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MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

July 30, 2015

Mr. Paul Rajewski
7 Country Meadow Road
Rolling Hills Estates, CA 90247

paul@showcasetech.com

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR 789 COVE DRIVE RESIDENTIAL RETAINING WALL PROJECT, CITY OF BIG BEAR LAKE, SAN BERNARDINO COUNTY (ACOE CORPS FILE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 362014-02)

Dear Mr. Rajewski,

On April 25, 2014, we received from the Sage Environmental Group on your behalf (Applicant), an application requesting Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project (Project) to construct a retaining wall as part of a patio expansion in the City of Big Bear Lake, San Bernardino County. On February 13, 2014, the Applicant submitted a check for \$1,874.00, which satisfies the fee requirement for consideration of a 401 Certification. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site, which is based on the most current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3).

This letter responds to your request for Certification that the proposed Project, as 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: Mr. Paul Rajewski proposes to construct a 60 linear foot concrete retaining wall below the high water mark of Big Bear Lake. The Project will result in the fill of 0.05 acres of Lake bottom. The Project will result in no net loss of Lake capacity because the retaining wall will utilize on-site lakeshore sediment as backfill.

The work will take place within Sections 23 of Township 2 North, Range 1 West, of the U.S. Geological Survey *Big Bear Lake, California* 7.5 minute topographic quadrangle maps (34° 14' 23.0" N / -116° 57' 22.7" W).

WILLIAM RUH, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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Receiving water: Big Bear Lake, which outflows into Bear Creek, a tributary to Reach 6 of the Santa Ana River. Beneficial use designations (existing or potential) for Big Bear Lake and Bear Creek include: municipal and domestic supply (MUN), agricultural supply (AGR), groundwater recharge (GWR), hydropower generation (POW), contact recreation (REC1), non-contact recreation (REC2), warm freshwater habitat (WARM), cold freshwater habitat (COLD), wildlife habitat (WILD), rare, threatened or endangered species habitat (RARE), and spawning, reproduction, and development habitat (SPWN).

Fill area:

Temporary Impact to Waters of the United States	0.03 acre	190 linear feet
Permanent Impact to Waters of the United States	0.02 acre	190 linear feet

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers (USACE) Permit Nationwide No. 18

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 Project Applicant will contribute \$500 to the Inland Empire Resource Conservation District for the eradication of non-native species including tamarisk, Spanish broom, and tree-of-heaven throughout the Big Bear Valley.

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.

This 401 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 conditions contained in any other permit or approval for this Project issued by the State of California, or any subdivision thereof, may result in appropriate enforcement action, including imposition of administrative civil liability.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a Responsible Agency, the Regional Board is required to consider a Mitigated Negative Declaration (MND) prepared by the lead agency in determining whether to approve an application submitted by a project to receive 401 Water Quality 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.

As required by Section 15096, the Regional Board has considered the MND prepared for the proposed Project that Big Bear Municipal Water District adopted on December 11, 2014 and was filed with the County Clerk of San Bernardino on July 6, 2015, and subsequent information provided in the Applicant's application, in approving this Certification. More specifically, the Regional Board has considered those sections of the MND pertaining to impacts to water quality standards. Based upon the mitigation proposed in the MND, and the conditions set forth in this Certification, potentially adverse impacts to water quality will be reduced to a less than significant level and beneficial uses protected if all stated mitigation and conditions are performed. Thus, the Regional Board independently finds that these changes or alterations have been 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) A copy of this 401 Water Quality Certification and any subsequent amendments must be maintained on site for the duration of work.
- 3) Project construction activities cannot occur when Big Bear Lake levels are above the level of the Project footprint.
- 4) Proposed mitigation shall be timely implemented. A copy of the receipt from the transfer of funds to the Inland Empire Resource Conservation District shall be provided to the Regional Board prior to the discharge of fill to, or the dredging or excavation of material from, waters of the State of California.

- 5) Upon completion of mitigation activities, notification of work completed including a treatment map and summary of funds used will be submitted to the Santa Ana Regional Board. Mitigation activities should be completed within three years from the beginning of Project construction activities.
- 6) All materials generated from construction activities associated with this Project shall be managed appropriately. This shall include identifying all potential pollution sources within the Project scope of work, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified. Additionally, no materials may be stored within waters of the United States or waters of the State.
- 7) 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.
- 8) 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 from the Project site.
- 9) 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 might 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.
- 10) This 401 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.
- 11) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.

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 401 Water Quality 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

Mr. Paul Rajewski
362014-02

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July 30, 2015

Should there be any questions, please contact Jason Bill at (951) 782-3295 or Jason.Bill@waterboards.ca.gov, or Wanda Cross at (951) 782-4468 or wanda.cross@waterboards.ca.gov.

Sincerely,



Kurt V. Berchtold
Executive Officer

cc (via electronic mail):

Sage Environmental Group – Alissa Cope – acope@SageEnvironmentalGroup.com

U. S. Army Corps of Engineers, Los Angeles Office - Daniel Swenson

CA Department of Fish and Wildlife – Kim Freeburn-Marquez

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