



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger
Governor

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[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

August 28, 2009

Certified Mail – Return Receipt Requested
Article Number: 7008 1140 0002 4285 3926

Laura Coley Eisenberg
Rancho Mission Viejo
28811 Ortega Highway
San Juan Capistrano, CA 92675

In reply refer to:
724833: cloflen

Dear Laura Coley Eisenberg:

Subject: Action on Request for Clean Water Act Section 401 Water Quality Certification for the **Maintenance Activities for Horno Basin Water Quality Basin and Forebay** Water Quality Certification No. **08C-090**

Enclosed find Clean Water Act Section 401 Water Quality Certification for discharge to Waters of the U.S. for the Maintenance Activities for Horno Basin Water Quality Basin and Forebay project. A description of the project and project location can be found in the project information sheet, project location map, and project site maps, which are included as Attachments 1 through 4.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that you have accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the California Regional Water Quality Control Board, San Diego Region, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

California Environmental Protection Agency

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Chad Loflen at (858) 467-2727 or cloflen@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

Enclosures:

Clean Water Act Section 401 Water Quality Certification No. 08C-090 for Maintenance Activities for Horno Basin Water Quality Basin and Forebay Project, with 4 attachments

cc: Refer to Attachment 2 of Certification 08C-090 for Distribution List.

Tech Staff Info & Use	
File No.	08C-090
WDID	9 000001866
Reg. Measure ID	356632
Place ID	724833
Party ID	297330
Person ID	73367



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[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

Action on Request for
Clean Water Act Section 401 Water Quality Certification
and Waste Discharge Requirements
for Discharge of Dredged and/or Fill Materials

**PROJECT: Maintenance Activities for Horno
Basin Water Quality Basin and Forebay
Certification No. 08C-090
WDID No. 9 000001866**

**APPLICANT: Laura Coley Eisenberg
Rancho Mission Viejo
28811 Ortega Highway
San Juan Capistrano, CA 92675**

CIWQS Reg. Meas. ID: 356632 Place ID: 724833 Party ID: 297330
--

ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	

PROJECT DESCRIPTION: The project is for the maintenance dredging of the Horno water quality basin and forebay via the removal of accumulated sediments following storm events and the removal of woody, non-native and/or invasive vegetation or removal of cattails and bulrush when they exhibit potential harmful effects by allowing production of mosquitoes. When feasible, vegetation shall be removed by non-mechanized means.

STANDARD CONDITIONS:

The following three standard conditions apply to all Certification actions, except as noted under Condition 3 for denials (Action 3).

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

Recycled Paper



2. This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial Certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADDITIONAL CONDITIONS:

In addition to the three standard conditions, Rancho Mission Viejo must satisfy the following:

A. GENERAL CONDITIONS:

1. This certification expires five years from the date of issuance.
2. Rancho Mission Viejo must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (Regional Board), to support this 401 Water Quality Certification (Certification) and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must supersede conflicting provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the Regional Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.
3. During construction, Rancho Mission Viejo must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.
4. Rancho Mission Viejo must permit the Regional Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Certification.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 - d. Sampling of any discharge or surface water covered by this Order.

5. Rancho Mission Viejo must notify the Regional Board within 24 hours of any unauthorized discharge, including hazardous or toxic materials, to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional best management practice (BMPs) or other measures that will be implemented to prevent future discharges.
6. Rancho Mission Viejo must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
7. This Certification is not transferable to any person except after notice to the Executive Officer of the Regional Board. Rancho Mission Viejo must also notify the Regional Board of any change in ownership of the project area. Notification must include, but not be limited to, a statement that the property owner has provided the purchaser or transferee with a copy of the Section 401 Water Quality Certification and that the purchaser or transferee understands the Certification requirements and must implement them. If the property is sold, the seller and purchaser must sign and date the notification. If the Certification is transferred, the Certification holder and transferee must sign and date the notification. The notification for transfer of mitigation responsibility shall include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification. Notification must be provided within **10 days** of the sale and/or transfer of the property.
8. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must 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.
9. In response to a suspected violation of any condition of this Certification, the Regional Board may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

10. In response to any violation of the conditions of this Certification, the Regional Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.
11. Rancho Mission Viejo and successor owners must submit Project Annual Progress Reports to the Regional Board prior to **August 1** of each year following the issuance of this Certification until the project has reached completion.

