California Regional Water Quality Control Board
Santa Ana Region

Order No. R8-2005-0087

Waste Discharge Requirements and Clean Water Act Section 401 Water Quality Standards Certification

for

Highpointe Communities, Inc.
Quincy Channel Hydro-modifications Associated with the Development of Single Family Residential Tract 31269 and Tract 31424, City of Moreno Valley, Riverside County

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), finds that:

1. Highpointe Communities, Inc. (hereinafter, discharger) proposes to develop Tract 31269 and Tract 31424, located along the east side of Quincy Channel between Eucalyptus and Cottonwood Avenues in the City of Moreno Valley. The Tracts consist of approximately 180 single family residential lots and two open space lots. As part of the conditions of approval, the City of Moreno Valley has required the discharger to modify 2,605 linear feet of the adjacent eastern bank of Quincy Channel between Cottonwood and Eucalyptus Avenues and widen Cottonwood Avenue.

2. Quincy Channel consists of an ephemeral, sandy, active channel within a larger incised earthen channel. The larger incised channel is largely vegetated with mule fat, native and non-native grasses, native shrubs, and a few large trees. The Corps' authority to regulate discharges of dredge and fill is generally limited to the sandy active channel.

3. The proposed hydro-modification of Quincy Channel involves reconstructing the incised banks to a concrete-panel bank with a slope of 1.5 to 1. The channel bottom will remain earthen and vegetated. During construction, the channel will be excavated at a maximum slope of 1:1, approximately 8 feet below the existing channel grade. The channel hydro-modification will widen Quincy Channel and create an additional 0.13 acres of waters of the State and United States.

4. As the result of the proposed widening of Cottonwood Avenue, the existing Quincy Channel culvert crossing will need to be replaced. This will result in the construction of culverts that are longer by 30 feet on the north side and 25 feet on the south side. At each end of the culverts will be new headwalls and grouted rip-rap energy dissipaters. These energy dissipaters will extend 50 feet from each end of the new culverts.

5. The proposed hydro-modification and road widening will result in the discharge of dredge or fill to a water of the State that is subject to the Corps' Clean Water Act Section 404 Permits and the discharger is required to provide a Clean Water Act Section 401 Water Quality Standards Certification to the Corps.

6. The discharger has proposed to mitigate the discharge of fill to Quincy Channel through re-vegetation of temporarily impacted areas and vegetation of the created waters of the State and United States. The proposed Order requires the discharger to proceed with the proposed mitigation.

7. The City of Moreno Valley adopted negative declarations for Tract 31269 and Tract 31424 on November 24, 2003 and April 5, 2004, respectively. The City of Moreno Valley did not distribute draft or final CEQA documents for review by Responsible Agencies prior to project approval. The direct and cumulative impacts of the proposed project on beneficial uses are addressed acceptably by mitigation required by this Order. The adopted negative declarations are adequate.

8. Upon review of biological reports provided by the discharger and a site visit conducted on April 5, 2005, Regional Board staff identified the following beneficial uses for the affected reach of Quincy Channel:

   a. Wildlife habitat (WILD)
   b. Water-Contact Recreation (REC-1)
   c. Non-Contact Water Recreation (REC-2)
   d. Groundwater Recharge (GWR)

9. The discharger submitted an application for WDRs on February 18, 2005. This Order regulates the discharge of fill material to waters of the State to address project-related impacts to beneficial uses.

10. The Regional Board has considered antidegradation pursuant to State Board Resolution No. 68-16 and finds that the discharge is consistent with those provisions.

11. The Board has notified the discharger and other interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity for public hearing and opportunity to submit their written views and recommendations.

12. The Board, through publication of a public notice, solicited and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that the discharger, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

A. DISCHARGE SPECIFICATIONS:

1. No activities associated with the project shall cause or threaten to cause a nuisance or pollution as defined in Section 13050 of the California Water Code.

2. The discharge of any substance in concentrations toxic to animal or plant life is prohibited.

3. The groundwater in the vicinity of the project shall not be degraded as a result of the project activities or placement of fill for the project.

4. The discharge of fill materials associated with the discharge requested herein for the Quincy Channel shall be limited to inert materials, as defined in Section 20230, Division 2, Title 27.

