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MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Santa Ana Regional Water Quality Control Board

April 23, 2013

John Abel  
MPLC, Pigeon Pass, LP  
3649 Mission Inn Avenue; 1<sup>st</sup> Floor  
Rotunda  
Riverside, CA 92501

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE TRACT 32515 RESIDENTIAL DEVELOPMENT PROJECT, COUNTY OF RIVERSIDE, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 332012-32)**

Dear Mr. Abel:

On November 13, 2012, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from MPLC Pigeon Pass, LP for a project consisting of residential development for residents 55 years of age and older. The project is located in the City of Moreno Valley in central Riverside County. 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 consists of construction of 174 single-family dwellings. The project also includes construction of a community building, a passive park, and designated open space areas. The project site features an unnamed stream that traverses the project site from Pigeon Pass Road, travelling southeasterly, where it crosses beneath Old Lake Road through an existing double 12-foot wide x 7-foot high reinforced concrete box culvert. The project is required to update the existing crossing of this unnamed drainage at Pigeon Pass Road to properly control velocities passing beneath Pigeon Pass Road and eliminate the potential for erosion downstream of the crossing. The project also includes segmental retaining walls in order to develop the pads adjacent to the unnamed stream, while still preserving a majority of the drainage. The work will take place within

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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Section 25 of Township 2 South, Range 4 West, of the U.S. Geological Survey *Riverside East* quadrangle map (33.969716° N/ -117.241224° W).

Receiving water: Poor Man Reservoir, Perris Valley Storm Drain, San Jacinto River Reach 4

Receiving water  
Beneficial Uses:

Agricultural Supply, Agricultural Supply, Municipal and Domestic Supply, Contact Recreation, Non-Contact Recreation, Wildlife Habitat

Fill area:

0.07 acre of permanent impact to riparian habitat (246 linear feet), and 0.19 acre of temporary impact to streambed habitat (626 linear feet)

Dredge/Fill volume:

500 cubic yards

Federal permit:

U.S. Army Corps of Engineers Nationwide Permit No. 29

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.

Offsite Water Quality Standards Mitigation Proposed:

- As mitigation for the disturbance to 0.26 acre of Regional Board jurisdiction, none of which consists of jurisdictional wetlands, a one-time in-lieu fee will be paid to a Corps-approved mitigation bank. The fee payment will be utilized for the active restoration and/or enhancement of 0.52 acre of streambed resources identified within the project's watershed. Should this prove to be infeasible, due to unavailable opportunities within the project's watershed, the applicant shall formally indicate such to this agency and the subject fees may be paid to the Santa Ana Watershed Association for restoration and/or enhancements within the Santa Ana River Watershed.

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 Wildlife 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 State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity.

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 project. 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 EIR prepared for the proposed project in approving this Certification. Based on the mitigation proposed, and the conditions set forth in this Certification, the project's impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. Thus, the Regional Board independently finds that changes or alterations have been required in, or incorporated into the project, which 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) Proposed mitigation shall be timely implemented. Materials documenting the purchase of necessary mitigation credits shall be provided to this office prior to the discharge of fill to, or the dredging or excavation of material from, waters of the state.
- 3) 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.
- 4) 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.
- 5) 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.

- 6) 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.
- 7) 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.
- 8) 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.
- 9) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 10) Applicant shall ensure all procedures and policies specified within the project's WQMP, shall adequately address any hydraulic conditions of concern generated during and as a result of this project.
- 11) 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.
- 12) Prior to any grading for the project in areas slated to be impacted, functional assessments of these proposed areas of wetland and riparian habitats and riparian mitigation sites shall be conducted using the California Rapid Assessment Method, February 2012.  
Site mitigation assessments shall be conducted from October through December, until success criteria are met for consecutive years. This information shall be reported to <http://www.californiawetlands.net/tracker/>

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](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf)

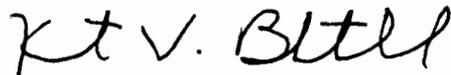
John Abel  
MPLC, Pigeon Pass, LP

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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):

Glenn Lukos Associates – Martin Rasnick, [mrasnick@wetlandpermitting.com](mailto:mrasnick@wetlandpermitting.com)  
U. S. Army Corps of Engineers, Los Angeles Office -Jason Lambert  
CA Department of Fish and Wildlife - Juan J. Lopez Torres  
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