B. PROJECT CONDITIONS:

1. Prior to the start of the project, and annually thereafter, Rancho Mission Viejo must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and BMP implementation and maintenance.
2. Rancho Mission Viejo must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for discharges of dredged or fill material that have received State Water Quality Certification. These General Waste Discharge Requirement are accessible at:
http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
3. Rancho Mission Viejo must notify the Regional Board in writing at least **5 days** prior to the actual commencement of dredge, fill, and discharge activities.
4. Rancho Mission Viejo must comply with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, and any subsequent reissuance, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.
5. Rancho Mission Viejo must comply with the requirements of State Water Resources Control Board Order No. 2004-0009-DWQ, and any subsequent re-issuance, the NPDES Permit for Discharge of Aquatic Pesticide/Weed Control.
6. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the Regional Board pursuant to CWC § 13260.
7. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be

removed at the end of each work day or sooner if rain is predicted.

8. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.
9. Removal of vegetation must occur by hand, mechanically, or using EPA approved herbicides deployed using applicable BMPs to prevent impacts to Beneficial Uses of waters of the State. Use of herbicides must be done in compliance with State Water Resources Control Board Order No. 2004-0009-DWQ (see Condition B.5). Removal of vegetation must occur outside of the avian nesting season (March 15- August 31).
10. All maintenance activities must be performed outside of the rainy season (October 1st- April 30th). All low flows present during dredging of the water quality basins shall be diverted into the maintenance bypass channel. Appropriate BMPs including, but not limited to, hay bales and silt curtains shall be utilized during all dredging activities to prevent mobilized sediment from discharging into and from the water quality basin outfall structure. The low flow diversion and associated BMPs shall only be removed once post post-project Turbidity measurements at each dredged basin and the discharge outfall have returned to pre-dredging levels and do not exceed applicable water quality objectives as established in the Water Quality Control Plan for the San Diego Basin (see Condition C.8).
11. Dredged material must be disposed of at an approved landfill site in compliance with applicable State regulations and orders for disposal of hazardous materials.
12. If dewatering is conducted as part of the dredging, transportation and disposal, a sediment dispersal control device such as a double silt curtain shall be installed around any discharge of return water.
13. Temporary sediment stockpiles must be placed in upland areas and utilize appropriate dust control and erosion BMPs.

C. MONITORING AND REPORTING REQUIREMENTS

1. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitoring discharge. All samples shall be taken at the monitoring points specified in this Monitoring Section and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed

without notification to and the approval of the Executive Officer.

2. Monitoring must be conducted according to United States Environmental Protection Agency test procedures approved under Title 40, Code of Federal Regulations (CFR), Part 136, Guidelines Establishing Test Procedures for Analysis of Pollutants Under the Clean Water Act as amended, unless other test procedures have been specified in this Monitoring and Reporting Section.
3. If the discharger monitors any pollutant more frequently than required by this Monitoring and Reporting Program, using test procedures approved under 40 CFR, Part 136, or as specified in this Monitoring and Reporting Program, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the annual monitoring report. The increase in frequency of monitoring shall also be reported.
4. The discharger shall retain records of all monitoring and reporting information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports, and records of all data collected. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board Executive Officer.
5. Monitoring results must be reported on monitoring report forms and included in the monitoring annual reports. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling, measurements, or observations;
 - b. The individual(s) who performed the sampling, measurements, or observations;
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or method used; and,
 - f. The results of such analyses.
6. All monitoring instruments and devices which are used by the discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy.
7. Rancho Mission Viejo and successor owners must submit annual monitoring reports to the Regional Board prior to **January 1** of each year following the issuance of this Certification until the expiration of this Certification. If no dredging has occurred, the annual monitoring must simply include a

statement that no dredging occurred.

8. Rancho Mission Viejo, and successor owners, shall conduct the following receiving water monitoring:
 - a. Pre-dredging Turbidity Monitoring: Prior to conducting dredging activities, a measurement of turbidity shall be taken within the receiving waters to be dredged. A turbidity meter shall be used to sample turbidity within the forebay, each basin to be dredged, and at the inlet for the outfall discharge structure.
 - b. Project Turbidity Monitoring: During dredging activities, a daily measurement of turbidity shall be taken within receiving waters upstream of the dredging activities and downstream of the return discharge into the Horno Creek channel. If turbidity within the downstream discharge increases more than 20% over the turbidity upstream of the dredging activities, the dredging operations shall be suspended and appropriate measures taken, including additional BMP implementation. The Executive Officer shall be notified of the suspended dredging activities and the additional measures implemented prior to recommencing dredging activities.
 - c. Post-dredging Turbidity Monitoring: Following dredging activities, a measurement of turbidity shall be taken within the forebay and receiving waters that were dredged. A turbidity meter shall be used to sample turbidity within the forebay, each dredged basin, and at the inlet for the outfall discharge structure.
9. Rancho Mission Viejo, and successor owners, shall submit the following as part of their annual monitoring report:
 - a. Estimates of the daily volume of dredged material, the location from which the material was removed, and the location where the material was disposed.
 - b. The total volume removed from the project and total volume of material deposited at each disposal location.

