
Santa Ana Regional Water Quality Control Board

August 1, 2013

Gary Emsiek
Madison Investors, LP
24310 Moulton Parkway, Suite O-552
Laguna Hills, CA 92637

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE SERRANO HIGHLANDS PROJECT, LAKE FOREST,
COUNTY OF ORANGE, CALIFORNIA (ACOE REFERENCE NO. SPL-2012-00663-
CJF) (SARWQCB PROJECT NO. 302012-30)**

Dear Mr. Emsiek:

On September 10, 2012, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Madison Investors for a project to perform grading operations in preparation for a residential development. The proposed project will result in the discharge of fill to waters of the State and U.S., within the Serrano Highlands area of Lake Forest, in Orange County. 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 proposed 23.79 acre residential project includes grading a total of 19.31 acres, with an additional 4.48 acres of fuel modification, in preparation for the residential development.

In the project site's currently existing condition, it receives sheet-flow storm water runoff from adjacent properties. The site is located down gradient and south of the adjacent Tract 13344, and the Pacific Commerce Center. Runoff onto the site also flows westerly from an Irvine Ranch Water District property (Parcel Map No. 248-17). During periods of rain, storm water surface flows run across the project site in a south to southwesterly direction and are collected by storm drain inlets along Peachwood Street and Oakville Street. These inlets connect to the existing City of Lake Forest storm drain line F19P02.

The proposed grading will modify the drainage pattern by diverting the offsite runoff flows around the site in a south to southwesterly direction. Once the grading is completed, it is anticipated that remnant post-development runoff from the project site will be discharged into underground storm drain lines, which will be connected to the existing storm drain line at Peachwood Street, as well as onto a landscaped buffer strip adjacent to the southerly edge of the property's utility easement. The latter flows continue to Oakville Street inlets, which connect to local storm drain line F19P02.

City of Lake Forest Storm Drain line F19P02 discharges to Serrano Creek Channel (OCFCD F19), which is tributary to San Diego Creek Channel (F05) and ultimately to Upper Newport Bay/Pacific Ocean.

The work will take place within Section 11 of Township 6 South, Range 8 West, of the U.S. Geological Survey *El Toro* quadrangle map (33. 660563 ° N/ -117.685483 ° W).

Receiving water: Unnamed tributary to Serrano Creek, San Diego Creek

Fill area:

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|---|-----------|------------------|
| Permanent impact to First Order Streambed Habitat | 0.11 acre | 1671 linear feet |
|---|-----------|------------------|

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Individual Permit

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.

Offsite Water Quality Standards Mitigation Proposed:

- LSA's draft January 24, 2013, conceptual mitigation plan for the project proposes to create 0.11 acre of in-kind replacement of non-wetland waters, 0.38 acres of streambed, and 935 linear feet of drainage in the watershed of Agua Chion

Wash to compensate for project impacts. The proposed location of the mitigation is in Agua Chinon Wash, within the County of Orange Central and Coastal Subregion Natural Community Conservation Plan (NCCP) Reserve, managed by the Irvine Ranch Conservancy (IRC).

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| Impact to 0.11 acre of permanent First Order Streambed Habitat | 0.11 acre of stream bed habitat to be created | Location: Agua Chinon Wash within NCCP Reserve |
| Compensatory Mitigation | 0.38 acres of streambed and 935 linear feet of drainage to be re-established | Location: Agua Chinon Wash within NCCP Reserve |

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 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 according to the requirements of Order No. 2009-0009 DWQ, also known as, the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity.

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 project. 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.

Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as shown in the associated negative declaration prior to reaching a decision on the project. The Regional Board has considered the City's June 20, 2012, Mitigated Negative Declaration, tiering off of a 2008 Program EIR, for the project, and the information provided subsequently in the application, in the issuance of this Certification. The Regional Board independently finds that changes or alterations have been required, or incorporated into the proposed project, which 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 implemented in a timely manner.
- 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) A copy of this 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) or Water Quality Control Plan (WQCP).
- 9) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.

- 10) Applicant shall ensure all procedures and policies specified within the project's August 3, 2011 WQMP are timely implemented and that any hydraulic conditions of concern generated during and as a result of this project are addressed and downstream impacts are prevented.
- 11) Construction de-watering discharges, including temporary stream diversions necessary for project construction 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/
- 12) 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.
- 13) Prior to any grading for the project in areas slated to be impacted, functional assessments of these proposed areas of wetland and riparian habitats and riparian mitigation sites shall be conducted using the California Rapid Assessment Method, February 2012. Site mitigation assessments shall be conducted from October through December, until success criteria are met for consecutive years. This information shall be reported to <http://www.californiawetlands.net/tracker/>

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.

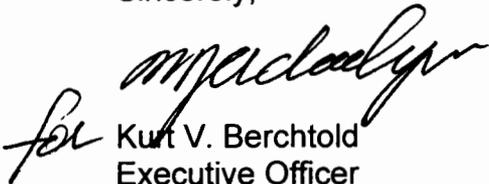
If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge 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 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 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):

LSA Associates, Inc. – Blake Selna
U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Wildlife - Russell M. Barabe
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme