
Santa Ana Regional Water Quality Control Board

November 20, 2015

Mr. Harold Zamora, PE
Chief of Environmental Management Division
San Bernardino County Department of Public Works
825 E. Third Street, Room 123
San Bernardino, CA 92415-0835

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**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC
WORKS CHANNEL AND BASIN MAINTENANCE PROJECTS, COUNTY OF SAN
BERNARDINO, CALIFORNIA (NO USACE NO.), (SARWQCB PROJECT NO.
362015-18, 362015-19, 362015-20, 362015-21, 362015-22, 362015-23, 362015-24,
362015-25, 362015-26)**

Dear Mr. Zamora,

On August 19, 2015, we received from the San Bernardino County Department of Public Works (SBCDPW) (Applicant) nine (9) applications for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for similar projects involving routine maintenance of flood control basins and flood control channels within the jurisdiction of the Santa Ana Regional Water Quality Control Board (Regional Board). Because the proposed maintenance activities are similar, as are their likely effects on water quality, Regional Board staff has determined that it is appropriate to respond to the nine Certification applications as a single Certification action. The applications for the proposed projects were deemed to be complete on August 22, 2015. On August 19, 2015, the Applicant submitted a cumulative filing fee of \$90,000.00 with the applications and other information, which satisfies these projects' fee requirements for the 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) website, and is based on the iteration of the California Code of Regulations, Division 3, Chapter 9, Article 1, Section 2200 (a) (3) in effect when the applications were submitted.

This letter responds to your request for certification that the proposed projects, described in your applications 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 San Bernardino County Department of Public Works proposes to conduct routine channel and basin maintenance in the following facilities.

Table 1. Proposed Project Maintenance Activities by Location.

Project Name (RWQCB Project No.)	Lat/Long	Acreage	Linear feet (l.f.)	Temporary/ Permanent Impacts & Habitat Impacted
29th Street Basins Maintenance (362015-18)	Downstream: Lat: 34.1403°/Lon: -117.2702°; Upstream: Lat: 34.1439°/Lon: -117.2712°	9.0 ac.	1,410 l.f.	Temporary Impacts to Streambed Habitat
Alta Loma Basins Maintenance (362014-19)	Downstream: Lat: 34.1438°/Lon: -117.5845°; Upstream: Lat: 34.1580°/Lon: -117.5880°	30.5 ac.	3,100 l.f.	Temporary Impacts to Streambed Habitat
East Badger Basin & Spillway Maintenance (362015-20)	Downstream: Lat: 34.1820°/Lon: -117.3110°; Upstream: Lat: 34.1853°/Lon: -117.3054°	12 ac.	1,300 l.f.	Temporary Impacts to Streambed Habitat
Lemon Basin Maintenance (362015-21)	Downstream: Lat: 34.1509°/Lon: -117.2423°; Upstream: Lat: 34.1525°/Lon: -117.2380°	19 ac.	1,790 l.f.	Temporary Impact to Streambed Habitat
Linden Basin Maintenance (362015-22)	Downstream: Lat: 34.0886° /Lon: -117.4009°; Upstream: Lat: 34.0907°/Lon: -117.4010°	19 ac.	1,250 l.f.	Temporary Impact to Streambed Habitat
Lynwood Basins Maintenance (362015-23)	Downstream: Lat: 34.1406°/Lon: -117.2669°; Upstream: Lat: 34.1509°/Lon: -117.2644°	19.5 ac.	2,010 l.f.	Temporary Impact to Streambed Habitat
Macy Basin Maintenance (362015-24)	Downstream: Lat: 34.1594°/Lon: -117.3374°; Upstream: Lat: 34.1619°/Lon: - 117.3351°	11 ac.	1,260 l.f.	Temporary Impact to Streambed Habitat

Merrill Basin Maintenance (362015-25)	Downstream: Lat: 34.0902°/Lon: -117.3980°; Upstream: Lat: 34.0924°/Lon: -117.4016°	9 ac.	630 l.f.	Temporary Impact to Streambed Habitat
Sycamore Diversion Channel Maintenance (362015-26)	Downstream: Lat: 34.1811°/Lon: -117.2990°; Upstream: Lat: 34.1824°/Lon: -117.3029°	11.7 ac.	1,780 l.f.	Temporary Impact to Streambed Habitat

Description of activities at each location:

29th Street Basins Maintenance (362015-18)

Maintenance activities include: Channel spillway, invert, walls, outlet, and inlet maintenance; Earthen basin and channel maintenance – grade to repair slope & levee erosion; Center flow and grade control structures (bottom control, drop, and weir structures) maintenance; Debris and trash removal; Maintenance of existing chain link fencing, gates, and right-of-way signage; Maintain staff gauges; Access ramps and roads maintenance; Graffiti, vandalism, and homeless management (cleanup and removal); Vector and rodent management, only as necessary; Non-native vegetation management: manual, mechanical, and/or chemical; and Native vegetation management, only as necessary.

