



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold
Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

August 20, 2009

Certified Mail – Return Receipt Requested
Article Number: 7009 0820 0001 7183 7234

In reply refer to:
737442:jebsen

Mr. Michael Ninh
City of San Diego
600 B Street, Suite 800, MS908A
San Diego, CA 92101

Dear Mr. Ninh:

SUBJECT: Action on Request for Clean Water Act Section 401 Water Quality Certification for Mission Center Canyon B Sewer Access Path Project, 09C-039

Enclosed find Clean Water Act Section 401 Water Quality Certification (Certification) with acknowledgment of enrollment under State Water Resources Control Board Order No. 2003-017 DWQ for Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have received State Water Quality Certification for the Mission Center Canyon B Sewer Access Path Project. A description of the project and location can be found in the project information sheet and on location and site maps compiled by the California Regional Water Quality Control Board, San Diego Region (Regional Board), which are included as Attachments 1 through 3.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that you have accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the Regional Board including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

Recycled Paper



0000 \ 0000 \ 0000

Michael Ninh
City of San Diego
401 Certification 09C-039

- 2 -

August 20, 2009

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. If you have any questions regarding this notification, please contact Ms. Jody Ebsen directly at 858-636-3146 or by email via jebsen@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. 09C-039 for Mission Center Canyon B Sewer Access Path Project, with 3 attachments

cc: Refer to Attachment 2 of Certification for Distribution List.

File No.	09C-039
WDID:	9 000001929
<u>CIWQS</u>	
Reg. Measure ID:	365267
Place ID:	737442
Party ID:	8710

Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial Certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADDITIONAL CONDITIONS:

In addition to the three standard conditions, the City of San Diego must satisfy the following:

A. GENERAL CONDITIONS:

1. The City of San Diego must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (Regional Board), to support this 401 Water Quality Certification (Certification) and all subsequent submittals required as part of this Certification and as described in Attachment 1. *The conditions within this Certification must supersede conflicting provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the Regional Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.*
2. During construction, the City of San Diego must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.
3. City of San Diego must permit the Regional Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Certification.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 - d. Sampling of any discharge or surface water covered by this Order.

4. The City of San Diego must notify the Regional Board within 24 hours of any unauthorized discharge, including hazardous or toxic materials, to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional best management practice (BMPs) or other measures that will be implemented to prevent future discharges.
5. The City of San Diego must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
6. This Certification is not transferable to any person except after notice to the Executive Officer of the Regional Board. City of San Diego must notify the Regional Board of any change in ownership of the project area. Notification must include, but not be limited to, a statement that the property owner has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands the permit requirements and must implement them; the seller and purchaser must sign and date the notification. The notification for transfer of mitigation responsibility shall include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification. Notification must be provided within **10 days** of the sale of the property.
7. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must 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.
8. In response to a suspected violation of any condition of this Certification, the 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, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
9. 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.

10. City of San Diego and successor owners must submit annual progressive reports to the Regional Board prior to **August 1** of each year following the issuance of this Certification until the project has reached completion.

B. PROJECT CONDITIONS:

1. Prior to the start of the project, and annually thereafter, the City of San Diego must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and BMP implementation and maintenance.
2. City of San Diego must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ; *Statewide General Waste Discharge Requirements for discharges of dredged or fill material that have received State Water Quality Certification*. These General Waste Discharge Requirements are accessible at:
http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
3. The City of San Diego must implement a Storm Water Pollution Prevention Plan during project construction.
4. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the Regional Board pursuant to CWC § 13260.
5. Discharges of concentrated flow during construction or after completion must not cause downstream erosion or damage to properties or stream habitat.
6. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each work day or sooner if rain is predicted.
7. All surface waters, including ponded waters, must be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.

8. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.

C. STREAM PHOTO DOCUMENTATION PROCEDURE:

1. The City of San Diego must conduct photo documentation of the project site, including all areas of temporary impact, prior to and after project construction, and mitigation areas, including all areas of permanent and temporary impact, prior to and after project construction.

