



# California Regional Water Quality Control Board

## Santa Ana Region



**Linda S. Adams**  
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**Arnold Schwarzenegger**  
Governor

August 27, 2007

Steve Nix  
City of Chino Hills  
2001 Grand Avenue  
Chino Hills, CA91709

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR "THE SHOPPES AT CHINO HILLS" AND THE CHINO HILLS GOVERNMENT CENTER STORM DRAIN OUTFALL, CITY OF CHINO HILLS (ACOE REFERENCE NO. 2007 – 369 – SPL)**

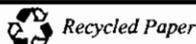
Dear Mr. Nix:

On March 22, 2007, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by Vandermost Consulting Services, Inc. (Vandermost), for a proposed outfall structure serving "The Shoppes at Chino Hills" and the Chino Hills Government Center. On May 10, 2007, a Denial without Prejudice was issued for the application. A subsequent Notice of Violation was issued on July 10, 2007, for failure to implement the San Bernardino County Water Quality Management Plan (WQMP). Complete responses to the Denial without Prejudice and the NOV were received on July 26, 2007.

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) and subsequent Basin Plan amendments:

**Project Description:** Construction of a sub-regional storm drain system and corresponding outfall to Chino Creek. The storm drain system will serve both the proposed Chino Hills Government Center (Government Center) and "The Shoppes at Chino Hills" (The Shoppes). The Government Center includes the construction of separate buildings for Fire Administration, a City Hall, Library, Sheriff Station, and a future parking structure on 11.7 acres adjacent to The Shoppes. The Shoppes consists of a 25.6-acre commercial/retail complex.

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The storm drain system will also serve a future 11.5-acre multi-family residential site located between The Shoppes and the Government Center. Shoppes Drive will bisect the overall project site. An existing U.S. Post Office will be generally enclosed by the project, but is not a part of it. Specific development proposals have not been approved for several of the sites at The Shoppes or for the residential site. The project is located southeast of the intersections of Grand Avenue and Peyton Drive and will be bound by the proposed Boy's Republic Drive. The project is located within Section 16 of Township 2 South, Range 8 West, of the U.S. Geological Survey *Prado Dam, California*, 7.5-minute topographic quadrangle map (33 deg. 59 min. 48 sec. N/ - 117 deg. 43 min. 18 sec. W).

- Receiving water: Chino Creek.
- Fill area: 0.01 acres of permanent impact to a flood control channel.
- Dredge/Fill volume: N/A
- Federal permit: U.S. Army Corps of Engineers Nationwide Permit Nos. 7 and 33.

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent submittals. The proposed mitigation is summarized below.

Onsite water quality standards mitigation proposed:

- Generally level landscaped areas in the overall project area will be depressed in order to infiltrate the 'first-flush' discharge volume.
- Overall discharges from The Shoppes will be treated using a hydrodynamic separator located at Shoppes Drive.
- Nuisance flow and 'first-flush' discharges from the Fire Administration area, City Center Drive, and a portion of the Library area will be treated in a bio-swale along the proposed Boy's Republic Drive. Flows from all other portions of the Government Center will be treated in a hydrodynamic separator near Boy's Republic Drive.
- Trash enclosures will be isolated from storm water run-on and will drain to the sanitary sewer.

- Porous pavement will be employed in the central promenade area of The Shoppes. Additional porous pavement will be located near the north, south, and west entrances, designated pedestrian cross-walks, and between Building 5<sup>1</sup>.
- Bio-swales will treat the 'first-flush' discharges from the southern parking lots of The Shoppes.
- Additional site-specific best management practices (BMPs) are specified in the final WQMP and in the sites' Storm Water Pollution Prevention Plan(s) (SWPPP).
- Future development proposals will implement additional BMPs that will be specified in the project WQMPs.

**Offsite Water Quality Standards Mitigation Proposed:**

- No off-site Water Quality Standards Mitigation is proposed.

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 BMPs will be implemented to reduce construction-related impacts to Waters of the State. This project is 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 99-08 DWQ, is required, as is development of a SWPPP, to control the discharge of pollutants from the project site.

You have applied for coverage under a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act (CEQA), the City of Chino Hills certified an Environmental Impact Report for the project on August 29, 2005. The Executive Officer has considered the City's EIR in the issuance of this Certification.

The City of Chino Hills is the responsible party for the development of the Government Center. The development of The Shoppes and the residential site are the responsibility of others. However, the City of Chino Hills is the responsible party for discharges from the related storm drain outfall and is a co-permittee under Regional Board Order No. R8-2002-0012, NPDES Permit No. CAS618036 (Order No. R8-2002-0012), commonly known as the San Bernardino County Municipal Storm Water Runoff Permit. Consequently, the scope of review for this Certification has included all available specific development proposals within the project area as described above. Discharges

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<sup>1</sup> These are separate structures both designated as "5" on available site plans in the northwest quadrant of The Shoppes, as defined by the internal streets and promenade.



of pollutants from future specific development proposals will be addressed by the City's compliance with the provisions of Order No. R8-2002-0012, and subsequent renewals, including the development, review, and approval by City staff or their representatives, of project WQMPs.

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

1. This Certification is conditioned upon the construction of all proposed storm water treatment facilities as proposed. All structural storm water treatment facilities shall be constructed and operational prior to the occupancy of any building.
2. Regional Board staff and other authorized representatives shall be allowed:
  - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification and applicable waste discharge requirements;
  - b. Access to copy any records that are kept under the requirements of this Certification and applicable waste discharge requirements;
  - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from the project site; and
  - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification and applicable waste discharge requirements.
3. This Certification and any subsequent amendments shall be maintained on site as a denoted element of any project SWPPP or WQMP.
4. This Certification is transferable only upon written notice to the Executive Officer. Such notice shall include written acknowledgement of this Certification by the transferee's authorized representative.

**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.

Although we anticipate no further regulatory involvement, 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, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation 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.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

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. 200-0017-DWQ is available at [www.swrcb.ca.gov/resdec/wqorders/2003/wgo/wgo2003-0017.pdf](http://www.swrcb.ca.gov/resdec/wqorders/2003/wgo/wgo2003-0017.pdf)

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

Sincerely,



GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Shannon Pankratz  
State Water Resources Control Board, OCC – Erik Spiess  
State Water Resources Control Board, DWQ-Water Quality Certification  
Unit – Bill Orme  
California Department of Fish and Game, Ontario Office – Jeff Brandt  
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Tim  
Vendlinski