Alta Loma Basins Maintenance (362014-19)

Maintenance activities include: Channel spillway, invert, walls, outlet, and inlet maintenance; Check, clean, and repair levee drains and drainage structures; Sugar-sand levee maintenance; Earthen basin and channel maintenance – grade to repair slope & levee erosion; Center flow and grade control structures (bottom control, drop, and weir structures) maintenance; Rip-rap (include existing non-grouted and grouted riprap), pile, and wire revetment maintenance; Debris and trash removal; Maintenance of existing chain link fencing, gates, and right-of-way signage; Maintain staff gauges; Access ramps and roads maintenance; Graffiti, vandalism, and homeless management (cleanup and removal); Vector and rodent management, only as necessary; Non-native vegetation management: manual, mechanical, and/or chemical; and Native vegetation management, only as necessary.

East Badger Basin & Spillway Maintenance (362015-20)

Maintenance activities include Channel spillway, invert, walls, outlet, and inlet maintenance; Culverts, levee, subdrain system (corrugated metal pipes under the road crossings, and dip-crossings) maintenance; Concrete structures and embankment maintenance; Earthen basin and channel maintenance; grade to repair slope & levee erosion; Center flow and grade control structures (bottom control, drop, and weir structures) maintenance; Debris and trash removal; Maintenance of existing chain link fencing, gates, and right-of-way signage; Maintain staff gauges; Access ramps and roads maintenance; Graffiti, vandalism, and homeless management (cleanup and removal); Vector management, only as necessary; Non-native vegetation management: manual, mechanical, and/or chemical; and Native vegetation management, only as necessary.

Lemon Basin Maintenance (362015-21)

Maintenance activities include: Culverts, levee, subdrain system (corrugated metal pipes under the road crossings, and dip-crossings) maintenance; Concrete structures and embankment maintenance Earthen basin and channel maintenance – grade for slope & levee erosion; Center flow and grade control structures (bottom control, drop, and weir structures) maintenance; Debris and trash removal; Maintenance of existing chain link fencing, gates, and right-of-way signage; Maintain staff gauges; Access ramps and roads maintenance; Graffiti, vandalism, and homeless management (cleanup and removal); Vector and rodent management, only as necessary; Non-native vegetation management: manual, mechanical, and/or chemical; and Native vegetation management, only as necessary.

Linden Basin Maintenance (362015-22)

Maintenance activities include: Channel spillway, invert, walls, outlet, and inlet maintenance; Culverts, levee, subdrain system (corrugated metal pipes under the road crossings, and dip-crossings) maintenance; Concrete structures and embankment maintenance; Earthen basin and channel maintenance – grade to repair slope & levee erosion; Center flow and grade control structures (bottom control, drop, and weir structures) maintenance; Debris and trash removal; Maintenance of existing chain link fencing, gates, and right-of-way signage; Maintain staff gauges;

Access ramps and roads maintenance; Graffiti, vandalism, and homeless management (cleanup and removal); Vector and rodent management, only as necessary; Non-native vegetation management: manual, mechanical, and/or chemical; and Native vegetation management, only as necessary.

Lynwood Basins Maintenance (362015-23)

Maintenance activities include: Channel spillway, invert, walls, outlet, and inlet maintenance; Earthen basin and channel maintenance – grade to repair slope & levee erosion; Center flow and grade control structures (bottom control, drop, and weir structures) maintenance; Debris and trash removal; Maintenance of existing chain link fencing, gates, and right-of-way signage; Maintain staff gauges; Access ramps and roads maintenance; Graffiti, vandalism, and homeless management (cleanup and removal); Vector and rodent management, only as necessary; Non-native vegetation management: manual, mechanical, and/or chemical; and Native vegetation management, only as necessary.

Macy Basin Maintenance (362015-24)

Maintenance activities include: Channel spillway, invert, walls, outlet, and inlet maintenance; Culverts, levee, subdrain system (corrugated metal pipes under the road crossings, and dip-crossings) maintenance; Concrete structures and embankment maintenance; Rip-rap, pile, and wire revetment maintenance (include existing non-grouted and grouted riprap); Earthen basin and channel maintenance – grade to repair slope & levee erosion; Center flow and grade control structures (bottom control, drop, and weir structures) maintenance; Debris and trash removal; Maintenance of existing chain link fencing, gates, and right-of-way signage; Maintain staff gauges; Access ramps and roads maintenance; Graffiti, vandalism, and homeless management (cleanup and removal); Vector and rodent management, only as necessary; Non-native vegetation management: manual, mechanical, and/or chemical; and Native vegetation management, only as necessary.