D. COMPENSATORY MITIGATION FOR LOSS OF WATERS OF THE U.S./STATE:

1. Mitigation for permanent discharges to 0.012 of waters of the U.S. must be achieved at a 2:1 ratio and will be achieved through 0.057 acres off-site establishment of vegetated waters. Temporary impacts to waters of the U.S. will be migrated at a 1:1 ratio through on-site restoration and off-site enhancement of vegetated waters. Off-site mitigation will be achieved at the City of San Diego's San Diego River Wetland Creation Project and the Rancho Mission Canyon Wetland Enhancement Program sites.
2. City of San Diego must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the United States/State. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species. The City of San Diego must implement all necessary BMPs to control erosion and runoff from areas associated with this project.
3. Throughout the mitigation monitoring program mitigation areas must be maintained free of perennial exotic plant species including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the onsite or offsite mitigation areas.
4. Regional Board acceptance of the final mitigation plan applies only to the site and plan that mitigates for the Mission Center Canyon B Sewer Access Path project and must not be construed as approval of the mitigation site or plan for use by other current or future projects that are planning to use the on-site location for mitigation.
5. Any maintenance activities that do not contribute to the success of the mitigation site and enhancement of beneficial uses and ecological functions

and services are prohibited. Maintenance activities are limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species and remedial measures deemed necessary for the success of the restoration program.

6. If at any time during the implementation and establishment of the mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, City of San Diego is responsible for repair and replanting of the damaged area(s).
7. The City of San Diego must provide the name and contact information of any third party accepting responsibility for implementing the mitigation requirements of this Certification. The notification must be submitted to the Regional Board within 30 days of the transfer of responsibility. The notification must include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification.
8. For purposes of this Certification, establishment is defined as the creation of vegetated or unvegetated waters of the U.S./State where the resource has never previously existed (e.g. conversion of nonnative grassland to a freshwater marsh). Restoration is divided into two activities, re-establishment and rehabilitation. Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the U.S./State previously existed (e.g., removal of fill material to restore a drainage). Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated or unvegetated waters of the U.S./State (e.g., removal of a heavy infestation or monoculture of exotic plant species from jurisdictional areas and replacing with native species). Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the U.S./State (e.g., removal of small patches of exotic plant species from an area containing predominantly natural plant species). Preservation is defined as the acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the U.S./State (e.g., conservation easement).

E. REPORTING:

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.

2. City of San Diego must submit a report to the Regional Board within 30 days of completion of the project. The report should include as-built drawings no bigger than 11" x 17" and photos of the completed project.
3. All reports and information submitted to the Regional Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.
4. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

5. City of San Diego must submit reports required under this Certification, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; Project No. 08C-044
9174 Sky Park Court, Suite 100
San Diego, California 92123

6. Required Reports: The following list summarizes the reports, excluding spill notifications and emergency situations, required per the conditions of this Certification to be submitted to the Regional Board.

Report Topic	Certification Condition	Due Date(s)
Project Completion Report	E2	within 30 days of completion of the project

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On May 14, 2009 receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.


REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Jody Ebsen
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-636-3146
jebsen@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the Alvarado Court Sewer Pipe Crossing Accelerated Project (09C-028) 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. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017 DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the Regional Board may issue waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Board's Water Quality Control Plan (Basin Plan).



JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

20 Aug 2009
Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location and Site Maps

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: / City of San Diego,
Attention: Michael Ninh
600 B Street, Suite 800
San Diego, CA 92101
Telephone: 619-533-7443
FAX: 619-533-5476

Project Name: / Mission Center Canyon B Sewer Access Path Project

Project Location: / The site is within Murray Canyon in the Serra Mesa Community of
San Diego.
Latitude 32°25-28" N Longitude 117°09'02-04" W

Type of Project: / Install access paths for sewer lines.

Project Description: The project includes the creation of an unpaved access path and
/ two small stream crossings that will use pervious Arizona pavers to
provide access to sewer line segments that occur within Murray
Canyon.

