



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from *Keep California Beautiful*

Arnold Schwarzenegger
Governor

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Janice G. Bartolo
City of Burbank
301 East Olive Street 3rd Floor
Burbank, CA 91510

WATER QUALITY CERTIFICATION FOR PROPOSED WILDWOOD CANYON IMPROVEMENT PROJECT (Non-notifying NWP 18), WILDWOOD CANYON CREEK, TRIBUTARY TO BURBANK WESTERN CHANNEL CITY OF BURBANK, LOS ANGELES COUNTY (File No. 08-101)

Dear Ms. Bartolo:

Board staff has reviewed your request on behalf of the City of Burbank (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on September 5, 2008.

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. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

[Original signed by]

December 10, 2008

Tracy J. Egoscue
Executive Officer

Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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Jamie Jackson
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Eric Raffini (via electronic copy)
U.S. Environmental Protection Agency, Region 9
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Jim Bartel
U.S. Fish and Wildlife Service
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ATTACHMENT A

**Project Information
File No. 08-101**

1. Applicant: City of Burbank
301 East Olive Street 3rd Floor
Burbank, CA 91510

Phone: (818) 238-5315
2. Applicant's Agent: PCR Services, Corporation
One Venture, Suite 150
Irvine, CA 92618

Phone: (949) 753-7001 Fax: (949) 753-7002
3. Project Name: Wildwood Canyon Improvement Project
4. Project Location: Burbank area, Los Angeles County

<u>Longitude</u>	<u>Latitude</u>
118.2909	34.2098
118.2921	34.2086
118.2937	34.2073
118.2951	34.2071
118.2932	34.2078
118.2924	34.2088
118.2924	34.2108
118.2926	34.2121

5. Type of Project: Flood control structure repair and upgrades
6. Project Purpose: The purpose of the proposed project is to install retaining walls, pipe inlets, and a protection barrier to enhance the flood control and grade stabilization functions which were destroyed during a 2005 flooding event. Additionally, improvement of a hiking trail will protect against further erosion and future flood events.

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7. Project Description:

The Wildwood Canyon project area is located within the Northeast portion of the City of Burbank. The project area encompasses a portion of the Wildwood Canyon Park, which is located in the Verdugo Mountains northeast of the corner of East Harvard Road and Wildwood Canyon Road.

The Wildwood Canyon project area was significantly disturbed by a fire in October 2005 and a subsequent flash flood two weeks later in November. The resulting debris flows removed vegetation deposited massive amounts of sediment, carved new channels, widened the channels, and scoured the banks. The flood event destroyed several in-channel flood control drop structures, built to control flow and erosion. This area was covered with three to five feet of mud and sediment which required extensive, emergency clean up.

This project consists of installing retaining walls, pipe inlets, and a protection barrier that will enhance the flood control and grade stabilization functions that were destroyed during a 2005 flood. A hiking trail will also be improved to protect against further erosion and future flood events. One retaining wall will be installed at the southern portion of the project area to prevent excess sediment from the uplands eroding into the channel. A protection barrier will be installed along the eastern portion of the cul-de-sac located near the center of the project area to protect against flooding and excess sediment flows. The majority of the project will be outside of jurisdictional waters and the only minor impact will be from the protection barrier along the eastern cul-de-sac.

The currently eroded area along the northernmost hiking trail will be filled with native material and lined with fiber rolls secured with wooden stakes. This area will be re-seeded with a native plant mix. Two additional retaining walls will be installed along the trail above and below the eroded area to protect against future erosion. Four pipe inlets, composed of concrete and steel, will be installed under the trail to carry runoff from the uplands into the stream, protecting the trail from erosion. The trail will be improved with gravel.

The project area supports one drainage, Wildwood Canyon Creek and an associated unnamed ephemeral drainage (WC1). Wildwood Canyon Creek is an earthen drainage with a sandy to bouldery and cobbly substrate. The drainage transports intermittent to ephemeral

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surface water from its headwaters in the Verdugo Mountains downstream through the City of Burbank. Tributary WC1 is an earthen drainage that transports seasonal surface flows from the adjacent canyon to Wildwood Canyon Creek near the mid-point of the project area.