D. Geographic Information System Reporting

1. Rancho Mission Viejo must submit Geographic Information System (GIS) shape files of all areas to be dredged within the 1st Project Annual Report. All impact areas must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.

E. REPORTING:

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
2. All reports and information submitted to the Regional Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable. All monitoring data shall be included in Excel format.
3. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:
 - a. For a corporation, by a responsible corporate officer of at least the level of vice president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
4. A duly authorized representative of a person designated in Items 3.a. through 3.c. above may sign documents if:
 - a. The authorization is made in writing by a person described in Items 3.a. through 3.c. above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the Regional Board Executive Officer.
5. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

6. Rancho Mission Viejo must submit reports required under this Certification, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; Project No. 08C-090
9174 Sky Park Court, Suite 100
San Diego, California 92123

7. Required Reports: The following list summarizes the reports, excluding spill notifications and emergency situations, required per the conditions of this Certification to be submitted to the Regional Board.

Report Topic	Certification Condition	Due Date(s)
Certification Transfer	A.6	Within 10 days of sale/transfer
Annual Project Reports	A.10	August 1, Annually
Dredge/Fill Commencement	B.3	5 Days prior to Dredge/Fill
Annual Monitoring Reports	C.7	January 01, Annually
GIS Shape Files	D.1	Within 1 st Project Annual Report

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On December 5, 2008 receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Chad Loflen
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-467-2727
cloflen@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the Maintenance Activities for Horno Basin Water Quality Basin and Forebay (Project No. 08C-090) 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. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017 DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the Regional Board may issue waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Board's Water Quality Control Plan (Basin Plan).



JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

27 Aug 2009
Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location Map
 4. Site Map

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: Rancho Mission Viejo
Attention: Laura Coley Eisenberg
28811 Ortega Highway
San Juan Capistrano, CA 92675
Telephone: 949-240-3363
Facsimile: 949-248-1763
Email: lcoleyeisenberg@ranchomv.com

Applicant
Representatives: Glenn Lukos Associates
Attention: Tony Bomkamp
29 Orchard
Lake Forest, CA 92630-8300
Telephone: 949-837-0404
Facsimile: 949-837-5834
Email: tbomkamp@wetlandpermitting.com

Project Name: Maintenance Activities for Horno Basin Water Quality Basin and Forebay

Project Location: Latitude: 33° 31' 50.38"N Longitude: 117° 38' 47.39"W

Type of Project: Water Quality Basin Dredging

Need for Project: The dredging of the water quality basins is needed to maintain existing depths, which limits expansion of cattail and bulrush into deeper areas, which in turn ensures that adequate vector control is maintained.

Project Description: The project is the removal of accumulated sediments following storm events and the removal of woody, non-native and/or invasive vegetation or removal of cattails and bulrush when they exhibit potential harmful effects by allowing production of mosquitoes. When feasible, vegetation shall be removed by non-mechanized means.

Federal Agency/Permit: U.S. Army Corps of Engineers §404, NWP 31, Jae Chung

Other Required
Regulatory Approvals: California Department of Fish and Game Streambed Alteration Agreement, Tamara Spear

California Environmental
Quality Act (CEQA)
Compliance: Ladera Ranch EIR (FEIR 555), August 7, 1998, County of Orange

Receiving Water: Horno Detention Basin and concrete-lined channel
San Juan HU, Mission Viejo HA, Ortega HSA

Affected Waters of the United States: Temporary:
Wetland: 7.7 acres
Streambed: 0.6 acre

Dredge Volume: 2,662 Cubic Yards

Related Projects Implemented/to be Implemented by the Applicant(s): RMV Ranch Plan Planning Area 1 (2.65 acres) (SDRWQCB 401 Certification/WDR No. 9-2006-0104; 404 Permit No. 200602159YJC; SAA No. 1600-2006 – 0178-R5)

Compensatory Mitigation: No compensatory mitigation is required, as the proposed maintenance activities are self-mitigating.

