



California Regional Water Quality Control Board Santa Ana Region



Matthew Rodriguez
Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

January 24, 2012

Dennis Barton
City of Highland
27215 Baseline
Highland, CA 92346

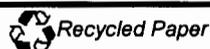
**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE CITY OF HIGHLAND'S 5TH STREET DRAINAGE
IMPROVEMENTS PROJECT, COUNTY OF SAN BERNARDINO, CALIFORNIA
(ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 362011-19)**

Dear Mr. Barton:

On September 19, 2011, we received an application for a Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the City of Highland for the subject project. The purpose of the project is to increase storm drain capacity and reduce seasonal flooding of a portion of 5th Street, in the City of Highland. 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: The project includes the construction of storm drain improvements within City right-of-way along Third Street, Palm Avenue, Fifth Street, and within San Bernardino County Flood Control District property within the City Creek Overflow Channel. The storm drain improvements will include the installation of reinforced concrete piping, ranging in diameter, from 18" to 48", and the construction of a 4' x 4' reinforced concrete box culvert. A total of eleven catch basins, along with a lateral for an additional six catch basins, will be located along the length of the storm drain improvement project. This will result in the diversion of street flows into the drainage system. The project also includes extension of an existing 3' x 7' double box culvert in the City Creek Overflow Channel under Fifth Street, and the construction of two new 4' x 8' box culverts adjacent to the existing 3' x 7' box culverts.

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Additional channel improvements will include: construction of concrete aprons and wing walls at both ends of the culvert extensions; minor re-grading of the channel to accommodate the improvements; replacement of a section of existing wire revetment wall with concrete retaining walls (as part of the construction of the culverts with a 4' x 7' opening for a 4' x 4' reinforced concrete storm drain); placement of rock riprap; and construction of a graded channel access road to replace the existing access point. The work will take place within the Civil Colonies Land Grant within Section 5 of Township 1 South, Range 3 West, of the U.S. Geological Survey *Redlands, California* quadrangle map (34.107708° N/ - 117.221555° W).

Receiving water: City Creek Overflow Channel/ tributary to Warm Creek/tributary to Reach 5 of Santa Ana River

Fill area: 0.06 acres of permanent impact to streambed habitat (148 linear feet), 0.11 acres of temporary impact to streambed habitat (275 linear feet)

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 43

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:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.
- In order to maintain permeability, the new access road will not be surfaced with concrete or asphalt.

Offsite Water Quality Standards Mitigation Proposed:

- None

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. R8-2010-0036 (NPDES Permit No. CAS618036), commonly known as the San Bernardino County Municipal Storm Water Permit, and subsequent iterations thereof. 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, including the preparation of a Storm Water Pollution Protection Plan (SWPPP).

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR 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 which 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 City of Highland's mitigated ND (MND) filed on September 7, 2011, for the proposed project, particularly those sections of the MND that relate to water quality and beneficial uses, in approving this Certification. Based on information provided in the City's application, including mitigation proposed, and the conditions set forth in this Certification, Board staff concludes that the proposed project's 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) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) All 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.

- 3) The project proponent shall utilize BMPs 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.
- 4) 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.
- 5) 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.
- 6) 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 the 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.
- 7) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work as a denoted element of any project SWPPP or WQMP.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible. Project areas that sustain temporary biological impacts shall be restored to pre-project conditions.
- 9) Construction de-watering discharges, including temporary stream diversions necessary for project construction may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at www.waterboards.ca.gov/santaana/.

- 10) Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities.

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

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City of Highland

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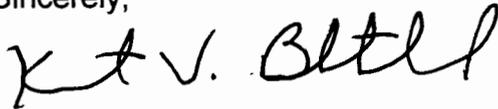
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307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law.

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
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

HDR Engineering Inc – Senior Biologist – Ingrid Eich
U. S. Army Corps of Engineers, Los Angeles Office- Mark Durham
State Water Resources Control Board, OCC- David Rice
State Water Resources Control Board, DWQ -Water Quality Certification Unit
California Department of Fish and Game - Joanna Gibson
U.S. EPA- Supervisor of the Wetlands Regulatory Office WTR- 8

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