



California Regional Water Quality Control Board

Santa Ana Region



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Arnold Schwarzenegger
Governor

June 12, 2009

Mr. Dean Kirk
The Irvine Company
550 Newport Center Drive
Newport Beach, CA 92260

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE PROPOSED MAINTENANCE ACTIVITIES WITHIN THE TRABUCO RETARDING BASIN, CITY OF IRVINE (ACOE REFERENCE NO. SPL – 2009 – 00023 – YJC)

Dear Mr. Kirk:

On March 10, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification"), submitted by Glenn Lukos Associates, Inc. on behalf of The Irvine Company, for maintenance activities within the Trabuco Retarding Basin in the City of Irvine, Orange County. The maintenance activities will initially be conducted by The Irvine Company and then later by Irvine Ranch Water District ("IRWD"). Consequently, Regional Board staff requested that IRWD submit a separate application for Certification. The requested application for Certification was received from IRWD on May 18, 2009 and will be addressed by separate letter.

This letter responds to The Irvine Company's request for certification that the proposed project, described in the 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) and subsequent Basin Plan amendments:

Project Description: Maintenance dredging to restore the line-and-grade of Trabuco Retarding Basin, part of IRWD's Natural Treatment System ("NTS") for the treatment of urban storm water runoff. Trabuco Retarding Basin is also known as NTS 16. Sediment and debris will be removed when the capacity of the inlet pond is reduced to approximately 50 percent of initial design

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capacity. Maintenance dredging is expected to occur periodically (every 5 to 15 years) to maintain the design depth. Excavated sediment will be disposed at approved disposal sites such as sanitary landfills, depending on the level of contamination by pollutants. Major vegetation removal, thinning, and planting is expected to occur when vegetation grows too thick to allow adequate flow of water or impairs pollutant removal. Surface and subsurface drainage facilities will be inspected for cracks and other structural damage and repaired or replaced as needed. The total project area is 28.1 acres. The site is located within Section 31 of Township 5 South, Range 8 West of the U.S. Geological Survey *Irvine, California*, 7.5-minute topographic quadrangle map (33 degrees N/117degrees W).

Receiving water: Trabuco Road Channel and San Diego Creek

Fill area: Up to 16.8 acres.

Dredge/Fill volume: Up to 4,066cubic yards.

Federal permit: U.S. Army Corps of Engineers File No. SPL – 2009 - 00023 – YJC authorized under Nationwide Permit Nos. 31 and 43.

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 Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. Maintenance activities may affect an area over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order No. 99-08 DWQ ("Order No. 99-08 DWQ"), may be required, as would be development of a SWPPP to control the discharge of pollutants from the project site.

You have applied for a Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act ("CEQA"), the Irvine Ranch Water District (IRWD) certified a Final Environmental Impact Report (EIR) for the San Diego Creek NTS Master Plan on April 26, 2004. The San Diego Creek NTS Master Plan included

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modifications to the existing Trabuco Retarding Basin which would result in the Basin becoming NTS 16. As part of the implementation of the Master Plan, The Irvine Company constructed the modifications to Trabuco Retarding Basin with the development of Planning Area 6 ("PA6"), thereby completing NTS 16. Subsequently, the Regional Board has determined that the proposed project is categorically exempt from provisions of CEQA under Guidelines Section 15301 for the repair and maintenance of an existing structure or facility, not expanding existing uses. NTS 16 is an existing facility and the proposed maintenance activities do not expand its uses.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) This Certification will expire 60-months from the date of issuance or upon transfer of the maintenance responsibilities to IRWD, whichever occurs first.
- 2) The applicant must comply with the requirements of the Clean Water Act section 404 permits.
- 3) Maintenance activities must not depress the dissolved oxygen concentration of downstream receiving waters below 5 mg/L as a result of controllable water quality factors. When the natural dissolved oxygen concentration is less than 5 mg/L, the discharger must not cause further depression.
- 4) Maintenance activities must not raise the pH of downstream receiving waters above 8.5 or lower pH below 6.5 as the result of controllable water quality factors.
- 5) Maintenance-related activities shall not cause the background natural turbidity, as measured in Nephelometric Turbidity Units (NTUs), in discharges from Trabuco Basin to be increased by values greater than the following Basin Plan objectives as the result of controllable water quality factors:
 - a. If natural turbidity is between 0 and 50 NTU, the maximum increase shall not exceed 20% of the measured natural turbidity.
 - b. If natural turbidity is 50 to 100 NTU, the increase shall not exceed 10 NTU.
 - c. If natural turbidity is greater than 100 NTU, the maximum increase shall not exceed 10% of the measured natural turbidity.
- 6) An effective monitoring plan must be developed and implemented to document compliance with conditions 3, 4, and 5 above. Any suspected violation of these conditions must be reported to Regional Board staff in writing within 24-hours of discovery. The monitoring plan and records of monitoring activities must be maintained for a minimum of 36 months from the completion of maintenance activities and be available for inspection by Regional Board staff.

- 7) Any available maintenance records must be turned over to IRWD within 10-days of IRWD's acceptance of the maintenance responsibilities for Trabuco Retarding Basin.

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

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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. 200-0017-DWQ is available at http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



for GERARD J. THIBEAULT
Executive Officer

cc: U. S. Army Corps of Engineers, Los Angeles Office – Dan Swenson
Department of Fish and Game – Erin Wilson
State Water Resources Control Board, OCC – David Rice
State Water Resources Control Board, DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR – 8

APF:401/certifications/Trabuco Retarding Basin Maintenance 302009-05

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