



California Regional Water Quality Control Board Santa Ana Region



3737 Main Street, Suite 500, Riverside, California 92501-3348
(951) 782-4130 • FAX (951) 781-6288
<http://www.waterboards.ca.gov/santaana>

Matthew Rodriguez
Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

October 31, 2011

Doug Jacobsen
Realty Bancorp Equities, Inc.
21800 Burbank Boulevard
Woodland Hills, CA 91367

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE NORTH NORCO FLOOD CONTROL CHANNEL
IMPROVEMENT PROJECT, CITY OF NORCO, COUNTY OF RIVERSIDE,
CALIFORNIA (ACOE REFERENCE NO. SPL-2010-00029-SME) (SARWQCB
PROJECT NO. 33-2011-07)**

Dear Mr. Jacobsen:

On May 31, 2011, Glenn Lukos Associates submitted an application for a Clean Water Act Section 401 Water Quality Standards Certification (401 Certification) for the North Norco Flood Control Channel Improvement Project. The company you represent, Realty Bancorp Equities Inc., is the project proponent. Included with the application were the following:

- A copy of the Nationwide Permit Pre-Construction Notification Form sent to the U.S. Army Corps of Engineers (USACE), South Pacific Division, to meet the requirements of the Clean Water Act Section 404 permit for this project;
- A copy of the Notification of Lake or Streambed Alteration Agreement submitted to the California Department of Fish and Game (CDFG) to meet the requirements of the CDFG Code Section 1602;
- \$640 as the base fee required to initiate the processing of this 401 Certification, as specified by California Code of Regulations, Division 3, Chapter 9, Article 1, Section 2200 (a) (3); and,
- A copy of a Notice of Determination signifying that a California Environmental Quality Act Negative Declaration and Addendum had been filed for this project.

On September 12, 2011, we received a copy of the CDFG September 1, 2011, "Operation of Law" response to the Notification of Lake or Streambed Alteration No. 1600-2011-0165-R6, submitted for this project.

On October 7, 2011, we received \$4326.40, the remainder of the fee due to process the 401 certification for this project, determined as specified by California Code of Regulations, Division 3, Chapter 9, Article 1, Section 2200 (a) (3).

California Environmental Protection Agency

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) (Basin Plan) and subsequent Basin Plan amendments:

1. Project Description:

The proposed project entails modifying 626 linear feet of the North Norco Flood Control Channel. The section of the channel to be modified lies just upstream of River Road in the city of Norco (just to the east of the boundary between the cities of Norco and Corona). From River Road upstream 285 linear feet, the channel will be converted from earth-lined to a triple box culvert. From this point upstream, approximately 391 feet of the channel will be modified from earth-lined to a concrete-bottomed, concrete-sided channel, with an accompanying Riverside County Flood Control District access road.

2. Location: 33.907715° N/ -117.580638° W
Section 14, Township 2S, Range 7 West, *Corona North*
USGS Quadrangle
3. Receiving Water: Receiving water: North Norco Flood Control
Channel/Temescal Creek, Santa Ana River
4. Fill area: 0.20 acres of permanent impact to wetland habitat (626
linear feet), 0.02 acres of temporary impact
5. Dredge/Fill volume: N/A
6. Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 43

7. Mitigation:

The project proponent has proposed to mitigate project impacts by contributing sufficient funds to the Santa Ana Watershed Association (SAWA) or other appropriate agency for the active restoration (including, but not limited to non-native plant removal and native riparian planting) of one (1) acre of streambed and riparian habitat within the vegetated portion of Sunnyslope Creek, located near the Rubidoux Nature Center in the unincorporated community of Rubidoux, Riverside County.

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.

Construction de-watering discharges may be regulated under Regional Board Order No.

