



California Regional Water Quality Control Board San Diego Region



Matthew Rodriguez
Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Edmund G. Brown Jr.
Governor

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(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

October 3, 2011

In reply refer to:
749088: cloflen

Pat Thomas
City of Murrieta
1 Town Center
24601 Jefferson Ave
Murrieta, CA 92562

Dear Pat Thomas:

Subject: **Amendment to Clean Water Act Section 401 Water Quality
Certification No. 11C-030 for the Line D and Line D-1 Flood Control
Realignment Project**

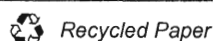
The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is amending the **Line D and Line D-1 Flood Control Realignment Project** Certification, number 11C-030. On September 19, 2011, the San Diego Water Board received an amendment request from the City of Murrieta (attached).

After a review of the Line D and Line D-1 Flood Control Realignment Project file and the proposed changes, I concur that the proposed changes are reasonable modifications to the original section 401 Water Quality Certification. As a result, the section 401 Water Quality Certification for the Line D and Line D-1 Flood Control Realignment Project has been amended to reflect the proposed changes as submitted by the City of Murrieta to the San Diego Water Board on September 19, 2011.

Any petition for reconsideration of this Certification amendment must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that the City of Murrieta has accepted and will comply with all conditions of the Certification. Failure to comply with all conditions of this Certification may result in enforcement actions against the City of Murrieta.

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Chad Loflen at (858) 467-2727 or cloflen@waterboards.ca.gov.

California Environmental Protection Agency



Respectfully,



David W. Gibson
Executive Officer
Regional Water Quality Control Board

Attachments:

1) Amendment Request dated September 12, 2011

cc: electronic copy

James Mace
U.S. Army Corps of Engineers, Regulatory Branch
james.e.mace@usace.army.mil

State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

USEPA, Region 9
R9-WTR8-Mailbox@epa.gov

Lexi Kessans
ICF International
akessans@icfi.com

Tech Staff Info & Use	
File No.	11C-030
WDID	9000002256
Reg. Measure ID	378667
Place ID	749088
Party ID	455124
Person ID	461320



CITY OF MURRIETA

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

2011 SEP 19 P 3:35

September 12, 2011

Dave Gibson
California Regional Water Quality Control Board San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

RE: Request to Amend Clean Water Act Section 401 Water Quality Certification No. 11C-030

Dear Mr. Gibson,

We are requesting to amend Clean Water Act Section 401 Water Quality Certification No. 11C-030. We have worked with your staff and discussed amending the 401 certification as marked on the attached document. If acceptable, please issue an amended 401 certification.

Thank you for your help and consideration of this matter.

Sincerely,

CITY OF MURRIETA

PATRICK THOMAS, P.E.
DIRECTOR OF PUBLIC WORKS

Encl.

CC: Chiara Clemente and Chad Loflen; CRWQCB
Lexi Kessans; ICF



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San Diego Region



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**Action on Request for
 Clean Water Act Section 401 Water Quality Certification
 and Waste Discharge Requirements
 for Discharge of Dredged and/or Fill Materials**

**PROJECT: Line D and Line D-1 Flood Control
 Realignment Project,
 Certification Number (11C-030),
 WDID: 9 000002256**

**APPLICANT: Pat Thomas
 City of Murrieta
 1 Town Center
 24601 Jefferson Ave
 Murrieta, CA 92562**

CIWQS Reg. Meas. ID: 378667 Place ID: 749088 Party ID: 455124
--

ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004 DWQ

PROJECT DESCRIPTION:

The proposed project is located in the City of Murrieta and consists of the re-alignment of flows for 2 tributaries to Murrieta Creek, referred to as Line D and D-1 by the Riverside County Flood Control and Water Conservation District. The project purpose is to alleviate the flooding of Madison and Jefferson Avenues from improper infrastructure design, while allowing for the future development of adjacent parcels. The project will realign and underground portions of Line D-1 and provide connectivity between Line D and Line D-1 during periods of higher flows in order to convey flows under Jefferson Avenue. The project will permanently impact 0.99 acres (2,450 linear feet) of unvegetated streambed. No new impervious surfaces are associated with the project. Mitigation includes the establishment of 1.08 acres (1,597 linear feet) of waters of the U.S. on-site, as well as the acquisition of 2.0 acres of riparian restoration off-site. The project will also retrofit existing untreated impervious surfaces with mechanical inlet filter,

California Environmental Protection Agency

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bioretention area, and sand filter post construction BMPs. Long-term maintenance activities associated with the project may consist of trimming and removing vegetation, removing fallen trees, removing dead trees and shrubs, sediment removal, and clearing trash and debris within the bioretention area, sand filter, three interim detention basins, and the Line D and D-1 Channels (outside of conservation easement areas). Maintenance activities within conservation easement areas will be in accordance to the Habitat Mitigation and Monitoring Plan (HMMP).

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I. STANDARD CONDITIONS:

The following three standard conditions apply to all Certification actions, except as noted under Condition 3 for denials.

- A. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
- B. This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility 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.
- C. The validity of any non-denial Certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

II. ADDITIONAL CONDITIONS: GENERAL

- A. Water Quality Certification No. 11C-030 (Certification) is only valid if the project begins no later than 5 (five) years from the date of issuance. If the project has not begun within 5 years from the date of issuance, this Certification expires.
- B. The City of Murrieta must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material That Have Received State Water Quality Certification*. These General Waste Discharge Requirements are accessible at:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
- C. The City of Murrieta must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), to support this Certification and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must supersede conflicting

provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the San Diego Water Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.

- D. During construction, the City of Murrieta must maintain a copy of this Certification at the Project site so as to be available at all times to site personnel and agencies.
- E. The City of Murrieta must permit the San Diego Water Board or its authorized representative at all times, upon presentation of credentials:
 - 1. Entry onto Project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - 2. Access to copy any records required to be kept under the terms and conditions of this Certification.
 - 3. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 - 4. Sampling of any discharge or surface water covered by this Order.
- F. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must 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.
- G. In response to a suspected violation of any condition of this Certification, the San Diego Water Board may pursuant to Water Code sections 13267 and 13383, require the holder of any permit or license subject to this Certification to investigate, monitor and report information on the violation. The only restriction is that the burden, including costs, of preparing the reports must bear a reasonable relationship to the need for and the benefits to be obtained from the reports.
- H. In response to any violation of the conditions of this Certification, the San Diego Water Board may modify the conditions of this Certification as appropriate to ensure compliance.

III. ADDITIONAL CONDITIONS: CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. Prior to the start of the project, and annually thereafter, the City of Murrieta must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and Best Management Practice (BMP) implementation and maintenance.
- B. The City of Murrieta must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.
- C. The City of Murrieta must enroll in and comply with the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, NPDES No. CAS000002, *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities*.
- D. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the San Diego Water Board pursuant to CWC § 13260.
- E. Discharges of concentrated flow during construction or after completion must not cause downstream erosion or damage to properties or stream habitat.
- F. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each work day or sooner if rain is predicted.
- G. All surface waters, including ponded waters, must 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. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
- H. All areas that will be left in a rough graded state must be stabilized no later than one week after completion of grading. The City of Murrieta and subsequent owners, are responsible for implementing and maintaining

BMPs to prevent erosion of the rough graded areas to prevent flow from this area from causing adverse effects to beneficial uses. After completion of grading, all areas must be revegetated with native species appropriate for the area. The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at: <http://www.cal-ipc.org/ip/inventory/weedlist.php>.

- I. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.
- J. Removal of vegetation must occur by hand, mechanically, or using EPA approved herbicides deployed using applicable BMPs to prevent impacts to beneficial uses of waters of the State. Use of aquatic pesticides must be done in accordance with State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, and any subsequent reissuance as applicable. Removal of vegetation must occur outside of the avian nesting season (March 15- August 31) unless supervised by a biologist following proper notification, with San Diego Water Board concurrence, to the California Department of Fish and Game.
- K. All rough graded desilting basins must be designed, constructed and maintained, until all development on the project site is completed, according to the most recent California Stormwater Quality Association guidance for sediment basins.

IV. ADDITIONAL CONDITIONS: POST-CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. All storm drain inlet structures within the project boundaries must be stamped and/or stenciled (or equivalent) with appropriate language prohibiting non-storm water discharges.
- B. ~~All post-construction BMPs, including those described in will be in accordance with the Project Specific Water Quality Management Plan for Master Drainage Facility Improvement Plans For Line D & D-1 CIP No. 8157, prepared by Excel Engineering and dated March 10, 2011, must be sized to comply with the following numeric sizing criteria:~~
 - ~~1. Volume~~

~~Volume based BMPs must be designed to mitigate (infiltrate, filter, or treat) either:~~

- a. ~~The volume of runoff produced from a 24-hour 85th percentile storm event, as determined from the local historical rainfall record (0.8 inch approximate average for the Riverside County area); or~~
- b. ~~The volume of runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile 24-hour runoff event; or~~

~~2. Flow~~

~~Flow-based BMPs must be designed to mitigate (infiltrate, filter, or treat) either:~~

- a. ~~The maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour; or~~
- b. ~~The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity, as determined from the local historical rainfall record, multiplied by a factor of two; or~~

~~C.B. The maximum flow rate of runoff, as determined from the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two.~~

~~D.C. Post-construction BMPs must be installed and functional prior to completion of project construction.~~

~~E.D. For all post-construction BMPs as described in the *Project Specific Water Quality Management Plan for Master Drainage Facility Improvement Plans For Line D & D-1 CIP No. 8157*, prepared by Excel Engineering and dated March 10, 2011; and storm water discharge points must:~~

1. ~~Be regularly inspected and maintained for the life of the project per manufactures' specifications and industry standards;~~
2. ~~No less than one time per year assess the performance of the systems on protection of the receiving waters and identify any necessary corrective measures;~~
3. ~~Have all preventive and corrective maintenance performed;~~
4. ~~Be inspected no less than one time per year, immediately prior to the commencement of the rainy season (October 1) and after every storm event exceeding 0.5 inches of precipitation; and~~

5. Maintain a log documenting all BMP inspections and maintenance activities.

~~F. The extended detention (i.e. desilting) basins must be designed and constructed in accordance with the most recent California Stormwater Quality Association guidance for extended detention basins.~~

G.E. The City of Murrieta must maintain the extended detention basins in perpetuity, or until parcel development, according to the most recent California Stormwater Quality Association guidance for extended detention basins. Typical activities include, but are not limited to:

1. Semiannual inspection for the beginning and end of the wet season for standing water, slope stability, sediment accumulation, trash and debris, and presence of burrows;
2. Removal of accumulated trash and debris in the basin as needed to ensure proper functioning of the basin; and
3. Yearly inspection of accumulated sediment volume. Accumulated sediment should be removed and the basin re-graded when the accumulated sediment volume exceeds 10 percent of the basin volume.

V. ADDITIONAL CONDITIONS: COMPENSATORY MITIGATION

A. Mitigation for permanent discharges to 0.99 acres (2450 linear feet) of non-wetland waters of the United States must be achieved as described in the *Habitat and Mitigation and Monitoring Plan for the Line D and Line D-1 (CIP#8157) Realignment Project, City of Murrieta, California*, prepared by ICF International and revised July 2011. Mitigation must include:

1. On-site (upstream parcel) establishment (creation) of 0.5 acres (367 linear feet) of mixed wetland and riparian (southern willow scrub) waters of the United States.
2. On-site establishment of 0.29 acres (605 linear feet) of non-wetland (riparian - mule fat scrub) waters of the United States.
3. On-site establishment of 0.29 acres (625 linear feet) of non-wetland (unvegetated/mule fat scrub/Riversidean sage scrub upland transition) waters of the United States.

