



# California Regional Water Quality Control Board

## Santa Ana Region



Linda S. Adams  
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Environmental Protection

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Arnold Schwarzenegger  
Governor

December 23, 2009

Jason Blum  
Arlington-Van Buren Investment, LLC  
c/o Laurus Development, Inc.  
737 N. Michigan Avenue, STE. 1050  
Chicago, IL 60611

**REVISED CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR WALGREEN'S PROJECT, ARLINGTON AVENUE AND VAN BUREN  
BOULEVARD, CITY OF RIVERSIDE, RIVERSIDE COUNTY (ACOE REFERENCE NO. NOT  
AVAILABLE) (RWQCB REF. NO. 332007-43)**

Dear Mr. Blum:

On December 11, 2007 we received your original application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted by Glenn Lukos Associates, for the construction of the proposed Walgreen's store on the northwestern corner of Arlington Avenue and Van Buren Boulevard in the City of Riverside. On November 6, 2009, an addendum to the original proposal was submitted by Glenn Lukos Associates, which updated project specifications subsequent to receipt of agency comments. This letter responds to your request for certification that the proposed project, described in the application and in subsequent submittals 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 consists of flood improvements to Monroe Channel by constructing a box culvert from the Van Buren Boulevard / Arlington Avenue intersection approximately 500 feet downstream, to accommodate parking spaces and in order to meet the City of Riverside's design requirements for flood protection and the City's standards for operations and maintenance. The proposed project activities entail converting an earthen trapezoidal section of the Monroe Channel to an underground structure and constructing aboveground flood improvements, which include the placement of rip-rap for approximately 100 feet within the transition area between the proposed concrete culvert section and downstream earthen sections of the channel.

*California Environmental Protection Agency*



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The site is located within Section 36 of Township 2 South, Range 6 West, of the U.S. Geological Survey *Riverside West, California*, 7.5-minute topographic quadrangle map (N 33° 56' 47" / W -117° 27' 16").

- Receiving water: Monroe Channel, tributary to the Santa Ana River
- Fill area: 0.17 acre of permanent impact to an ephemeral drainage (594 linear feet) and 0.37 acre of permanent impact to riparian habitat.
- Dredge/Fill volume: N/A
- Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 39

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent submittals. The proposed mitigation is summarized below:

**Onsite Water Quality Standards Mitigation Proposed:**

- Nuisance flow and 'first-flush' discharges from the project will be treated through engineered infiltration devices along the project's perimeters.
- Additional site-specific best management practices (BMPs) are specified in the site's Storm Water Pollution Prevention Plan (SWPPP) and September 23, 2009 iteration of the proposed project's Water Quality Management Plan (WQMP).
- Riparian vegetation shall be re-constructed by planting woody and herbaceous riparian habitat in the vegetated swale to be located immediately adjacent to the existing channel.

**Offsite Water Quality Standards Mitigation Proposed:**

- An in-lieu offsite mitigation fee payment will be paid toward the eradication of not less than 0.68 acre of invasive riparian vegetation within the middle Santa Ana River Watershed Management Area.

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 Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 2009-0009- DWQ, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of pollutants from the project site.



The project is subject to a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act (CEQA), the City of Riverside adopted a Mitigated Negative Declaration for this project on October 10, 2007. The Executive Officer has considered the City's Mitigated Negative Declaration in the issuance of this Certification.

**This 401 Certification is contingent upon the execution of the following conditions:**

1. This Certification is conditioned upon the construction of all storm water treatment facilities as proposed. All structural storm water treatment facilities must be constructed and operational prior to the occupancy of any on-site structure.
2. An in-lieu offsite mitigation fee payment shall be paid toward the eradication of not less than 0.68 acre of invasive riparian vegetation within the middle Santa Ana River Watershed management area. The fee must include funding for a minimum of 6-years of follow-on maintenance and the completion of functional assessments, using published and generally accepted methods (e.g. California Rapid Assessment Method) for the purpose of evaluating the marginal improvement to the eradication project area. Evidence of the fee payment must be provided to the Executive Officer within 120 days from the date of this certification.
3. Regional Board staff and other authorized representatives shall be allowed:
  - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification and applicable waste discharge requirements;
  - b. Access to copy any records that are kept under the requirements of this Certification and applicable waste discharge requirements;
  - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from the project site; and
  - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification and applicable waste discharge requirements.
4. This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP.



5. Waste materials<sup>1</sup> within the on-site reach of Monroe Channel must be removed and disposed of in accordance with applicable Federal, State, and local requirements prior to the completion of rough grading on any portion of the site. Waste materials that pose an immediate threat to water quality must be promptly and properly contained, removed and disposed of in accordance with federal, state and local regulations.
6. This Certification is transferable only upon written notice to the Executive Officer. The notice must include written acknowledgement of this Certification by the transferee's authorized representative.

**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.

Although we anticipate no further regulatory involvement, 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, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation 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.

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<sup>1</sup> As defined in California Water Code Section 13050(d).



In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (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. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

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. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

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. 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. 200-0017-DWQ is available at [www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf](http://www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf)

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

Sincerely,



GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

- U. S. Army Corps of Engineers, Los Angeles Office – Yvette Cardenas
- State Water Resources Control Board, OCC – David Rice
- State Water Resources Control Board, DWQ-Water Quality Certification Unit – Bill Orme
- California Department of Fish and Game, Ontario Office – Magdalena Rodriguez
- U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini and David Smith
- Riverside Land Conservancy – Jack Easton
- City of Riverside, Public Works Department - Robert Van Zanten
- Riverside County Flood Control District - Jason Uhley

