



California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

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Governor

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Mr. Kurt Nelson
JCCL-South Pointe West, LLC
2632 W. 237th Street, Suite 201
Torrance, California 90505

WATER QUALITY CERTIFICATION FOR PROPOSED SOUTH POINTE WEST SPECIFIC PLAN PROJECT (Corps' Project No. 2006-01800-PHT), UNNAMED DRAINAGES TRIBUTARY TO SAN JOSE CREEK, CITY OF DIAMOND BAR, LOS ANGELES COUNTY (File No. 06-231)

Dear Mr. Nelson:

Board staff has reviewed your request on behalf of JCCL-South Pointe West, LLC (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on February 22, 2007.

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, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Section 401 Program, at (213) 576-6759.

[Original Signed By]
Deborah Smith
Interim Executive Officer

June 29, 2007
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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Ken Berg
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92009

ATTACHMENT A

Project Information File No. 06-231

1. Applicant: JCCL-South Pointe West, LLC
2632 W. 237th Street, Suite 201
Torrance, California 90505

Phone: (310) 539-1788 Fax: (310) 539-4828
2. Applicant's Agent: Steve G. Nelson
3. Project Name: South Pointe West Specific Plan
4. Project Location: Diamond Bar, Los Angeles County
Longitude: 117.8544588370; Latitude: 33.99041715880
Longitude: 117.8534681970; Latitude: 33.99041492060
Longitude: 117.8523456710; Latitude: 33.99065030440
Longitude: 117.8521991740; Latitude: 33.99093952040
Longitude: 117.8517546210; Latitude: 33.99107257670
Longitude: 117.8514266090; Latitude: 33.99090612910
Longitude: 117.8511997890; Latitude: 33.99067000530
Longitude: 117.8513146420; Latitude: 33.99051296610
5. Type of Project: Housing development
6. Project Purpose: The proposed project consists of the development of a housing project with associated infrastructure in the City of Diamond Bar.
7. Project Description: The proposed project consists of developing an area of 42.12 acres with 99 single-family residences; including associated infrastructure, slope stabilization, and fuel modification zones. In addition, the proposed project will include an approximate 3.24-acre neighborhood park.

The proposed project has been designed to minimize impacts to natural resources to the maximum extent practicable. Although efforts to minimize impacts for the proposed development has taken place, the project will consist of the following impacts:

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- 0.103 acres permanent impacts, of which 0.025 consists of jurisdictional wetlands (1041.66 linear feet);
- 0.054 acres temporary impact (793.9 linear feet); and
- 0.005 acres temporary impact (66.7 linear feet) for the development of fuel modification zones.

There are four (4) main drainage areas within the proposed project site: Drainages A, B, B1 and B2. The Applicant has redesigned this project in order to avoid or minimize total impacts within jurisdictional waters of the U.S. The project will avoid and preserves 6.0 acres (14 percent) of the 42.12-acre site.

The project will avoid 0.132 acre (55 percent) of the 0.24 acre of jurisdictional waters on-site, which includes 0.095 acres (79 percent) of the 0.12 acres of wetlands.

The proposed project will avoid approximately 0.4 acre of coast live oak woodland, 0.6 acre of coastal sagebrush scrub, 3.0 acres of mixed chaparral, 0.1 acre of Mexican elderberry series, 0.2 acre of mule fat scrub/ruderal and 0.2 acre of southern willow scrub within the proposed project area. The avoided areas will help to maintain the functions and values of the natural habitats and hydrology.

The proposed project will meet SUSMP requirements and incorporate Low Impact Development (LID) methods through the utilization of structural and non-structural best management practices (BMPs) to reduce impacts to water quality. Structural BMPs will include three (3) CDS treatment units and two (2) grass-lined swales for water quality treatment, as well as three (3) desilting basins and an extended detention basin for the proposed project site.

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| 8. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 39 (Permit No. 2006-01800-PHT) |
| 9. Other Required
Regulatory Approvals: | California Department of Fish and Game
Operational Law Letter (April 19, 2007)
Notification No. 1600-2006-0483-R5 |

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10. California Environmental Quality Act Compliance: The City of Diamond Bar certified the Environmental Impact Report (EIR) for the proposed project on December 19, 2006. SCH No. 2005111118
11. Receiving Water: Unnamed drainages tributary to San Jose Creek (Hydrologic Unit No. 405.51)
12. Designated Beneficial Uses: MUN*, GWR, REC-1, REC-2, WARM, WILD
*Conditional beneficial use
13. Impacted Waters of the United States: Federal jurisdictional wetlands: 0.025 permanent acres
Non-wetland waters (streambed): 0.103 permanent acres and 0.059 temporary acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Prior to initiation of construction activities for the project site, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared by the contractor in compliance with NPDES requirements.
 - No repair activities or maintenance shall take place within any jurisdictional waters. No construction equipment shall be cleaned, maintained or washed down within jurisdictional areas or drainage areas.

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- Toxic and hazardous materials associated with equipment maintenance activities shall not be permitted within the project area.
- Should a release occur, spills of hazardous materials would be promptly cleaned up in accordance with local, regional, State and Federal regulations.
- All appropriate Construction Best Management Practices (BMPs) will be implemented during construction-related activities.

17. Proposed
Compensatory
Mitigation:

The Applicant has proposed to provide compensatory mitigation by providing restoration activities on-site.

18. Required
Compensatory
Mitigation:

The Regional Board will require the Applicant to provide compensatory mitigation for proposed project impacts at a ratio of 3:1 for permanent impacts and 2:1 for any temporary impacts. Therefore a total of 0.309 acres will be required for permanent impacts (of which 0.075 acres will consist of jurisdictional wetland area) and 0.118 acres for temporary impacts. The restoration will occur on-site and will consist of riparian habitat restoration within Drainages A and B1. A Final Mitigation Plan must be submitted to the Regional Board for approval prior to project initiation.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

ATTACHMENT B

Conditions of Certification File No. 06-231

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.

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5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
15. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
16. Sediment removal at each phase shall not go beyond the extent as defined in the application packet.
17. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
18. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities where clearing involves areas to be partially cleared (i.e. some vegetation is to remain in the same reach or in an adjacent reach). The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
19. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally

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- 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
20. All project/construction activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
21. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:
- pH
 - temperature
 - dissolved oxygen
 - turbidity
 - total suspended solids(TSS)
 - Downstream TSS shall be maintained at ambient levels
 - Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

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22. The Applicant shall restore **all areas** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
23. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporary loss of **0.059 acres** waters of the United States by creating or restoring riparian habitat at a minimum **2:1** area replacement ratio (**0.118 acres**). The Applicant shall also provide compensatory mitigation for the proposed permanent impacts to **0.103 acres** of vegetation within waters of the United States/Federal jurisdictional wetlands (**0.025 acres**) by creating or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum **3:1** area replacement ratio (**0.309 acres, of which 0.075 acres will consist of jurisdictional wetland**). The mitigation site shall be located within the project site unless otherwise approved by this Regional Board. The boundary of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.
24. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
25. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1st** of each year for a minimum period of **five (5) years** after planting or until mitigation success) has been achieved. The report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
 - (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;

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- (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
26. Prior to any subsequent maintenance activities within the project area, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the existing condition/capacity; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
27. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official or other duly authorized employee.
28. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:
- “I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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**Conditions of Certification
File No. 06-231**

Executed on the _____ day of _____ at _____.

(Signature)
(Title)"

29. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **06-231**. Submittals shall be sent to the attention of the 401 Certification Unit.
30. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
31. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
32. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
33. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

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34. *Enforcement:*

- (a) 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.
 - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) 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 SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
35. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.