R8-2009-0003, 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. R8-2009-0003, NPDES No. CAG 998001, at the Regional Board's website: www.Waterboards.ca.gov/santaana/.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board must consider the EIR or Negative Declaration prepared for a project by the Lead Agency, and reach its own conclusions on whether and how to approve the project involved. Regional Board staff has considered the project's mitigated negative declaration (including an addendum) before issuing this 401 Certification, particularly those sections of the MND and addendum that relate to water quality. Based on the mitigation proposed and the conditions set forth in this 401 Certification, the Regional Board concludes that impacts to water quality will be reduced to a less than significant level.

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

1. The proposed mitigation must be completed in a timely manner. If mitigation activities cannot be carried out in the Sunnyslope Creek area as described above, then one (1) acre of streambed and riparian habitat elsewhere in the Santa Ana River Watershed, selected in consultation with the SAWA, the Regional Board, CDFG and /or USFWS, will be restored.
2. Prior to or concurrent with the start of construction of the project, the applicant must submit to Regional Board staff verification that mitigation in-lieu fee payment for restoration of one acre of riparian habitat within the vegetated portion of Sunnyslope Creek, Rubidoux, Riverside County, or other mutually agreed upon area, has been made to the Santa Ana Watershed Authority or other appropriate agency.
3. The applicant must direct that the project's Sunnyslope Creek mitigation is completed under the guidance of the United State Fish and Wildlife Service and CDFG for the purpose of enhancing habitat for the aquatic habitat.
4. The project mitigation must meet the requirements of SAWA's "active restoration" in lieu fee program¹. If an agency other than SAWA conducts the mitigation, the mitigation must be carried out in a manner comparable to SAWA's "active restoration" program.

¹ Contact SAWA executive director Lee Reeder lreeder@sawatershed.org for the activities completed under this program.

5. The Applicant must submit Annual Mitigation Monitoring Reports (Annual Reports) to the Regional Board by February 1st of each year for a minimum period of five (5) years following this issuance of 401 Certification, or until mitigation success has been achieved and documented. Reports must be prepared by, or under the direction of, a restoration ecologist, field biologist, or similarly qualified professional. The Annual Reports shall describe in detail all of the restoration and mitigation efforts for the specific project, which may include percent survival by plant species, and percent cover and percent removal of non-native plants. The Annual Reports shall also describe any delays in the mitigation process. At a minimum, the Annual Reports shall include the following documentation:
 - (a) Color photo documentation of the pre- and post-project mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the mitigation areas; and
 - (c) A discussion of any monitoring activities and exotic plant control efforts initiated for the calendar year.
4. 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 Best Management Practices (BMPs) as they relate to each potential pollution source identified.
5. BMPs shall be implemented according to the requirements of Order No. R8-2010-0033 (NPDES Permit No. CAS618033), commonly known as the Riverside County Municipal Storm Water Permit, and subsequent iterations thereof.
6. 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 United States. All waste concrete shall be removed.
7. Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may 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.

8. This 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 conditions contained herein or any of the 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 imposition of administrative civil liability, the revocation of this Certification, and civil or criminal liability.
9. The project proponent shall utilize Best Management Practices (BMPs) during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or waters of the United States. 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 No. 2009-0009-DWQ, is required, as is preparation and implementation a SWPPP to control the discharge of pollutants from the project site.
10. The applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.

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.

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.

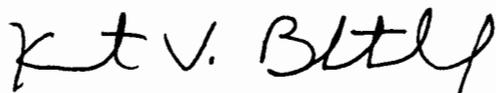
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean 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 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/wqo2003-0017.pdf

Should there be any questions, please contact Dave Woelfel at (951) 782-7960, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board

cc: U.S. Environmental Protection Agency, Supervisor of the Wetlands Regulatory Office – Tim Vendlinski (WTR-8)
State Water Resources Control Board, DWQ - Water Quality Certification Unit
State Water Resources Control Board, OCC – David Rice
California Department of Fish and Game – Kim Freeburn
U.S. Army Corps of Engineers – Stephen M. Estes
Glenn Lukos Associates – Martin Rasnick