4. Off-site procurement of 2 acres of riparian restoration (rehabilitation) ~~credits~~ (waters of the United State and/or State) within the Santa Margarita Hydrologic Unit. The proposed mitigation, including any habitat mitigation and monitoring plans, must be submitted to the San Diego Water Board for approval prior to procurement.
- B. The construction of both on-site and off site mitigation must be completed no later than 9 months following the initial discharge of dredge or fill material into on-site waters. Delays in implementing mitigation must be compensated for by an increased mitigation implementation of 10 percent of the cumulative compensatory mitigation for each month of delay.
- C. Permanent fill (rip-rap) void space must be backfilled with native soil and planted with native species for areas within the conservation easement.
- D. The City of Murrieta must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the United States/State. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species. The City of Murrieta must implement all necessary BMPs to control erosion and runoff from areas associated with this project.
- E. The City of Murrieta must salvage leaf litter, coarse woody debris, and upper soil horizons from impacted jurisdictional water sites that are relatively free of invasive exotic species for use in on-site mitigation areas.
- F. The City of Murrieta must also salvage large cuttings from appropriate tree species if they exist at the impact site and use them as pole plantings at the mitigation site.
- G. The onsite mitigation ~~areassite~~ must be designed, constructed, and maintained to meet the following conditions:
 1. Most of the channel through the mitigation site is characterized by equilibrium conditions, with no evidence of severe aggradation or degradation;
 2. As viewed along cross-sections, the channel and buffer have a variety of slopes, or elevations, that are characterized by different moisture gradients. Each sub-slope contains physical patch types or features that contribute to irregularity in height, edges, or surface and to complex topography overall; and
 3. The mitigation site has a well-developed plant community characterized by a high degree of horizontal and vertical interspersion

among plant zones and layers, as appropriate for the habitat type and consistent with the success criteria in the HMMP.

- H. Mitigation shall be considered acceptable once it has met the pre-determined success criteria for that site, and shall be maintained, in perpetuity, in a manner that consistently meets the final success criteria identified.
- I. Throughout the mitigation monitoring program mitigation areas must be maintained free of perennial exotic plant species including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the on-site or off-site mitigation areas.
- J. The San Diego Water Board acceptance of the final mitigation plan must not be construed as approval of the mitigation site or plan for use by other current or future projects that are planning to use additional acreage at the site for mitigation.
- K. Any maintenance activities that do not contribute to the success of the mitigation site and enhancement of beneficial uses and ecological functions and services are prohibited. Maintenance activities are limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species and remedial measures deemed necessary for the success of the restoration program.
- L. If at any time during the implementation and establishment of the mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, the City of Murrieta is responsible for repair and replanting of the damaged area(s).
- ~~M. For the purpose of determining mitigation credit for the removal of exotic/invasive plant species, only the actual area occupied by exotic/invasive plant species must be quantified to comply with mitigation requirements.~~
- N.M. For purposes of this Certification, establishment is defined as the creation of vegetated or unvegetated waters of the United States/State where the resource has never previously existed (e.g. conversion of nonnative grassland to a freshwater marsh). Restoration is divided into two activities, re-establishment and rehabilitation. Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the United States/State previously existed (e.g., removal of fill material to restore a drainage). Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated

or unvegetated waters of the United States/State (e.g., removal of a heavy infestation or monoculture of exotic plant species from jurisdictional areas and replacing with native species). Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the United States/State (e.g., removal of small patches of exotic plant species from an area containing predominantly natural plant species). Preservation is defined as the acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the United States/State (e.g., conservation easement).

VI. MONITORING REQUIREMENTS:

- A. Monitoring of the mitigation site must utilize a quantitative function-based assessment to establish baseline conditions (i.e. conditions prior to project impacts), set success criteria, and assess mitigation site progress. The California Rapid Assessment Method (CRAM) must be utilized.