Best Management Practices (BMPs): Construction
Maintenance will be performed outside of the rainy season, low flows will be diverted if present, and BMPs will be placed at the outfall to the Horno concrete channel and inlet of the outfall structure. Monitoring is required to ensure protection of water quality standards.

Post-Construction
No increase in impervious surface is proposed for this project.

Public Notice: December 5, 2008

Inspection: N/A

Fees: Total Due: \$6,554.00
Total Paid: \$6,554.00 (check No. 30846 and 31445)

CIWQS: Regulatory Measure ID: 356632
Place ID: 724833
Party ID: 73367

**ATTACHMENT 2
DISTRIBUTION LIST**

Jae Chung
U.S. Army Corps of Engineers, Regulatory Branch
Yong.j.chung@usace.army.mil

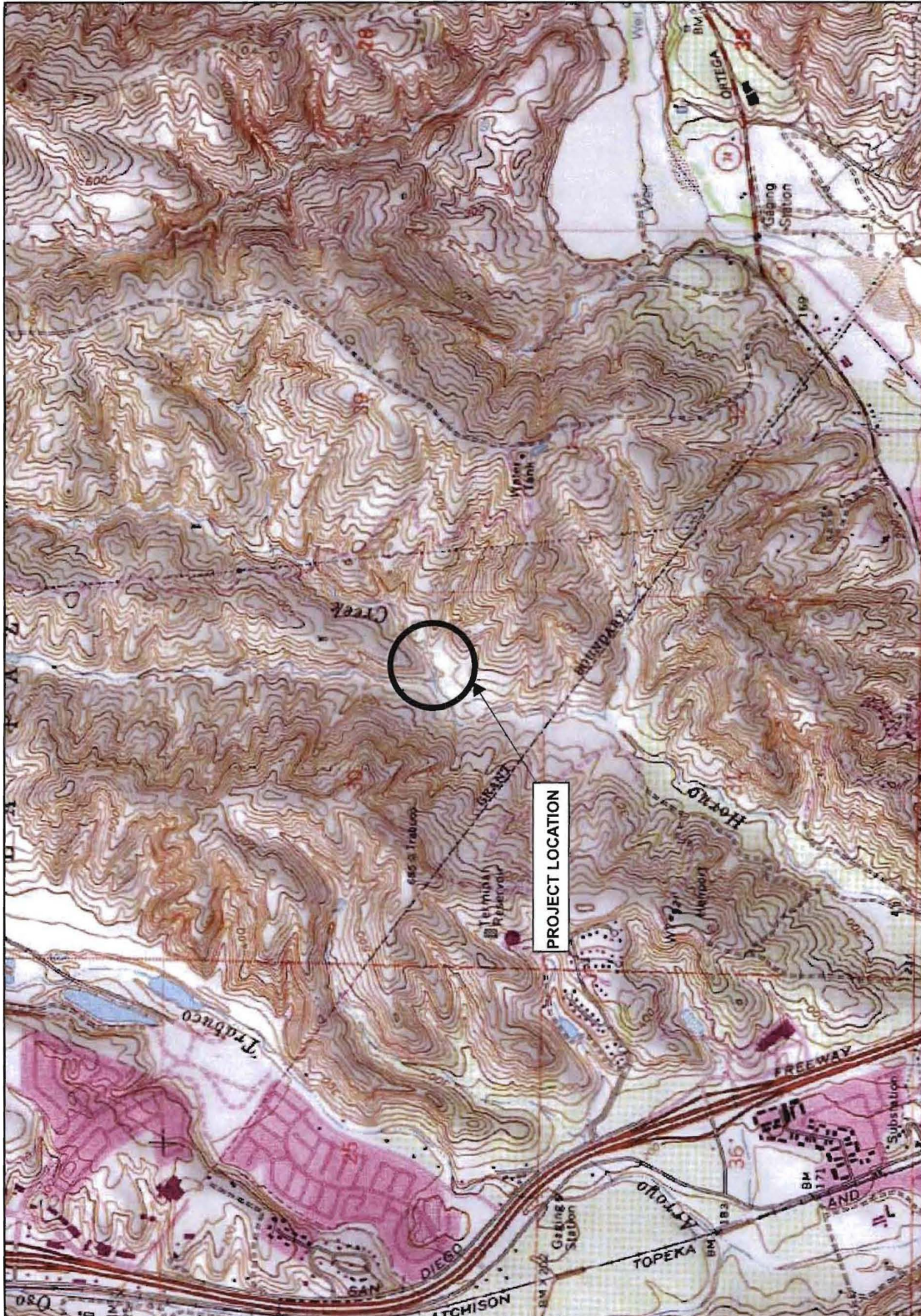
Tamara Spear
California Department of Fish and Game
tspear@dfg.ca.gov

