

**Santa Ana Regional Water Quality Control Board**

September 11, 2014

Annesley Ignatius  
San Bernardino County Department of  
Public Works  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835

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**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE CABLE CREEK FACILITY PROJECT, COUNTY OF SAN  
BERNARDINO, CALIFORNIA (ACOE REFERENCE NO. N/A) (SARWQCB PROJECT  
NO. 362013-15)**

Dear Mr. Ignatius,

On August 21, 2013, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the San Bernardino County Department of Public Works for a project to perform routine maintenance activities within an existing flood control channel. The District is proposing to conduct annual routine maintenance activities as needed within a portion of Cable Creek Wash, in San Bernardino County, California. Cable Creek is located in North San Bernardino, near Palm Avenue within the County of San Bernardino. The purpose of the proposed maintenance is to maintain baseline conditions within an approximately 7,600-foot section, approximately 5.98 acres, of Cable Creek Wash, and provide flood protection to the adjacent properties and properties downstream. The applicant has also submitted a filing fee of \$33,033.00, which satisfied the fee requirement for this project 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:

Annual routine maintenance activities will include the following work, on an as-needed basis. The following activities will be limited to portions of the Cable Creek Wash, which lies within San Bernardino Department of Public Works' jurisdictional boundaries. This will include:

**Replacement/maintenance** of eleven (11) existing bottom (velocity) controls. These structures are approximately 10-foot in width by 30-foot in length with 24 to 48-inch rock, which will be placed in an interlocking fashion and will be placed perpendicular to the flowline. Each control will be spaced approximately 80-feet from the next, with natural substrate channel bottom between.

**Routine maintenance activities:** The removal and excavation of sediment/debris/trash; the re-grading of earthen channel banks for erosion control; repair to existing fences within the facility; the removal of graffiti; the removal/clean-up of homeless encampments; the repair of existing riprap; the repair of existing maintenance access roads; rodent and vector control as needed; vegetation management, using one or a combination of the following methods: manual, mechanical, and chemical. All vegetation management will occur per the District's Cable Creek Vegetation Management Plan.

The work will take place within Section 12 of Township 1 North, Range 5 West, of the U.S. Geological Survey *San Bernardino North* quadrangle maps (34.191549° N/-117.358742° W).

Receiving water: Cable Creek, tributary to Cajon Wash, which have present or potential beneficial uses, including: groundwater recharge (GWR), contact recreation (REC1), non-contact recreation (REC2), wildlife habitat (WILD), municipal and domestic supply (MUN), and warm freshwater habitat (WARM) in their valley reaches.

Fill area:

Temporary Impact to Streambed Habitat	5.98 acres	Ephemeral Streambed Channel
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Dredge/Fill volume: 1,500 cubic yards

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 31

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 applicant will manage all listed Beneficial Uses within the project area according to the project-specific *Cable Creek Vegetation Management Plan*

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 Wildlife 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.

Pursuant to the California Environmental Quality Act (CEQA), the San Bernardino County Flood Control District filed a CEQA Guidelines Section 15301 "Class 1" Categorical Exemption, with the San Bernardino County clerk on August 22, 2013, which declares that the project involves the operation, repair, maintenance, and minor alteration of public/private structures that result in negligible expansion of uses. The channel configuration and uses will remain unchanged and the proposed project will not expand the channel beyond its original design volume.

The Regional Board has independently considered the County's Categorical Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed project are necessary to 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) 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.
- 3) 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.
- 4) 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.
- 5) 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.
- 6) 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.

- 7) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 8) 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/](http://www.waterboards.ca.gov/santaana/)
- 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.

Annesley Ignatius  
San Bernardino County  
Department of Public Works  
401 Certification No. 362013-15  
CIWQS No. 798446

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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](http://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

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office- Shannon Pankratz  
State Water Resources Control Board, OCC- David Rice  
State Water Resources Control Board, DWQ -Water Quality Certification Unit  
CDFW – Claire Ingel, [Claire.ingel@wildlife.ca.gov](mailto:Claire.ingel@wildlife.ca.gov)  
U.S. EPA- Supervisor of the Wetlands Regulatory Office WTR- 8