



Santa Ana Regional Water Quality Control Board

July 23, 2015

Mr. Annesley Ignatius
San Bernardino County Flood Control District
825 E. Third Street
San Bernardino, CA 92415

aignatius@dpw.sbcounty.gov

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT
CHANNEL AND BASIN MAINTENANCE PROJECTS, COUNTY OF SAN
BERNARDINO, CALIFORNIA (NO USACE NO.), (SARWQCB PROJECT NO.
362015-02, 362015-03, 362015-04, 362015-05, 362015-06, 362015-07, 362015-08)**

Dear Mr. Ignatius,

On January 22, 2015, we received from the San Bernardino County Flood Control District (Applicant) seven (7) separate applications requesting Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for similar projects that involve the maintenance of flood control basins and flood control channels within the jurisdiction of the Santa Ana Regional Water Quality Control Board (Water Board). Water Board staff has determined that it is appropriate to respond to the seven Certification applications as a single action because each application requests to conduct similar maintenance activities, and would therefore, likely have similar effects on water quality and need similar mitigation. The project (Project) applications were deemed to be complete on March 24, 2015. On January 22, 2015, the Applicant submitted a filing fee deposit of \$1,097.00 with application materials. On April 10, 2015, the applicant submitted an additional check for \$88,799.00, which satisfies the fee requirement of \$90,000 for the consideration of a 401 Certification. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) website, and is based on the iteration of the California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3) in effect when the applications were submitted.

This letter responds to your request for certification that the proposed projects, described in your applications 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:

WILLIAM RUHL, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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Project Description: The San Bernardino County Flood Control District (District) proposes to conduct routine channel and basin maintenance on the following facilities:

Table 1. Proposed Project maintenance activities by location.

Project Name (RWQCB Project No.)	Channel Name	Lat/Long	Acreage	Linear feet (l.f.)	Temporary/ Permanent Impacts & Habitat Impacted
Banana Basin Maintenance (362015-02)	San Sevaine Creek	Downstream: Lat: 34.094577/Lon: - 117.499156; Upstream: Lat: 34.095609/Lon: - 117.495438	14.0 ac.	1,000 l.f.	Temporary Impacts to Streambed Habitat
Brush Canyon Storm Drain Maintenance (362014-03)	Brush Canyon	Downstream: Lat: 34.172487/Lon: - 117.278681; Upstream: Lat: 34.174999/Lon: - 117.278042	1.5 ac.	550 l.f.	Temporary Impacts to Streambed Habitat
City Creek Channel (OLD) Maintenance (362015-04)	City Creek Channel	Downstream: Lat: 34.104847/Lon: - 117.274066; Upstream: Lat: 43.110035/Lon: - 117.209125	49.0 ac.	22,800 l.f.	Temporary Impacts to Streambed Habitat
Jurupa Basin (DSOD) Maintenance (362015-05)	San Sevaine Creek	Downstream: Lat: 34.047971/Lon: - 117.516316; Upstream: Lat: 34.048126/ Lon: - 117.506888	73.5 ac.	2,000 l.f.	Temporary Impact to Streambed Habitat
Morrey Arroyo Maintenance (362015-06)	Morrey Arroyo	Downstream: Lat: 34.052062/Lon: - 117.204612; Upstream: Lat: 34.052099/Lon: - 117.20055; Downstream: Lat: 34.056913/Lon: - 117.223726; Upstream: Lat: 34.055792/Lon: - 117.221808	3.3 ac.	2,000 l.f.	Temporary Impact to Streambed Habitat

Project Name (RWQCB Project No.)	Channel Name	Lat/Long	Acreage	Linear feet	Temporary/ Permanent Impacts & Habitat Impacted
West Fontana Channel Maintenance (362015-07)	San Sevaine Creek	Downstream: Lat: 34.093801/Lon: 117.504824; Upstream: Lat: 34.094903/Lon: -117.500559; Downstream: Lat: 34.095587/lon: - 117.471214; Upstream: Lat: 34.096229/Lon: - 117.442361	26.4 ac.	11,600 l.f.	Temporary Impact to Streambed Habitat
Yucaipa Drainage (Yucaipa Creek and Chicken Springs Creek) Maintenance (362015-08)	Wildwood Creek	Downstream: Lat: 34. 030228/Lon- 117.049341; Upstream: Lat: Lat: 34.031846/Lon: - 117.04759; Downstream: Lat: 34.019488/Lon: - 117.038841; Upstream: Lat: 34.02026/Lon:- 117.034494; Downstream: Lat: 34.02099/- 117.038841; Upstream: Lat: 34.022835/Lon: - 117.034489; Downstream: Lat: 34.021694/Lon: - 117.053003; Upstream: Lat: 34.022952/Lon: - 117.051821	7.73 ac.	3,505 l.f.	Temporary Impact to Streambed Habitat

Project activities at each location are as follows:

Banana Basin Maintenance (362015-02)

Maintenance activities include: clean and repair of concrete spillway and drainage structures; debris/trash removal; grading to return earthen channel to original designed specifications; maintenance of existing chain link fencing, gates, and right-of-way signage; graffiti removal, vandalism repair, and homeless management (cleanup and removal); existing rip-rap maintenance; grading of access road ramps

to maintain vehicular to access to the basin; check and maintain staff gauges; non-native vegetation management (manual, mechanical, and/or chemical) with native vegetation management only as necessary; and, vector and rodent controls as needed.