David Smith
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
R9-WTR8-Mailbox@epa.gov

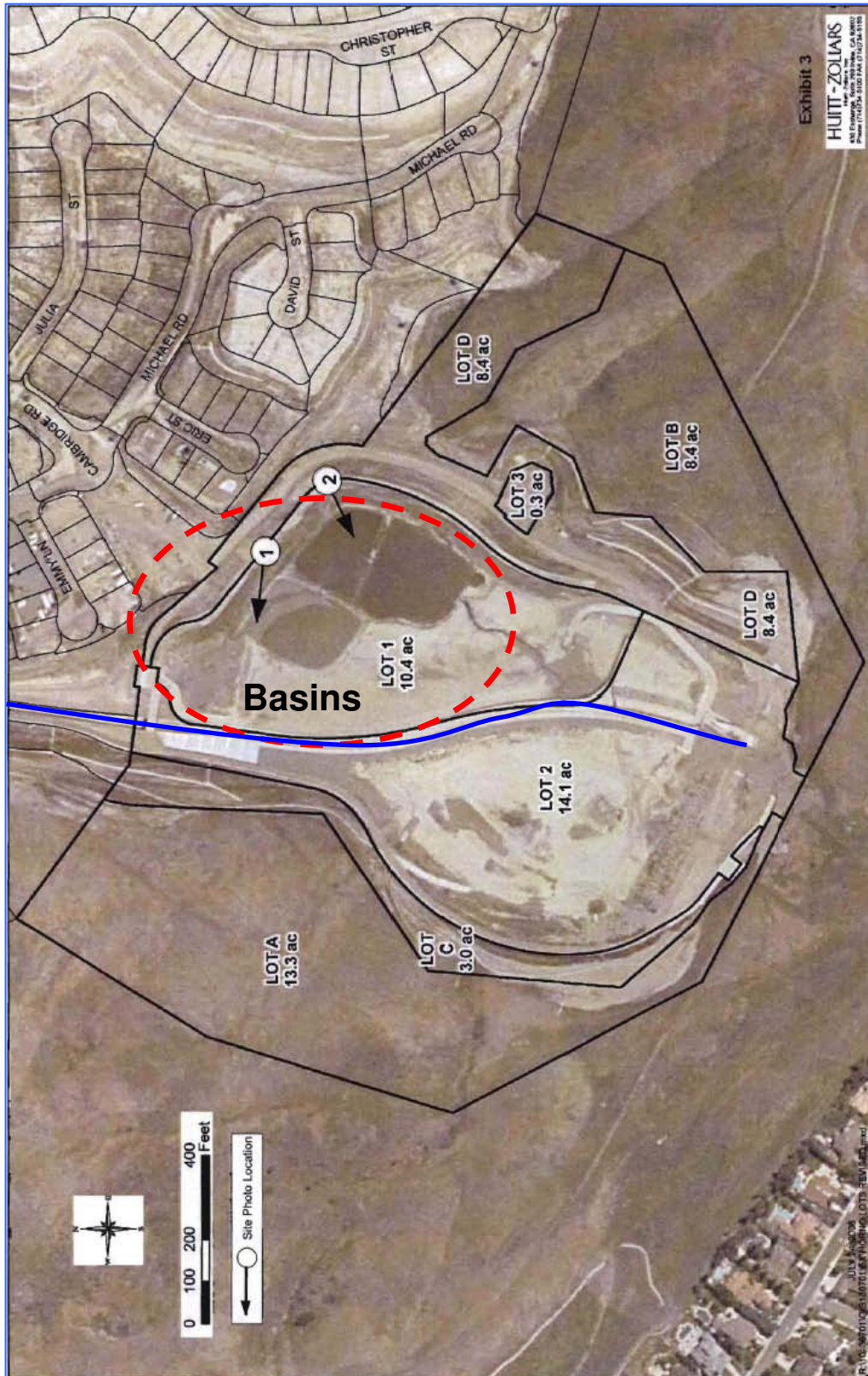
Bill Orme
State Water Resources Control Board, Division of Water Quality
Stateboard401@waterboards.ca.gov

