow more time to complete a preservation mechanism that will protect the mitigation areas and change the due dates of the Annual Project Progress Reports and Annual Compensatory Mitigation Monitoring Reports (Annual Reports).

By email dated June 6, 2016, Vipul Joshi, on behalf of the Applicant, requested the Certification be amended a second time to allow an additional 6 months to complete a preservation mechanism that will protect the mitigation areas.

Based on the Applicant's request, the San Diego Water Board is amending the Certification. Except as modified or superseded by the Certification modifications set forth below, all of the findings, provisions and other requirements of Certification No. R9-2013-0113 remain in full force and effect. The following changes are made to Certification No. R9-2013-0113 and are shown in underline/strikeout format to indicate added and removed language:

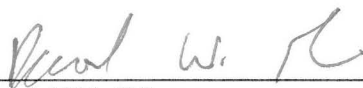
1. Page 14, PROJECT IMPACTS AND COMPENSATORY MITIGATION condition V.I is modified as follows:

Mitigation Site(s) Preservation Mechanism. Within 60 days from the start of Project construction, the Applicant must provide the San Diego Water Board a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. **Within ~~one-year~~ eighteen (18) months of the start of Project construction**, the Applicant must submit proof of a completed final preservation mechanism that will protect all mitigation areas and their buffers in perpetuity. The conservation easement, deed restriction, or other legal limitation on the mitigation properties must be adequate to demonstrate that the sites will be maintained without future development or

encroachment on the sites which could otherwise reduce the functions and values of the sites for the variety of beneficial uses of waters of the United States and/ or State that it supports. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the sites. The preservation mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.

Notification: Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with the California Code of Regulations, title 23, sections 3867 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Certification Amendment. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Amendment No. 2 to Certification No. R9-2013-0113 issued on July 7, 2016.



David W. Gibson
Executive Officer
Regional Water Quality Control Board

7 July 2016
Date