



# CERTIFICATION

STATE OF ARIZONA  
Clean Water Act §401 Water Quality Certification  
U.S. Army Corps of Engineers File No.: SPL-2016-00852-MWL  
ADEQ LTF No.: 71711

## 1. AUTHORIZATION

This State Water Quality Certification (WQC) is issued by the Arizona Department of Environmental Quality (ADEQ) under the authority of §401(a) of the Federal Clean Water Act (CWA) (33 U.S.C. §1251 et seq.) and Arizona Revised Statutes (ARS) §49-202.

The conditions listed in Section 5 are in addition to conditions in the pending U.S. Army Corps of Engineers (USACE) Application No. SPL-2016-00852-MWL. These conditions are enforceable by the USACE and are subject to civil penalties if violated. Criminal penalties may also be levied if a person knowingly violates any provision of the CWA.

Subject to the conditions in Section 5, ADEQ certifies that based on the information in Section 3, the activities proposed for the Ina and Silverbell Gateway Project will not violate applicable Surface Water Quality Standards (SWQS).

Pursuant to ARS 49-202C, ADEQ's review authority extends only to activities occurring within the ordinary high water mark of Waters of the U.S. (WUS). Not all of the project elements involve discharges of dredged or fill material to WUS requiring a §401 WQC.

## APPLICANT INFORMATION

Project Name: Ina and Silverbell Gateway Project  
Latitude: 33° 20' 37.18" Longitude: 111° 05' 23.78"

Applicant: Prestwick Properties, LLC  
Douglas Kennedy  
2965 N Calle Ladera  
Tucson, AZ 85715

## AUTHORIZING SIGNATURE

\_\_\_\_\_  
Christopher Henninger  
Water Quality Division  
Arizona Department of Environmental Quality

\_\_\_\_\_  
Date  
Reading file: SWGP18-0167

## 2. DESCRIPTION OF ACTIVITIES TO BE CERTIFIED

The Ina and Silverbell Gateway project consists of approximately 18.9 acres of undeveloped land located between Silverbell Road on the west and a levee along the Santa Cruz River on the east. A large stormwater drainage channel and culvert that discharges into the Santa Cruz River abuts the northern boundary; an earthen levee borders the southern boundary of the site. The project area is bisected by two braids of Yuma Mine Wash that flow through large box culverts under Silverbell Road before discharging into the Santa Cruz River. Yuma Mine Wash is an ephemeral drainage that flows across the site in wide eroding channels, and then is diverted to a culvert under a levee where it discharges into the Santa Cruz River, located east of the project area. The project site contains a total of 1.11 acres of WOUS.

The project consists of new multi-family residential housing and related infrastructure that is consistent with the Town of Marana's Silverbell Gateway Specific Plan adopted by the Town of Marana in 2014. Project development would include the following activities:

- drainage improvements such as channelizing Yuma Mine Wash;
- cut and fill mass grading;
- pad fill grading, foundation work;
- construction of driveways and access roads;
- installation of wet and dry utilities;
- vertical construction of apartment buildings; and
- landscaping

Approximately 0.88 acre of WOUS would be filled to develop the proposed project. Approximately 0.23 acre of WOUS would be avoided. The two braids of Yuma Mine Wash would be diverted into concrete-lined stormwater channels that would be designed to convey runoff from a 100-year storm event.

One channel would capture and carry stormwater north along the east side of Silverbell Road then turn east along the northern property boundary and discharge into the existing culvert under the levee located on the west bank of the Santa Cruz River. The other channel would convey stormwater along the southern boundary of the site, discharge into the natural channel along the levee which flows into the same culvert under the west bank of the Santa Cruz River.

## 3. INFORMATION REVIEWED

During the development of this WQC, ADEQ had access to and reviewed the following documents which are on file with ADEQ:

- A. U.S. Army Corps of Engineers (USACE), Los Angeles District Public Notice: SPL-2016-00852-MWL for the Ina and Silverbell Gateway project; comment period October 18, 2017 – November 17, 2017.
- B. CWA §401 WQC application package including the CWA §404 permit application with project descriptions and maps, dated May 31, 2018. Permittee: Douglas Kennedy, Prestwick Properties, LLC.