Merrill Basin Maintenance (362015-25)

Maintenance activities include: Channel spillway, invert, walls, outlet, and inlet maintenance; Culverts, levee, subdrain system (corrugated metal pipes under the road

crossings, and dip-crossings) maintenance; Concrete structures and embankment maintenance; Earthen basin and channel maintenance – grade to repair slope & levee erosion; Center flow and grade control structures (bottom control, drop, and weir structures) maintenance; Debris and trash removal; Maintenance of existing chain link fencing, gates, and right-of-way signage; Maintain staff gauges; Access ramps and roads maintenance; Graffiti, vandalism, and homeless management (cleanup and removal); Vector and rodent management, only as necessary; Non-native vegetation management: manual, mechanical, and/or chemical; and Native vegetation management, only as necessary.

Sycamore Diversion Channel Maintenance (362015-26)

Maintenance activities include: Culverts, levee, subdrain system (corrugated metal pipes under the road crossings, and dip-crossings) maintenance; Concrete structures and embankment maintenance; Earthen basin and channel maintenance – grade to repair slope & levee erosion; Center flow and grade control structures (bottom control, drop, and weir structures) maintenance; Debris and trash removal; Maintenance of existing chain link fencing, gates, and right-of-way signage; Maintain staff gauges; Access ramps and roads maintenance; Graffiti, vandalism, and homeless management (cleanup and removal); Vector management, only as necessary; Non-native vegetation management: manual, mechanical, and/or chemical; and Native vegetation management, only as necessary.

Receiving water: The 29th Street Basins, Badger Basin and Spillway, Lemon Basin, Lynwood Basins, and Sycamore Diversion Channel are tributary to Warm Creek, which has designated beneficial uses (existing or potential) that include: groundwater recharge (GWR), municipal and domestic supply (MUN), contact recreation (REC1), non-contact recreation (REC2), warm fresh water habitat (WARM), and wildlife habitat (WILD).

The Alta Loma Basins are tributary to Deer Creek, which has designated beneficial uses (existing or potential) that include: groundwater recharge (GWR), municipal and domestic supply (MUN), contact recreation (REC1), non-contact recreation (REC2), warm fresh water habitat (WARM), and wildlife habitat (WILD).

The Macy Basin is tributary to the Valley Reach of Lytle Creek, which has designated beneficial uses (existing or potential) that include: groundwater recharge (GWR), municipal and domestic supply (MUN), contact recreation (REC1), non-contact recreation (REC2), warm fresh water habitat (WARM), and wildlife habitat (WILD).

The Linden Basin and Merrill Basins are tributary to Reach 4 of the Santa Ana River, which has designated beneficial uses (existing or potential) that include: groundwater recharge (GWR), contact recreation (REC1), non-contact recreation (REC2), warm fresh water habitat (WARM), and wildlife habitat (WILD). Per the Basin Plan "tributary rule", the beneficial uses also apply to the basins and channel listed above.

Dredge/Fill volume: Not Applicable

Federal permit: U.S. Army Corps of Engineers (USACE) Nationwide Permit No. 3 - Maintenance

You have proposed to mitigate water quality impacts, which are described in your Certification applications. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Standard water quality-related best management practices (BMPs) will be employed during maintenance activities.

Offsite Water Quality Standards Mitigation Proposed:

- None.

Should the proposed projects 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 Santa Ana Regional Board 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 NPDES Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order Number 2012-0006-DWQ.

Pursuant to the California Environmental Quality Act (CEQA), on March 27, 2015, the Applicant filed a separate CEQA Guidelines Section 15301 "Class1" Categorical

Exemption for each of the nine maintenance projects, which declares that the project will involve the operation, repair, maintenance, and minor alteration of public/private structures that result in a negligible expansion of uses. The Regional Board has independently considered the County's Categorical Exemptions in the issuance of this Certification and finds that no changes or alterations to the proposed projects are necessary to 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) This Order authorizes the Applicant to perform the specific routine maintenance activities specified in Table 1 above on an as-needed basis for the flood control facilities identified. This Order authorizes maintenance actions to return the basin and channel structures to the specifications of their original construction as defined by the as-built drawings submitted in the application packages. This Order for 401 Water Quality Certification will remain valid until the USACE 2012 Nationwide permits expire on March 18, 2017, or through an extended period beyond the expiration date that is authorized in writing by the USACE. After the expiration of the USACE Nationwide Permit and these Certifications, Regional Board approval must be received to continue the maintenance activities as described in this Certification.
- 2) This Order does not authorize emergency repair activities. The Applicant is required to apply for separate authorization to perform emergency repairs, should that be necessary.
- 3) A copy of this 401 Certification and any subsequent amendments must be maintained on-site for the duration of work as a denoted element of any of the maintenance activities detailed in this Certification.
- 4) The Applicant must provide a minimum 48 hour email notification to Regional Board staff prior to implementing maintenance as authorized under this Order. The notification must include the following: the Regional Board Project File Number facility name/location; and dates of planned work activities. Please email this notification to Jason Bill, Environmental Scientist, at jason.bill@waterboards.ca.gov.
- 5) The Applicant shall submit an Annual Report to the Regional Board as documentation of annual maintenance activities performed no later than April 1 of each year. The Annual Report should include, at a minimum, the following information: a summary of the types of maintenance activities performed, including the date(s) those activities were performed and the facilities where those activities occurred; a summary of the activities related to construction storm water controls and the BMPs used, if any; and a summary of any activities that deviated from those described in the original application and supporting documents. For excavation activities, include the volume of material removed from each of the facilities, the volume of that material used

