
Santa Ana Regional Water Quality Control Board

June 19, 2012

Steve Nix
City of Chino Hills
14000 City Center Drive
Chino Hills, CA 91709

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE PHASE III PEYTON/ EUCALYPTUS/ ENGLISH
CHANNEL IMPROVEMENTS PROJECT, COUNTY OF SAN BERNARDINO,
CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT
NO. 362011-29)**

Dear Mr. Nix:

On December 28, 2011, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the City of Chino Hills for a project to improve traffic flow and enhance circulation within the regional transportation system and to improve storm water conveyance facilities at the Peyton Drive/English Channel intersection. On June 1, 2012, we received additional information, which illustrated a proposed project revision that changed impacts to jurisdictional waters. This letter responds to your request for certification that the proposed project, described in your application and the supplemental information 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 project includes replacing the existing 36-inch and 60-inch reinforced concrete pipe (RCP) storm drain under Eucalyptus Avenue and Peyton Drive with approximately 430-feet of a double 14-foot x10-foot reinforced concrete box culvert structure with an outlet headwall. The project also includes installing approximately 250 linear feet of un-grouted rip-rap slope protection along channel walls from the box structure downstream to the bed of the natural bottom channel. The existing 36-inch inlet headwall (north of Eucalyptus Avenue) will be removed and replaced with a 36-inch corrugated steel riser within the existing natural channel. Un-grouted rip-rap erosion protection will be installed along approximately 105 linear feet of graded

natural channel bottom, leading into a proposed 20-foot wide x 40-foot long concrete inlet structure.

Lastly, north of Eucalyptus Avenue, approximately 1,100 linear feet of 2-foot to 4-foot high flood protection berm will be constructed along the east side of the English Channel. The work will take place within Sections 8, 9, 16, 17, 20, and 21 of Township 2 South, Range 8 West, of the U.S. Geological Survey *Prado Dam* and *Ontario* quadrangle maps (33° 59' 20.95" N/ -117° 43' 56.94" W).

- Receiving water: English Channel
- Fill area: 0.19 acre of permanent impact to wetland habitat (245 linear feet), and 0.05 acre of temporary impact to wetland habitat (113 linear feet), within the English Channel. 0.02 acre of permanent impact to riparian habitat (335 linear feet), within a roadside ditch, inside the project area.
- Dredge/Fill volume: N/A
- 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:

- Permanent impacts to Waters of the U.S. and Waters of the State will be mitigated at a 3:1 ratio, by creating 0.57 acres of mixed willow woodland and mule fat scrub within and adjacent to English Channel. Additionally, 0.02 acre of permanent impacts to riparian habitat within a roadside ditch within the project area will be mitigated at a 10:1 ratio, by creating or restoring 0.20 acre of mixed willow woodland and mule fat scrub within the proposed mitigation area. Temporary impacts will be mitigated at a 1:1 ratio, by creating and/or restoring/enhancing riparian terrace habitat within the project site. The created habitat will be in accordance with the project's Habitat Mitigation and Monitoring Plan dated May 31, 2012.

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.

A Mitigated Negative Declaration (MND) for the project was adopted by the City of Chino Hills on October 30, 2007. The City filed its Notice of Determination for the project on October 29, 2007. Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an 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 MND prepared for the proposed project in approving this Certification, specifically those sections of the MND relating to water quality. Based on the mitigation proposed in the MND, and the conditions of this Certification, 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 in, or incorporated into the project, which 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) Proposed mitigation shall be timely implemented. The Applicant shall submit Annual Mitigation Monitoring Reports (Annual Reports) to the Regional Board by February 1st of each year for a minimum period of five (5) years following issuance of this Certification or until mitigation success has been achieved and documented. Annual Reports must be prepared by a restoration ecologist or similarly qualified professional, and shall describe in detail all of the restoration and mitigation efforts for the specific project, which may include percent

survival by plant species, percent cover and percent removal of non-native plants. Annual Reports shall also describe any delays in the mitigation process. At a minimum, Annual Reports shall include the following:

- (a) Color photo documentation of the pre- and post-project mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the mitigation areas; and,
 - (c) A discussion of any monitoring activities and exotic plant control efforts in the previous year
- 3) 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.
 - 4) 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.
 - 5) 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.
 - 6) 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.
 - 7) 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.
 - 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
 - 9) 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.

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.

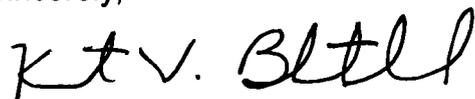
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean 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.

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):

VCS Environmental – Project Manager – Amanda Weinberg
U. S. Army Corps of Engineers, Los Angeles Office- Mark Durham
State Water Resources Control Board, OCC- David Rice
State Water Resources Control Board, DWQ -Water Quality Certification Unit
California Department of Fish and Game - Joanna Gibson
U.S. EPA- Supervisor of the Wetlands Regulatory Office WTR- 8

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