

Dorsey, Kelly@Waterboards

From: Paul Sherman <pauls@wildlandsinc.com>
Sent: Friday, July 18, 2014 4:18 PM
To: Monji, Alan@Waterboards; Dorsey, Kelly@Waterboards
Cc: Tambini, Cindy @wildlandsinc.com
Subject: RE: Tentative Cert

Kelly,

Thank you again for taking the time to discuss the tentative cert for the San Luis Rey Restoration project this afternoon. As we discussed, Wildlands apologizes for not providing comments during the public comment period; at this time we are providing these written comments for consideration and further discussion:

Section V, Paragraph H states that *“The restoration site must be managed, protected and maintained, in perpetuity, in conformance with the long term management plan and the final ecological success performance standards identified in the Development Plan (Section G.2, Monitoring and Success Criteria).”* We fully concur with this statement. However, some of the requirements that follow in the 401 are not consistent with the management or development plan pending IRT approval. As you are aware, through the banking process we have stringent maintenance, monitoring and success criteria within the negotiated Bank Enabling Instrument therefore, we believe the statement in Section H quoted above could simply stand on its own. Alternately, Section H should be modified to insert the specific Monitoring and Success Criteria contained in Section G.2 of the Development Plan.

Section IV.B. *“The project must be designed to comply with the most current Standard Urban Storm Water Mitigation Plan for the City of Oceanside”*. The BMP discussions over the past year centered on the fact that standard BMPs designed for urban areas will not work in an agricultural setting, and therefore the BMPs were designed, and documented as approved by Dave Gibson’s May 30th email, using CASQA guidelines as a basis. This wording concerns us that it would be interpreted to include additional BMPs to comply with the SUSMP. We suggest deleting the first sentence and leave the remainder of IV.B. as is written.

Section V.H.3. contains exotic invasive species management requirements which are inconsistent with our management requirements of the Development Plan/Management Plan. As we discussed, it is impossible to keep a site “free” of perennial exotic plant species – and based on your clarifications of RWQCB intent, it appears we are close on this issue. In our Development Plan we have a 0% untreated requirement, but we anticipate (as you do), that from a biological perspective there will typically be some invasive species to treat/manage. Our requirement in the BEI, which we would like to see inserted into the 401, is as follows:

○ **Performance Standards for Invasive Exotic Species**

- Years 1-5: Absolute cover of woody invasive exotics and large perennial grasses such as pampas grass and giant reed (rated as high on the Cal-IPC list) shall be minimal (less than 2%) with 0% untreated.
- Years 1-5: Absolute cover of other herbaceous invasive exotics (rated as high on the Cal-IPC list) shall be less than 10%.

Section VI.C. Monitoring & Reporting Revisions - *“The San Diego Water Board may make revisions to the monitoring program at any time during the term of this Certification and may reduce or increase the number of parameters to be monitored...”* We understand this is a standard condition, but we request its scope be narrowed to be consistent with allowances for monitoring program revisions as spelled out in the BEI. We appreciate the flexibility to make revisions to the Monitoring and Reporting program, but we would like to see this described as a mutual effort, which will provide

Wildlands with the ability to ensure our monitoring and reporting programs are consistent with site specific biological and hydraulic performance demands as required by the IRT.

Section VI.E.– We have already completed a pre-project CRAM assessment, and are required to complete post-construction CRAM assessments on Year 1, 3, & 5 as part of the requirements for our Development Plan. Can we modify this condition to be consistent with the Development Plan requirements?

VI.F.5 Monitoring Sites - We do not have access to a downstream location as is required under VI.F.5 for monitoring. As a part of our IRT process, we obtained permission from the Singh's to use their upstream restoration site as a reference site. The downstream property is under different ownership and we have not obtained this permission; therefore we would like to see the requirement for a downstream CRAM assessment removed from this section.

Misc. Questions/comments:

V.I. A draft Conservation Easement has been submitted as Exhibit E-4 to the BEI, which meets these conditions. The CE will be recorded upon approval of the Bank. Can we clarify here that this draft CE meets this condition?

VI.F. The San Luis Rey is not always flowing during May – July index period. Therefore, if not flowing during this index period, we understand that in these instances, no sampling will be required. Can we clarify this here?

VI.F.6. May 1 due date for the annual report: The Benthic Index period for Benthic Macroinvertebrates doesn't appear to start until May and other monitoring will also likely still be occurring. We understand the May due date reflects submittal of previous year monitoring data, not data from the monitoring which would be continuing during the reporting period.

Again, our apologies for not getting these to you during the public comment period. We look forward to discussing these with you further on Monday at your convenience.

