

**Santa Ana Regional Water Quality Control Board**

June 16, 2015

Jeremy Hampton  
Orange County Parks  
13042 Old Myford Road  
Irvine, CA 92602-2304

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE BORREGO TRAIL RESTORATION AND  
REHABILITATION PROJECT, CITY OF LAKE FOREST, COUNTY OF ORANGE,  
CALIFORNIA (ACOE REFERENCE NO. N/A) (SARWQCB PROJECT NO. 302015-11)**

Dear Mr. Hampton:

On April 20, 2015, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Michael Baker International, on behalf of the County of Orange, for a project in the City of Lake Forest that consists of construction activities in two phases aimed at restoring water conveyance and safe recreational uses within portions of the Limestone/Whiting Ranch Wilderness Park. The applicant has also submitted a filing fee of \$9,338.00, which satisfies this project's 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) in effect when the application was submitted. 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 project consists of construction activities in two phases:

***Phase I: Excavation***

The proposed activities in this phase of the project will include restoring accessibility to the entrance of the Limestone/Whiting Ranch Wilderness Park, to the existing Borrego Trail. This will include removing accumulated sediment, selectively removing and thinning upland vegetation, restoring the existing 12-foot access road and installing drainage improvements in order to return the functionality of the pre-existing access at this location.

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

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As referenced, the proposed drainage improvements will consist of installing a raised rip-rap berm, ranging from one to five-feet high (adjacent to the trail), which will redirect flows back to the concrete lined section of Orange County Flood Control's Borrego Wash Channel (F20). Included in the design are a 24" diameter drainage riser and an 18" diameter reinforced concrete pipe (RCP), which will collect residual flows and convey them to F20 through a reconnection with a pre-existing 18" reinforced concrete pipe.

**Phase 2: Rehabilitation & Trail Restoration**

Phase 2 of this project addresses the multiple trail and road wash-outs along the middle and upper portions of Borrego Wash within the project area. Extensive erosion occurred within these areas as a result of significant rain events during the 2010-2011 wet season.

Proposed revetment activities include the placement of boulders and cobble from available locations within the creek to create supporting berms for safe and continued use of the unimproved recreational trails. Once the berms are created, a soft revetment of willow wattles will be laid longitudinally along creek side of the berm. Due to access limitations, rock rip-rap cannot be imported. Therefore, the use of existing material from within the creek bed will be necessary.

The work will take place within Section 1 of Townships 5 & 6 South, Ranges 7 & 8 West of the U.S. Geological Survey *EI Toro, California* 7.5 minute topographic quadrangle map (33.6818° N, -117.6648° W).

Receiving water: Borrego Canyon Wash and San Diego Creek, which have existing or potential beneficial uses, including: contact recreation (REC1), non-contact recreation (REC2), wildlife habitat (WILD), groundwater recharge (GWR), municipal and domestic supply (MUN), and warm freshwater habitat (WARM).

Fill area:

Permanent Impact to Streambed Habitat	0.59 acres	625 linear feet
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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:

- To ensure there is no net loss of resources, functions and/or values, permanent impacts to wetland and non-wetland waters would be mitigated at an off-site location within Trabuco Creek north of Oso Parkway and south of Santa Margarita Parkway in the City of Rancho Margarita. Through the removal of *Arundo donax*, wetland and non-wetland habitats would be created and enhanced at no less than a 1 to 1 ratio within the Trabuco Creek Mitigation site. The location of the mitigation site within Trabuco Creek is located along the downstream reach of current mitigation efforts involving the removal of invasive species by OC Public Works.

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

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an 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.

As required by Section 15096, the Regional Board has considered the Mitigated Negative Declaration (MND) prepared for the proposed project and filed by Orange County Public Works on May 14, 2015 and information provided subsequently in the applicant's application, in approving this Certification. More specifically, the Regional Board has considered those sections of the MND relating to water quality standards. 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. Thus, 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. Documentation of the site specific mitigation plan 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.

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- 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) 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.

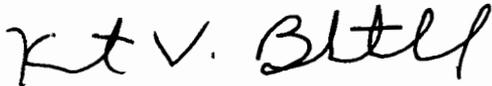
If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge 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/wqo\\_2003-0017.pdf](http://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 Wanda Cross at (951) 782-4468.

Sincerely,



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

cc (via electronic mail):

RBF Consulting – Chris Johnson – [chrisjohnson@mbakerintl.com](mailto:chrisjohnson@mbakerintl.com)  
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 Barabe  
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme