



Douglas A. Ducey  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera  
Director

## State of Arizona Clean Water Act § 401 Water Quality Certification ADEQ LTF No.: 83768

### 1. Authorization

This State Water Quality Certification (WQC) is issued by the Arizona Department of Environmental Quality (ADEQ) under the authority of § 401(a) of the Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.) and Arizona Revised Statutes (A.R.S.) § 49-202.

Subject to the conditions in Section 6, ADEQ certifies that based on the information in Section 3, the activities proposed for the Tres Rios Environmental Restoration Area Operations and Maintenance Activities will not violate applicable Surface Water Quality Standards (SWQS) in the Salt and Gila Rivers.

This Clean Water Act § 401 Water Quality Certification is valid as of the date below and expires concurrently with the U.S. Army Corps of Engineers Clean Water Act § 404 permit expiration.

### Application Information

Project Name: Tres Rios Environmental Restoration Area Operations and Maintenance Activities

Latitude/ Longitude: 33.385822 N, -112.281715 W

Applicant: City of Phoenix  
Stuart Dalbey  
5615 S. 91<sup>st</sup> Avenue  
Tolleson, Arizona 85353

### Authorizing Signature

Justin Bern  
Surface Water Protection Manager

Date

#### Main Office

1110 W. Washington Street • Phoenix, AZ 85007  
(602) 771-2300

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400 W. Congress Street • Suite 433 • Tucson, AZ 85701  
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## 2. Certified Activities

The CWA section 401 activities certified in this project include the implementation of operation and maintenance (O&M) activities for the upkeep, restoration, and enhancement of Tres Rios. Approximately 96-acres of wetland habitat, 35-acres of open water, and 31-acres of other waters in the project area will be permanently impacted during the timeframe of this certification. These activities will aid in the ongoing rehabilitation and restoration of wetlands and riparian habitat at the Tres Rios Overbank Wetlands (OBW) and at City-owned parcels between 91st Avenue and El Mirage Road within the Salt and Gila Rivers. The activities required for O&M within waters of the U.S. at Tres Rios are listed below.

### Infrastructure Management

- Repair and restoration of ecosystem structures
- Erosion control/repair and sediment removal
- Repair and replacement of hydraulic control structures
- Maintenance of flood and drip irrigation systems
- Maintenance of access roads and trails
- Maintenance of electrical, security and communications systems

### Vegetative Management and Removal

- Mechanical removal of problematic vegetation;
- Prescribed burns;
- Water level manipulation;
- Chemical control using pesticides;
- Removal of woody debris
- Native Species Plantings/Seeding
- Improvements to Soil Salinity and Quality

### Wildlife Management

- Animal control
- Mosquito control

### Recreational Use

- Maintenance of recreational features
- Trash/garbage clean-up
- Public access control

Large construction equipment (e.g., front-end loaders, backhoes, Mobitrac, excavators, etc.) may be used for the purposes of any of the O&M activities shown above.

## 3. Information Reviewed

During the development of this WQC, ADEQ had access to and reviewed the following documents that are on file with ADEQ:

- A. U.S. Army Corps of Engineers (USACE) Public Notice of Application for Permit, Comment Period May 20 – June 20, 2020; Project Manager: Therese Carpenter.
- B. CWA §401 WQC application package including the U.S. Army Corps of Engineers Application (Eng. Form 4345) with project descriptions and maps, dated and received by ADEQ on July 22, 2020; Permittee: Stuart Dalbey, City of Phoenix, 91<sup>st</sup> Avenue WWTP.
- C. State of Arizona Surface Water Quality Standards (SWQS), Arizona Administrative Code (A.A.C.) Title 18, Chapter 11, Article 1. Designated uses for the Salt and Gila Rivers are:
  - Aquatic and Wildlife Effluent Dependent (A&Wedw);
  - Partial Body Contact (PBC);
  - Fish Consumption (FC);
  - Agricultural Livestock (AgL); and
  - Agriculture Irrigation (AgI).

