



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

March 13, 2009

David Simard
Storm Western Development
23223 South Normandie
Torrance, CA 90501-5050

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR HERITAGE OAKS EQUESTRIAN COMMUNITY, CITY OF CALIMESA, RIVERSIDE COUNTY (ACOE REFERENCE NO. SPL – 2008 – 01078 – JEM)

Dear Mr. Simard:

On September 5, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification"), submitted on your behalf by Michael Brandman Associates, for the development of the Heritage Oaks Equestrian Community in the City of Calimesa. The application was deemed complete on October 5, 2008 and was denied without prejudice on October 9, 2008 due to missing information and an outstanding fee balance.

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) and subsequent Basin Plan amendments ("Basin Plan"):

Project Description: Development of 54 single-family homes and associated roadways and infrastructure on approximately 34 acres. 18 acres of the site will be preserved as open space. The project is generally located at the southwest corner of County Line Road and Holmes Way within Section 17 of Township 2 South, Range 1 West, of the U.S. Geological Survey *Yucaipa* and *El Casco, California*, 7.5-minute topographic quadrangle maps (34 deg. 00 min. 07 sec. N/ - 117 deg. 00 min. 49 sec. W).

Receiving water: Two un-named ephemeral drainages tributary to Garden Air Wash.

California Environmental Protection Agency



Fill area: 0.29 acre of permanent impact to ephemeral drainages
(2,573 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 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 in an extended detention basin located adjacent to a flood control basin along the east side of the proposed extension of Holmes Way¹. The extended detention basin will be operated and maintained by a homeowner's association.
- Additional site-specific best management practices ("BMPs") will be specified in the site's Storm Water Pollution Prevention Plan ("SWPPP") and Water Quality Management Plan ("WQMP").

Offsite Water Quality Standards Mitigation Proposed:

- An in-lieu fee will be paid to the Santa Ana Watershed Association towards the eradication of 0.58 acre of invasive plant species.

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 99-08 DWQ, is required, as is development of a SWPPP to control the discharge of pollutants from the project site.

You have applied for 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 Calimesa adopted a Mitigated Negative Declaration for Heritage Oaks Equestrian Community on

¹ The storm water treatment volume will be diverted to the extended detention basin and the flood control volume will be conveyed to the flood control basin separately. The flood control volume will include storm water runoff from off-site areas which will not be conveyed to the extended detention basin.

July 20, 2007. Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as shown in the associated negative declaration prior to reaching a decision on the project. The Regional Board has considered the City's Mitigated Negative Declaration in the issuance of this Certification and 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. 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 residence.
2. An in-lieu fee must be paid to the Santa Ana Watershed Association towards the eradication of 0.58 acre of invasive species within and adjacent to waters of the State in the Upper Santa Ana Watershed. The fee payment must include funding for a minimum of 6-years of follow-on maintenance and the completion of biological condition 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 by June 13, 2009.
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. 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.
6. The applicant must comply with the conditions and provisions of the Corps' Clean Water Act Section 404 permit(s).



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

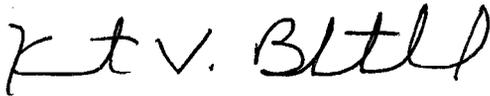


Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at:

www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



for GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jim Mace
State Water Resources Control Board, OCC – David Rice
State Water Resources Control Board, DWQ – Water Quality Certification Unit
California Department of Fish and Game – Michael Flores
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

APF:401/certifications/heritage oaks 332008-25