B. DISCHARGE PROHIBITIONS:

1. The direct discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plains, except as authorized by these waste discharge requirements, is prohibited.

2. The discharge of floating oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

3. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

4. Discharges to surface waters of wastes or pollutants that are not otherwise regulated by a separate National Pollutant Elimination System (NPDES) permit, are prohibited.

C. PROVISIONS:

1. The discharger shall re-vegetate temporarily impacted areas of Quincy Channel and vegetate the on-site created channel bottom using appropriate native species.

2. The discharger shall maintain a copy of this Order at the site so that it is available to site operating personnel at all times. Key operating personnel shall be familiar with its content.

3. The discharger shall remove from the site any waste or fill material found to contain substances that may have a deleterious effect on water quality, and dispose of unacceptable wastes in a manner acceptable to the Executive Officer.

4. The discharger must comply with all of the requirements of this Order. Any violation of this Order constitutes a violation of the California Water Code and may constitute a violation of the Clean Water Act and its regulations, and is grounds for enforcement action, termination of this Order, revocation and re-issuance of this Order, denial of an application for re-issuance of this Order; or a combination thereof.

5. The discharger shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

6. The provisions of this Order are severable, and if any provision of this Order, or the application of any provisions of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order shall not be affected thereby.

7. The filing of a request by the discharger for modification, revocation and re-issuance, or termination of this Order or a notification of planned changes or anticipated noncompliance does not stay any requirements of this Order.

8. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the discharger from liabilities under federal, state, or local laws, nor guarantee the discharger a capacity right in the receiving waters.

9. This Order constitutes a Clean Water Act Section 401 Water Quality Standards Certification. The Regional Board hereby certifies that the development of Tract 31269 and Tract 31424 and the associated hydro-modification of Quincy Channel 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.

10. Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality standards 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.

11. This Order does not convey any property rights of any sort, or any exclusive privilege.

12. This Order is not transferable to any person except after notice to, and approval by, the Executive Officer. The Regional Board may require modification or revocation and re-issuance of this Order to change the name of the discharger.

13. In the event of any change in control or ownership of land or waste discharge facility presently owned or controlled by the discharger, the discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to the Regional Board.

14. The Regional Board and other authorized representatives shall be allowed:

    a. Entry upon premises where a regulated facility or activity is located or conducted, or where records are kept under the requirements of this Order;

    b. Access to copy any records that are kept under the requirements of this Order;

    c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and

    d. To photograph, sample and monitor for the purpose of assuring compliance with this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on May 27, 2005.

Gerard J. Thibeault
Executive Officer

ITEM NO. 12

May 27, 2005

ERRATA SHEET

CHANGES TO ORDER NO. R8-2005-0087

(Language added is underlined.)
(Language deleted is ~~struck out~~)

1. Order No. R8-2005-0087, FINDINGS, Page 2 of 5, amend Finding 7. as follows:

   7. The City of Moreno Valley adopted negative declarations for Tract 31269 and Tract 31424 on November 24, 2003 and April 5, 2004, respectively. ~~The City of Moreno Valley did not distribute draft or final CEQA documents for review by Responsible Agencies prior to project approval.~~ The direct and cumulative impacts of the proposed project on beneficial uses are addressed ~~acceptably~~ by mitigation required by this Order. ~~The adopted negative declarations are adequate~~.

2. Order No. R8-2005-0087, PROVISIONS, Page 3 of 5, amend Provision 1. as follows:

   1. The discharger shall re-vegetate temporarily impacted areas of Quincy Channel and vegetate the on-site created channel bottom using appropriate native species. The initial planting shall occur not later than October 31st following completion of excavation of Quincy Channel.

California Regional Water Quality Control Board
Santa Ana Region

March 27, 2005

ITEM: **12**

SUBJECT: Order No. R8-2005-0087, Waste Discharge Requirements and Clean Water Act Section 401 Certification, Highpointe Communities, Inc., Quincy Channel Hydro-modification, City of Moreno Valley

SUMMARY

The matter before the Board is to consider adoption of Order No. R8-2005-0087, authorizing the discharge of fill to Quincy Channel, a water of the U.S., and to issue a Clean Water Act Section 401 Water Quality Standards Certification for the associated development of Tract 31424 and Tract 31269 in the City of Moreno Valley.

