

EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## Santa Ana Regional Water Quality Control Board

September 27, 2016

Mr. Craig Meredith  
Craig Development Corporation  
14269 Fern Avenue  
Chino, CA 91784

[themeredithco@gmail.com](mailto:themeredithco@gmail.com)

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR PLANNING AREA 4 OF THE MEREDITH INTERNATIONAL CENTRE SPECIFIC PLAN PROJECT, CITY OF ONTARIO, SAN BERNARDINO COUNTY (USACE CORPS FILE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 362016-01)**

Dear Mr. Meredith,

On December 16, 2015, we received from Michael Baker International on behalf of Craig Development Corporation (Applicant) an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project (Project) to construct a residential development consisting of 800 multi-family units, supporting infrastructure for parking, landscaping, and a new storm drain system to convey flows from the Project area to an existing storm drain.

The Applicant, as the current owner of the Project site, is in the process of selling the Project to Palmer Ontario Properties. If that transaction is completed, the new owner is required to notify the Regional Board of the change of ownership. The Applicant submitted a filing fee of \$8,775.00 with the Certification application materials, which satisfies the Project 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 Applicant proposes to construct an 800-unit multi-family housing development on 21.65 acres in the City of Ontario.

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WILLIAM RUH, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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The Project includes parking infrastructure and a storm drain system. The proposed Project will replace illegally placed fill in an unnamed tributary to Cucamonga Creek with a storm drain pipeline in order to construct a parking area to serve the development. The storm drain serving the development will connect to an existing storm drain system along the southeastern portion of the Project.

The work will take place in the City of Ontario, San Bernardino County in Section 22 of Township 1 South, Range 7 West, of the U.S. Geological Survey Guasti 7.5 minute topographic quadrangle map (34.071225° N/ - 117.596821° W).

Receiving water: Unnamed tributary to Cucamonga Creek, Reach 1. Reach 1 of Cucamonga Creek has designated beneficial uses (existing or potential) that include: groundwater recharge (GWR), non-contact recreation (REC2), limited warm freshwater habitat (LWRM), and wildlife habitat (WILD).

Fill area:

Permanent Impact to Waters of the U.S.	0.05 acre	650 linear feet
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Dredge/Fill volume: Not Applicable

Federal permit: U.S. Army Corps of Engineers (USACE) Nationwide Permit No. 29 - Residential 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.

Offsite Water Quality Standards Mitigation Proposed:

- The Applicant will mitigate 0.05 acre of permanent impact through the purchase of 0.25 acre restoration credit with the Land Veritas Soquel Canyon Mitigation Bank. The 5:1 ratio (impacted area to mitigation area) will compensate for the discharge of fill and placement of a storm drain pipeline into waters of the United States (WOUS) that resulted in 0.05 acre of loss of WOUS.

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 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 per the requirements of Regional Board 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 the 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 by 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 proposed Project by the City of Ontario that was approved on April 8, 2015, and subsequent information provided in the Applicant's application. More specifically, the Regional Board has considered those sections of the EIR pertaining to impacts to water quality standards. Based upon the mitigation proposed in 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 these changes or alterations have been incorporated into the Project that should 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, 2017, 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 shall be paid to each respective agency prior to conducting any construction activities at the Project site.
- 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 operational prior to the occupation of any building in the development.
- 6) Proposed mitigation shall be implemented in a timely manner. A copy of the receipt from the purchase of mitigation credits from the Land Veritas Soquel Canyon Mitigation Bank shall be provided to the Regional Board prior to any additional discharge of fill to, or the dredging or excavation of material from, waters of the State of California.
- 7) 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 being transported in storm water or directly into the channel, and may not be located within waters of the United States. Discharges of wastewater from the site are prohibited.
- 8) 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.
- 9) 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.
- 10) 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 onsite, except as necessary to complete the proposed Project. No equipment shall be operated in areas of flowing water.
- 11) 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 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.

- 12) Construction dewatering discharges, including temporary stream diversions necessary to carry out the Project, are subject to regulation under Regional Board Order No. 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/](http://www.waterboards.ca.gov/santaana/)
- 13) In the event of any change in control or ownership of land or waste discharge facility presently owned or controlled by the Applicant and allowed by this 401 Certification, the Applicant shall notify the succeeding owner or operator of the existence of this 401 Certification by letter, a copy of which shall be forwarded to the Regional Board.

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 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

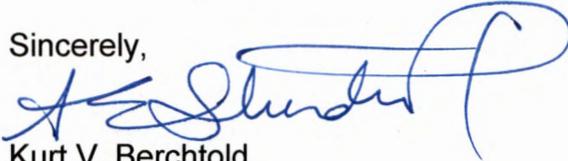
water quality standards and other pertinent requirements incorporated into this Certification. Violations of the conditions of this Certification may subject the Applicant to civil liability pursuant to Water Code Section(s) 13350 and/or 13385.

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), "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 Jason Bill at (951) 782-3295 or [jason.bill@waterboards.ca.gov](mailto:jason.bill@waterboards.ca.gov), or Wanda Cross at (951) 782-4468 or [wanda.cross@waterboards.ca.gov](mailto:wanda.cross@waterboards.ca.gov).

Sincerely,



 Kurt V. Berchtold  
Executive Officer

cc (via electronic mail):

Michael Baker International - Tim Tidwell - [timothy.tidwell@mbakerintl.com](mailto:timothy.tidwell@mbakerintl.com)  
Palmer Ontario Properties, LP - Mr. Geoff Palmer - [drue@ghpalmer.com](mailto:drue@ghpalmer.com)  
U. S. Army Corps of Engineers, Los Angeles Office - Daniel P. Swenson  
CA Department of Fish and Wildlife - Jeff Brandt  
State Water Resources Control Board, Office of Chief Counsel - David Rice  
State Water Resources Control Board DWQ - Water Quality Certification Unit  
U.S. EPA, Region 9 - Wetlands Section - Melissa Scianni, [scianni.melissa@epa.gov](mailto:scianni.melissa@epa.gov)  
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