Brush Canyon Storm Drain Maintenance (362014-03)

Maintenance activities include: grading to return earthen channel to original designed specifications; removal of sediment in culverts and drains; maintenance of existing chain link fencing, gates, and right-of-way signage; trash/debris removal; grading of access road ramps to maintain vehicular to access to the channel; graffiti, vandalism, and homeless management (cleanup and removal); non-native vegetation management (manual, mechanical, and/or chemical) with native vegetation management only as necessary; and, vector and rodent controls as needed.

City Creek Channel (OLD) Maintenance (362015-04)

Maintenance activities include: rip-rap and pile and wire revetment maintenance; grading to return earthen channel to original designed specifications; maintenance of existing chain link fencing, gates, and right-of-way signage; grading of access road ramps to maintain vehicular to access to the basin; debris/trash removal; graffiti, vandalism, and homeless management (cleanup and removal); non-native vegetation management (manual, mechanical, and/or chemical) with native vegetation management only as necessary; and, vector and rodent controls as needed.

Jurupa Basin (DSOD) Maintenance (362015-05)

Maintenance activities include: bottom and side slope maintenance; concrete spillway, outlet and inlet maintenance; grading to redefine the low-flow drainage channel, water-spreading sugar-sand levee maintenance; debris/trash removal; maintenance of existing chain link fencing, gates, and right-of-way signage; graffiti removal; grading of access road ramps to maintain vehicular to access to the basin; non-native vegetation management (manual, mechanical, and/or chemical) with native vegetation management only as necessary; and, vector and rodent controls as needed.

Morrey Arroyo Maintenance (362015-06)

Maintenance activities include: grading to return earthen channel to original designed specifications; maintenance of levee access roads; debris/trash removal; maintenance of existing chain link fencing, gates, and right-of-way signage; vandalism management (cleanup and removal); non-native vegetation management (manual, mechanical, and/or chemical) with native vegetation management only as necessary; and, vector and rodent controls as needed.

West Fontana Channel Maintenance (362015-07)

Maintenance activities include: maintenance of the earthen trapezoidal channel bottom and slopes with and without rip-rap; maintenance of corrugated metal pipes under the road crossings; debris/trash removal; maintenance of existing chain link fencing, gates, and right-of-way signage; graffiti, vandalism, and homeless management (cleanup and removal); grading of access road ramps to maintain vehicular to access to the channel; non-native vegetation management (manual, mechanical, and/or chemical) with native vegetation management only as necessary; and, vector and rodent controls as needed.

Yucaipa Drainage (Yucaipa Creek and Chicken Springs Creek) Maintenance (362015-08)

Maintenance activities include: grading to return earthen channel to original designed specifications; debris/trash removal; maintenance of existing chain link fencing, gates, and right-of-way signage; grading of access road ramps to maintain vehicular to access to the channel; vandalism and homeless management (cleanup and removal); non-native vegetation management (manual, mechanical, and/or chemical) with native vegetation management only as necessary; and, vector and rodent controls as needed.

Receiving water: The channels shown in Table 1 are tributary to either Reach 4 of the Santa Ana River or San Timoteo Creek. Beneficial use designations (existing or potential) for both waterbodies include: groundwater recharge (GWR), municipal and domestic supply (MUN), rare/threatened or endangered species (RARE), contact recreation (REC1), non-contact recreation (REC2), warm fresh water habitat (WARM), and wildlife habitat (WILD). Per the Basin Plan's "tributary rule," these beneficial uses also apply to the channels listed above.

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers (USACE) Nationwide Permit No. 3 'Maintenance' and/or 31 'Maintenance of Existing Flood Control Facilities'.

You have proposed to mitigate water quality impacts, which are 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:

- 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 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.