BACKGROUND

California Water Code (CWC) Section 13376 states that, "...any person discharging dredge or fill material or proposing to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with Section 13260." Section 13260(a) of the CWC requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, that could affect the quality of the waters of the State, file a report of waste discharge (ROWD). Under federal Clean Water Act (CWA) Section 401, every applicant for a federal permit or license for any activity that may result in a discharge to waters of the United States must obtain State Water Quality Certification (Certification) that any discharge from the proposed activity will comply with state water quality standards.

Most Certifications are issued in connection with U.S. Army Corps of Engineers (Corps) CWA Section 404 permits for dredge and fill discharges. The State Water Resources Control Board (SWRCB) and Regional Water Quality Control Boards administer the Certification program in accordance with the requirements of California Code of Regulations Title 23, section 3830, *et seq.* Since November 2003, all Certifications have been issued by the Executive Officer accompanied by authorization to discharge in accordance with 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 State Water Quality Certification." In the absence of the need to obtain a Certification, the SWRCB has asserted its authority to regulate discharges of dredge and fill to waters of the State under the Porter-Cologne Water Quality Control Act. On May 4, 2004, the State Water Resources Control Board issued Water Quality Order No. 2004-0004-DWQ, "Statewide General Waste Discharge Requirements for Dredge and Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction (Order No. 2004-0004-DWQ). Numeric impact thresholds limit the application of Order No. 2004-0004-DWQ to relatively small discharges of fill.

Because Certifications are most often issued as the result of Corps' permits, applicants often misconstrue the project review to be limited to the discharge of dredge or fill. However, when the State issues a certification, it is certifying that all discharges from the project are protective of all water quality standards that apply to the affected water body. Thus, Certifications address, not only the discharges of dredge and fill that trigger the need for certification, but also storm water discharges, dry-weather discharges, and other types of wastewater discharges from the project as a whole.

On August 18, 2004, Regional Board staff received an application for Clean Water Act Section 401 Certification (Certification) from the agent for Highpointe Communities, Inc., Tom Dodson and Associates (TDA), for discharges of fill to Quincy Channel, in association with the development of adjacent residential Tracts 31424 and 31269 in the City of Moreno Valley. The affected reach of Quincy Channel consists of an incised earthen channel between Eucalyptus and Cottonwood Avenues. The channel is vegetated largely with mulefat, native and non-native grasses, native shrubs, and a few trees. Within the channel is a smaller, meandering active channel with a sandy streambed. The ordinary high water mark (OHWM) indications of flow that denote the Corps' jurisdiction are generally limited to the smaller active channel (see Figure 1 below).

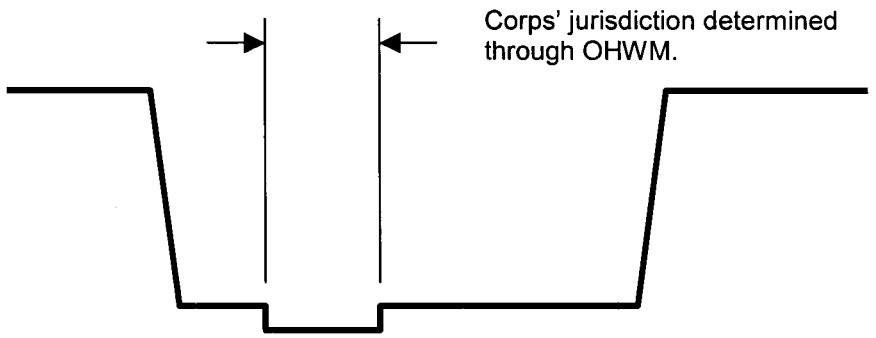

Figure 1: Schematic cross-section of Quincy Channel showing the limits of Corp's jurisdiction relative to the overall channel. The smaller active channel (Corps jurisdiction) meanders back and forth within the larger channel.

