



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Diego Regional Water Quality Control Board

November 29, 2017

In reply refer to:

R9-2017-0169:746801:dbradford

Mr. Ivan Holler
Assistant City Manager
City of Murrieta
1 Town Square
24601 Jefferson Avenue
Murrieta, CA 92562

Certified Mail – Return Receipt Requested

Article Number: 7011 0470 0002 8952 9582

Subject: Notice of Violation No. R9-2017-0169

Mr. Holler:

Enclosed is Notice of Violation (NOV) No. R9-2017-0169 issued to you for violations of Clean Water Act Section 401 Water Quality Certification No. 09C-087. As described in the NOV, the violations may subject you to further enforcement pursuant to the California Water Code (WC). The San Diego Water Board reserves the right to take any enforcement action authorized by law.

The State of California largely relies on Section 401 of the federal Clean Water Act (CWA) (33 U.S.C. § 1341) to regulate discharges of dredged or fill material to waters of the State. Section 401 requires an applicant to obtain “water quality certification” from California that the project will comply with State water quality standards before certain federal licenses or permits may be issued. The permits subject to section 401 include permits for the discharge of dredged or fill materials (CWA section 404 permits) issued by the U.S. Army Corps of Engineers (Corps).

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider the severity and effect of the violation, the level of cooperation, the time it takes to correct the identified violations, and the sufficiency of the corrections.

Please submit all responses and information to this NOV in electronic format via e-mail to SanDiego@waterboards.ca.gov. Documents over 50 megabytes will not be accepted via e-mail and must be placed on a disc and delivered to the San Diego Water Board, 2375 Northside Drive, Suite 100, San Diego, CA 92108. Each electronic document must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: R9-2017-0169:746801:dbradford

For questions pertaining to the subject matter, please contact Darren Bradford at (619) 521-3356 or darren.bradford@waterboards.ca.gov.

Respectfully,

A handwritten signature in red ink that reads "Eric Becker". The signature is written in a cursive, flowing style.

Eric Becker, P.E.
Senior Water Resources Control Engineer
San Diego Water Board

DB:EB:dlb

Enclosures:

Notice of Violation R9-2017-0169 with attachment

CC (by email with enclosures):

Jeff Hitch
City of Murrieta
JHitch@murrieta.org

Peggy Bartels
U.S. Army Corps of Engineers
Peggy.J.Bartels@usace.army.mil

Kim Freeburn
California Department of Fish and Game
Kim.Freeburn@wildlife.ca.gov

David Barker
San Diego Water Board
David.Barker@waterboards.ca.gov

Eric Becker
San Diego Water Board
eric.becker@waterboards.ca.gov

U.S. EPA, OWOW, Region 9
R9-WTR8-Mailbox@epa.gov

State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

Tech Staff Info & Use	
Notice of Violation No.	R9-2017-0169
401 Certification No.	09C-087
WDID	9000001997
Reg. Measure ID	372005
Place ID	746801
Party ID	493370
Violation ID	1033465

San Diego Regional Water Quality Control Board

November 29, 2017

**NOTICE OF VIOLATION
No. R9-2017-0169**

Mr. Ivan Holler
Assistant City Manager
City of Murrieta
1 Town Square
24601 Jefferson Avenue
Murrieta, CA 92562

Jackson Avenue Street Improvement
Project
Magellan Street to Ynez Road
Riverside County, California

**Violations of Clean Water Act Section
401 Water Quality Certification
No. R9-2017-0169**

The City of Murrieta (Discharger) is in violation of Clean Water Act Section 401 Water Quality Certification No. 09C-087 (Certification) for the Jackson Avenue Street Improvement Project (Project). These violations are a result of the City of Murrieta's (Discharger) failure to comply with the conditions contained within the Certification as issued.

Such violation subjects the City of Murrieta to possible enforcement action by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), 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.

A. Background

Jackson Avenue Street Improvement Project

On May 10, 2012, the San Diego Water Board issued Certification No. 09C-087 to the City of Murrieta for widening and extension of Jackson Avenue from Magellan Street southward over Warm Springs Creek to Ynez Road in the City of Temecula. The Project is located in the City of Murrieta, Riverside County, California. The Project center reading is located at latitude 33.544561 and longitude -117.174912. The primary purpose of the Project is to provide an alternate route of travel and bridge the gap between the Cities of Murrieta and Temecula. A start of construction notification was received via email on August 30, 2013 stating construction was scheduled to begin on September 9, 2013. On July 20, 2017, San Diego Water Board notified the City of Murrieta of delinquent annual progress reports, a final project annual report, and a preservation mechanism. To date, the delinquent documents remain outstanding.

B. Summary of Violations of CWA Section 401 Water Quality Certification R9-2017-0169

1. Failure to Comply with CWA Section 401 Water Quality Certification Notification Requirements.

Observation: A review of San Diego Water Board files shows that the Draft Preservation Mechanism and Complete Preservation Mechanism were not submitted by the City of Murrieta or its consultants as required by Condition VII.D of certification No. 09C-087.

2. Failure to Comply with CWA Section 401 Water Quality Certification Reporting Requirements.

Observations: A review of San Diego Water Board files shows that the Annual Progress Reports and Final Project Annual Report were not submitted by the City of Murrieta or its consultants as required by Condition VIII.A of certification No. 09C-087.

Failure to address these violations may subject the City of Murrieta to additional enforcement by the San Diego Water Board or State Water Resources Control Board, including a potential civil liability assessment of \$10,000 per day of violation (Water Code section 13385).

Questions pertaining to this Notice of Violation should be directed to Darren Bradford at (619) 521-3356 or darren.bradford@waterboards.ca.gov. Written correspondence pertaining to this NOV should be sent to sandiego@waterboards.ca.gov. In the subject line of any response, please include R9-2017-0169:746801:dbradford



Eric Becker, P.E.
Senior Water Resources Control Engineer
San Diego Water Board

DB:EB:dlb

Attachments: Clean Water Act section 401 Water Quality Certification No. 09C-087
for the Jackson Avenue Street Improvement Project

Tech Staff Info & Use	
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401 Certification No.	09C-087
WDID	9000001997
Reg. Measure ID	372005
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