VII. NOTIFICATION REQUIREMENTS:

- A. The City of Murrieta must report to the San Diego Water Board any noncompliance which may endanger human health or the environment. Any information shall be provided orally **within 24 hours** from the time the City of Murrieta becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the City of Murrieta becomes aware of the circumstances. The written submission shall contain a written description of the incident and its cause, the period of the 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 reoccurrence of the noncompliance. The San Diego Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours.
- B. This Certification is not transferable in its entirety or in part to any person except after notice to the San Diego Water Board in accordance with the following terms:
 1. Transfer of Property Ownership: The City of Murrieta must notify the San Diego Water Board of any change in ownership of the project area. Notification of change in ownership must include, but not be limited to, a statement that the City of Murrieta has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to

liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the Executive Officer of the San Diego Water Board **within 10 days of the transfer of ownership.**

2. **Transfer of Mitigation Responsibility:** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in Section V and VII of this Certification must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13385, subdivision (a). *Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board **within 10 days of the transfer date.***
3. **Transfer of Post-Construction BMP Maintenance Responsibility:** The City of Murrieta assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred the City of Murrieta must submit to the San Diego Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board **within 10 days of the transfer date.**

Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the City of Murrieta will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the City of Murrieta of this Certification in the event that a transferee fails to comply.

- C. The City of Murrieta must notify the San Diego Water Board in writing at **least 5 days prior** to the actual commencement of dredge, fill, and discharge activities.
- D. **Within 9 months from the start of construction**, the City of Murrieta must provide the San Diego Water Board with verification that 2.0 acres of restoration ~~credits~~ have been purchased (see Section V.A.4).

- E. **Within 6 months of the start of construction**, the City of Murrieta must provide the San Diego Water Board a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. **Within one year of the start of construction**, the City of Murrieta must submit proof of a completed preservation mechanism that will protect all mitigation areas and their buffers in perpetuity. Construction of the site must not be initiated until a draft preservation mechanism is received. The conservation easement, deed restriction, or other legal limitation on the mitigation property must be adequate to demonstrate that the site will be maintained without future development or encroachment on the site which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the United States that it supports. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the site. The preservation mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.

VIII. REPORTING REQUIREMENTS:

- A. The City of Murrieta must submit annual progress reports describing status of compliance with all requirements of this Certification to the San Diego Water Board prior to **August 1** of each year following the issuance of this Certification until the project has reached completion. The City of Murrieta must submit a Final Project Annual Report to the San Diego Water Board **prior to August 1 following completion of the project**. The reports must include the following:
1. Date of construction initiation.
 2. Projected date of construction completion.
 3. Status of BMPs for the project.
 4. Final Project Report: As-built drawings no bigger than 11"X17."
- B. Mitigation monitoring reports must be submitted annually until mitigation has been deemed successful. Annual monitoring reports must be submitted **prior to December 1 of each year**. Monitoring reports must include, but not be limited to, the following:

1. Names, qualifications, and affiliations of the persons contributing to the report;
 2. Date of initiation of mitigation installation and date mitigation installation was completed.
 3. Mitigation as-builts, including topography maps and planting locations.
 4. Tables presenting the raw data collected in the field as well as analyses of the physical and biological data;
 5. Topographic complexity characteristics at each mitigation site;
 6. Upstream and downstream habitat and hydrologic connectivity;
 7. Source of hydrology;
 8. Width of native vegetation buffer around the entire mitigation site;
 9. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results. CRAM must be utilized as outlined in the *Habitat and Mitigation and Monitoring Plan for the Line D and Line D-1 (CIP#8157) Realignment Project, City of Murrieta, California*, prepared by ICF International and revised July 2011.
 10. Stream Photodocumentation, including all areas of permanent and temporary impact, prior to and after project construction, and mitigation areas, including all areas of permanent and temporary impact, prior to and after project construction. Photo documentation must be conducted in accordance with guidelines posted at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/StreamPhotoDocSOP.pdf. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced.
 11. A Survey report documenting boundaries of mitigation area, including Geographic Information System (GIS) shape files (polygons) of the impact and mitigation areas (Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points). GIS metadata must also be submitted.
- C. ~~If performance criteria are not achieved at the end of the fifth year, the applicants will consult with the San Diego Water Board to determine whether the mitigation effort is acceptable. If performance criteria are not~~