- C. State of Arizona Surface Water Quality Standards (SWQS), Arizona Administrative Code (A.A.C.) Title 18, Chapter 11, Article 1. Designated uses for the ephemeral washes are: Aquatic and Wildlife warm (A&Wedw), and Partial Body Contact (PBC).

#### **4. NOTIFICATION PROVISIONS**

For any correspondence regarding this project, the ADEQ mailing address is:  
Arizona Department of Environmental Quality  
Rosi Sherrill  
Surface Water Section / 401 WQCs / mailstop 5415A-1  
1110 West Washington Street  
Phoenix, Arizona 85007

For questions or general comments:  
Email: ls7@azdeq.gov

Voice: (602) 771-4409

In any correspondence, reference:  
Ina and Silverbell Gateway Project  
USACE File No.: SPL-2016-00852-MWL  
ADEQ LTF No.: 71711  
Reading file: SWGP18-0167

#### **5. CONDITIONS FOR STATE 401 WATER QUALITY WQC**

For the purposes of this WQC the following definitions apply:

- Waters of the U.S. (WUS) as defined by the USACE and U.S. Environmental Protection Agency (EPA) under the Clean Water Act. This WQC applies only to activities within a WUS.
- Fill material means soil, sand, gravel and other natural materials that are similar in physical, chemical and biological composition to existing natural materials in the project area and which are free from pollutants in quantities and concentrations that can cause or contribute to an exceedance of applicable Surface Water Quality Standards (SWQS).

##### **GENERAL CONDITIONS**

1. ADEQ's §401 WQC of these activities proposed by the applicable 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 these activities. This WQC is not intended to waive any other federal, state or local laws.
2. If monitoring, by ADEQ or others, indicates that a discharge from the certified activities results in a violation of Arizona's surface water quality standards (numeric or narrative), ADEQ may file a Report of Potential Unauthorized Activity with the USACE, requesting an investigation of the situation.

3. Issuance of a §401 WQC does not imply or suggest that requirements for other permits including, but not limited to Aquifer Protection Permits, Arizona Pollutant Discharge Elimination System Permits, Construction General Permits, De Minimis Permits and Reclaimed Water permits are met or superseded. Applicant should contact ADEQ to ensure all applicable permits are obtained.
4. This WQC applies only to the activities described in Section 2 and is based upon the information listed in Section 3. This WQC is valid for the same period as the CWA §404 permit issued by the USACE. The applicant must apply for renewal, modification or extension of this WQC if the CWA§404 permit is renewed, modified, extended or otherwise changed. This WQC may be reopened by ADEQ at any time due to a change (e.g., lowered or more stringent) in a SWQS for a parameter likely to result from project activities. ADEQ may add or modify conditions in this WQC to ensure that the applicant's activities comply with the most recent SWQS.
5. The applicant shall provide a copy of this WQC to all appropriate contractors and subcontractors. The applicant shall also post and maintain a legible copy of this WQC in a weather-resistant location at the construction site where it may be seen by the workers.
6. The applicant shall notify ADEQ within 30 days of submitting the notice of completion of work required by the CWA §404 permit for this activity.
7. The applicant is responsible to ensure that certified activities do not cause or contribute to any exceedances of SWQS in any WUS.
8. This WQC does not authorize the discharge of mining, construction or demolition wastes, wastewater, process residues or other potential pollutants to any WUS except as specified in the application, supporting documents, and/or in the CWA §404 permit.