Kind Regards,

Paul Sherman
Director of Land Acquisition
Wildlands
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From: Monji, Alan@Waterboards [mailto:Alan.Monji@waterboards.ca.gov]

Sent: Thursday, July 17, 2014 3:50 PM

To: Paul Sherman

Subject: FW: Tentative Cert

Not sure if you saw this or not. See emails below

Alan T. Monji
Environmental Scientist
San Diego Regional Water Quality Control Board
2375 Northside Dr. Suite 100
San Diego CA 92108
619-521-3968

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From: Dorsey, Kelly@Waterboards
Sent: Thursday, July 17, 2014 2:50 PM
To: Monji, Alan@Waterboards
Subject: FW: Tentative Cert

Hey Alan,

I believe Cindy may have already left for vacation, please forward this to someone else at Wildlands for follow-up.

Thanks,

Kelly

From: Dorsey, Kelly@Waterboards
Sent: Wednesday, July 16, 2014 2:04 PM
To: Tambini, Cindy @wildlandsinc.com
Cc: Monji, Alan@Waterboards
Subject: RE: Tentative Cert

Hi Cindy,

Technically you were supposed to submit your comments regarding the Certification by July 3, 2014. At this point, you can send us detailed explanation of the changes you would like to see in the Certification with an explanation of why they are needed and we will determine if the changes are possible prior to the Board meeting.

Please let me know if you have any questions.

Regards,

Kelly Dorsey
Senior Engineering Geologist
Wetland and Riparian Protection Unit
Regional Water Quality Control Board
San Diego Region
(619) 521-3357

The San Diego Water Board has moved, our new address is:

2375 Northside Drive, Suite 100
San Diego, CA 92108-2700

From: Monji, Alan@Waterboards
Sent: Wednesday, July 16, 2014 12:05 PM
To: Dorsey, Kelly@Waterboards
Subject: FW: Tentative Cert

FYI

Alan T. Monji
Environmental Scientist
San Diego Regional Water Quality Control Board
2375 Northside Dr. Suite 100
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From: Cindy Tambini [<mailto:ctambini@wildlandsinc.com>]
Sent: Wednesday, July 16, 2014 11:55 AM
To: Monji, Alan@Waterboards
Subject: Tentative Cert

Hi Alan,

I was reviewing the conditions on the tentative Cert and in some cases the monitoring is not consistent with what we have agreed to with the IRT agencies. It would be much better overall if our monitoring could be consistent so we aren't having to monitor the same thing twice.

I should have gotten to this sooner, but unfortunately did not. Is there room for discussion on some of these conditions?

Thanks
Cindy

Cindy Tambini
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Please consider the environment before printing this email. Thank you.

From: Paul Sherman <pauls@wildlandsinc.com>
Sent: Tuesday, July 22, 2014 4:35 PM
To: Dorsey, Kelly@Waterboards
Subject: RE: Tentative Cert
Attachments: San Luis Rey Restoration Project BMPs.docx; San Luis Rey Restoration Project Table 7.docx

Kelly,

Thanks again for discussing these items this morning. We have compared invasive species language in the currently proposed 401 Cert with the language in the Restoration Project Development Plan & Long-term Management Plan ("Restoration Plan") and are sending along excerpts for background. Full sets of the Restoration Plan documents are in Alan's files, but we cut/paste specific sections in the attached two files for ease of review.

As you are aware, we have significant oversight on the biological performance of this Project which is hard to distill into a quick permit line item, so after giving it further thought, it may be more pertinent to reference the actual Restoration Plan documents governing the Project.

For your consideration:

V.H.3. The restoration site must be maintained, in perpetuity, free of untreated perennial exotic plant species as defined in the San Luis Rey Restoration Project Development Plan & Long Term Management Plan. ~~including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the restoration site(s);~~

Note that the Restoration documents have been the subject of Agency and public reviews; that said, we understand if this modification triggers a requirement to recirculate before the August 13th Board meeting.

Let me know when you have time to discuss further, or if you would like additional background information.

Thanks again –
Paul

Excerpt from the Long-Term Management Plan – In Perpetuity Requirements

Non-native Invasive Plant Species Management

Invasive species threaten the diversity or abundance of native species through competition for resources, predation, and parasitism, interbreeding with native populations, transmitting diseases, or causing physical or chemical changes to the invaded habitat.

Objective: Monitor and maintain control over non-native invasive species including but not limited to noxious weeds that diminish site quality for which the Bank was established. The Monitoring Biologist and Property Owner shall consult the California Invasive Plant Council (Cal-IPC) List A, List B, and Red Alert List to determine if a plant is an exotic species of concern, and which species should be given priority for management. Invasive non-native species of concern in the Santa Margarita-San Luis Rey watersheds include giant reed, perennial pepperweed (*Lepidium latifolium*), and saltcedar/tamarisk (*tamarix ramosissima*).

The Property Owner is responsible for the mapping of non-native invasive species cover or presence beginning the first year of habitat establishment and for updating the map as necessary during the quarterly site visits. Mapping shall be accomplished through use of available technologies, such as Geographic Information System (GIS) and aerial photography.

Task A.3-1: Invasive Plant Species Mapping: Consistent with the invasive species mapping described in the Development Plan (*Exhibit C-1 to the BEI*) the current invasive species map will be utilized as a reference and updated as needed during each quarterly site inspection (or supplemental survey). Actions to control invasive species will be evaluated and prioritized.

Task A.3-2: Invasive Plant Species Control: Invasive plants will be treated as necessary and at appropriate time of the year for the species. The Property Owner will be responsible for determining the best methods of invasive plant species control. Noxious weed vegetation management methods that may be used include hand removal or use of small hand powered or handheld equipment (such as a Weed Wrench or a chainsaw), herbicide application, or mechanical methods (use of larger equipment) or any combination thereof.

Certain invasive plant species found in San Diego County grow so aggressively, systemic herbicides such as glyphosate (the active ingredient in Roundup and its aquatic equivalent, Rodeo) may need to be used. Systemic herbicides are absorbed by plant leaves and stems and then transported to the plant's root system where it kills the entire plant, roots and all. Herbicides may be applied by qualified personnel consistent with label applications. The optimal time for weed eradication depends on the size of the treatment area and the type of eradication method. If a systemic herbicide is used, the best time to treat is in the growing season or late summer/early fall when plant energy is transferred to roots.

The Property Owner does not need to notify the Signatory Agencies if herbicides will be used or if removal will be done by hand, hand held equipment, or with a mower. The Signatory Agencies will be notified if large equipment other than a mower become necessary.

Excerpt from the Habitat Development Plan – Interim Habitat Establishment Period Requirements

Rehabilitated and Re-established River Corridor and Floodplain Performance Standards

HYDROLOGY

- **Performance Standard for Shallow Groundwater/Hydric Soils:** The riparian wetland areas will be flooded or ponded for 14 or more consecutive days during the growing season; **or** saturated as evidenced by groundwater levels recorded as within 12 in. (30 cm) or less from the surface for 14 or more consecutive days during the growing season in 3 out of 5 years to support hydric soil development; **and/or** annual groundwater depths are similar to that of the wetland Reference Site (within 95% confidence).

- **Performance Standard for Surface Flows – Active floodplain/secondary channels:** Evidence of overbank flows from the San Luis Rey River and surface flows into secondary channels across the active floodplain shall be recorded via permanent data loggers at least one time in five years during an average flow event (2 to 10-year). If data logger data is unavailable, direct observation of overbank flows or physical evidence of OHWM may be used. Evidence of OHWM must be in accordance with *A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States* (ERDC/CRREL TR-08-12) or in Group B of the primary wetland hydrology indicators as described in the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* (ERDC/EL TR-08-28). If an average flow event does not occur during the first five years of Bank construction and monitoring, the timeframe for attainment of this standard shall be extended.

VEGETATION

- **Performance Standards for Riparian Plantings - Survival/Cover:**
 - Year 2: Survival of at least 230 trees per acre consisting of three or more species of the riparian woody plantings listed in Section F.2.c.
 - Year 3: Survival of at least 200 trees per acre consisting of three or more species of the riparian woody plantings listed in Section F.2.c.
 - Year 4: Riparian woody vegetation canopy cover will show a 10% increase from the canopy cover figures recorded in year 3.
 - Year 4: Absolute vegetative cover shall meet or exceed 65% of the reference site baseline absolute cover (year 2013 baseline cover estimated at 80%) as demonstrated by plot or aerial photo. Absolute vegetative cover measurements shall exclude cover provided by invasive exotic species..
 - Year 5: Absolute vegetative cover shall meet or exceed 75% of the reference site baseline absolute cover (year 2013 baseline cover estimated at 80%) as demonstrated by plot or aerial photo. Absolute vegetative cover measurements shall exclude cover provided by invasive exotic species..

- Year 5: Site exhibits evidence of natural recruitment of common wetland plant species and native riparian trees or shrubs.
- Year 5: Site exhibits continued survival of planted riparian woody species following removal of irrigation. The site must function without an artificial water source for a minimum of two years.
- **Performance Standards for Invasive Exotic Species**
 - Years 1-5: Absolute cover of woody invasive exotics and large perennial grasses such as pampas grass and giant reed (rated as high on the Cal-IPC list) shall be minimal (less than 2%) with 0% untreated.
 - Years 1-5: Absolute cover of other herbaceous invasive exotics (rated as high on the Cal-IPC list) shall be less than 10%.

PRELIMINARY JURISDICTIONAL DETERMINATION

In years 3 and 5 the wetland Waters of the U.S. acreage, based on the required PJD specified above, shall meet or exceed those anticipated in the Development Plan.

- Year 3 – If the wetland acreage is significantly less than the anticipated rehabilitated/reestablished wetlands, Bank Sponsor and Signatory Agencies shall discuss whether remedial action or an adjustment in Credits is appropriate._
- Year 5 - The number/type of Credits released shall be adjusted either up or down based on the approximate final acreage of wetlands in the PJD.

CAIFORNIA RAPID ASSESSMENT METHOD (CRAM)

- **CRAM Performance Standards:** In Years 3 and 5 CRAM assessments will be conducted at two Assessment Areas within the Bank and compared with projections developed based on the CRAM Reference Site Assessment Area data (Table 7). CRAM scores shall be similar to the projected scores (within 95% confidence). A CRAM assessment will also be conducted at the Reference Site in year 5 for informational purposes. CRAM is still being refined and is a fairly new methodology for assessing the performance of newly established wetlands. Therefore, if the Bank fails to meet the projected CRAM Performance Standards, but meets all other Performance Standards, failure to meet projected CRAM Performance Standards will not be used by the Signatory Agencies as a basis to withhold a Credit Release. In the event the Bank fails to meet projected CRAM Performance Standards, Bank Sponsor and Signatory Agencies shall meet to try and determine why the Bank did not meet the projections and discuss whether the projected standards need to be revised or whether the habitat is not becoming established as anticipated.

Floodplain Buffer Performance Standards (non-wetland)

VEGETATION

- **Performance Standards for Riparian Plantings - Survival/Cover:**
 - Year 2: Survival of at least 230 trees per acre consisting of two or more species of the riparian woody plantings listed in Section F.2.c.

- Year 3: Survival of at least 200 trees per acre consisting of two or more species of the riparian woody plantings listed in Section F.2.c.
 - Year 4: Riparian woody vegetation canopy cover will show a 10% increase from the canopy cover figures recorded in year 3.
 - Year 4: Absolute vegetative cover shall meet or exceed 65% of the reference site baseline absolute cover (year 2013 baseline cover estimated at 80%) as demonstrated by plot or aerial photo. Absolute vegetative cover measurements shall exclude cover provided by invasive exotic species..
 - Year 5: Absolute vegetative cover shall meet or exceed 75% of the reference site baseline absolute cover (year 2013 baseline cover estimated at 80%) as demonstrated by plot or aerial photo. Absolute vegetative cover measurements shall exclude cover provided by invasive exotic species..
 - Year 5: Site exhibits evidence of natural recruitment of common wetland plant species and native riparian trees or shrubs.
 - Year 5: Site exhibits continued survival of planted riparian woody species following removal of irrigation. The site must function without an artificial water source for a minimum of two years.
- **Performance Standards for Invasive Exotic Species**
 - Years 1-5: Absolute cover of woody invasive exotics and perennial grasses such as pampas grass (rated as high on the Cal-IPC list) shall be minimal (less than 2%) with 0% untreated.
 - Years 1-5: Absolute cover of other herbaceous invasive exotics (rated as high on the Cal-IPC list) shall be less than 10%.

Re-established Grassland Buffer Performance Standards

The grassland buffer shall be planted with native and naturalized grasses and coastal sage scrub plants. Herbaceous and shrub cover will be assessed to ensure that cover is sufficient in all years to provide appropriate soil stabilization and buffer functions.

