



# California Regional Water Quality Control Board

## San Diego Region



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January 25, 2010

Mr. Jerry Backoff  
Planning Division Director  
City of San Marcos  
1 Civic Center Drive  
San Marcos, CA 92069-2918

In reply refer to:  
372434:CMEANS

Dear Mr. Backoff:

**RE: SAN ELIJO ROAD, COUNTY DIP SEGMENT (FILE NO. 03C-067) 401 WATER QUALITY CERTIFICATION AMENDMENT NO. 1**

This letter amends mitigation requirements contained within the Clean Water Act Section 401 Water Quality Certification for the San Elijo Road, County Dip Segment Project (Certification No. 03C-067). This action is based upon materials provided on December 14, 2009 by the City of San Marcos in response to violations of the Certification alleged in Notice of Violation No. R9-2008-0083.

Changes/additions to the 401 certification are shown in bold strikeout/underline below.

### MITIGATION

- Permanent impacts to 0.29 acre of herbaceous wetland and 0.01 acre of un-vegetated ~~other~~ waters of the U.S. will be mitigated through the creation ~~of 0.86 acre of wetlands at the end of Copper Creek, upstream of an existing 4-acre wetland mitigation area. This new mitigation will constitute a continuation of the San Elijo Hills mitigation area.~~ restoration of no less than 0.34 acre of ACOE jurisdictional wetland habitat within the Copper Creek drainage upstream of the San Elijo Hills Wetland Mitigation Area. Mitigation will be conducted in accordance with the Revised Wetland Mitigation Monitoring Plan San Elijo Road, County Dip Portion, dated November 18, 2009 (prepared by Mike Klinefelter), and the original Wetland Mitigation Plan – San Elijo Road, County Dip Portion dated March 2, 2004.

*California Environmental Protection Agency*

11. The City of San Marcos shall ~~additionally submit a final mitigation plan to the Regional Water Quality Control Board prior to the start of any mitigation installation associated with the proposed project. The mitigation plan shall include, but not be limited to, planting specifications, irrigation regime, plant palette, success criteria, and a maintenance and monitoring program. This plan will be created in accordance with the specifications outlined in the 1999 San Elijo Hills Master Planned Community Wetland Mitigation Plan (prepared by Ogden Environmental), purchase 0.6 acres of ACOE wetland creation/restoration credits from the North County Habitat Bank (NCHB).~~
12. The City of San Marcos shall submit a report (including topography maps and planting locations) to the Regional Board within 90 days of completion of mitigation site preparation and planting, describing as-built status of the mitigation project. If the site grading and planting are not completed within six weeks of each other, separate reports will be submitted describing those specific as-built conditions.
13. The construction of proposed mitigation shall be completed within the same calendar year as impacts occur, or at least no later than 9 months following the close of the calendar year in which impacts first occur (e.g., if impacts occur in June 2003, construction of mitigation for all impacts must be completed no later than September 2004).
14. Within 120 days of the issuance of Amendment No. 1, the City of San Marcos must provide the Regional Board a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and its associated transitional buffer zone (TBZ) in perpetuity. Within one year of the issuance of Amendment No. 1, the City of San Marcos must submit proof of a completed preservation mechanism that will protect all mitigation areas and the TBZ in perpetuity. 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 U.S. 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.

- 15.** Mitigation monitoring reports shall be submitted annually until mitigation has been deemed successful. Monitoring reports shall be submitted no later than 30 days following the end of the monitoring period. Monitoring reports shall include, but not be limited to, the following:
- a. Names, qualifications, and affiliations of the persons contributing to the report;
  - b. Tables presenting the raw data collected in the field as well as analyses of the physical and biological data;
  - c. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;
  - d. Photo-documentation from established reference points; and
  - e. Other items specified in the ~~draft and final~~ **Revised Wetland and Riparian**—Mitigation and Monitoring Plan.

#### **POST CONSTRUCTION STORMWATER MANAGEMENT**

- 16.** All curb inlets shall be equipped with a Suntree Technologies catch basin insert baskets outfitted with storm boom hydrocarbon absorption devices. The inlet filters shall be installed and maintained per the manufacturer's specifications. The number and location of filters installed will be in accordance with Appendix B of the November 20, 2003, *Water Quality Technical Report, San Elijo Roadway Improvements* (prepared by Hale Engineering).
- 17.** All storm drain inlet structures within the project boundaries shall be stamped and/or stenciled with appropriate prohibitive language.
- 18.** The City of San Marcos will be responsible for the maintenance of the entire storm drain system related to this project, including the post construction structural treatment systems.
- 19.** Prior to completion of construction of the San Elijo County Dip Project, the City of San Marcos shall submit a report to the RWQCB outlining the maintenance requirements, and mechanisms that will be implemented to ensure that the post construction BMPs will be maintained throughout the life of the project. The report will outline the responsible party for the maintenance of the structural treatment BMPs, and the funding mechanism to ensure adequate maintenance.

**STREAM PHOTO DOCUMENTATION PROCEDURE**

- 20. The City of San Marcos and its successors, must conduct photo documentation of the mitigation site. Photo documentation must be conducted in accordance with the State Water Resources Control Board Standard Operating Procedure 4.2.1.4: Stream Photo Documentation Procedure, included as Attachment Number 1. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced. The City of San Marcos must submit this information in a photo documentation report to the Regional Board with the Mitigation Maintenance and Monitoring reports. The report must include a compact disc that contains digital files of all the photos (jpeg file type or similar).**

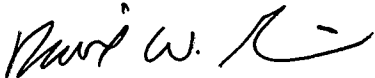
**GEOGRAPHIC INFORMATION SYSTEM REPORTING**

- 21. The City of San Marcos must submit Geographic Information System (GIS) shape files of the mitigation areas within 90 days of issuance of Amendment No. 1. All mitigation areas shapefiles must be polygons. 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.**

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions regarding this letter, please contact Christopher Means at 858-637-5581 or cmeans@waterboards.ca.gov.

Respectfully,



David W. Gibson  
Executive Officer

Mr. Jerry Backoff

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January 25, 2010

Enclosure: Attachment 1, Stream Photo Documentation Procedures

CC (by email without enclosure):

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