### **SPECIFIC CONDITIONS**

Except as specified in the application and supporting documents, including those documents referenced in Section 3, and allowed in the CWA §404 permit, the following specific conditions apply:

#### **Erosion Prevention and Hydraulic Alterations**

9. Clearing, grubbing, scraping or otherwise exposing erodible surfaces shall be minimized to the extent necessary for each construction phase or location.
10. Dredged or fill material shall be placed so that it is stable, meaning after placement, the material does not show signs of excessive erosion. Indicators of excess erosion include: gulying, head cutting, caving, block slippage, material sloughing, etc. Material shall not discharge (e.g., via leaching, runoff) pollutants into streams or wetlands.
11. Erosion control, sediment control and/or bank protection measures shall be installed before construction and pre-operation activities, and shall be maintained during

- construction and post-construction periods to minimize channel or bank erosion, soil loss and sedimentation. Control measures shall not be constructed of uncemented or unconfined imported soil, or other materials easily transported by flow.
12. The effectiveness of all pollution control measures, including erosion and sediment control measures, shall be inspected, maintained and modified (as necessary) to reduce pollutants and ensure compliance with SWQS in any WUS.
  13. Direct runoff of water used for irrigation or dust control shall be limited to the extent practicable and shall not cause downstream erosion or flooding nor cause an exceedance of applicable SWQS in any WUS.
  14. Except where the activities certified herein are intended to permanently alter any WUS, all disturbed areas within WUS shall be restored and (re)vegetated as indicated in the application documents if approved by the USACE (including offsite/in lieu mitigation). Denuded areas within WUS not intended to be permanently altered shall be revegetated as soon as physically practicable. Vegetation shall be maintained on unarmored banks and slopes to stabilize soil and prevent erosion. Fill used to support vegetation rooting or growth shall be protected from erosion.
  15. Activities herein certified shall, as much as practicable, be performed during periods of low flow (baseflow or less) in any perennial WUS, or no flow in any ephemeral or intermittent WUS. No work shall be done, nor shall any equipment or vehicles enter any WUS while flow is present, unless all conditions in this WQC are met.
  16. When flow is present in any WUS within the project area, the applicant and any contractor shall not alter the flow by any means except to prevent erosion or pollution of any WUS.
  17. Any disturbance within the ordinary high water mark of a WUS that is not intended to be permanently altered shall be stabilized to prevent erosion and sedimentation.
  18. Applicant shall take measures necessary to prevent approaches to any WUS crossing from causing erosion or contributing sediment to any WUS.
  19. The applicant shall implement control measures necessary to maintain designated used(s) in WUS both upstream and downstream of the project area.

### **Sediment Loads**

20. When flow in any WUS in the work area is sufficient to erode, carry or deposit material, activities certified herein shall cease until:
  - The flow decreases below the point where sediment movement ceases; or
  - Control measures have been undertaken: equipment and materials easily transported by flow are protected with non-erodible barriers or moved outside the flow area.
21. Silt laden or turbid water resulting from activities certified herein shall be managed in a manner to reduce sediment load prior to discharging so as not to exceed SWQS in any WUS.

22. Any washing or dewatering of fill material must occur outside of any WUS prior to placement and the rinsate from such washing shall be settled, filtered or otherwise treated to prevent migration of pollutants (including sediment) and from causing erosion to any WUS. Other than replacement of native fill or material used to support vegetation rooting or growth, fill placed in locations subject to scour must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation, or other armoring.

### **Pollution Prevention**

23. If activities certified herein are likely to cause or contribute to an exceedance of SWQS in any WUS operations shall cease until the problem is resolved or until control measures have been implemented.
24. Except as approved in the 404 permit, construction material and/or fill (other than native fill or that necessary to support re-vegetation) placed in any WUS, shall not include pollutants in concentrations that will cause or contribute to a violation of a SWQS in any WUS.

Acceptable construction materials that will or may contact water in any WUS are: untreated logs and lumber; natural stone (crushed or not), crushed clean concrete (recycled concrete); native fill; precast, sprayed or cast-in-place concrete (including soil cement and unmodified grouts); steel (including galvanized); plastic and aluminum. Other materials allowed for this project, only if placed in accordance with application and supporting documents, are mining residues including tires, waste rock, gangue and tailings. Use of other materials may be allowed, but require prior written approval from ADEQ.

