State Water Resources Control Board

January 11, 2019

Mr. Gary Jacobs
Managing Director
Lake Elsinore Diamond Sports Center, LLC
13974 Boquita Drive
Del Mar, CA 92014-3108

Gary@jacobsllc.com

AMENDED CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR DIAMOND INDOOR SPORTS CENTER PROJECT, CITY OF LAKE ELSINORE, RIVERSIDE COUNTY (USACE FILE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 332016-21)

Dear Mr. Jacobs:

On November 6, 2018, Santa Ana Regional Water Quality Control Board (Regional Water Board) staff received from VCS Environmental on behalf of Lake Elsinore Diamond Sports Center, LLC, a request to revise the February 6, 2017 Clean Water Act section 401 Water Quality Standards Certification (Certification) issued for the subject project (Project). We considered your request and have revised the Certification accordingly. Revisions are shown by striking out removed text and underlining added text. Text that is neither stricken nor underlined remains unchanged. This amended Certification replaces the February 6, 2017 Certification issued for this Project.

On June 22, 2016, we received from VCS Environmental on behalf of Lake Elsinore Diamond Sports Center, LLC (Applicant) an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project to construct a 520,000 square foot indoor commercial sports facility development on 23.12 acres of land (Project). The Applicant submitted a check for $2,932.00 with the Certification application materials, which satisfies the 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 proposed Project consists of the construction of a 520,000 square foot indoor sports facility with 5.25 acres of associated parking and sidewalk areas. Mass grading of the Project site will result in filling in 0.03 acre of waters of the United States (WOUS).

The work will be located directly west of the San Jacinto River, Reach 1, east of Diamond Drive and north of Pete Lehr Drive in the City of Lake Elsinore, Riverside County in the un-sectioned La Laguna Land Grant, of the United States (U.S.) Geological Survey Lake Elsinore 7.5 minute topographic quadrangle map (33.656985 ° N/ -117.302154 ° W).

Receiving water: San Jacinto River, Reach 1 has designated beneficial uses (existing or potential) that include: municipal and domestic supply (MUN), agricultural supply (AGR), groundwater recharge (GWR), water contact recreation (REC1), non-contact water recreation (REC2), warm freshwater habitat (WARM), and wildlife habitat (WILD).

Fill area:

| Permanent Impact to Waters of the U.S. | 0.03 acre | 731 linear feet |

Dredge/Fill volume: Not Applicable

Federal permit: U.S. Army Corps of Engineers (USACE) Nationwide Permit No. 39 - Commercial and Institutional Developments

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 Project Applicant will mitigate 0.03 acre permanent impact through the purchase of 0.22 acre reestablishment credit with the Riverside-Corona Resource Conservation District (RCRCD) In-Lieu-Fee Program.
In addition, the Project Applicant has indicated that a Determination of Biological Equivalent or Superior Preservation (DBESP) analysis was performed for compliance with the Western Riverside Multispecies Habitat Conservation Plan that requires mitigation. That mitigation will be either the purchase of 1.07 acres of enhancement mitigation credit, placement of a conservation easement over 1.07 acres in Lake Elsinore Back Basin below the elevation of 1,265 feet above sea level, or the performance of invasive species removal from 1.07 acres below the elevation of 1,265 feet above sea level within the Lake Elsinore Back Basin.

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. R8-2010-0033 (NPDES Permit No. CAS618033), commonly known as the Riverside County Municipal Storm Water Permit, and subsequent iterations thereof. Order No. R8-2010-0033 requires that the Applicant substantially comply with the requirements of State Water Resources Control Board General NPDES Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order Number 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 Negative Declaration (ND) prepared by the lead agency in determining whether to approve an application submitted for 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 EIR prepared for the Diamond Specific Plan by the City of Lake Elsinore, an Addendum to the EIR, and subsequent information provided in the Applicant's application. The EIR was filed with the County of Riverside County Clerk and the Office of Planning and Research on June 29, 2010. The Addendum to the EIR was filed with the County of Riverside County Clerk and the Office of Planning and Research on October 28, 2016. On October 28, 2016, the Applicant provided the Notice of Determination for the Project. Specifically, the Regional Board considered those
sections of the EIR and Addendum pertaining to impacts to water quality standards. Based upon the mitigation proposed in the EIR, the Addendum to the EIR 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 changes or alterations have been required in or incorporated into the Project that 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, 2022, 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 are paid to each respective agency prior to conducting any onsite construction activities.

