



California Regional Water Quality Control Board

Santa Ana Region



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Arnold Schwarzenegger
Governor

November 29, 2010

Naresh P Varma
San Bernardino County Flood Control District
Environmental Management Division
825 East 3rd Street, Room 101
San Bernardino, CA 92415

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE ALABAMA STREET ARCH CULVERT CONSTRUCTION,
SAN BERNARDINO COUNTY (CORPS FILE NO. NOT AVAILABLE) (SARWQCB
PROJECT NO. 362008-08)**

Dear Mr. Varma:

On April 24, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the proposed construction of an arch culvert on City Creek where it is crossed by Alabama Street, in the City of Highland, San Bernardino County. Following our review, the application was found to be incomplete.

In a May 9, 2008 e-mail, we listed several deficiencies in the application and issues with CEQA documentation and the Environmental Impact Report for the proposed project. We received June 17, 2009, correspondence, which addressed each issue identified in the May 2008 e-mail. Upon review of the June 17th correspondence, we requested further clarification regarding the post construction maintenance schedule for the project. On September 14, 2010, we received correspondence in which proposed post-construction maintenance and mitigation activities associated with this project were outlined.

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) and subsequent Basin Plan amendments:

Project Description: The installation of two, 48' wide pre-cast concrete arch culverts; realignment of City Creek to allow flows to pass through the culverts; replacement of the roadway; repairing

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and redressing the slopes and levees; and installation of headwall fencing and guardrail. The existing double 8' x 12' concrete box culverts will remain in place and the two new 48' wide by 15' high arch culverts will be installed north of the existing box culverts. The street will be raised to allow for the additional height of the new culverts. Realignment of City Creek and slope stabilization will require excavation of the channel banks and placement of ungrouted riprap lining in the channel bed and along the channel banks on either side of the culverts. The work area will be accessed by heavy equipment using existing access roads and the sandy wash. During construction, Alabama Street will be closed and traffic will be detoured to other major arterials. The project is located within Section 8 of Township 1 South and Range 3 West of the U.S. Geological Survey *Redlands, California*, 7.5-minute topographic quadrangle map (34.102365° / -117.209368°).

Receiving Waters:	City Creek, tributary of the Santa Ana River.
Fill Area:	0.17 acre of permanent impact and 0.55 acre of temporary impact to streambed (640 total linear feet).
Dredge Volume:	Not applicable.
Federal Permits:	US Army Corps of Engineers Nationwide Permit No. 14.

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

Onsite Water Quality Standards Mitigation Proposed:

- Motorized equipment will not be maintained or parked within or near any stream crossing or channel in such a manner that petroleum products or other pollutants from the equipment can enter these areas under any flow conditions.
- Maintenance equipment will avoid damaging willows and other native vegetation that has been established the channel banks and benches.

Offsite Water Quality Standards Mitigation Proposed:

- Mitigation for 0.17 acre of permanent impacts to non-wetland waters will be provided by the applicant through conveyance in fee title of four (4) acres of high-quality, occupied San Bernardino Kangaroo Rat land to the San Bernardino International Airport Authority. The mitigation site will be adjacent to the Santa Ana River, immediately downstream of the City Creek confluence. This site is located in the City of San Bernardino, San Bernardino County, in Section 7 of Township 1 South, within Range 3 West of the Redlands USGS 7.5 quadrangle (34°05'57.23"/117°14'00.02").

You have submitted an application for coverage under a nationwide permit issued by the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game (CDFG). 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 (USFWS) and CDFG will ensure those impacts are mitigated to an acceptable level.

Appropriate Best Management Practices BMPs will be implemented to reduce construction-related impacts of the project to Waters of the State according to the requirements of Order No. R8-2010-0036 (NPDES Permit No. CAS618036), commonly known as the San Bernardino County Municipal Storm Water Permit. Order No. R8-2010-0036 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, Order No. 2009-0009-DWQ, including the preparation of a SWPPP.

Pursuant to CEQA, the County of San Bernardino Flood Control District adopted a final Mitigated Negative Declaration (MND) for the project on February 12, 2008. Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an environmental impact report or negative declaration prepared by the lead agency in determining whether to approve a Section 401 Certification. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project that it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board has considered the MND prepared for the proposed project, and information provided subsequently in the County's application, in approving this Certification.

In the issuance of this Certification, the Executive Officer has considered those sections of the County's MND that relate to water quality. Based on the mitigation proposed and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. The Regional Board independently finds that changes or alterations have been required or incorporated into the project that avoid or mitigate impacts to water quality to a less than significant level.

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

- 1) Damage to vegetation within City Creek and its tributaries shall be minimized to the maximum extent practicable.
- 2) The Applicant shall implement the off-site mitigation program proposed above. By (the date 60 days after issuance), the applicant shall submit signed documentation to this office, and to the USACOE project manager for the CWA 404 permit for this project, showing the location of the mitigation site identified above and its geographic relationship to the impact site, and verifying that the mitigation site i
 - a. Adjoins and has connectivity with other functional habitat for the San Bernardino kangaroo rat (SBKR) that is recognized by the USFWS, as reported by the Applicant.
 - b. Is set aside solely for mitigation of impacts to water quality standards caused by this project.
 - c. Will be used for and maintained as SBKR habitat for the sole benefit of this project, in perpetuity.
 - d. Is under, or will be under, the control of an agency capable of perpetual management of the site as SBKR habitat.Include a copy of any agreements executed to implement the mitigation proposed. If necessary, include a schedule for completion of agreements needed to implement the mitigation.
- 3) Substances resulting from project-related activities which could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, portland cement concrete or asphalt concrete, and washings and cuttings thereof, and metal cutting, grinding and welding debris, shall not be discharged to soils or waters of the state.
- 4) All proposed structures shall be composed of materials which are colored such that they blend into the overall landscape.
- 5) All vehicles and equipment entering the work area must be free of viable propagules of non-native plant species that may be discharged to waters of the State or that may eventually be discharged to waters of the State.
- 6) A copy of this Certification and any subsequent amendments must be maintained on site as a denoted element of the project Storm Water Pollution Prevention Plan (SWPPP) or Water Quality Management Plan (WQMP).

- 7) The applicant must comply with the requirements of the Clean Water Act section 404 permit

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.

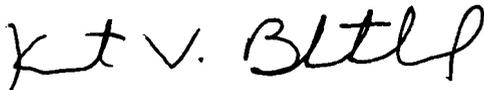
This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401.

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/wqo_2003-0017.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 message):

U. S. Army Corps of Engineers, Los Angeles Office – Stephanie Hall
State Water Resources Control Board, OCC – David Rice
State Water Resources Control Board, DWQ-Water Quality Certification Unit – Bill Orme
California Department of Fish and Game, Ontario Office – Mike Flores
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini and David Smith

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