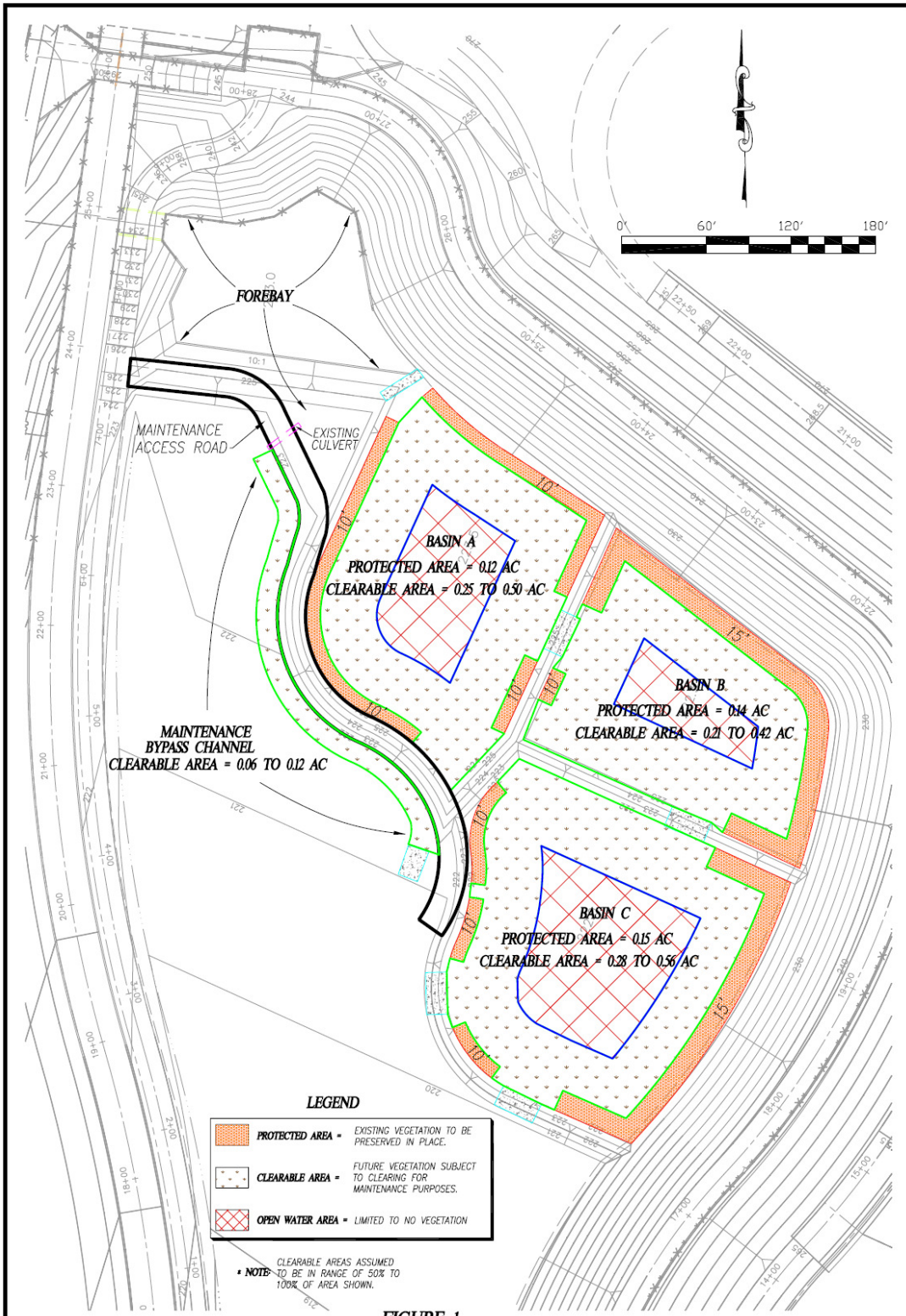
Tony Bomkamp
Glenn Lukos Associates
tbomkamp@wetlandpermitting.com

ATTACHMENT 3 PROJECT LOCATION



ATTACHMENT 4 SITE MAPS





LADERA RANCH HORNO WATER QUALITY BASIN
HABITAT CLEARING AND PRESERVATION LOCATIONS

NORTHSTAR
DRAWN BY: JML
DATE: 06/15/09