Vegetation communities within the area include southern willow scrub, coast live oak woodland, sycamore alluvial woodland, Venturan coastal sage scrub, sumac scrub, open streambed, ornamental, ruderal, and disturbed. All of these communities have been disturbed to some extent by the 2005 fire and flood events.

Total jurisdictional area within the Wildwood Canyon study area is approximately 0.31 acre of RWQCB/ACOE jurisdictional non-wetland "waters of the U.S." of which 0.08 acre is characterized as wetland.

Implementation of the proposed improvements will permanently impact approximately less than 0.01 acre RWQCB/ACOE jurisdictional non-wetland "waters of the U.S." The proposed project will not impact wetlands. The 0.01 acres of impact will occur as a result of constructing the protection barrier to be installed along the eastern portion of the cul-de-sac located near the center of the study area to protect against flooding and excess sediment flows.

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| 8. Federal Agency/Permit: | U.S. Army Corps of Engineers
Non-notifying NWP 18 |
| 9. Other Required
Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement |
| 10. California
Environmental Quality
Act Compliance: | The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section (e.g., 15302 Replacement or Reconstruction). |
| 11. Receiving Water: | Wildwood Canyon Creek tributary to Burbank Western Channel
(Hydrologic Unit No. 405.21) |

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12. Designated Beneficial Uses: MUN*, REC-1, REC-2, WARM, WILD
*Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (streambed): 0.01 permanent acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: An emergency sediment removal project occurred in Stough Canyon to the west of the Wildwood Canyon Creek in November 2007.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Proposed project improvements have been designed to avoid the jurisdictional waters to the maximum extent possible. Only 0.01 acres of waters will be impacted, of the 0.31 acres of waters on the proposed project site.
 - Mitigation for the taking of migratory bird species will be accomplished in one of two ways. First, efforts will be made to schedule all construction activities outside the nesting season to avoid potential impacts to nesting birds. The nesting season is typically between February 15 and August 31. This would ensure that no active nests would be disturbed and that habitat removal could proceed rapidly.
 - If construction activities are scheduled to proceed during the nesting season, all suitable habitat within the limits of project disturbance and adjacent areas will be thoroughly surveyed for the presence of nesting birds by a qualified biologist no more than seven days prior to the onset of vegetation clearing.

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- If any active nests are detected, a buffer of at least 100 feet (300 feet for raptors) will be delineated, flagged, and avoided until the nesting cycle is complete as determined by the biological monitor, to minimize impacts.

17. Proposed
Compensatory
Mitigation:

The Applicant has proposed to provide compensatory mitigation in the form of on-site restoration, while providing improvements to the ephemeral drainage and hiking trail on the property. The restoration will consist of 0.01 acres of native vegetation restoration with re-seeding utilizing a native plant mix.

18. Required
Compensatory
Mitigation:

Due to the restorative nature of this project, a 1:1 ratio for compensatory mitigation will be required for this project. The Regional Board will require the Applicant to provide compensatory mitigation as proposed in the Regulatory Permitting Application Package, dated July 28, 2008 (PCR). A total of 0.01 acres of compensatory will be required in addition to all restoration of temporarily impacts associated with project implementation.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

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Conditions of Certification File No. 08-101

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action 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 23 CCR Subsection 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. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. **16**, are incorporated as additional conditions herein.

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5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
15. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during any vegetation clearing activities. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
16. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
17. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
18. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the

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Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:

- pH
- temperature
- dissolved oxygen
- turbidity
- total suspended solids(TSS)
- Downstream TSS shall be maintained at ambient levels
- Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

19. The Applicant shall restore **all areas** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. Restored areas shall be monitored and maintained with native species as necessary for five years. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
20. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.01 acres** of vegetation within waters of the United States by creating or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum **1:1** area replacement ratio (**0.01 acres**). The boundary of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information

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shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

21. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until mitigation success has been achieved and documented. The Annual Reports shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. At a minimum the Annual Reports shall include the following documentation:
 - (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
22. Prior to any subsequent maintenance activities within the project areas, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the existing conditions; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.

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23. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

24. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)”

25. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **08-101**. Submittals shall be sent to the attention of the 401 Certification Unit.
26. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
27. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes

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a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.

28. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
29. *Enforcement:*
 - (a) 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 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.
 - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) 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 SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
30. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.