to backfill side slopes, and the volume of any excess material removed from the site for stockpiling.

- 6) The Applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.
- 7) All materials generated from construction/maintenance 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.
- 8) To the greatest extent practicable, routine maintenance, repair, and bank protection activities shall be scheduled outside of the rainy season, preferably when surface water is absent and/or flows are minimal. If maintenance activities must be completed while flowing water is present, such activities will be conducted according to the SBCDPW's standard BMPs and/or Municipal Stormwater Permits.
- 9) Invasive plant species shall be removed in a manner that prevents propagation of those species in the same location and/or in other locations throughout the facility and/or County. Where maintenance activities are required, SBCDPW staff will spray and/or mow invasive plant species before seeds ripen. All cut/removed invasive vegetation shall be taken to an approved refuse facility as a load designated for destruction. SBCDPW staff shall prevent cut stems and/or seed material from being transported downstream and/or being left behind to allow the seed to propagate. In the case of giant reed (*Arundo donax*) removal, SBCDPW shall minimize ground disturbance and use foliar glyphosate treatment on smaller infestations. Stems shall be removed only when the plants are determined to be dead and unable to re-sprout and/or propagate.
- 10) To protect the WILD and WARM beneficial uses found in maintenance project locations, wildlife resources at these locations shall be monitored by qualified field biologists. Maintenance shall proceed only after the field biologist provides clearance that no rare, threatened or endangered animal or plant species, or nesting birds, will be adversely affected.
- 11) The RARE beneficial use at the East Badger Basin and Spillway Project ((362015-20) and the Sycamore Diversion Channel (362015-24) will be protected by the following conditions:
 - 1) A biologist familiar with Southern California small mammals and their signs shall survey each area prior to soil disturbing activities. If burrows or sign of rare species (San Bernardino Kangaroo Rat and Los Angeles Pocket Mouse) are observed, a work exclusion buffer

of at least 250 feet will be established from the burrow or sign, and the biologist will monitor the work.

2) Surveys for rare Southern California small mammals shall be performed prior to application of rodenticide in the project areas. If rare small mammals are detected, the project area(s) will be excluded from rodenticide application.

- 12) The Applicant is responsible for informing any contractors of the specific conditions contained in this 401 Water Quality Certification Order.
- 13) The project proponent shall utilize BMPs during project construction to minimize controllable discharges of sediment and other wastes to drainage systems or other waters of the State and of the United States.
- 14) 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.
- 15) 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.
- 16) 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 appropriate enforcement action, including revocation of this Certification and imposition of administrative civil or criminal liability.
- 17) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 18) Construction de-watering discharges, including temporary stream diversions necessary to carry out the project, are subject to regulation by Regional Board Order No. R8-2015-0004, 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. R8-2015-0004 at www.waterboards.ca.gov/santaana/

- 19) 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 that the Applicant 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.

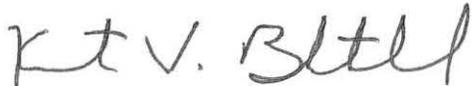
This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby certify that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 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

SARWQCB Project File Nos. 362015-18, 362015-19, 362015-20, 362015-21, 362015-22, 362015-23, 362015-24, 362015-25, 362015-26

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 Jason Bill at (951) 782-3295 or Wanda Cross at (951) 782-4468.

Sincerely,



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

cc (via electronic mail):

San Bernardino County, Department of Public Works – Erma Hurse -
Erma.Hurse@dpw.sbcounty.gov

U. S. Army Corps of Engineers, Los Angeles Office - Shannon Pankratz

State Water Resources Control Board, OCC - David Rice

State Water Resources Control Board, DWQ - Water Quality Certification Unit

California Department of Fish and Wildlife – Claire Ingel

U.S. EPA - Supervisor of the Wetlands Regulatory Office WTR-8