
Santa Ana Regional Water Quality Control Board

January 19, 2016

Mr. Michael C. Hudson
Public Works Director/City Engineer
City of Montclair
5111 Bonito Street
Montclair, CA 91763

mhudson@cityofmontclair.org

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR MONTE VISTA AVENUE GRADE SEPARATION AT UNION
PACIFIC RAILROAD CROSSING PROJECT, CITY OF MONTCLAIR, SAN
BERNARDINO COUNTY (USACE CORPS FILE NO. NOT AVAILABLE) (SARWQCB
PROJECT NO. 362015-68)**

Dear Mr. Hudson,

On November 25, 2015, we received from the City of Montclair (Applicant) an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project (Project) to convert a section of a concrete-lined channel into a box culvert to provide for vehicular access over the channel. The Project is a component of a larger project to elevate Monte Vista Avenue over the Union Pacific Railroad Tracks and State Street in order to improve safety for vehicular and rail traffic. The Applicant submitted \$600.00 along with the Certification application materials, and a second check for \$4,962.00 on December 31, 2015, which satisfies the Project filing fee requirement for consideration of a 401 Certification. This fee amount of \$5,562.00 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: To construct a grade separation for the Union Pacific Railroad, the Applicant proposes to convert an unnamed tributary to San Antonio Creek that is currently a concrete-lined channel into a box culvert in order to construct a private road that will lead to an existing development. If the road is

not constructed, the development will be isolated by the proposed grade separation.

The work will take place within Section 27 of Township 1 South, Range 8 West, of the U.S. Geological Survey *Ontario* 7.5 minute topographic quadrangle map (34.061388° N/ - 117.696779° W).

Receiving water: An unnamed tributary of San Antonio Creek, which flows into Reach 2 of Chino Creek. This Reach has designated beneficial uses (existing or potential) that include: groundwater recharge (GWR), contact recreation (REC1), non-contact recreation (REC2), limited warm freshwater habitat (LWRM), and wildlife habitat (WILD).

Fill area:

Temporary Impact to Waters of the U.S.	0.03 acres	412 linear feet
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Dredge/Fill volume: Not Applicable

Federal permit: U.S. Army Corps of Engineers (USACE) Permit Nationwide No. 14 – Linear Transportation Projects

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:

- 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 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 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.

On July 16, 2010, pursuant to the California Environmental Quality Act (CEQA), the County of San Bernardino Department of Public Works (DPW) acting for the City of Montclair, filed a CEQA Guidelines Section 15282(g) Statutory Exemption with the San Bernardino County Clerk, which declares the proposed Project is a component of a railway grade separation project to remove an existing at-grade crossing. The Regional Board has independently considered the CEQA Statutory Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed Project 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 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 on-site construction activities.
- 4) A copy of this Certification and any subsequent amendments must be maintained on-site for the duration of work as a denoted element of any Project Storm Water Pollution Prevention Plan (SWPPP).
- 5) 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. Additionally no materials may be stored within waters of the United States or waters of the State of California.
- 6) 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.
- 7) 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.

- 8) 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.
- 9) 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/
- 10) 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 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

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):

ICF International - Brian Calvert - brian.calvert@icfi.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