

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Colorado River Basin Regional Water Quality Control Board

February 16, 2016

Mr. Sean Kilkenny
Davidson Communities
1302 Camino Del Mar
Del Mar, CA 92014

RE: ORDER FOR TECHNICALLY-CONDITIONED CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS

PROJECT: This federal Clean Water Act Section 401 Water Quality Certification (WQC) (33 U.S.C. § 1341) is written for the Davidson Communities - Line 29 – Tahquitz Creek Storm Drain Outlet Project, WDID No. 7A333154001

APPLICANT: Davidson Communities

- ACTION:**
- 1. Order for Standard Certification
 - 2. Order for Technically-Conditioned Certification
 - 3. Order for Denial of Certification

STANDARD CONDITIONS:

The following standard conditions apply to all certification actions, except as noted above under Action 3 for denials.

- 1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
- 2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR

section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.
4. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law. For purposes of Clean Water Act (CWA) section 401(d), 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 Water Quality Certification (WQC).
 - a. In response to a suspected violation of any condition of this WQC, the Colorado River Basin Regional Water Quality Control Board (Colorado River Basin Water Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Colorado River Basin Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - b. In response to any violation of the conditions of this WQC, the Colorado River Basin Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

ADDITIONAL CONDITIONS:

The following additional conditions apply to this certification:

1. This WQC applies towards the proposed project (Project) as described in a 401 application received by the Colorado River Basin Water Board on December 18, 2015. Updated information was received on February 8, 2016.
2. The Applicant shall provide the Colorado River Basin Water Board and other interested agencies with written notification of any significant modifications made to the Project prior to implementation of the modifications.
3. This WQC does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

4. This WQC does not authorize the Applicant or any associated party to trespass on any land or property unless the applicant has obtained written authorization or acquired a special use authorization permit from the land or property owner.
5. A copy of this WQC shall be provided to the appropriate onsite Supervisor for the Project. All personnel performing work on the proposed Project shall be familiar with the content of this WQC. Copies of the WQC shall be readily available at the Project site at all times during periods of active work and shall be presented to regulatory agency representatives upon request.
6. The Applicant shall grant Colorado River Basin Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this WQC and/or to determine the impacts the Project may have on waters of the United States.
7. The proposed Project shall not be enlarged or extend beyond the proposed Project impact area. The Applicant shall delineate the Project boundaries and staging areas with stakes, flags and/or temporary construction fencing.
8. The area of vegetation and soil disturbance shall be restricted to the smallest extent possible.
9. The Project shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.
10. The Project shall not discharge waste classified as "hazardous" as defined in Title 23 California Code of Regulations (CCR) section 2521, California Health and Safety Code section 25140, and Title 22, CCR, section 66260.10 et seq.
11. No oil, petroleum products, or rubbish shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States.
12. No equipment maintenance will be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter waters of the United States.
13. Equipment refueling shall not occur within waters of the United States.
14. Any oil or grease leaks shall be immediately cleaned up.

15. The Applicant shall ensure that all contaminated material and/or contaminated soil removed or excavated from the Project site is properly loaded, transported, and disposed of in accordance with Federal, State, and local regulations.
16. Staging/storage areas for equipment and materials shall be located outside of waters of the United States.
17. The Applicant shall ensure that all disturbed and filled areas are adequately stabilized and protected from erosion and siltation by implementing appropriate soil stabilization, sedimentation and silt control measures.
18. Any flow diversion used during construction shall be designed in a manner to prevent pollution, minimize siltation, and shall provide flows to downstream reaches. Flows shall be maintained to support existing aquatic life and riparian wetlands and habitat that may be located upstream and downstream from any temporary diversion.
19. The Applicant shall restore drainages, to the greatest extent possible, to the original bank configuration, stream bottom width, and channel gradient.
20. All temporary facilities and impacts shall be removed and restored to the preexisting conditions and contours to the extent practicable.
21. Construction related materials and wastes shall be removed from the Project site upon completion of the Project.
22. The Applicant shall submit Notice to the Colorado River Basin Water Board within 60-days of completion of the Project. The Notice shall include: 1) a detailed summary of the mitigation and restoration activities implemented during the Project and 2) provide photographic documentation that supports the information summarized in the Notice.
23. The Colorado River Basin Water Board reserves the right to suspend, cancel, or modify and reissue this WQC, after providing notice to the Applicant and/or responsible Site-Supervisor, if the Colorado River Basin Water Board determines that the Project fails to comply with any of the terms or conditions of this WQC.
24. The Applicant shall orally notify the Colorado River Basin Water Board of any noncompliance that may impact the beneficial uses of waters of the United States, as soon as notification is possible and notification can be provided without substantially impeding measures necessary to address the noncompliance.

