



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Acting Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288
www.waterboards.ca.gov/santaana

Edmund G. Brown, Jr.
Governor

January 10, 2011

Maria Lopez
Plaza Real Estate and Financial
1717 E. Vista Way Ste 110
Vista, CA 92084

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE DEL ROSA WORKFORCE TOWNHOMES PROJECT,
SAN BERNARDINO, COUNTY OF SAN BERNARDINO, CALIFORNIA (SARWQCB
PROJECT NO. 362009-06)**

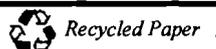
Dear Ms. Lopez:

On April 2, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Plaza Real Estate and Financial for the County of San Bernardino for the proposed construction of a 45-unit townhome development on a 3.84 acre lot and the discharge of fill to 0.13 acres of earthen channel. Upon receipt of your November 4, 2010, off-site mitigation proposal for impacts to streambed habitat within the project site, the application was considered complete. 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 45-unit townhome development is to be constructed on a 3.84 acre vacant lot and includes detention basins on the west side of the property. A 15-foot wide, 392-foot long (0.13 acre) earthen channel will be replaced with three 4' x 4' box culverts which will be 392-feet long. The work will take place within Section 24 of Township 1 North, Range 4 West, of the U.S. Geological Survey *San Bernardino North* quadrangle map (33° 9' 03.21" N/ 117° 15' 8.37" W).

Receiving water: Unnamed drainage tributary to Warm Creek, and the Santa Ana River

California Environmental Protection Agency



Fill area: 0.13 acres of permanent impact to a streambed habitat (392 linear feet)

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 29

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 and post-construction BMPs will be incorporated into the project as required by the project's approved water quality management plan.

Offsite Water Quality Standards Mitigation Proposed:

- The applicant will purchase 0.39 acre in credits (3:1 restoration/enhancement value) from either the Santa Ana Watershed Association (SAWA) or the County of San Bernardino's in-lieu fee program for restoration and enhancement.

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 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, including the preparation of a SWPPP.

Plaza Real Estate and Financial asserts that the project is a residential infill project exempt from the requirements of CEQA, in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15195, "Residential Infill Exemption." Based on documentation provided by the applicant, Regional Board staff has concluded that the project meets the criteria specified in CEQA Guidelines Section 15195 for a residential infill exemption. The Applicant reports that the City of San Bernardino filed a Notice of Exemption for the project in April 2009.

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) 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.
- 4) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work as a denoted element of the project's SWPPP or WQMP.
- 5) The Applicant shall implement the mitigation proposed. Prior to occupancy of any part of the proposed project, the Applicant shall provide documentation to the Executive Officer showing that 0.39 acre in mitigation credits have been purchased from either SAWA or the County of San Bernardino's in-lieu fee program for restoration and enhancement.
- 6) Prior to the discharge of fill, the Applicant shall provide this office with documentation showing that a CEQA Notice of Exemption for the project, citing CEQA Guidelines Section 15195, has been filed with the County of San Bernardino and with the State Clearinghouse.

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. 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

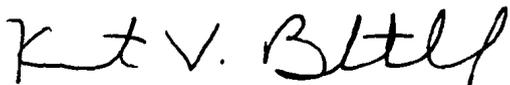
Plaza Real Estate and Financial
of San Bernardino County

- 5 -

January 10, 2011

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

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jason Lambert
Department of Fish and Game – Anna Milloy
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

x:\401\certifications\del rosa_workforce_townhomes_362009-06_final_10jan11.doc

