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**Santa Ana Regional Water Quality Control Board**

July 9, 2012

Mike Maestas  
City of Chino Hills  
14000 City Center Drive  
Chino Hills, CA 91709

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE CHINO HILLS MAINTENANCE OF CITYWIDE  
DETENTION BASINS PROJECT, COUNTY OF SAN BERNARDINO, CALIFORNIA  
(ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 362012-08)**

Dear Mr. Maestas:

On March 13, 2012, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the City of Chino Hills for a project to conduct long term maintenance activities on 20 storm water facilities within the City of Chino Hills. 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:** Debris and silt from upstream runoff accumulates in the City's storm water facilities, requiring removal with heavy equipment. Maintenance activities proposed include removing silt to maintain low flow conditions, trimming vegetation, and applying herbicide in 20 of the City's drainage facilities. Four of the 20 facilities (9, 10, 11, and 17 (see listing below)) will require dredge or fill in Waters of the U.S. Approximately 32,500 cubic yards of silt will be removed from the facilities covered by this project over a 12-year period, with the majority of this occurring in the first year of work. Should water be present, a diversion plan will be prepared for the sediment removal at these facilities and provided to the resource agencies for approval prior to work in the facility. The work will take place within Section 7 of Township 2 South, Range 8 West, of the U.S. Geological Survey *Yorba Linda* quadrangle map.

Facility No. & Name	Latitude	Longitude	Total Waters of U.S. Impacts
No. 9: Sapphire Rd Inlet	33°57'17.15"N	117°42'10.27"W	0.006 ac
No. 10: Skate Park Drainage Ditch	33°57'21.10"N	117°40'42.73"W	0.103 ac
No.11: Skate Park Channel	33°57'21.10"N	117°40'42.73"W	2.180 ac
No. 17: Mystic Canyon Detention Basin	33°55'36.09"N	117°40'10.44"W	0.061 ac

Receiving water: Tributaries to Los Serranos Lake and Chino Creek, within the Santa Ana River Basin

Fill area: 2.34 acres of temporary impact to riparian habitat (385 linear feet), and 0.01 acre of temporary impact to streambed habitat (15 linear feet).

Dredge/Fill volume: 32,500 cubic yards

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

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.
- The City is proposing to provide 2.0 acres of mitigation in Hickory Creek Park between Rolling Ridge Drive and Pipeline Avenue, in the City of Chino Hills. Additionally, Hickory creek is estimated to contain 50% invasive species, which would be removed as part of the restoration plan. Both the areas with invasive species removal as well as the drainage cross section will be planted with native riparian plants for a total of 2.0 acres.
- The proposed mitigation also includes the establishment of a resident based volunteer group that will help staff monitor and maintain Hickory Creek after the project is completed.

**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. R8-2010-0036 (NPDES Permit No. CAS618036), commonly known as the San Bernardino County Municipal Storm Water Permit, and subsequent iterations thereof. Order No. R8-2010-0036 requires that you substantially comply with the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity.

A Mitigated Negative Declaration for the project was filed by the City of Chino Hills on August 29, 2011. Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an environmental impact report (EIR) or negative declaration prepared by the lead agency in determining whether to approve a Section 401 Certification. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which 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.

The Regional Board has considered the City's Mitigated Negative Declaration for this project before issuing this Certification, particularly those sections of the MND that relate to water quality. Based on the mitigation proposed and the conditions set forth in this Certification, the Regional Board concludes that impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. The Regional Board independently finds that changes or alterations have been required or incorporated into the project that 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. The City shall place and record appropriate restrictive covenants over the 2.0 acres of Hickory Creek Park where mitigation for this project's impacts is to be conducted. The purpose of these covenants is to assure that the mitigation site is maintained and managed to minimize invasive plant species and to support locally appropriate native riparian species, in perpetuity. Materials documenting the recording of these covenants shall be provided to this office prior to the dredging or excavation of material from waters of the U.S. and the state or within one year of the issuance of this certification, whichever occurs first.

- 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 locally appropriate native plant species whenever feasible.
- 9) 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 the 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](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf)

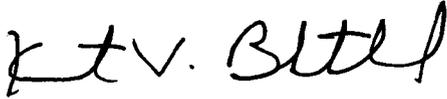
Mike Maestas  
City of Chino Hills

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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):

VCS Environmental – Julie Vandermost - [jvandermost@vcsenvironmental.com](mailto:jvandermost@vcsenvironmental.com)  
U. S. Army Corps of Engineers, Los Angeles Office - Mark Durham  
State Water Resources Control Board, OCC - David Rice  
State Water Resources Control Board, DWQ - Water Quality Certification Unit  
California Department of Fish and Game - Joanna Gibson  
U.S. EPA- Supervisor of the Wetlands Regulatory Office WTR- 8

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