



# California Regional Water Quality Control Board

## San Diego Region



ton H. Hickox  
Secretary for  
Environmental  
Protection

Post-it* Fax Note	7671	Date	2/5/02	# of pages	4
To	Mike Mezzy	From	Scott B		
Co./Dept	City ECP	Co.	Dudek		
Phone #		Phone #			
Fax #	619-533-3071	Fax #	760-632-8710		

**RECEIVED**

FEB - 1 2002

**DUDEK & ASSOC.**

Gray Davis  
Governor

January 31, 2002

Mr. Frank Belock, Jr., Director  
City of San Diego, Engineering and Capital Projects  
1010 Second Avenue, 12<sup>th</sup> Floor  
San Diego, CA 92101-3869

File No. 99C-014  
Please refer to this file  
number in all correspondence

**SUBJECT: AMENDMENT FOR THE MIDDLE SEGMENT OF STATE ROUTE 56 (SR-56), CITY OF SAN DIEGO, SAN DIEGO COUNTY PROJECT 401 WATER QUALITY CERTIFICATION WAIVER, (FILE NO. 99C-014)**

Dear Mr. Belock:

As you know, in September 1999, the Regional Water Quality Control Board (Regional Board) issued Water Quality Certification waiver (File No. 99C-014) to the City of San Diego for the State Route 56 (SR-56) project. We understand that the City of San Diego has decided to abandon the original Upper and Lower McGonigle Canyon mitigation plan, and desire to include the entire mitigation site for the SR-56 project impacts in a different mitigation project proposed at El Cuervo Norte in Lbs Peasquitos Canyon. On January 9, 2002, staff of the Regional Board met with the representatives from the California Department of Fish & Game, Army Corps of Engineers, and U.S. Fish & Wildlife Service at the site. All the agency representatives agreed with the alternative mitigation plan. Consequently, the Regional Board is amending the Water Quality Certification No. 99C-014 by adding the following Special Conditions for this project:

1. The City of San Diego shall delay the timing of implementation of the El Cuervo Norte Mitigation Project for one year (i.e. to be started after March 2003). This delay is necessary to allow vegetative cover and habitat structure on the El Cuervo mitigation site (currently an ongoing upstream mitigation project) to mature and improve in accordance with the success criteria for that project. The delay would also minimize risks of a large-scale erosion in the lower Los Peñasquitos Canyon and consequently would protect downstream water quality. If significant problems such as mass erosion should become prominent on the El Cuervo mitigation site, an adaptive management process must be conducted prior to implementation of the proposed El Cuervo Norte Mitigation Project. Please note that the term "significant erosion" applies to a no net increase in sediment level in the Los Peñasquitos Creek.
2. The City of San Diego shall design and implement a water quality-monitoring program. A workplan describing the program implementation shall be submitted for our review and approval by April 1, 2002. The water quality program should evaluate the level of sediment in water and compare it with the current background level detected in the El Cuervo Norte portion of the creek. This shall include, at a minimum, sample locations, methodology, and

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrqcb.ca.gov>.



City of San Diego SR-56 Project

- 2 -

January 31, 2002

- periodicity of sample events. Sampling must assess pre-and post-construction conditions, as well as sediment conditions during rain events until the mitigation site has met its success criteria.
3. The City of San Diego shall, at all times, fully comply with the engineering plans, specifications and technical reports submitted with this application for 401 Water Quality Certification and all subsequent submittals required as part of this certification.
  4. The City of San Diego shall comply with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.
  5. The City of San Diego shall notify the Regional Board in writing at least 10 days prior to actual start dates for grading, mitigation installation, and completion of mitigation installation.
  6. The City of San Diego 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.
  7. The City of San Diego shall notify the Regional Board of any change in ownership of the project area. Notification shall include, but not be limited to, a statement that the property owner has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands the permit requirements and shall implement them; the seller and purchaser shall sign and date the notification. Notification shall be provided within 5 days of the sale of the property.
  8. The City of San Diego shall submit mitigation monitoring reports quarterly during the first year following installation, semi-annually during the second and third years, and annually thereafter 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

City of San Diego SR-56 Project

- 3 -

January 31, 2002

- e. Other items specified in the draft and final Wetland and Riparian Mitigation and Monitoring Plan.
9. In the event the Army Corps of Engineers determines that waters of the United States in the mitigation site are isolated (e.g. vernal pools), this certification amendment is nullified and the City of San Diego would be required to submit a Report of Waste Discharge to the Regional Board, and receive Waste Discharge Requirements prior to project implementation.
10. In the event of any violation or threatened violation of the conditions of this certification amendment, 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.
11. In response to a suspected violation of any condition of this certification amendment, the 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 RWQCB 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.
12. In response to any violation of the conditions of this certification, the RWQCB may add to or modify the conditions of this certification amendment as appropriate to ensure compliance.

The submitted reports shall include the following signed certification:

*I certify 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 manage the system, or those persons 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.*

City of San Diego SR-56 Project

- 4 -

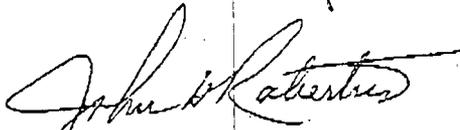
January 31, 2002

Written reports pertaining to this certification amendment should be directed to the following address :

John H. Robertus  
Executive Officer  
Attn: Mo. Lahsaie  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

Please contact Mr. Mo. Lahsaie of my staff at (858) 637-5587 if you have any questions regarding this matter.

Respectfully,



JOHN H. ROBERTUS  
Executive Officer  
Regional Water Quality Control Board

- cc: Mr. Terry Dean, Army Corps of Engineers, Regulatory Branch, San Diego Field Office
- Ms. Tamara Spear, California Department of Fish & Game
- Mr. Bill Ostheimer, U.S. Fish and Wildlife Service
- State Water Resources Control Board, Division of Water Quality
- Mike Sweesy, Dudek & Associates, Inc., Environmental Consultants