
Santa Ana Regional Water Quality Control Board

July 18, 2014

Vince Sartain
Scott Brothers Dairy
12000 East End Avenue
Chino, CA 91710

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE SCOTT BROTHERS DAIRY SAN ANTONIO CREEK
CONNECTION PROJECT, CITY OF CHINO, COUNTY OF SAN BERNARDINO,
CALIFORNIA (ACOE REFERENCE NO. N/A) (SARWQCB PROJECT NO. 362012-10)**

Dear Mr. Sartain,

On April 27, 2012, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Scott Brothers Dairy for a project to construct an outlet into San Bernardino County Flood Control District's San Antonio Creek flood control channel from an existing infiltration basin at the Scott Brothers Dairy creamery. The applicant has also submitted a filing fee of \$944.00, which at the time the application package was submitted, satisfied this project's 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, was based on California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3) in effect at that time. 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 proposed project will construct a storm drain pipe and junction structure (outlet) connection from an existing stormwater runoff infiltration basin at the creamery to the San Antonio Creek Channel. (At this location, the channel is rectangular in cross section and concrete lined.) The purpose of the proposed project is to ensure that stormwater runoff that causes the basin capacity to be exceeded, such as runoff resulting from 100-year storm events, will be conveyed from the basin outlet directly to the San Antonio Creek Channel rather than allowing the basin to overtop and runoff to sheet flow into the channel.

The existing basin retains all runoff from the creamery that result from typical rainfall events.

The work will take place within Section 33 of Township 1 South, Range 8 West, of the U.S. Geological Survey *Ontario, California*, quadrangle map (34.0360° N/-117.7264° W).

Receiving water: San Antonio Creek Channel has present or potential beneficial uses, including: agricultural supply (AGR), rare/threatened/endangered species (RARE), groundwater recharge (GWR), contact recreation (REC1), non-contact recreation (REC2), wildlife habitat (WILD), and warm fresh water habitat (WARM).

Fill area:

Temporary Impact to Streambed Habitat	0.0001 acre	15 linear feet
Permanent Impact to Streambed Habitat	0.0001 acre	3 linear feet

Dredge/Fill volume: Not applicable

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 7

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:

- 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.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR or Negative Declaration prepared by the lead agency in determining whether to approve a project. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which 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.

The County of San Bernardino, acting as the project's lead agency for the purpose of complying with the California Environmental Quality Act (CEQA), represents to Board staff that it has prepared an Initial Study and Negative Declaration (IS/ND) for the project, and that the IS/ND was approved. However, County staff report that they are unable to locate and produce documentation of this process, despite their extraordinary efforts to do so. The Regional Board did not review or comment on the draft or final IS/ND for the project.

Board staff has evaluated the project and has determined that it will not cause adverse impacts to water quality and that beneficial uses will be protected, provided that all certification conditions are met. The project qualifies for a CEQA Guidelines section 15303 (Class 3) categorical exemption, for new construction or conversion of small structures. A notice of exemption will not be filed. The Regional Board independently finds that no changes or alterations of the project are needed 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.

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- 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 of 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) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work as a denoted element of any project SWPPP, WQMP and/or HMMP.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 9) Applicant shall ensure all procedures and policies specified within the project's WQMP, shall adequately address any hydraulic conditions of concern generated during and as a result of this project.
- 10) 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 Minimis) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at www.waterboards.ca.gov/santaana/
- 11) Applicant shall ensure that all applicable 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. 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 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.

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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

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,

for 
Kurt V. Berchtold
Executive Officer

cc (via electronic mail):

Encompass Associates – Aaron Seekers – aseekers@encompasscivil.com
U. S. Army Corps of Engineers, Los Angeles Office- Mark Durham
State Water Resources Control Board, OCC- David Rice
State Water Resources Control Board, DWQ -Water Quality Certification Unit
California Department of Fish and Wildlife – Joanna Gibson
U.S. EPA- Supervisor of the Wetlands Regulatory Office WTR- 8