#### 4. Notification Provisions

For any correspondence regarding this project, the ADEQ mailing address is:  
Arizona Department of Environmental Quality  
Rosi Sherrill  
Surface Water Permits - § 401 WQCs  
1110 West Washington Street  
Phoenix, Arizona 85007

For questions or general comments:  
Email: [sherrill.laurie@azdeq.gov](mailto:sherrill.laurie@azdeq.gov)

Voice: (602) 771-4409

In any correspondence, please reference:  
Tres Rios Environmental Restoration Area Operations and Maintenance Activities  
USACE File No.: SPL-2019-00741  
ADEQ LTF No.: 83768

#### 5. Definitions

- This WQC applies only to activities within the ordinary high water mark (OHWM) of a water of the U.S. (WOTUS), as defined by the USACE and U.S. Environmental Protection Agency (EPA) under the Clean Water Act.
- Fill material means soil, sand, gravel and other natural materials that are similar in physical, chemical and biological composition to existing natural materials in the project area and which are free from pollutants in quantities and concentrations that can cause or contribute to an exceedance of applicable Surface Water Quality Standards (SWQS).

## **6. Conditions for the Arizona CWA § 401 Water Quality Certification**

1. ADEQ's § 401 WQC of the activities proposed by the applicable USACE permit, does not affect or modify, in any way, the obligations or liability of any person for any damages, injury, or loss, resulting from these activities. This WQC does not waive any other federal, state or local laws.
2. If monitoring, by ADEQ or others, indicates that a discharge from the certified activities results in a violation of Arizona's Surface Water Quality Standards (SWQS), numeric or narrative, ADEQ may file a Report of Potential Unauthorized Activity with the USACE, requesting an investigation of the situation.
3. Issuance of a § 401 WQC does not imply or suggest that requirements for other permits including, but not limited to Aquifer Protection Permits, Arizona Pollutant Discharge Elimination System Permits, Construction General Permits, De Minimis Permits and Reclaimed Water permits are met or superseded.
4. The applicant shall provide a copy of this WQC to all appropriate contractors and subcontractors. The applicant shall also post and maintain a legible copy of this WQC in a weather-resistant location on site, where it may be seen by City staff and associated contract workers.
5. The applicant is responsible to ensure that certified activities do not cause or contribute to any exceedances of applicable SWQS in any WOTUS.
6. This WQC does not authorize the discharge of mining, construction or demolition wastes, wastewater, process residues or other potential pollutants to any WOTUS except as specified in the application, supporting documents, and/or in the USACE permit.
7. The effectiveness of all pollution control measures, including erosion and sediment control measures, shall be inspected, maintained and modified (as necessary) to reduce pollutants and ensure compliance with applicable SWQS in any WOTUS.
8. Direct runoff of water used for irrigation or dust control shall be limited to the extent practicable and shall not cause downstream erosion or flooding, nor cause an exceedance of applicable SWQS in any WOTUS.
9. Any disturbance within the ordinary high water mark of a WOTUS that is not intended to be permanently altered shall be stabilized to prevent erosion and sedimentation.
10. Applicant will take measures necessary to prevent approaches to any WOTUS crossing from causing erosion or contributing sediment to any WOTUS.
11. When flow in any WOTUS in the work area is sufficient to erode, carry or deposit material, activities certified herein shall cease until:
  - The flow decreases below the point where sediment movement ceases; or
  - Control measures have been undertaken: equipment and materials easily transported by flow are protected with non-erodible barriers or moved outside the flow area.

12. Silt laden or turbid water resulting from activities certified herein shall be managed in a manner to reduce sediment load prior to discharging so as not to exceed applicable SWQS in any WOTUS.
13. Any washing or dewatering of fill material must occur outside of any WOTUS prior to placement and the rinsate from such washing shall be settled, filtered or otherwise treated to prevent migration of pollutants (including sediment) or from causing erosion to any WOTUS. Other than replacement of native fill or material used to support vegetation rooting or growth, fill placed in locations subject to scour must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation, or other armoring.
14. If activities certified herein are likely to cause or contribute to an exceedance of applicable SWQS in any WOTUS, operations shall cease until the problem is resolved or until control measures have been implemented.
15. Except as approved in the USACE permit, construction material and/or fill (other than native fill or that necessary to support re-vegetation) placed in any WOTUS, shall not include pollutants in concentrations that will cause or contribute to an exceedance of an applicable SWQS in any WOTUS.

