

Santa Ana Regional Water Quality Control Board

November 9, 2015

Mr. David Voorhees
Big Canyon Country Club
1 Big Canyon Drive
Newport Beach, CA 92660

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE BIG CANYON RESIDENTIAL LOT PROJECT, CITY OF
NEWPORT BEACH, COUNTY OF ORANGE, CALIFORNIA (USACOE REFERENCE
NO. (Not Available) (SARWQCB PROJECT NO. 302015-16)**

Dear Mr. Voorhees:

On July 30, 2015, we received from Glenn Lukos Associates, on behalf of Big Canyon Country Club (Applicant), an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project (Project) to construct one (1) single-family residence within the Big Canyon Community located in the City of Newport Beach. The Project will be situated on a property 1.9-acre in size. The Project will result in 0.004 acre of permanent impacts to waters of the United States. The Applicant has submitted a filing fee of \$2,498.00, which satisfies the fee requirement for consideration of a 401 Certification for the Project. 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) in effect when the application was submitted.

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 the construction of one single-family residence on a previously approved building pad within the Big Canyon Community. As part of the Project, the Applicant proposes to permanently fill 0.004 acre of an ephemeral drainage located along the westerly edge of the Project site and adjacent to a golf course fairway. A total of 185 linear feet of streambed will be permanently filled. The Project would not result in any temporary impacts.

A 48-inch diameter corrugated metal pipe (CMP) will be installed northerly from the area designated as fill. The CMP

will run approximately 170 linear feet below grade, redirecting flows toward the existing wetland feature. The CMP will daylight into approximately 15 foot bed of 500 pound class riprap.

The work will take place within Section 56 of Township 6 South, Range 10 West of the U.S. Geological Survey *Tustin* 7.5 minute topographic quadrangle map (33.628224° N, - 117.871204° W). Orange County Assessor parcel Number 442-032-59.

Receiving water: An unnamed tributary to Upper Newport Bay. Upper Newport Bay has designated beneficial uses (existing or potential) that include: contact recreation (REC1), non-contact recreation (REC2), wildlife habitat (WILD), commercial and sport fishing (COMM), preservation of biological habitats of special significance (BIOL), spawning, reproduction, and development (SPWN), marine habitat (MAR), shellfish harvesting (SHELL), estuarine habitat (EST), and rare, threatened, or endangered species (RARE).

Fill area:

Permanent Impact to Streambed Habitat	0.004 acre	185 linear feet
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Dredge/Fill volume: Not Applicable

Federal permit: U.S. Army Corps of Engineers (USACE) Nationwide Permit 29 (Residential Developments)

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.
- Compensatory mitigation will be provided through the creation of 0.012 acre of wetland that will be located adjacent to an existing created wetland downstream of the impacted ephemeral drainage.

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 Wildlife should 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 the State Water Resources Control Board General NPDES Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order Number 2012-0006-DWQ.

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 (EIR) or Negative Declaration prepared by the lead agency in determining whether to approve an application submitted for a project to receive 401 Water Quality Certification. A responsible agency has responsibility to mitigate and avoid 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 Mitigated Negative Declaration (MND) prepared for the proposed Project and filed by the City of Newport Beach on December 20, 2011, and subsequent information provided in the Applicant's application for this Certification. Specifically, the Regional Board considered those sections of the MND pertaining to impacts to water quality standards. Based upon the mitigation proposed in the MND, and the conditions set forth in this Certification, adverse impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected if all stated mitigation and conditions are performed. Thus, the Regional Board independently finds that changes or alterations have been required in 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 Project scope of work, 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 from the Project site.
- 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 401 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 Storm Water Pollution Prevention Plan (SWPPP), Water Quality Management Plan (WQMP) and/or Habitat Mitigation & Monitoring Plan (HMMP).
- 8) Applicant shall follow all procedures and policies specified within the Project's HMMP.
- 9) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 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 401 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 that the Applicant 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

Mr. David Voorhees
Big Canyon Country Club
RWQCB #: 302015-16 CIWQS #: 817335

- 6 -

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Should there be any questions, please contact Marc Brown at or (951) 321-4584 or marc.brown@waterboards.ca.gov, or Wanda Cross at (951) 782-4468 or wanda.cross@waterboards.ca.gov.

Sincerely,



Kurt V. Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

Glenn Lukos Associates – Tony Bomkamp – tbomkamp@wetlandpermitting.com
U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Wildlife – Kevin Hupf – kevin.hupf@wildlife.ca.gov
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme