
Santa Ana Regional Water Quality Control Board

August 8, 2012

Richard Wilson
City of Anaheim Public Utilities
Department
201 S. Anaheim Boulevard, Suite 601
Anaheim, CA 92805

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE WALNUT CANYON RESERVOIR DRAINAGE
IMPROVEMENT PROJECT, COUNTY OF ORANGE, CALIFORNIA (ACOE
REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 302011-04)**

Dear Mr. Wilson:

On January 21, 2011, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the City of Anaheim Public Utilities Department for a project to improve drainage of nuisance flows from a residential slope where it crosses a maintenance road in Anaheim Hills, just above the Walnut Canyon Reservoir. 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:

Project Description: The project will utilize a backhoe to remove approximately 80 linear feet of accumulated soils from an unnamed drainage channel, which lies down-slope from a maintenance road. This is being done to restore sufficient hydraulic gradient to allow flows to move freely through the aforementioned unlined channel. Removed soils will be used as fill or relocated to an upland location on-site. Earthen fill with riprap will be placed across the channel, approximately 190 feet down-slope from the maintenance road, to retain urban runoff flows and allow creation of a new 0.027 acre wetland. Sediments covering the concrete Arizona crossing on the maintenance road will be removed, allowing water to flow downstream to form the new wetland. The work will take place within Section 8 of Township 4 South, Range 8 West, of the U.S. Geological Survey *Black Star Canyon* quadrangle map (33° 50' 30" N/ 117° 44' 42" W).

Receiving water: Unnamed drainage/wetland

Fill area: 0.02 acre of permanent impact to wetland habitat, 0.03 acre of permanent impact to riparian habitat (105 linear feet), and 0.02 acre of temporary impact to riparian habitat (80 linear feet).

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 3 & 14

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.
- A 0.027 acre wetland with 0.03 acre of surrounding riparian habitat will be created to offset the 0.0230 permanent impacts to wetland and riparian habitat. This mitigation will be performed in accordance with the project's Habitat Mitigation & Management Plan.

Offsite Water Quality Standards Mitigation Proposed:

- None.

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 according to the requirements of Order No. R8-2009-0030 (NPDES Permit No. CAS618030), commonly known as the Orange County Municipal Storm Water Permit, and subsequent iterations thereof.

Pursuant to the California Environmental Quality Act (CEQA), the City of Anaheim Public Utilities Department has determined that the proposed project is categorically exempt from provisions of CEQA, according to CEQA Guidelines Section 15302. Section 15302 is the class (Class 2) of exemption for replacement or reconstruction of existing structures and facilities on the same site as the existing structure, with a structure of substantially the same capacity and purpose. The project consists of repairing an existing, poorly functioning drainage system to allow unimpeded drainage across an existing maintenance road adjacent to Walnut Canyon Reservoir. The repairs would not alter the purpose and capacity of the existing drainage facility, but only restore its function.

The Regional Board has considered the City's Categorical Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed project are necessary to 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) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) Proposed mitigation shall be timely implemented. For a period of five (5) years after work has begun to create the proposed wetland, annual monitoring reports shall be submitted to this office documenting the status of the proposed wetland creation project. Reports shall be submitted by January 31 of each year. The first annual report shall include the success criteria established for the wetland creation project. At a minimum, reports should include photo documentation of the condition of the wetland, discussions of the vegetation and wildlife that the wetland supports, and recommendations and time schedules for needed maintenance. California Rapid Assessment Method (CRAM) (www.cramwetlands.org) studies of the created wetland shall be done in years 2 and 5, and the findings reported in the annual reports.
- 3) 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.
- 4) 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.
- 5) 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.
- 6) 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.

- 7) 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 the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 9) 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 at www.waterboards.ca.gov/santaana/

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. 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 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.

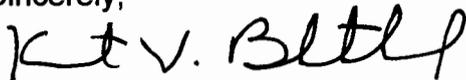
For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements 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/wqo_2003-0017.pdf

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



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

cc (via electronic mail):

U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Game - Kevin Hupf, KHupf@dfg.ca.gov
State Water Resources Control Board, DWQ-Water Quality Certification Unit - Bill Orme