



California Regional Water Quality Control Board Santa Ana Region



Linda S. Adams
Acting Secretary for
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Edmund G. Brown Jr.
Governor

July 13, 2011

Dennis Barton
City of Highland
27215 Base Line
Highland, CA 92346

**AMENDED CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE STREET IMPROVEMENTS FOR EAST HIGHLAND
VILLAGE AT MERRIS STREET PROJECT, HIGHLAND, COUNTY OF SAN
BERNARDINO, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE)
(SARWQCB PROJECT NO. 362010-14)**

Dear Mr. Barton:

On November 4, 2010, the Santa Ana Regional Water Quality Control Board received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the City of Highland for proposed improvements to Merris Street and to the East Highland Village Storm Drain in the city of Highland, San Bernardino County. We received your request to revise the April 25, 2011, Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the subject project. We have considered your request, and 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 Certification for this project dated April 25, 2011.

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 north/south portion of Merris Street between Merris Street and Old Greenspot Road will be improved, including pavement reconstruction, widening the street width to 25-feet, and a new 5-foot wide gutter/walkway on the west side of the street.

California Environmental Protection Agency

As part of this project, the City of Highland proposes to replace an existing single eighteen inch (18") reinforced concrete pipe (RCP) culvert with a culvert consisting of four (4) squashed eighteen inch (18") corrugated metal pipes (CMP), where Merris Street crosses the East Highland Village Storm Drain channel. The channel will be lined with 1.5 cubic yards of ungrouted rip rap at the CMP outfalls. Additionally, Old Greenspot Road between Church Street and Merris Street will be improved including pavement reconstruction and installation of curb, gutter, and sidewalk along the south side of the street. Church Street between Merris Street and Old Greenspot Road will be improved, including pavement reconstruction, and installation of new 5-foot wide gutter/walkway along the east side of the street. The work will take place within Section 2 of Township 1 South, Range 3 West, of the U.S. Geological Survey *Redlands* quadrangle map (34.109215° N/ 117.169444° W).

Receiving water: East Highland Storm Drain into Plunge Creek

Fill area: ~~0.0156~~ 0.0018 acre of permanent impact to streambed habitat (~~230~~ 40 linear feet), 0.0076 acres of temporary impact to streambed habitat (190 linear feet)

Dredge/Fill volume: ~~6.5~~ 1.5 cubic yards

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 14

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 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 Game 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 according to the requirements of 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 State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, including the preparation of a SWPPP.

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 prepared by the lead agency in determining whether to approve a project. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which 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, the Regional Board has considered the City's Mitigated Negative Declaration (MND) prepared for the proposed project, particularly those sections of the MND that relate to water quality, and information provided subsequently in the City's application, in approving this Certification. Based on the mitigation proposed and the conditions set forth in this Certification, Board staff concludes that the proposed project's impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. The Regional Board independently finds that changes or alterations have been required 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) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work, as a denoted element of the project Storm Water Pollution Prevention Plan (SWPPP) or Water Quality Management Plan (WQMP).

- 3) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 4) 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 the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
- 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.
- 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.
- 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 for project construction may be regulated under Regional Board Order No. R8-2009-0003, 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. R8-2009-0003 at www.waterboards.ca.gov/santaana/

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 the applicant to 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 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.

Dennis Barton
City of Highland

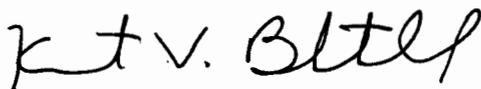
- 6 -

July 13, 2011

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 Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jason Lambert
Department of Fish and Game – Michael Flores
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 Regulatory Office WTR- 8
Parsons Brinkerhoff, Stephanie Oslick – Oslick@pbworld.com

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