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Santa Ana Regional Water Quality Control Board

July 28, 2014

Mike Seal
City of Yucaipa Dept of Public Works
34272 Yucaipa Blvd
Yucaipa, CA 92399-9950

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE CITY OF YUCAIPA TRANSIT CENTER STORM DRAIN AND CHANNEL PROJECT, COUNTY OF SAN BERNARDINO, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 362013-06)

Dear Mr. Seal,

On April 5, 2013, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the City of Yucaipa's Department of Public Works, for a project to expand the City's Transit Center parking lot. Following the receipt of subsequent project information submitted by the applicant and their agent, 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 purpose of the project is to replace an incised portion of a tributary to Wilson Creek, with a subsurface storm drain system, and to discharge fill into the area now occupied by the tributary creek and to raise the ground level to match the elevation of an existing parking lot. The fill will be sloped at 2:1 from the outlet structure to finish grade, which will leave a pad of approximately 370' lineal feet of parking area. The parking area will be completed to the rough grade stage, with the actual parking lot improvements being designed and constructed during a future construction phase. The latter is dependent upon the Phase II (expansion) of the Transit Center and future Civic building. Prior to importing the fill, the project will extend an existing 54-inch diameter reinforced concrete pipe (RCP) storm drain for approximately 470 linear feet within the project area. The project's area of impact to waters of the U.S. is approximately 470 feet in length and an average of 18 feet in width at the ordinary high water mark. In total, an area of 0.19 acre of permanent impacts to Streambed Habitat is proposed.

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

The bottom of the channel is relatively flat and gently slopes to the west / southwest. The project fill prism will be approximately 18 feet wide at the base, 45 feet wide at the top of slope, 45 feet in depth, and 470 feet in length.

The existing headwall located west of 5th Street will be removed and replaced with an energy dissipating transition structure that will connect the new section of pipe to the existing storm drain system.

A new headwall and 30' x 30' concrete/rip rap apron will be installed at the western terminus of the fill area, to further aid with erosion control. The project area is located north of the Yucaipa Boulevard, northeast of Yucaipa City Hall, south of the Chapman Heights Golf Course, and west of 5th Street. The work will take place within Section 35 of Township 1 South, Range 2 West, of the U.S. Geological Survey *Yucaipa* quadrangle map (34° 2' 7.78" N/-117° 3' 26.80" W).

Receiving waters:

Wilson Creek, tributary to Oak Glen Creek, San Timoteo Canyon Creek and the Santa Ana River

Fill area:

Permanent impact to Streambed Habitat	0.19 acre	470 linear feet
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Dredge/Fill volume: 30,000 cubic yards

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 39 & 46

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. Limited Impact Development (LID) criteria have been incorporated into the planning of this project, according to provisions in the General Permit for Discharges of Storm Water Associated with Construction Activity Order No. 2009-0009 DWQ. No impervious surfaces will be

applied to graded soils scheduled to be used for parking surfaces during the course of this project. Subsequent (and separate) project work at this location will include the planning and implementation of LID criteria for all impervious surfaces scheduled relating to these preparatory activities.

Offsite Water Quality Standards Mitigation Proposed:

- For the permanent loss of 0.19 acre of jurisdictional waters, the applicant proposes a 5:1 mitigation ratio through the offsite restoration and conservation of one acre of in-kind habitat at the City of Yucaipa's Five Winds Ranch Mitigation Bank project site. The proposed mitigation meets mitigation criteria for responsible oversight agencies and has received letters of concurrence from the U.S. Army Corps of Engineers and the California Department of Fish & Wildlife, as a suitable resource and location for in-kind area of mitigation for this project.
- The City of Yucaipa will maintain the management authority for ensuring the successful implementation of all mitigation activities. All costs associated with implementation of the mitigation program, as well as cost for the long-term management of the preservation areas, are the responsibility of the City of Yucaipa. As part of finalizing the Habitat Mitigation and Monitoring Plan (HMMP) a financial assurance letter on behalf of the City will be provided to respective oversight agencies.

0.19 acre of Permanent Impact to Streambed Habitat	mitigated at 5:1	1.0 acre of restored/preserved streambed habitat
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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 according to the requirements of 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 State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity.

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 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.

As required by Section 15096, the Regional Board has independently considered the mitigated ND prepared for the proposed project, filed under State Clearinghouse Number 2010071056 on September 22, 2010, and information provided subsequently in the application, in the issuance of this Certification. The Regional Board independently finds that changes or alterations have been required, or incorporated into the proposed project, which 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) Proposed mitigation shall be timely implemented, in accordance with the Project's updated HMMP (dated June 2014).
- 3) 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.
- 4) 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.
- 5) 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.

- 6) 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.
- 7) 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 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.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 9) 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 Storm Water Pollution Prevention Plan (SWPPP) or Water Water Quality Management Plan (WQMP).
- 10) 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.
- 11) 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 Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at www.waterboards.ca.gov/santaana/
- 12) Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities. Prior to any grading for the project in areas slated to be impacted, functional assessments of these proposed areas of wetland and riparian habitats and riparian mitigation sites shall be conducted using the California Rapid Assessment Method, February 2012. Site mitigation assessments shall be conducted from October through December, until success criteria are met for consecutive years. This information shall be reported to <http://www.californiawetlands.net/tracker/>

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 issue an order certifying 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.

Mike Seal
City of Yucaipa,
Department of Public Works
401 Certification No. 362013-06

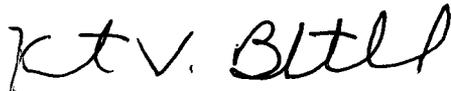
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This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which 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,



Kurt V. Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

Jericho Systems Inc. – Shay Lawrey, shay@jericho-systems.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