Federal Agency/Permit: / Army Corps of Engineers Section 404 NWP 14, Terry Dean

Other Required Regulatory Approvals: California Department of Fish and Game Streambed Alteration
Agreement, Kelly Fisher

California Environmental Quality Act (CEQA) Compliance: Notice of Determination, October 7, 2004, City of San Diego,
/ SCH No. 2002041129

Receiving Water: / San Diego Hydrologic Unit, Lower San Diego Hydrologic Area,
Mission San Diego Hydrologic Sub-Area (907.11)

Affected Waters of the United States: / Permanent: 0.012 acres of waters of the U.S
Temporary: 0.011 acres of waters of the U.S

Dredge Volume N/A

Compensatory Mitigation: / Mitigation for permanent discharges to 0.012 of waters of the U.S.
must be achieved at a 2:1 ratio and will be accomplished through
0.057 acres off-site establishment of vegetated waters. Temporary
impacts to waters of the U.S. will be migrated at a 1:1 ratio through
on-site restoration and off-site enhancement of vegetated waters.
All off-site mitigation will be achieved at the City of San Diego's San
Diego River Wetland Creation Project and the Rancho Mission
/ Canyon Wetland Enhancement Program sites.

Mission Center Canyon B
Sewer Access Path Project
City of San Diego

09C-039

Public Notice: / On May 14, 2009, receipt of the project application was posted on
the Regional Board web site to serve as appropriate notification to
the public.

Fees: Total Due: \$640.00
/ Total Paid: \$640.00 (check No. 7628974)

CIWQS: Regulatory Measure ID: 365267
/ Place ID: 737442
Party ID: 8710

**ATTACHMENT 2
DISTRIBUTION LIST**

Ms. Therese O'Rourke
U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
6010 Hidden Valley Rd, Ste 105
Carlsbad, California 92011

Cc via email:

Ms. Kelly Fisher
California Department of Fish and Game
South Coast Region, Habitat Conservation Planning – South
kfisher@dfg.ca.gov

State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

U.S. Environmental Protection Agency, Region 9
Wetlands Regulatory Office
R9-WTR8-Mailbox@epa.gov

Ms. Sally Brown
U.S. Department of the Interior
Fish and Wildlife Service
Sally_Brown@fws.gov

**ATTACHMENT 3
LOCATION AND SITE MAPS**

Attachment 3 Site Map



- Legend**
- Manholes
 - Existing Sewer Lines
 - Arizona Crossing (Permanent Impacts)
 - Proposed Access Path
 - Temporary Construction Impact Zone
 - MHPA Boundary
 - Jurisdictional Drainage
- Vegetation Communities**
- Diegan Coastal Sage Scrub
 - Disturbed Habitat
 - Disturbed Wetland
 - Freshwater Marsh
 - Non-Native Vegetation
 - Poison Oak Chaparral
 - Southern Mixed Chaparral
 - Southern Willow Scrub

PURPOSE: Public Facility Maintenance
DATUM: MSL
ADJACENT PROPERTY OWNERS:
 See Form 4345

**PLAN VIEW
OF PROJECT SITE**

**MISSION CENTER CANYON B
SEWER ACCESS PATH**

Within a section of Murray Canyon
in community of Serra Mesa,
north of Mission Center Rd

WATERBODY: Drainage
COUNTY: San Diego **STATE:** CA
APPLICANT: County of San Diego
 Engineering & Capital Projects Div.
AGENT: Engineering & Capital Projects Div.
 600 B St. Ste. 800
 San Diego, CA 92109
 (858) 694-2047
USGS Quadrangle: La Jolla
 LAT 32° 47' 25" N LONG 117° 09' 02" W
 T 16S R 3W S N7A
Sheet: 2 of 3 **Date:** 04/06/09

0001 04 09
 000N\AN\00

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Michael Nink
City of SAN DIEGO
600 B Street, Ste 800
SAN DIEGO CA 92101

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
X

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7009 0820 0001 7183 7234

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.
CERTIFIED MAIL™



7009 0820 0001 7183 7234
7009 0820 0001 7183 7234

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees		\$6.05

Postmark Here

Sent To: Michael Nink, City of San Diego
 Street, Apt. No., or PO Box No. 600 B Street, Ste 800 MS908A
 City, State, ZIP+4 SAN DIEGO CA 92101

PS Form 3800, August 2006 See Reverse for Instructions

000000000000