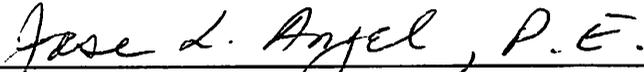
REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

If you have any questions, please contact Jay Mirpour, Water Resources Control Engineer, at (760) 776-8981 or jmirpour@waterboards.ca.gov.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying 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.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' Project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Colorado River Basin Water Board's Water Quality Control Plan (Basin Plan).



Jose Angel, Interim Executive Officer
Colorado River Basin Regional Water Quality Control Board

JJM/

cc: James Mace, U.S. Army Corps of Engineers, Los Angeles District
Bill Orme, SWRCB, Division of Water Quality, Water Quality Certification Unit
Elizabeth Goldman, U.S. Environmental Protection Agency, Region 9
Thomas A. Vandenberg, Office of Chief Counsel, SWRCB

File: Davidson Communities - Line 29 – Tahquitz Creek Storm Drain Outlet Project,
WDID No. 7A333154001

PROJECT INFORMATION

- Application Date:** This WQC applies towards the proposed project (Project) as described in a 401 application received by the Colorado River Basin Water Board on December 18, 2015. Updated information was received on February 8, 2016.
- Applicant:** Davidson Communities
Contact: Mr. Sean Kilkenny
Phone No. 858.259.8500
- Applicant Representative:** Dudek
Contact: Ms. Shelah Riggs
Email: sriggs@dudek.com
Phone No. 951-300-2184
- Project Name:** Davidson Communities - Line 29 – Tahquitz Creek Storm Drain Outlet Project, WDID No. 7A333154001
- Start and Completion:** Startup: 04/01/2016
Completion: 04/01/2017
- Project Description:** The proposed Project is the modification of the storm drain system required to convey runoff into the Tahquitz Creek Drainage Channel. This includes installation of a 42" storm drain pipe in Random Road (hereafter referred to as Line 29), and the construction of an 18" storm drain pipe in South Palm Canyon Drive that will connect to Line 29. It also includes the associated outlet structure and a rip-rap splash pad to act as an energy dissipating device within Tahquitz Creek. The 18" South Palm Canyon line was previously designed to outlet separately into Tahquitz Creek and the impacts to state/federal waters that would be associated with those impacts are avoided through the proposed modification and connection of the storm drain to Line 29.
- The channel runs from west to east with rip-rap sides and a natural bottom. A maintenance access road extends along the bottom of the northern side of the channel. The storm drain outlet is meant to convey flows from adjacent developed areas, including South Palm Canyon Drive, Mesquite Road and Random Road, north to the drainage channel.

The proposed project work will occur from the top of slope so as to minimize impact to the streambed below. The outlet structure will be installed and a rip-rap splash pad will be created to moderate the flows as they enter the channel.

Project Location:

City or area:

Palm Springs, Riverside County, California

Longitude/ Latitude:

33.483909, -116.323357

Township/Range:

4 South / 4 East (San Bernardino Meridian).

Receiving Water(s):

Tahquitz Creek to Palm Canyon Wash to Whitewater River to Salton Sea

Acres and Linear Feet Impacted:

Construction of the proposed project would result in 0.003 acre streambed vegetated (permanent) and 0.01 acre streambed vegetated (temporary) impact.

