



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
ARIZONA-NEVADA AREA OFFICE
3636 NORTH CENTRAL AVENUE, SUITE 900
PHOENIX, ARIZONA 85012-1939

rec'd
FEB 26 2007

REPLY TO
ATTENTION OF:

February 22, 2007

Office of the Chief
Regulatory Branch

Howard Shanker
The Shanker Law Firm
700 East Baseline Road, Building B
Tempe, Arizona 85283-1296

File Number: SPL-2003-00700-DE

Dear Mr. Shanker:

This letter is in response to information provided by you regarding activities occurring on the "Bella Terra" project site within Sections 26 & 27, T17N, R5E, Sedona, Yavapai County, Arizona. Specifically, the information you compiled was supplied by Paul D. Trotta, P.E., Ph.D.; SWCA Environmental Consultants (Bill Leibfried); and Paul A. Lindberg, Geological Engineer, at the request of the Red Rock Rural Community Association (Brian P. Myers). The information provided by you expressed concern regarding potential violation of Section 404 Clean Water Act on the Bella Terra project site. This letter summarizes actions taken by the US Army Corps of Engineers (Corps) in response to the information you have provided.

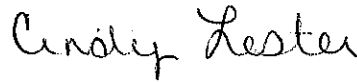
In response to receipt of the information described above, the Corps contacted BySynergy (land owner/developer of Bella Terra) and informed them that the Corps had received information regarding possible violation of Section 404 of the Clean Water Act on the Bella Terra project site. In order to begin researching the aforementioned allegation, the Corps requested BySynergy provide current project design and plat information to include all completed and proposed discharges into Section 404 jurisdictional washes on the project site. The Corps also requested BySynergy cease all activities within the Section 404 jurisdictional areas until the investigation and the alleged Section 404 violation was resolved. BySynergy provided the project information as requested and it was reviewed by this office. A site visit was conducted by my staff to investigate the concerns and allegations expressed by the Red Rock Rural Community Association, which was attended by representatives from BySynergy. The Bella Terra project site was walked, and potential discharges into Section 404 jurisdictional areas across the entire project site were examined. Subsequent to this onsite investigation, BySynergy was found to be in violation of Section 404 of the Clean Water Act on February 20, 2007 for discharging dredged and/or fill material into unnamed washes on the property, at two discrete locations. Specifically, BySynergy was found to have graded and installed rip rap in the jurisdictional washes located at the northeast corner of Keller Lane and Lower Red Rock Loop Road, and installed a culvert with native fill in an irrigation ditch ("Red Rock Ditch") which

traverses the property. No other discharges of dredged and/or fill material into Section 404 waters of the United States were observed on the Bella Terra project site.

The Corps has requested that BySynergy and its contractors cease all work in the Section 404 jurisdictional areas on the Bella Terra project site until the Section 404 Clean Water Act violation is resolved, which they have agreed to do. To rectify this violation, BySynergy has been requested to submit an after-the-fact Section 404 permit application to the Corps.

Thank you for your interest in our regulatory program. If you have questions, please contact Daisy Eldridge at (602) 640-5385, x268.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Lester".

Cindy Lester, P.E.
Chief, Arizona Section
Regulatory Branch