



Santa Ana Regional Water Quality Control Board

May 22, 2014

Warren D. Williams
Riverside County Flood Control District
1995 Market Street
Riverside, CA 92501

fcexcsec@rcflood.org

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR TRACT TEMESCAL CREEK – FOSTER ROAD STORM
DRAIN, STAGE 1 PROJECT, UNINCORPORATED AREA OF EL CERRITO,
RIVERSIDE COUNTY (ACOE CORPS FILE NO. NOT AVAILABLE) (SARWQCB
PROJECT NO. 332014-01)**

Dear Mr. Williams,

On January 13, 2014, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the Riverside County Flood Control District (District) for a project in an unincorporated area of El Cerrito, Riverside County. The project will provide 100-year flood protection for neighboring areas by installing a storm drain system outlet. The applicant has also submitted a filing fee of \$2,852.00, which satisfies all or part of this project's fee requirement for obtaining a 401 Certification. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site, which is based on the most current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3). 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 District proposes to construct, operate and maintain an underground storm drain system comprised of approximately 2,000 lineal feet of reinforced concrete pipe (RCP) ranging in size from 30 inches to 72 inches in diameter. The concrete outlet structure is an impact type energy dissipater. This structure will be installed in an area of Temescal Creek that will be widened to create a "cove" area as part of this project. The corners of the "cove" area will be armored with approximately 1,000 cubic yards of buried rock riprap. From the outlet, the proposed project will transition into an

underground RCP and traverse southwesterly to Foster Road via an alignment following an unpaved road and across an open field currently used for the cultivation of mint and watercress. The RCP will continue westerly within the existing Foster Road right-of-way to connect with an existing culvert located west of Temescal Canyon Road. In addition, a lateral RCP will connect to the main RCP at the intersection of Foster Road and Temescal Canyon Road and will extend approximately 300 feet south in Temescal Canyon Road. The proposed storm drain system, once completed, will provide flood protection to existing development at the intersection of Foster Road and Temescal Canyon Road.

The work will take place within Sections 21 and 22 of Township 4 South, Range 6 West, of the U.S. Geological Survey *Corona South* and *Lake Matthews* 7.5 minute topographic quadrangle maps (33.805° N/ -117.500° W).

Receiving water: Temescal Creek

Fill area:

Temporary Impact to Wetland Habitat	0.02 acre
Permanent Impact to Wetland Habitat	0.19 acre
Temporary Impact to Riparian Habitat	0.19 acre
Permanent Impact to Riparian Habitat	0.07 acre

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Permit Nationwide No. 7

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:

- Grading for the Project will result in the creation of 0.46 acre of vegetated riparian habitat with habitat value equivalent to the areas subject to permanent impacts.

This 0.46-acre habitat creation area will be located within a portion of the temporary impact area that is currently comprised of upland vegetation, and will be graded to a lower elevation as required for project construction. Following completion of grading, the formerly upland temporary impact area will be vegetated with 0.46 acre of riparian forest with equal or greater habitat value when compared to the permanent impact areas.

- The District is planning to place a conservation easement over 0.13 of the newly created 0.46-acre habitat creation area that is not currently in a conservation easement to ensure the area will be protected in perpetuity. In addition, the District has recently learned that the project will impact portions of a mitigation area for Renaissance Ranch, as well as the U.S. Army Corps of Engineers' in-lieu fee program area within Temescal Creek. As a result, the District is currently working with the Riverside County Resource Conservation District (RCRCD) to purchase mitigation credits to offset impacts to these areas.

Riparian Wetland Mitigation	0.46 acre created	0.38 acre restored
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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 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.

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 for this project issued by the State of California, or any subdivision thereof, may result in appropriate enforcement action, including imposition of administrative civil liability.

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 Mitigated Negative Declaration (MND) prepared for the proposed project and filed with the Riverside County Flood Control and Water conservation District on January 14, 2014, and information provided subsequently in the applicant's application, in approving this Certification. More specifically, the Regional Board has considered those sections of the MND relating to water quality. Based on the mitigation proposed in the MND, 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. 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) 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) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 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) Applicant shall ensure all procedures and policies specified within the project's WQMP and *Conceptual Mitigation Plan* (dated 2007), shall adequately address on-site creation of vegetated riparian habitat, the success criteria therein and any hydraulic conditions of concern generated during and as a result of this project.
- 10) 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/
- 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/>
- 13) 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.

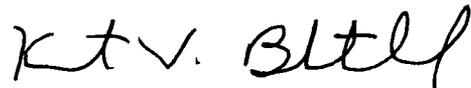
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean 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 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 mail):

Riverside County Flood Control District – Mike Wong – mwong@rcflood.com
U. S. Army Corps of Engineers, Los Angeles Office - Jason Lambert
CA Department of Fish and Wildlife – Joana Gibson
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