Based on biological reports submitted with the application for Certification and a Regional Board staff site visit on April 12, 2005, Quincy Channel exhibits the following beneficial uses: Wildlife Habitat (WILD), intermittent Water Contact Recreation (REC-1), Non-Contact Water Recreation (REC-2), and Groundwater Recharge (GWR).

The discharger proposes to excavate within and along the active channel (Corps' jurisdiction) and up the east bank of the larger incised channel to construct a concrete panel channel bank with a slope of 1.5:1 and a toe key that is approximately 7 feet below ground surface. The existing channel grade will then be restored. The concrete panel channel slope will stabilize the east bank of Quincy Channel and protect the residential homes proposed for Tracts 31424 and 31269. The channel hydro-modification will widen Quincy Channel and create an additional 0.13 acres of waters of the State and United States.

The discharger also proposes to widen Cottonwood Avenue along the southern boundary of the project by 30 feet on the north and 25 feet on the south sides at Quincy Channel. This will involve replacing the existing culverts with larger and longer culvert pipes and placing an additional 50 feet of rip-rap for energy dissipation at both ends of the new culverts. Total impacts from widening Cottonwood Avenue will be 0.12 acres, or 155 linear feet of channel. Direct impacts from constructing the concrete panels for bank protection will be 0.11 acres, or 280 linear feet, of channel. As already noted, the excavation of the channel bottom is expected to result in a net increase of 0.13 acres of waters of the U.S. Except where the overall channel meanders onto Tracts 31424 and 31269, the west bank of Quincy Channel will not be directly affected.

On August 19, 2004, Regional Board staff sent a letter informing both Highpointe Communities, Inc. and TDA that the project description was incorrect and indicating that Tracts 31424 and 31269 may be part of the project due to their apparent dependence on the hydro-modification of Quincy Channel. Regional Board staff also requested that the applicant provide a draft or final document, prepared pursuant to the California Environmental Quality Act (CEQA), and hydraulic information regarding the proposed hydro-modification.

For purposes of Certification, Regional Board staff reviewed post-construction structural best management practices (BMPs) proposed by the discharger for both Tract 31424 and 31269 and the proposed discharges of dredge and fill. The discharger is proposing to treat storm water runoff from Tract 31424 in a vegetated swale and from Tract 31269 in a water quality basin. Regional Board staff has determined that the proposed structural BMPs are acceptable for the purposes of Certification. The California Code of Regulations and State Board Order No. 2003-0017-DWQ allow the Executive Officer to issue a Certification on behalf of the Regional Board and to authorize the discharge under the State Board's Order. However, Regional Board staff believes that there are issues with this project related to compliance with the California Environmental Quality Act (CEQA), municipal and flood control agency land use approval processes, and the cumulative impacts of the proposed project that warrant consideration of this matter by the Regional Board.

Although the proposed <u>direct</u> impacts are small (0.23 acres) and will result in a net increase in channel bottom, the <u>indirect</u> and <u>cumulative</u> impacts have the potential to affect the beneficial uses of the entire channel reach, over 2,500 feet. The proposed direct impact analysis provided by TDA identifies only the areas of Quincy Channel affected by discharges of fill that are subject to Clean Water Act Section 404. By limiting the discussion of impacts just to those discharges subject to Clean Water Act Section 404, direct and cumulative impacts to beneficial uses from the excavation in the non-active part of the channel (not subject to 404 permitting) are masked. The excavation of channel banks may directly affect the channel's water quality and beneficial uses by removing riparian vegetation, destroying terrestrial and avian wildlife habitat, affecting the aesthetic enjoyment of the waters, and changing water temperature and chemistry, which, in turn, may affect aquatic plants and wildlife and the beneficial uses of the channel.

Furthermore, effectively fixing the drainage easement right-of-way for the east bank of the Channel has the potential to result in cumulative impacts on beneficial uses in the channel as other properties on the opposite bank of the channel are developed. The

drainage right-of-way includes grade allowances, maintenance roads, as well as channel freeboard, slope banks, and channel bottom. The potential cumulative impacts to beneficial uses would occur when development on the west bank is approved and the ultimate channel right-of-way is set, and with development of the upstream tributary area. The ultimate channel bottom width would be determined after subtracting from the width of the right-of-way, the space needed for maintenance roads, grade allowances, and other upland elements of the drainage easement.