VEGETATION

- Year 2 Performance Standards
 - Greater than 10% absolute cover (excluding invasive exotic species)
 - Minimal active soil erosion
- Year 3 Performance Standards
 - Greater than 20% absolute cover (excluding invasive exotic species)
- Year 4 Performance Standards
 - Greater than 40% absolute cover (excluding invasive exotic species)

- Year 5 Performance Standards
 - Greater than 60% absolute cover (excluding invasive exotic species)

**Summary of Performance Standards from the Habitat Development Plan
 for the Interim Habitat Establishment Period**

Table 7. Summary Table of Performance Standards				
Habitat and Habitat Characteristics	Year 2 Following Construction	Year 3 Following Construction	Year 4 Following Construction	Year 5 Following Construction
Wetland River Corridor				
Shallow Groundwater/Hydric Soils	The riparian wetland areas will be flooded or ponded for 14 or more consecutive days during the growing season; or saturated as evidenced by groundwater levels recorded as within 12 in. (30 cm) or less from the surface for 14 or more consecutive days during the growing season in 3 out of 5 years to support hydric soil development; and/or annual groundwater depths are similar to that of the wetland reference site (within 95% confidence).			
Surface Flows	At least once in the first 5 years: Evidence of overbank flows from the San Luis Rey River and surface flows into secondary channels across the active floodplain shall be recorded.			
Survival of Riparian Woody Plantings	230 trees per acre consisting of three or more species	200 trees per acre consisting of three or more species	Continued survival of riparian woody species 10% increase in canopy coverage from year 3	Continued survival of riparian woody species following removal of irrigation for minimum 2 years.
Tree / Shrub Canopy	--	--	10% increase from the canopy cover estimates from year 3	10% increase from the canopy cover estimates from year 4
Absolute Vegetative Cover			Absolute vegetative cover shall meet or exceed 65% of the reference site baseline absolute cover (year 2013 baseline cover estimated at 80%) as demonstrated by plot or aerial photo. Absolute vegetative cover measurements shall exclude cover provided by invasive exotic species.	Absolute vegetative cover shall meet or exceed 75% of the reference site baseline absolute cover (year 2013 baseline cover estimated at 80%) as demonstrated by plot or aerial photo. Absolute vegetative cover measurements shall exclude cover provided by invasive exotic species.

Table 7. Summary Table of Performance Standards				
Habitat and Habitat Characteristics	Year 2 Following Construction	Year 3 Following Construction	Year 4 Following Construction	Year 5 Following Construction
Natural Recruitment	--	--	--	Site exhibits evidence of natural recruitment of common wetland plant species and native riparian trees or shrubs.
Absolute Cover of Woody Invasive Exotics, and large perennial grasses such as pampas grass, and giant reed.	Minimal; less than 2%	Minimal; less than 2%	Minimal; less than 2%, 0% untreated	Minimal; less than 2%, 0% untreated
Absolute Cover of Other Herbaceous Invasive Exotics	Less than 10%	Less than 10%	Less than 10%	Less than 10%
PJD	--	wetland acres shall meet or exceed those proposed in development plan.	--	wetland acres shall meet or exceed those proposed in development plan.
CRAM	--	CRAM scores shall meet or exceed projected CRAM scores.	--	CRAM scores shall meet or exceed projected CRAM scores.
Floodplain Buffer (non-wetland)				
Survival of Plantings	230 tree/shrub plantings per acre consisting of two or more species	200 tree/shrub plantings per acre consisting of two or more species	Continued survival	Continued survival following removal of irrigation for minimum 2 years
Tree / Shrub Canopy	--	--	10% increase from the canopy cover estimates from year 3	10% increase from the canopy cover estimates from year 4

Table 7. Summary Table of Performance Standards				
Habitat and Habitat Characteristics	Year 2 Following Construction	Year 3 Following Construction	Year 4 Following Construction	Year 5 Following Construction
Absolute Vegetative Cover			Absolute vegetative cover shall meet or exceed 65% of the reference site baseline absolute cover (year 2013 baseline cover estimated at 80%) as demonstrated by plot or aerial photo. Absolute vegetative cover measurements shall exclude cover provided by invasive exotic species.	Absolute vegetative cover shall meet or exceed 75% of the reference site baseline absolute cover (year 2013 baseline cover estimated at 80%) as demonstrated by plot or aerial photo. Absolute vegetative cover measurements shall exclude cover provided by invasive exotic species..
Absolute cover of woody invasive exotics woody and large grass species such as pampas grass	Minimal; less than 2%, 0% untreated	Minimal; less than 2%, 0% untreated	Minimal; less than 2%, 0% untreated	Minimal; less than 2%, 0% untreated
Absolute cover of other herbaceous invasive exotics	Less than 10%	Less than 10%	Less than 10%	Less than 10%
Grassland Buffer				
Soil Erosion	Minimal active soil erosion	--	--	--
Absolute Cover	Greater than 10% (excluding invasive exotics)	Greater than 20% (excluding invasive exotics)	Greater than 40% (excluding invasive exotics)	Greater than 60% (excluding invasive exotics) following removal of irrigation for minimum 2 years .