



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

December 7, 2010

Guy Pegan
City of Moreno Valley
14177 Fredricks St.
Moreno Valley, CA 92553

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE CACTUS AVENUE WIDENING PROJECT, MORENO
VALLEY, COUNTY OF RIVERSIDE, CALIFORNIA (ACOE REFERENCE NO. NOT
AVAILABLE) (SARWQCB PROJECT NO. 332010-21)**

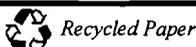
Dear Mr. Pegan:

On August 17, 2010, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the City of Moreno Valley for the widening of a segment of Cactus Avenue, which includes adding an eastbound lane. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

Project Description: Add a third eastbound lane to Cactus Avenue from the end of the northbound I-215 Cactus Street off ramp to Elsworth Street and from Elsworth Street to Heacock Street, totaling approximately 9,500 linear feet. The project will result in a six lane major arterial roadway, 102 feet from curb to curb, with a 120 foot right-of-way. An earthen parkway will be constructed along south side of Cactus Avenue. The work will take place within Section 19 of Township 2 South, Range 3 West, of the U.S. Geological Survey *Riverside East, Calif.* quadrangle map (33° 54' 36.36" N/ 117° 16' 13.42" W).

Receiving water: Unnamed local drainages and flood control channels tributary to the Perris Valley Drain, the San Jacinto River, Canyon Lake and Lake Elsinore

California Environmental Protection Agency



Fill area: 0.0076 acres of permanent impact to a streambed habitat
Dredge/Fill volume: N/A
Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 14

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- None

Offsite Water Quality Standards Mitigation Proposed:

- Impacts to jurisdictional waters will be mitigated by paying fees to the Santa Ana Watershed Association's approved in-lieu fee program for restoration of a total of 0.1 acre of streambed habitat. The purchase agreement will be approved prior to the commencement of construction and/or impact to the drainage area.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2010-0033 (NPDES Permit No. CAS618033), commonly known as the Riverside County Municipal Storm Water Permit, and subsequent iterations thereof. Order No. R8-2010-0033 requires that you substantially comply with the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity.

The proposed project is subject to a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act (CEQA), the City of Moreno Valley adopted a Mitigated Negative Declaration for the project on January 4, 2010. Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as shown in the associated environmental impact report or negative declaration prior to reaching a decision on the project. The Regional Board has considered the City's Mitigated Negative Declaration in the issuance of this Certification and independently finds that changes or alterations have been required, or incorporated into the proposed project, which avoid impacts to water quality or mitigate them to a less than significant level.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) The applicant shall implement the offsite water quality standards mitigation proposed above. Documentation of the completed in-lieu fee transaction shall be submitted to Board staff prior to the project's discharge of fill to jurisdictional waters.
- 3) All waste materials generated from construction activities associated with this project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified.
- 4) Materials must not be placed in a manner where they could be discharged to surface waters except as authorized by this certification. In the event that trash or debris is discharged to surface waters, the discharger must recover the material.
- 5) The project proponent shall utilize Best Management Practices during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.
- 6) Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.
- 7) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.

- 8) This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
- 9) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work.

Under California Water Code, Section 1058, and pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

Guy Pegan
City of Moreno Valley

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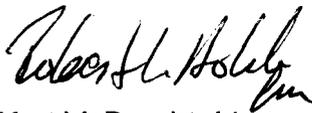
December 7, 2010

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law.

This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at:
www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jason Lambert
Department of Fish and Game – Anna Milloy
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

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