



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

February 2, 2016

Mr. R. J. Hernandez
Land Planning Specialist
K. Hovnanian Companies, Inc.
400 Exchange, Suite 200
Irvine, CA 92602

rjhernandez@khov.com

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR FOUR SEASONS CIRCLE BRIDGE PROJECT, CITY OF BEAUMONT, RIVERSIDE COUNTY (USACE CORPS FILE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 332015-27)

Dear Mr. Hernandez:

On October 23, 2015, we received from Glenn Lukos Associates on behalf of K. Hovnanian Companies, Inc. (Applicant), an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project to construct a bridge over Potrero Creek to connect two existing separated sections of Four Seasons Circle (Project). The Applicant submitted a check for \$600.00 with the Certification application materials, and a second check for \$966.00 on December 10, 2015, which satisfies the fee requirement for 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 most current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, Section 2200 (a) (3).

This letter responds to your request for Certification that the proposed Project, as described in your application and summarized below, will comply with State water quality standards identified in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

Project Description: The proposed Project consists of constructing the Four Seasons Circle Bridge over Potrero Creek. The bridge design will avoid permanent impacts to waters of the United States (WOUS) because the footprint of the bridge abutments and retaining walls will be located outside of WOUS. Additionally, the bridge design is a single span structure without piers or columns. Temporary impacts to

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

3737 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

♻️ RECYCLED PAPER

WOUS will occur from vegetation removal and construction activities within the Potrero Creek Channel.

The work will take place within Section 14 of Township 3 South, Range 1 West, of the U.S. Geological Survey *Beaumont* 7.5 minute topographic quadrangle map (33.911538° N/ -116.949970° W).

Receiving water: Potrero Creek has designated beneficial uses (existing or potential) that include: municipal or domestic supply (MUN), agricultural supply (AGR), groundwater recharge (GWR), contact recreation (REC1), non-contact recreation (REC2), warm freshwater habitat (WARM), and wildlife habitat (WILD).

Fill area:

Temporary Impacts to Wetland Waters of the United States	0.16 acres	116 linear feet
--	------------	-----------------

Dredge/Fill volume: Not Applicable

Federal permit: U.S. Army Corps of Engineers (USACE) Permit Nationwide No. 14 – Linear Transportation Projects

You have proposed to mitigate water quality impacts as 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.
- Waters of the United States within the Project area that are temporarily disturbed will be restored to pre-Project conditions as guided by a Regional Board-approved Habitat Mitigation and Monitoring Plan.

Offsite Water Quality Standards Mitigation Proposed:

- None

Based on the application materials submitted, Potrero Creek at the Project location supports a population of least Bell's vireo (LBV). The LBV is a federal and State listed endangered bird species. Should the proposed Project impact the LBV, 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 per the requirements of 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 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 California Code of Regulations, Title 14, Chapter 3, Section 15096, as a Responsible Agency, the Regional Board is required to consider the California Environmental Quality Act document (e.g., Environmental Impact Report (EIR) or Mitigated Negative Declaration (MND)) prepared by the lead agency in determining whether to approve an application submitted for a project to receive 401 Water Quality Certification. A responsible agency has responsibility to mitigate and avoid the direct and indirect environmental effects of those parts of the project that it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board has considered the EIR and its amendment prepared by the City of Beaumont for the proposed Project and filed with the Riverside County Clerk (RCC) on September 30, 1993, the addendum to the EIR filed with the RCC on June 22, 2004, and subsequent information provided in the Applicant's application, in approving this Certification. More specifically, the Regional Board has considered those sections of the EIR pertaining to impacts to water quality standards. Based upon the mitigation proposed in the EIR, and the conditions set forth in this Certification, potentially adverse impacts to water quality standards should be reduced to a less than significant level and beneficial uses protected if all stated mitigation and conditions are performed. Thus, the Regional Board independently finds that changes or alterations have been incorporated into the Project that should 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 for 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) The Applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.
- 3) The Applicant must comply with the requirements of the applicable California Department of Fish and Wildlife Lake and Streambed Alteration Agreement.
- 4) 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.
- 5) A copy of this 401 Certification and any subsequent amendments must be maintained on-site for the duration of work as a denoted element of any project Storm Water Pollution Prevention Plan (SWPPP) and Habitat Mitigation and Monitoring Plan (HMMP).
- 6) Prior to construction activities, the Applicant shall delineate the work area with brightly colored fencing or other methods to ensure temporary impacts to waters of the United States and waters of the State of California do not exceed the limits authorized in this Certification.
- 7) 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.
- 8) 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.
- 9) 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.
- 10) 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.

- 11) Prior to the initiation of Project activities, Applicant shall submit the HMMP prepared for the area temporarily disturbed by project activities (Mitigation Area) 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, 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, restoration plantings, 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.
- 12) Monitoring and maintenance of the Mitigation Area shall be conducted for a minimum of five years, or until the Regional Board determines the Mitigation Area has 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.
- 13) 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 condition contained herein, or any 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.
- 14) 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: Glenn Lukos Associates– Martin Rasnick – mrasnck@wetlandpermitting.com
U. S. Army Corps of Engineers, Los Angeles Office - James Mace
CA Department of Fish and Wildlife – Jeff Brandt
CA Department of Fish and Wildlife – Charlie Land
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