
Santa Ana Regional Water Quality Control Board

November 20, 2015

Mr. Thomas J. Boyd
Public Works Director
City of Riverside – Department of Public Works
3900 Main Street
Riverside, CA 92522

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR TEQUESQUITE CREEK ROUTINE MAINTENANCE
PROGRAM, CITY OF RIVERSIDE, RIVERSIDE COUNTY (USACOE CORPS FILE
NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 332015-18)**

Dear Mr. Boyd,

On August 17, 2015, we received from the City of Riverside Public Works Department (CRPWD) (Applicant) an application requesting Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project in the City of Riverside. The project (Project) will consist of maintenance activities to remove vegetation and accumulated sediment in Tequesquite Creek.

On August 17, 2015, the Applicant submitted a check for \$600.00, along with the 401 Certification application materials. On October 5, 2015, the Applicant submitted a second check for \$6,150, which satisfies the Project fee requirement 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) web site, which is based on the iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, Section 2200 (a) (3) in effect at the time 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 maintenance of Tequesquite Arroyo and adjacent access roads. Within the Project area, Tequesquite Creek is a vegetated, earthen, trapezoidal channel, approximately 23 feet wide at the channel bottom and 62 feet wide bank to bank. Access roads run along both

northern and southern boundaries of the channel. Maintenance activities will be completed within a 500-linear foot section of Tequesquite Creek and the adjacent access roads. Maintenance activities to be completed by the Applicant include the removal of sediment and vegetation from the channel bottom, removal of vegetation from the channel banks, and removal of vegetation from the 12-foot wide section of the access roads adjacent to the channel bank. Maintenance will be conducted once annually. Typical equipment utilized would include, but not be limited to, hand tools, backhoes, long-reach excavators, dump trucks, and trailers. Excavated material would be placed into a dump truck immediately following removal and transported offsite for disposal.

The work will take place in the City of Riverside within an un-sectioned area of Township 2 South, Range 5 West, of the U.S. Geological Survey *Riverside West* 7.5 minute topographic quadrangle maps (33° 58' 33.0523" N/ -117° 24' 3.3264" W).

Receiving water: Tequesquite Arroyo (Sycamore Creek), a tributary of Santa Ana River, Reach 3, has beneficial uses (existing or potential) that include: Agricultural Supply (AGR), groundwater recharge (GWR), contact recreation (REC1), non-contact recreation (REC2), warm freshwater habitat (WARM), wildlife habitat (WILD), Rare, Threatened or Endangered Species (RARE) and Spawning, Reproduction, and Development (SPWN).

Fill area:

Permanent Impacts to Streambed and Riparian Waters of the United States	0.66 acres	500 linear feet
---	------------	-----------------

Federal permit: U.S. Army Corps of Engineers (USACE) Permit Nationwide No. 3, Maintenance

You have proposed to mitigate water quality impacts as described in your 401 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:

- Applicant will provide for the re-establishment, conservation and management of 1.86 acres (Mitigation Area) of stream channel and riparian waters of the United States within Tequesquite Arroyo, or another location(s) to be approved by the Regional Board. The mitigation area will be placed under a conservation easement, or transferred in fee title to an approved conservation agency.

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 best management practices (BMPs) will be implemented to reduce construction-related impacts to waters of the State in compliance with the requirements of Santa Ana Regional Board 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 the Applicant substantially comply with 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 the California Environmental Quality Act (CEQA), the CRPWD filed a CEQA Guidelines Section 15301 "Class 1" and Section 15302 "Class 2" Categorical Exemption with the Riverside County Clerk on July 24, 2015, the Class 1 Exemption declares the proposed Project consists of the operation, repair, maintenance, or minor alteration of existing topographical features, involving negligible or no expansion of use beyond that existing at the time of the District's determination. The Class 2 Exemption declares that the Project involves the reconstruction of existing facilities with no expansion of capacity. The Regional Board has independently considered the CEQA Categorical Exemptions in the issuance of this Certification and finds that no changes or alterations to the proposed Project 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 routine maintenance activities specified in the Project description above on an as-needed basis for the stated flood control facilities. 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 they be necessary.
- 3) The Applicant must provide a minimum 5-working day email notification to Regional Board staff prior to implementing maintenance activities as authorized under this Order. The notification must include the following: SARWQCB File Number 332015-18; the facility name/location; and dates of planned work activities. Please email this notification to Jason Bill, at jason.bill@waterboards.ca.gov.
- 4) No later than 30 days following the initiation of Project activities, Applicant shall submit a Habitat Mitigation and Monitoring Plan (HMMP) prepared for the Mitigation Area (as defined in the Offsite Mitigation section above) to the Regional Board for approval. The HMMP shall include the following information: (a), a description of the existing physical and biological conditions of the Mitigation Area(s), including an evaluation of present and potential beneficial uses; (b), a plan for management actions to occur in the Mitigation Area, including but not limited to, the removal of nonnative plant species and any re-contouring of the streambed; (c), a restoration schedule including monitoring and maintenance measures; (d), the establishment of fixed photographic monitoring locations; and (e), mitigation success standards and contingency measures.
- 5) Monitoring and maintenance of the Mitigation Area(s) shall be conducted for a minimum of five years, or until the Regional Board determines the Mitigation Area have met the performance criteria of successful restoration as set forth in the Regional Board approved HMMP. After the Mitigation Area has been completely installed, the Applicant shall submit an annual monitoring report to the Regional Board each year, for a minimum of five years. The first report summarizing annual maintenance activities is due to the Regional Board no later than April 1 of the year following the beginning of Project activities. The report shall include: (a) a summary of the annual restoration activities conducted; (b) an analysis of the changes to the vegetative community (including species present; percent cover, stem density of riparian trees and shrubs); and (c) photographs taken at the fixed monitoring locations detailed in the HMMP.
- 6) A conservation easement shall be placed over the 1.86-acre Mitigation Area to protect beneficial uses in perpetuity. An executed copy of the conservation easement shall be provided to the Regional Board within twelve (12) months of the initiation of the Project activities. 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.
- 7) Prior to construction activities, the Project proponent shall delineate the work area with brightly colored fencing or other methods to ensure that temporary

impacts to waters of the United States and waters of the State of California do not exceed the limits authorized in this Certification.

- 8) The Applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.
- 9) A copy of this 401 Certification and any subsequent amendments must be maintained on site for the duration of maintenance activities.
- 10) 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 the WILD, WARM, RARE, and SPWN beneficial uses.
- 11) 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. Additionally, no materials may be stored within waters of the United States or waters of the State of California.
- 12) 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.
- 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 from the Project site.
- 14) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such manner that petroleum products or other pollutants from the equipment might 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 appropriate enforcement action, including the revocation of this Certification and imposition of administrative 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 Regional Board Order No. R8-2015-0004, 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. R8-2015-0004 at www.waterboards.ca.gov/santaana/.

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 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 401 Water Quality 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/wqo_2003-0017.pdf

Should there be any questions, please contact Jason Bill at (951) 782-3295 or jason.bill@waterboards.ca.gov, or Wanda Cross at (951) 782-4468 or wanda.cross@waterboards.ca.gov.

Sincerely,



Kurt V. Berchtold
Executive Officer

cc: City of Riverside Public Works Department – Kevin M. Street - kstreet@riversideca.gov
U. S. Army Corps of Engineers, Los Angeles Office - James Mace
CA Department of Fish and Wildlife – Kim Freeburn-Marquez
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 Section- Jason A. Brush