Standard Best Management

Practices (BMPs):

- No toxic and/or hazardous materials shall be stored near or within wash/drainage areas. To extent possible, these materials will be stored offsite and/or placed in appropriate secondary containment.

- Work and staging areas and temporary access routes will be sized, located and flagged so as to limit potential impacts to natural areas. Previous disturbed areas will be used to the extent feasible.

- No fueling or maintenance of equipment and/or vehicles shall occur adjacent or within the wash/drainage areas.

- Spoil sites shall not be located where spoil could be washed back into the river, or where spoil will cover aquatic or riparian vegetation. Any materials placed in seasonally dry portions of the canal/ drainage areas that could be washed downstream or could be harmful to aquatic life shall be removed from the streambed prior to inundation by high flows.

- After completing the activities, the disturbed area will be restored to pre-existing contours and conditions to the extent feasible.

**Additional Site
Specific BMPs:**

Tahquitz Creek channel is a natural bottom channel with rip-rap lined sides. Direct impacts to the channel bed and bank would result during installation of an outlet structure, as well as with the installation of the rip-rap splash pad. Installing the storm drain outlet at the southeastern portion of the channel will temporarily impact the channel.

Typical BMPs include silt fences, sediment traps, straw bales, scheduling (dry season), and good site housekeeping. The channel is not commonly wet, but if work occurs while water is present in the channel, sandbags will be used to direct flows around the work area. While all excavation will be occurring from top of slope, a shield will be used to keep the sides of the excavation area from collapsing in on themselves, and also from falling into the channel bottom. Workers (2 or 3) will enter the channel, but stay within the 10 foot construction buffer, to place the new pipe structure and the rip-rap splash pad.

Following construction of the outlet, the temporary project construction area will be returned to pre-existing grade and condition.

A Water Quality Unit (WQU) shall be installed for treatment of the "first flush" runoff from the residential development to the outlet. Based on the tributary area, the amount of required treatment of runoff is 2.0 cubic feet per second (cfs).

The project engineer, Hunsaker Associates, has reviewed specifications and selected Product 4840WQA as sufficient for treating the amount of runoff associated with this project.

During construction, the following BMPs will be implemented to avoid discharge of sediment or other non-stormwater materials:

1. Stabilize disturbed areas – provide temporary stabilization of disturbed soils during construction.
2. Retain sediment – use sediment trapping materials to minimize transport off site; remove sediment trapping

materials with care to prevent debris or sediment from reentering waterways.

3. Practice good housekeeping – avoid stockpiling of loose and erodible fill material and other similar debris material into or on the banks of waterways; minimize the removal of native vegetation to the maximum extent practicable; keep the project site as clean of debris as possible.

4. Containment of materials and wastes – store construction and waste materials in designated areas, protected from contact with storm water runoff and with minimal risks of direct drainage to waterways; limit construction activities, equipment, and materials to the designated disturbance limits, staging area and routes of travel; prevent spills and clean up spilled material.

Federal Permit(s):

U.S. Army Corps of Engineers, Nationwide Permit No.12 (Utility Line)

Status of CEQA:

Lead Agency: City of Palm Springs, State Clearinghouse Number (Not Available - Since the project was not regionally significant and state permits were not thought to be required at the time that CEQA was completed, the applicant does not believe that a State Clearinghouse number was issued).

On July 12, 2006, City of Palm Springs approved the above described project and made the following determinations:

- 1) The project will not have a significant effect on the environment.
- 2) A Mitigated Negative Declaration (MND) was adopted for this project pursuant to the provisions of CEQA.
- 3) Mitigation measures were made a condition of the approval for this project.
- 4) A mitigation reporting or monitoring plan was adopted for this project.
- 5) A Statement of Overriding Considerations was not adopted for the project.
- 6) Findings were not made pursuant to the provisions of CEQA.

The Colorado River Basin Water Board staff has reviewed the MND, the mitigation measures, and the mitigation reporting or monitoring plan adopted for the project to avoid or substantially lessen significant environmental effects identified in the MND. Based on its review, Board staff has concluded that compliance with the mitigation measures specified in the plan will avoid or reduce to less than significant any water quality impacts.