4) A copy of this 401 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).

5) All post-construction structural storm water treatment facilities shall be constructed and fully operational prior to the occupation of any building in the residential development.

6) The proposed mitigation shall be implemented in a timely manner. A copy of the receipt from the transfer of funds to the Riverside-Corona Resource Conservation District shall be provided to the Regional Board prior to the discharge of fill to, or the dredging or excavation of material from, waters of the State of California. Additionally, documentation of the purchase of 1.07 acre of additional mitigation credits, the placement of a conservation easement over 1.07 acre in Lake Elsinore Back Basin, or documentation of invasive species removal activities on 1.07 acre in Lake Elsinore Back Basin must be provided to the Regional Board prior to the discharge of fill to, or the dredging or excavation of material from, waters of the State of California.

7) Prior to construction activities, the Applicant shall delineate the work area with brightly colored fencing or other methods to ensure temporary impacts to WOUS and waters of the State of California do not exceed the limits authorized in this Certification.
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 must have effective erosion control BMPs in place to prevent their transport in storm water or directly into the channel, and may not be located in WOUS. Discharges of wastewater from the 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 within or near any stream crossing, channel or lake margin in such manner that petroleum products or other pollutants from the equipment might 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) 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 the revocation of this Certification and imposition of administrative civil or criminal liability.

13) 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/.

14) The Applicant shall ensure written notification to this agency shall be made prior to conducting any onsite construction activities. Such notifications shall be made to Jason Bill at Jason.Bill@waterboards.ca.gov.
15) When work conducted in accordance with this 401 Certification has been completed, the Applicant shall notify Regional Board staff Jason Bill at Jason.Bill@waterboards.ca.gov within 10 working days. Please cite the SARWQCB Project number listed in the Subject Line above as the Project identifier.

16) The Applicant shall submit an Annual Project Status Report each year by January 1. Annual reporting shall continue until a Notice of Project Complete Letter is issued to the Applicant. The status report shall be sent to Jason Bill at Jason.Bill@waterboards.ca.gov or other Regional Water Board certification staff.

Under California Water Code, Section 1058, and pursuant to California Code of Regulations, Title 23, Chapter 28, §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 Federal Energy Regulatory Commission (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 401 Water Quality 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 Sections 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), "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges That Have Received State 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/wqo2003-0017.pdf

Should there be any questions, please contact Jason Bill at (951) 782-3295 or jason.bill@waterboards.ca.gov, or Wanda Cross David Woelfel at (951) 782-4468 (951)782-7960 or wanda.cross@waterboards.ca.gov David.Woelfel@waterboards.ca.gov.

Sincerely,

Hope A. Smythe
Executive Officer
Santa Ana Regional Water Quality Control Board

cc: U. S. Army Corps of Engineers, Los Angeles Office - James Mace
U.S. Environmental Protection Agency, Region 9 -Wetlands Section -
Megan Fitzgerald - Fitzgerald.Megan@epa.gov
Melissa Scianni - Scianni.Melissa@epa.gov
California Department of Fish and Wildlife -
Claire Ingle - Claire.Ingle@wildlife.ca.gov
Kimberly Romich - Kimberly.Romich@wildlife.ca.gov
State Water Resources Control Board, Office of Chief Counsel - Teresita Sablan
State Water Resources Control Board DWQ - Water Quality Certification Unit
VCS Environmental – Wade Caffrey – wcaffrey@vcsenvironmental.com