
Santa Ana Regional Water Quality Control Board

August 1, 2013

Stephen Batcheller
CDP Development, Inc.
20411 SW Birch Street
Newport Beach, CA 92660

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE INDIAN & IRIS BUSINESS PARK PROJECT, COUNTY
OF RIVERSIDE, CALIFORNIA (ACOE REFERENCE NUMBER: NOT AVAILABLE)
(SARWQCB PROJECT NO. 332012-29)**

Dear Mr. Batcheller,

On September 20, 2012, the Santa Ana Regional Water Quality Control Board (Board) offices received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the CDP Development, Inc., for a project to construct three industrial concrete tilt-up structures, totaling approximately 3,069,479 square feet. The project is located in the City of Moreno Valley, Riverside 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 purpose of the Project is to construct three industrial buildings totaling approximately 3,069,479-sq. feet in the City of Moreno Valley. The plans for one of the proposed buildings, a proposed 1,476,017 square foot warehouse, include off-site improvements, which will result in the discharge of fill to 0.24 acres of Waters of the U.S. and the State. These off-site improvements include the proposed extension of Krameria Avenue, and a sewer connection line to be laid in the proposed extension. To support this extension, the project includes the construction of a storm drainage system within Indian Avenue's right-of-way, between Iris Avenue and Krameria Avenue. The proposed project will result in the discharge fill to an earthen ditch located on the east side of Indian Street that originates at the outlet of a 36-inch concrete culvert, 175 feet south of Iris Avenue.

The earthen ditch will be entirely filled by proposed storm drainage improvements that will consist of the following:

- Approximately 2300 linear feet of reinforced concrete pipe (size varies from 42 to 60 inches in diameter) and associated appurtenances such as manholes, junction structures, drop inlets, and laterals. These improvements will be constructed in Indian Street from approximately 300 feet north of Krameria Avenue to approximately 200 feet south of Iris Avenue.
- Approximately 40 linear feet of 4 feet high by 8 feet wide reinforced concrete box and approximately 250 linear feet of 7 feet high by 10 feet wide rectangular concrete channel. These improvements will be constructed on the east side of Indian Street, north of Angella Way, to fill in a roughly 290 feet gap between existing storm drains.
- Approximately 1300 linear feet of reinforced concrete pipe (size varies from 36 to 42 inches in diameter) and associated appurtenances such as manholes, junction structures, and laterals. These improvements will be constructed in Krameria Street, beginning at Indian Street and proceeding west.

Fill material for the ditch will likely come from excavation spoils from the aforementioned storm drain trench.

The work will take place within Section 30 of Township 3 South, Range 3 West, of the U.S. Geological Survey *Sunnymead* quadrangle map (33.879204° N/ -117.234591° W).

Receiving water:

Unnamed ephemeral earthen roadside ditch (tributary to Perris Valley Storm Drain)

Fill area:

Permanent impact to Streambed Habitat	0.24 acre	2,025 linear feet
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Dredge/Fill volume:

Dredge Volume	675 cubic yards
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Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 39

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:

- The applicant proposes to mitigate the project's impact to 0.24 acres of waters through the Santa Ana Watershed Association (SAWA) in-lieu fee program. The category of mitigation through SAWA would include invasive vegetation species removal and on-going restoration at a cost of \$33,000 to the applicant.

0.24 acre of permanent impact to streambed habitat	mitigated at 1:1	0.24 acre
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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 the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity Order No. 2009-0009-DWQ. that you substantially comply with the requirements of.

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 (ND) 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.

As required by Section 15096, the Regional Board has considered the May 23, 2008, MND prepared for the proposed project, specifically, those sections of the MND relating to water quality, and information provided subsequently in the application, in making this Certification. Based on the mitigation proposed in the MND, and the conditions set forth in this Certification, 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 in or incorporated into the 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 timely implemented. Materials documenting the purchase of necessary mitigation credits shall be provided to this office prior to the discharge of fill to, or the dredging or excavation of material from, waters of the state.
- 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, 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/
- 10) 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 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/wqo2003-0017.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):

NOREAS Inc. – Lincoln Hulse – lincoln.hulse@noreasinc.com
U. S. Army Corps of Engineers, Los Angeles Office -Jason Lambert
CA Department of Fish and Wildlife - Juan J. Lopez-Torres
State Water Resources Control Board, Office of Chief Counsel-David Rice
State Water Resources Control Board DWQ -Water Quality Certification Unit
U.S. EPA -Supervisor of the Wetlands Regulatory Office WTR-8