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GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## Santa Ana Regional Water Quality Control Board

November 9, 2016

Mr. Fermin Preciado  
City Engineer  
City of Yucaipa Department of Public Works/Engineering  
34272 Yucaipa Blvd.  
Yucaipa, CA 92399

fpreciado@yucaipa.org

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE YUCAIPA WILDWOOD CREEK PROTECTION  
PROJECT, CITY OF YUCAIPA, COUNTY OF SAN BERNARDINO, CALIFORNIA  
(USACE FILE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 362016-05)**

Dear Mr. Preciado,

On March 2, 2016, we received from RVA, Inc. on behalf of the City of Yucaipa (Applicant) an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project to stabilize the banks of Wildwood Creek to prevent Wildwood Canyon Road from becoming undermined (Project). The Applicant submitted \$5,198.00 along with the original Certification application materials, which satisfied the Project filing 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, 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 Applicant proposes to stabilize the banks of Wildwood Creek to protect Wildwood Canyon Road by armoring with ungrouted ½ ton rip-rap along the north bank for approximately 300 linear feet and along the south bank for 190 linear feet. The laying of the rip-rap will be designed to allow interstitial plantings to establish. Four drop structures constructed of ungrouted rip-rap will be placed across the creek bed to control erosion in the Project area. A temporary

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

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access ramp will be created from the north bank of the creek and will be removed at the end of construction activities

The work will take place on the banks of Wildwood Creek, adjacent to the south side of the intersection of Wildwood Canyon Road and Oak View Road in the city of Yucaipa, San Bernardino County, in Section 8 of Township 2 South, Range 1 West, of the U.S. Geological Survey Yucaipa 7.5 minute topographic quadrangle map (34.0887° N, -117.055° W).

Receiving water: Wildwood (Yucaipa) Creek has designated beneficial uses (existing or potential) that include: municipal and domestic supply (MUN), groundwater recharge (GWR), contact recreation (REC1), non-contact recreation (REC2), warm freshwater habitat (WARM), and wildlife habitat (WILD).

Fill area:

Permanent Impact to Waters of the U.S.	0.10 acre	320 linear feet
Temporary Impact to Waters of the U.S.	0.18 acre	65 linear feet

Dredge/Fill volume: Not Applicable

Federal permit: U.S. Army Corps of Engineers (USACE) Nationwide Permit No. 13 – Bank Stabilization

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.
- The Applicant will incorporate vegetated streambank stabilization techniques into the stream bank and slope protection design. The vegetated bank restoration and stabilization project will be performed in accordance with a Regional Board approved Habitat Mitigation and Monitoring Plan (HMMP).

Offsite Water Quality Standards Mitigation Proposed:

- None

Should the proposed Project have the potential to impact State- or federally-listed endangered species or their habitat, implementation of measures identified in

consultation with the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife should ensure those impacts are mitigated to an acceptable level.

Appropriate BMPs will be implemented to reduce construction-related impacts to waters of the State per the requirements of 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 the State Water Resources Control Board National Pollutant Discharge Elimination System (NPDES) General Permit For Storm Water Discharges Associated With Construction And Land Disturbance Activities, Order No. 2012-0006-DWQ.

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 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 to mitigate and avoid only the direct and indirect environmental effects of those parts of the project that 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, in approving this Certification, the Regional Board has considered the MND prepared for the proposed Project by the City of Yucaipa that was filed with the County of San Bernardino on December 21, 2015, and subsequent information provided in the Applicant's application. 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 should 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 should 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 for 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.
- 2) The Applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.
- 3) The Applicant shall ensure that all fees associated with this Project shall be paid to each respective agency prior to conducting any onsite construction activities.

- 4) A copy of this Certification and any subsequent amendments must be maintained onsite for the duration of work as a denoted element of any Project Storm Water Pollution Prevention Plan (SWPPP) and Habitat Mitigation and Monitoring Plan (HMMP).
- 5) Prior to construction activities, the Project proponent shall delineate the work area with brightly colored fencing or other methods to ensure that both temporary and permanent impacts to waters of the United States and waters of the State of California do not exceed the limits authorized in this Certification.
- 6) Prior to the initiation of Project activities, the Applicant shall submit the HMMP and Project design drawings prepared for the bank stabilization area (mitigation area) to the Regional Board for approval. The Project design will incorporate techniques that allow vegetation to be incorporated into the bank restoration and stabilization design. The HMMP shall include the following information: (a), a description of the existing physical and biological conditions of the mitigation area, including an evaluation of present and potential beneficial uses; (b), a plan for management actions to occur in the mitigation area, including but not limited to, restoration plantings and the removal of nonnative plant species; (c), a restoration schedule including monitoring and maintenance measures; (d), the establishment of fixed photographic monitoring locations; and (e), mitigation success standards and contingency measures.
- 7) Monitoring and maintenance of the mitigation area shall be conducted for a minimum of five years, or until the Regional Board determines the area has met the performance criteria of successful restoration as set forth in the Regional Board approved HMMP. After installation of the mitigation area, the Applicant shall submit an annual monitoring report to the Regional Board each year, for a minimum of five years. The first report summarizing annual maintenance activities is due to the Regional Board no later than April 1 of the year following the beginning of Project activities. The report shall include: (a) a summary of the annual restoration activities conducted; (b) an analysis of the changes to the vegetative community (including species present; percent cover, stem density of riparian trees and shrubs); (c) narrative description of sediment dynamics upstream, in, and downstream of the construction area; and (d) photographs taken at the fixed monitoring locations detailed in the HMMP.
- 8) Effective perimeter control BMPs must be in place at all times to control the discharge of pollutants from the Project site during construction. Construction waste must be contained and protected against wind and exposure to storm water at all times unless being actively handled. Chemical, fuel, and lubricant containers must be kept closed and protected from damage or upset at all times unless being actively used. Dirt and landscaping material stockpiles may not be located within waters of the United States and must have effective erosion control BMPs in place to prevent their transport in storm water or

directly into the channel. Discharges of wastewater from the Project site are prohibited.

- 9) 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.
- 10) 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.
- 11) Motorized equipment shall not be maintained or parked in 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 onsite, except as necessary to complete the proposed Project. No equipment shall be operated in areas of flowing water.
- 12) Construction dewatering 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 Minimis) Threat to Water Quality. For more information, please review Order No. R8-2015-0004 at [www.waterboards.ca.gov/santaana/](http://www.waterboards.ca.gov/santaana/)
- 13) 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 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 revocation of this Certification and imposition of administrative civil or criminal liability.

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.

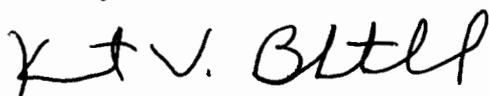
In the event of any violation or threatened violation of the conditions of this Certification, the holder of any permit or license subject to this Certification shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of Section 401(d) of the Clean 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(s) 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 Jason Bill at (951) 782-3295 or [Jason.Bill@waterboards.ca.gov](mailto:Jason.Bill@waterboards.ca.gov), or Wanda Cross at (951) 782-4468 or [wanda.cross@waterboards.ca.gov](mailto:wanda.cross@waterboards.ca.gov).

Sincerely,



Kurt V. Berchtold  
Executive Officer

cc (via electronic mail):

Ruth Villalobos & Associates - Ruth Villalobos – rvillalobos@rvacorp.com

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

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 Section – Jason A. Brush