25. The applicant shall erect any barriers, covers, shields and other protective devices as necessary to prevent any construction materials, equipment or contaminants/pollutants from falling, being thrown or otherwise entering any WUS.
26. Area(s) must be designated, entirely outside of any WUS, for equipment staging and storage. In addition, the applicant must designate areas, located entirely outside of any WUS, for fuel, oil and other petroleum product storage and for solid waste containment. All precautions shall be taken to avoid the release of wastes, fuel or other pollutants to any WUS.

Any equipment maintenance, washing or fueling that cannot be done offsite shall be performed in the designated area with the following exception: equipment too large or unwieldy to be readily moved, such as large cranes, may be fueled and serviced in the WUS (but outside of standing or flowing water) as long as material specifically manufactured and sold as spill containment is in place during fueling/servicing. All equipment shall be inspected for leaks, all leaks shall be repaired and all repaired equipment shall be cleaned to remove any fuel or other fluid residue prior to use within (including crossing) any WUS.

27. Upon completion of the activities certified herein, areas within any WUS shall be promptly cleared of all forms, piling, construction residues, equipment, debris or other obstructions.

28. If fully, partially or occasionally submerged structures are constructed of cast-in-place concrete instead of pre-cast concrete, applicant shall take steps using sheet piling or temporary dams to prevent contact between water (instream and runoff) and the concrete until it cures and until any curing agents have evaporated or are no longer a pollutant threat.
29. Washout of concrete handling equipment must not take place within any WUS and any washout runoff shall be prevented from entering any WUS.
30. Any permanent WUS crossings other than fords, shall not be equipped with gutters, drains, scuppers or other conveyances that allow untreated runoff (due to events equal to or lesser in magnitude than the design event for the crossing structure) to directly enter a WUS if such runoff can be directed to a local stormwater drainage, containment and/or treatment system.

### **Temporary and Permanent Structures**

31. Permanent and temporary pipes and culvert crossings shall be adequately sized to handle expected flow and properly set with end section, splash pads, headwalls or other structures that dissipate water energy to control erosion.
32. Debris shall be cleared as needed from culverts, ditches, dips and other drainage structures in any WUS to prevent clogging or conditions that may lead to washout.
33. All temporary structures constructed of imported materials and all permanent structures, including but not limited to, access roadways; culvert crossings; staging areas; material stockpiles; berms, dikes and pads, shall be constructed so as to accommodate overtopping and resist washout by streamflow.
34. Any temporary crossing, other than fords on native material, shall be constructed in such a manner so as to provide armoring of the stream channel. Materials used to provide this armoring shall not include anything easily transportable by flow. Examples of acceptable materials include steel plates, untreated wooden planks, pre-cast concrete planks or blocks; examples of unacceptable materials include clay, silt, sand and gravel finer than cobble (roughly fist-sized). The armoring must, via mass, anchoring systems or a combination of the two, resist washout.
35. No vehicles or equipment shall ford any unarmored WUS crossing when flow is present.
36. Any ford, other than fords on native material, shall be designed, and maintained as necessary, to carry the proposed traffic without causing erosion or sedimentation of the stream channel while dry or during a flow event equal to or less than the design event for the crossing.
37. No unarmored ford shall be subject to heavy-truck or equipment traffic after a flow event until the streambed is dry enough to support the traffic without disturbing streambed material to a greater extent than in dry conditions. Light vehicles (less than 14,000 pounds gross weight) are not restricted by this condition.
38. Temporary structures constructed of imported materials are to be removed no later than upon completion of the permitted activity.

39. Temporary structures constructed of native materials, if they provide an obstacle to flow, or can contribute to or cause erosion, or cause changes in sediment load, are to be removed no later than upon completion of the permitted activity.

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