Understanding the ultimate channel bottom width is critical in understanding what beneficial uses will be supported after adjacent properties are developed. The channel bottom width is important in evaluating the stability of an earthen channel and the vegetation density allowable for the desired hydraulic efficiency for the design flow of the channel. If the channel bottom width is too narrow, high sheer stress and velocity will scour the channel bottom, eliminating vegetation, destabilizing the stream bank, and threatening adjacent property. Even if scour does not result, vegetation growing in the channel bottom could impede flows, reduce hydraulic efficiency, and elevate the design storm water surface elevation, causing flooding on adjacent properties. In order to prevent this from occurring, the local flood control agency, as part if its maintenance of the channel, would be required to routinely remove vegetation in order to maintain the channel's hydraulic efficiency and lower design storm water surface elevations. A channel bottom that is wide enough could minimize channel scour while allowing for natural vegetation densities, minimize the need for routine maintenance, and thereby minimize future, cumulative impacts to the beneficial uses of the channel.

However, agricultural or urban development in a channel's upstream tributary area may also result in cumulative impacts to the drainage as the result of increased runoff. Even where sufficient channel bottom width may have been secured to maintain beneficial uses at one time, later upstream development may require further hydro-modification to accommodate the increased flow. Ideally, this would involve widening the channel, provided that adjacent development does not preclude this option. New developments could be conditioned to not increase their contribution of flow to downstream channels. Otherwise, increasing the channel's hydraulic efficiency to carry increased volumes of runoff would involve such measures as vegetation removal or concrete lining[1]. Even in situations where the affected channel reach is not constrained by development along each bank, the potential loss of property may compel owners to armor the channel informally, or request that the local flood control agency armor or otherwise hydro-modify the channel in order to preserve usable land[2].

In the Negative Declaration prepared pursuant to CEQA, the City of Moreno Valley did not disclose the ultimate configuration of Quincy Channel or provide for specific mitigation of cumulative impacts resulting from development of properties on the opposite bank of the Channel. Documentation regarding improvement plans for Quincy Channel is available from Riverside County Flood and Water Conservation District (RCFWCD) in their Master Drainage Plans (MDP). However, the MDP indicates that Quincy Channel is to be placed in an underground culvert below the proposed Quincy

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[1] This largely explains the "LA River Syndrome," where a water is completely channelized to improve its hydraulic efficiency, at the expense of all other beneficial uses.
[2] This has occurred throughout the Region. The channelization of the valley and coastal reaches of the Santa Ana River provides a vivid example. Modjeska Canyon is a classic example of the effects of informal armoring by individual property owners.

Avenue, not configured as proposed in the certification application. Available documentation did not allow for Regional Board staff to make any conclusions regarding the ultimate channel configuration for Quincy Channel or its affects on beneficial uses.

The City's effort to preserve Quincy Channel as an open drainage is commendable. However, the lack of discussion of beneficial use impacts and lack of specific mitigation in the CEQA documents for the project, and failure to distribute those documents in a timely manner (see below), is of concern. The City of Moreno Valley is subject to Regional Board Order No. R8-2002-0011 (NPDES No. CAS 618033) "Waste Discharge Requirements for the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the incorporated cities of Riverside County within the Santa Ana Region, Areawide Urban Runoff" (Order No. R8-2002-0011). Order No. R8-2002-0011, VIII.A.9 requires that Co-Permittes review their land use approval processes in part to limit disturbance of natural water bodies and drainage systems; conserve natural areas; protect slopes and channels, and; minimize impacts from Urban Runoff on the biological integrity of natural drainage systems and water bodies. Based on available CEQA documentation, including project conditions of approval, it is Regional Board staff's expectation that the City of Moreno Valley's review will result in significant improvements to their land use approval process.