Pursuant to the California Environmental Quality Act (CEQA), the Applicant filed CEQA Guidelines Section 15301 "Class1" Categorical Exemptions for the seven maintenance projects, which declare that the projects will involve the operation, repair, maintenance, and minor alteration of public/private structures that result in a negligible expansion of uses. The Banana Basin (362015-02), Brush Canyon Storm Drain (362015-03), City Creek Channel (362015-04), Jurupa Basin (362015-05), West Fontana (362015-07) and Yucaipa Drainage (362015-08) Categorical Exemptions were filed on October 3, 2014 and the Morrey Arroyo Categorical Exemption was filed on December 9, 2014. The Water Board has independently considered the County's Categorical Exemptions in the issuance of this Certification and finds that no changes or alterations to the proposed projects are necessary to 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) This Order authorizes the Applicant to perform the specific routine maintenance activities specified in Table 1 above on an as-needed basis for the flood control facilities identified. This Order authorizes maintenance actions to return the basin and channel structures to the specifications of their original construct as defined by the as-built drawings submitted as part of the application package for these projects. This Order for 401 Water Quality Certification will remain valid until the USACE 2012 Nationwide permits expire on March 18, 2017, or through an extended period beyond the expiration date that is authorized in writing by the USACE.
- 2) This Order does not authorize emergency repair activities. The Applicant is required to apply for separate authorization to perform emergency repairs should that be necessary.
- 3) The Applicant must provide a minimum 48 hour email notification to Water Board staff prior to implementing maintenance as authorized under this Order. The notification must include the following: WDID No. 6B361409003; facility name/location; and dates of planned work activities. Please email this notification to Jason Bill, Environmental Scientist, at jason.bill@waterboards.ca.gov.
- 4) To document the annual maintenance activities performed, the Applicant must submit an Annual Report to the Water Board no later than April 1st of each through the year 2017. The Annual Report should include, at a minimum, the following information: a summary of the types of maintenance activities performed, including the date(s) those activities were performed and the facilities where those activities occurred; a summary of the activities related to construction storm water controls and the BMPs used, if any; and a summary of any activities that deviated from those described in the original application and supporting documents. For excavation activities, include the volume of material removed from each of the facilities, the volume of that material used to backfill side slopes, and the volume of any excess material removed from the site for stockpiling.
- 5) The Applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.
- 6) 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.
- 7) To the greatest extent practicable routine maintenance, repair, and bank protection activities shall be scheduled outside of the rainy season, preferably

when surface water is absent and/or flows are minimal. If maintenance activities must be completed while flowing water is present, such activities will be conducted according to the District's standard BMPs and/or Municipal Stormwater Permits.

- 8) Invasive plant species shall be removed in a manner that prevents propagation of those species in the same location and/or in other locations throughout the facility and/or County. Where maintenance activities are required, Operations staff will spray and/or mow invasive plant species before seeds ripen. All cut/removed invasive vegetation shall be taken to an approved refuse facility as a load designated for destruction. Operations staff shall prevent cut stems and/or seed material from being transported downstream and/or being left behind to allow the seed to propagate. In the case of giant reed (*Arundo donax*) removal, the District shall minimize ground disturbance and use foliar glyphosate treatment on smaller infestations. Stems shall be removed only when the plants are determined to be dead and unable to re-sprout and/or propagate.
- 9) Wildlife resources at the Project locations shall be evaluated in advance of the commencement of project activities and thereafter monitored by qualified field biologists. Maintenance at these locations shall proceed in accordance with recommendations by the field biologist, the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service to avoid adverse impacts to WILD, WARM and RARE beneficial uses.
- 10) The RARE beneficial use at or near the City Creek Channel (OLD) Maintenance (362015-04) will be protected in accordance with the recommendations of the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service and shall include, at a minimum, the following:
 - 1) A biologist familiar with the San Bernardino Kangaroo Rat (SBKR) and its signs shall survey the site. If any SBKR burrows or signs are observed, a biological monitor will create a buffer of at least 250 feet shall be established prior to the commencement of maintenance activities around the area maintenance activities shall be monitored to ensure that avoidance measures are being implemented.
 - 2) A hand crew should be used to remove the nonnative and dead debris in the areas of the channel east of Church Street.
 - 3) Burrowing owl surveys will be conducted prior to any work activity. If active burrows are located during the preconstruction survey, appropriate avoidance and minimization measures will be developed for project activities in accordance with recommendations by the California Department of Fish and Wildlife.

- 4) Prior to application of herbicides east of Church Street, biological monitors will survey the area of herbicide application and area of potential herbicide drift for rare plant species including but not limited to Santa Ana woolly-star (*Eriastrum densifolium* ssp. *sanctorum*) and slender horned spineflower (*Dodecahema leptoceras*). Appropriate action will then be taken to avoid herbicide contact with rare plant individuals.
- 11) The Applicant is responsible for informing any contractors of the specific conditions contained in this 401 Water Quality Certification Order.
- 12) The Project proponent shall utilize BMPs during project construction to minimize controllable discharges of sediment and other wastes to drainage systems or other waters of the State and of the United States.
- 13) 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.
- 14) 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.
- 15) 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.
- 16) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.

17) Construction de-watering discharges, including temporary stream diversions necessary to carry out the Project, are subject to regulation by Water 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/

18) 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 Water Board may require the Applicant to submit a Report of Waste Discharge and obtain Waste Discharge Requirements.

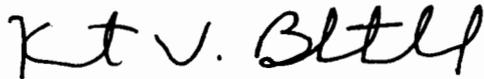
In the event of any violation or threatened violation of the conditions of this Certification, the holder of any permit or license subject to this Certification shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of Section 401(d) of the Clean 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 certify 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/wqo2003-0017.pdf

Should there be any questions, please contact Jason Bill at (951) 782-3295 or Wanda Cross at (951) 782-4468.

Sincerely,



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

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office - Shannon Pankratz
State Water Resources Control Board, OCC - David Rice
State Water Resources Control Board, DWQ - Water Quality Certification Unit
California Department of Fish and Wildlife - Claire Ingel
U.S. EPA - Supervisor of the Wetlands Regulatory Office WTR-8