achieved and the San Diego Water Board has not deemed the mitigation effort acceptable, the applicants will prepare a contingency plan that evaluates the causes of the deficiency and propose remedial actions to address the shortfall. The contingency plan may recommend such actions as modifications to the existing mitigation habitats, creation of new habitat on or off site, payment of in-lieu fees, or additional mitigation credits purchased from a mitigation bank. Any contingency actions will be determined in coordination with the San Diego Water Board.
 the event that the proposed mitigation does not obtain the 3rd-year success criteria milestones for mitigation as presented in *Habitat and Mitigation and Monitoring Plan for the Line D and Line D-1 (CIP#8157) Realignment Project, City of Murrieta, California*, prepared by ICF International and revised July 2011, the applicants must provide the San Diego Water Board with a technical report detailing the actions that will be taken to bring the mitigation up to the success criteria. This report must also provide an evaluation of alternative mitigation opportunities within the Santa Margarita hydrologic unit that will be utilized for additional mitigation if portions of the required mitigation are unsuccessful after five years.

C. In the event that the proposed mitigation does not obtain the 4th year success criteria milestones for mitigation, the applicants must provide the San Diego Water Board with a technical report detailing the actions that will be taken to bring the mitigation up to the success criteria, and a conceptual mitigation plan for an alternative mitigation site within the Santa Margarita hydrologic unit that will be utilized for additional mitigation, if portions of the required mitigation are unsuccessful after five years. The mitigation plan must mitigate for any portion of the mitigation that does not meet final success criteria, at a ratio of 2:1.

D. In the event that the proposed mitigation does not obtain full success with the 5th year success criteria the applicants must finalize the conceptual mitigation plan and submit the plan to the San Diego Water Board within 30 days of the 5th-year monitoring report period. No later than 90 days following San Diego Water Board acceptance of the final mitigation plan, or 30 days after San Diego Water Board receipt of the plan, the applicants must begin implementation of the final mitigation plan.

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E.D. The submittal of information under this Certification is required pursuant to California Water Code (CWC) sections 13267 and 13283. Civil liability may be administratively imposed by the San Diego Water Board for failure to submit required information pursuant to CWC section 13268 or 13385.

F.E. All reports and information submitted to the San Diego Water Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.

G.F. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

1. For a corporation, by a responsible corporate officer of at least the level of vice president.
2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
4. A duly authorized representative may sign applications, reports, or information if:
 - a. The authorization is made in writing by a person described above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the San Diego Water Board Executive Officer.

H.G. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

H.H. The City of Murrieta must submit reports required under this Certification, or other information required by the San Diego Water Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region

Attn: 401 Certification; Project No. 11C-030
9174 Sky Park Court, Suite 100
San Diego, California 92123

VIII. CEQA FINDINGS:

- A. The City of Murrieta is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)), and filed a Notice of Determination on December 22, 2009, for a Mitigated Negative Declaration under CEQA Guidelines Title 14, California Code of Regulations. The City of Murrieta has determined the project will not have a significant effect on the environment and mitigation measures were made a condition of the project.
- B. The San Diego Water Board has reviewed the lead agency's Mitigated Negative Declaration and also finds that the project as proposed will not have a significant effect on the environment with conditioned mitigation measures and therefore determines that issuance of this Certification is consistent with the Mitigated Negative Declaration.

IX. PUBLIC NOTIFICATION OF PROJECT APPLICATION:

- A. On April 15, 2011, receipt of the project application was posted on the San Diego Water Board web site to serve as appropriate notification to the public. No public comments were received.

X. SAN DIEGO WATER BOARD CONTACT PERSON:

Chad Loflen
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-467-2727
cloflen@waterboards.ca.gov

XI. WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the **Line D and Line D-1 Flood Control Realignment Project** (Project No. 11C-030) 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. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges That Have Received State Water Quality Certification (General WDRs)*," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue individual waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited to, and all proposed mitigation being completed in strict compliance with, the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Water Quality Control Plan for the San Diego Basin Region (9) (Basin Plan).

DAVID W. GIBSON
Executive Officer
Regional Water Quality Control Board

Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location and Site Maps
 4. Post-construction BMP Maps
 5. Mitigation Maps
 6. Checklist of Required Reports and Notifications