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## NEWS RELEASE

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### **Newly Released Reports Document Flood Plain Destruction and Clean Water Act Violations**

(Yavapai County) The Sierra Club and the Red Rock Rural Community Association (RRRCA) today released reports documenting that BySynergy, LLC, developer of Bella Terra, a subdivision proposing to have its own sewer treatment facility located on the banks of Oak Creek, has filled in wetlands, developed within the Oak Creek flood plain, and is in violation of Clean Water Act requirements.

In addition to BySynergy's apparent failure to obtain appropriate permits for filling in the flood plain, wetlands destruction and violation of jurisdictional waters, residents are concerned about Bella Terra's impact on the underlying aquifer and its direct impact on Oak Creek. The RRRCA and the Sierra Club earlier filed comments critical of Bella Terra's aquifer protection permit application, which is currently pending with the Arizona Department of Environmental Quality (ADEQ).

Findings of a report prepared by Paul Trotta, P.E., PhD., a professor at Northern Arizona University, states, "...the developer has failed to conform to the Clean Water Act, specifically, the requirements of the Section 404 permitting process. In particular, the developer has already completed construction within portions of the delineated area which involved dredging, filling, construction and grading."

Another study was conducted by Bill Leibfried, senior scientist with the Flagstaff-based environmental consulting group SWCA. According to the Leibfried report, "...three areas within the Bella Terra project have dredge and fill activities within the ordinary high water mark of waters of the U.S. These activities constitute dredge and fill into waters of the U.S. under the authority of the (Army) Corps and compliance with the Clean Water Act is required."

An earlier study of the Bella Terra Flood plain conducted by Paul Lindberg, a geological engineer who has spent 40 years studying Sedona geology, states, "...the entire lower backfilled portion of the Bella Terra property is improperly engineered and is in danger of being overwhelmed by the next '100 year flood' within the next decade."

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These three studies have recently been provided to the Army Corps of Engineers, which has opened an investigation into Bella Terra's compliance with the applicable regulations. The Army Corps is the agency charged with ensuring compliance with the provisions of the Clean Water Act at issue. It appears that the Army Corps may have previously allowed Bella Terra to begin construction without the necessary approvals.

The Sierra Club and the RRRCA have retained attorney Howard Shanker of the Shanker Law Firm to help represent them in their opposition to Bella Terra. According to Mr. Shanker, "Hopefully the Army Corps will take these reports seriously and make Bella Terra stop work in questionable areas; repair any damage it has done; and apply for the necessary permits."

With regard to the bigger picture, Shanker continues, "Bella Terra seems to be marketing itself as an environmentally friendly subdivision. The developer's actions are contrary to this assertion. As a general proposition, a subdivision with its own wastewater treatment plant on the banks of Oak Creek should be hard pressed to demonstrate that it is somehow 'environmentally friendly'."

"In addition to what is in the reports, we worry about how this development could affect the aquifer that supplies water to hundreds of local residents," said Brian Myers, the vice president of the RRRCA. "Several hundred people have turned out for the ADEQ meetings. People care about the creek and their community. We don't want this kind of irresponsible development."

"The Sierra Club has long advocated for the protection of Oak Creek, including limiting development in the flood plain and near the creek," said Carole Piszczek-Sheffield, the vice-chair of the Sierra Club Grand Canyon Chapter. "Oak Creek has been designated as a Unique Water by the state of Arizona, a status designed to protect it from degradation or pollution. We want the floodplain and wetlands restored and the damage mitigated."

As it emerges above Sedona and picks up momentum on its way to joining the Verde River, Oak Creek passes through some of the most beautiful visual topography in the United States – some say in the world. Beyond its spectacular beauty, year-round Oak Creek creates a rarity in upland Arizona: a green belt stretching for miles, providing home and sustenance for birds of every stripe and color. Pronghorn antelope, deer, squirrel, raccoon, fox, fish and frogs, the list of wildlife served by this freshet goes on. Visitors from around the world come to splash in its cooling summer generosity, hike in and photograph its scenic beauty. The City of Sedona estimates more than three million tourists visit the area every year, taking pictures, buying souvenirs and supporting the local economy.

The Sierra Club is America's oldest, largest and most influential grassroots environmental organization. Inspired by nature, the Sierra Club's 750,000 members, including more than 13,000 members in Arizona, work together to protect our communities and the planet.

RRRCA is comprised of property owners and residents who live along rural portions of Oak Creek just outside Sedona, AZ. RRRCA takes action to protect the integrity of the riparian environment, wildlife habitat and local aquifers.

To view copies of the reports, go to [www.shankerlaw.net](http://www.shankerlaw.net) or [www.RRRCA.org](http://www.RRRCA.org).

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