After searching Regional Board records and the State Clearinghouse database, Regional Board staff has concluded that the City's CEQA documents for the instant project were not adequately distributed pursuant to the requirements of CEQA. CEQA requires the Lead Agency, in this case, the City of Moreno Valley, to distribute CEQA documents to Responsible Agencies for comments. The Regional Board is a CEQA "Responsible Agency." Because CEQA documents for this project were not distributed and the cumulative impacts to Quincy Channel were not considered, the adequacy of the documents as a factual basis for a Regional Board decision is questionable. However, the Regional Board has the option of accepting the CEQA document as being adequate and securing appropriate mitigation through waste discharge requirements.

On April 20, 2005, Regional Board staff sent a letter to the City of Moreno Valley, informing them of staff's conclusion regarding CEQA compliance for this project, and requesting specific mitigation for cumulative impacts to Quincy Channel, as well as assistance in obtaining information on the expected final configuration of Quincy Channel. This information was needed to develop the thorough understanding of the project record necessary for the Regional Board to make an informed decision. A copy of the letter had also been provided to TDA and later sent electronically to the discharger. On May 3, 2005, staff of the City of Moreno Valley contacted Regional Board staff in response to requests. Regional Board staff learned that a meeting had been scheduled between the City, RCFWCD, and the discharger to discuss the proposed project that morning. Regional Board staff had not been invited and did not receive prior notice of the meeting and was unable to attend due to scheduling conflicts. The following day, Regional Board staff followed up with staff of the City of Moreno Valley, and learned that most of the issues in the April 20, 2005 Regional Board staff letter had not been discussed at the May 3, 2005 meeting in a meaningful way.

In various telephone discussions with staff of the City of Moreno Valley and from evaluating the immediate drainage patterns surrounding Quincy Channel, the project's channel reach may not be subject to increases in flow due to future development. Development along the west bank is expected to discharge into Quincy Channel in one

or more outfalls. Development along the west bank will involve the construction of Quincy Avenue, parallel to Quincy Channel. However, the City is anticipating that upstream street improvements and a planned detention basin, the Sinclair Basin, will reduce flows in Quincy Channel. If flows in Quincy Channel are maintained or reduced with development of the tributary area, significant increases in the channel bottom width may not be necessary to maintain beneficial uses.

On May 10, 2005, Regional Board staff met with staff of the City of Moreno Valley and staff of RCFWCD to attempt to resolve three key issues: 1) the extent of future hydro-modification of Quincy Channel; 2) whether it is appropriate to issue Waste Discharge Requirements to the City of Moreno Valley to require mitigation to preserve the beneficial uses of Quincy Channel for this and future projects; and, 3) the ultimate configuration of Quincy Channel.

Regional Board staff learned that the City of Moreno Valley expected both banks of Quincy Channel within the City limits to be modified in the same manner as proposed by Highpointe Communities. The modifications would be implemented as development occurs on adjacent properties and the channel bottom width would be set based on a vegetated, soft-bottom channel at the time the City exacted easements from the developments. Although it would be impractical to determine the precise channel bottom widths of each reach at this time, the City agreed to condition future development to use design input parameters that would preserve natural vegetation densities in the Channel without the need for routine maintenance. The City noted that there would be the need for the project proponents to improve road crossings as well. After some discussion, Regional Board staff determined that, due to the timing of development, the need to resolve CEQA compliance issues, and the potential hardship that could be imposed on Highpointe Communities, it would be inappropriate Regional Board establish Waste Discharge Requirements for the City of Moreno Valley for the various projects that would impact Quincy Channel. In the event that the City of Moreno Valley does not implement the agreed-to conditions for mitigation of impacts to Quincy Channel, this conclusion should be revisited.

The proposed project involves discharges of dredge or fill that are subject to Clean Water Act Section 404 permits from the Corps and, consequently, Clean Water Act Section 401 Certification by the Regional Board. The proposed Order No. R8-2005-0087 includes certification of the project pursuant to Clean Water Act Section 401.

RECOMMENDATION

Adopt Order No. R8-2005-0087, as presented.

Comments were solicited from the following agencies and parties:

U.S. Army Corps of Engineers, Los Angeles District
Department of Fish and Game
U.S. Environmental Protection Agency, Supervisor of the Wetlands Regulatory Office
State Water Resources Control Board, Department of Water Quality, Water Quality Certification Unit
City of Moreno Valley
Riverside County Flood Control and Water Conservation District