Acceptable construction materials that will or may contact water in any WOTUS are untreated logs and lumber; natural stone (crushed or not), crushed clean concrete (recycled concrete); native fill; precast, sprayed or cast-in-place concrete (including soil cement and unmodified grouts); steel (including galvanized); plastic and aluminum. Use of other materials may be allowed, but require prior written approval from ADEQ.

16. The applicant will erect any barriers, covers, shields and other protective devices as necessary to prevent any contaminants or pollutants from falling, being thrown or otherwise entering any WOTUS.
17. Area(s) must be designated outside of any WOTUS for fuel, oil and other petroleum product storage and for solid waste containment. All precautions shall be taken to avoid the release of wastes, fuel or other pollutants to any WOTUS.

Any equipment maintenance, washing or fueling that cannot be done offsite will be performed in the designated area with the following exception: equipment too large or unwieldy to be readily moved, such as large cranes, may be fueled and serviced in the WOTUS (but outside of standing or flowing water) as long as material specifically manufactured and sold as spill containment is in place during fueling/servicing. All equipment shall be inspected for leaks, all leaks shall be repaired and all repaired equipment will be cleaned to remove any fuel or other fluid residue prior to use within (including crossing) any WOTUS.

18. Upon completion of the activities certified herein, areas within any WOTUS shall be promptly cleared of all forms, piling, construction residues, equipment, debris or other obstructions.

19. If fully, partially, or occasionally submerged structures are constructed of cast-in-place concrete instead of pre-cast concrete, applicant will take steps using sheet piling or temporary dams to prevent contact between water (instream and runoff) and the concrete until it cures and until any curing agents have evaporated or are no longer a pollutant threat.
20. Washout of concrete handling equipment must not take place within any WOTUS and any washout runoff shall be prevented from entering any WOTUS.
21. Any permanent WOTUS crossings (other than fords) shall not be equipped with gutters, drains, scuppers or other conveyances that allow untreated runoff (due to events equal to or lesser in magnitude than the design event for the crossing structure) to directly enter a WOTUS if such runoff can be directed to a local stormwater drainage, containment and/or treatment system.
22. Permanent and temporary pipes and culvert crossings shall be adequately sized to handle expected flow and properly set with end section, splash pads, headwalls or other structures that dissipate water energy to control erosion.
23. Debris will be cleared as needed from culverts, ditches, dips and other drainage structures in any WOTUS to prevent clogging or conditions that may lead to washout.
24. All temporary structures (structures that will not remain in place at the end of the project) constructed of imported materials and all permanent structures, including but not limited to, access roadways, culvert crossings, staging areas, material stockpiles, berms, dikes and pads, shall be constructed so as to accommodate overtopping and resist washout by streamflow.
25. Any temporary crossing, other than fords on native material, shall be constructed in such a manner to provide armoring of the stream channel. Materials used to provide this armoring shall not include anything easily transportable by flow. Examples of acceptable materials include steel plates, untreated wooden planks, pre-cast concrete planks or blocks; examples of unacceptable materials include clay, silt, sand and gravel finer than cobble (roughly fist-sized). All armoring of the stream channel must resist washout.
26. Other than fords on native materials, no vehicles or equipment shall ford any unarmored WOTUS crossing when flow is present.
27. Any ford, other than fords on native material, shall be designed, and maintained as necessary, to carry the proposed traffic without causing erosion or sedimentation of the stream channel while dry or during a flow event equal to or less than the design event for the crossing.
28. Temporary structures constructed of imported materials are to be removed upon completion of the permitted activity.
29. Temporary structures constructed of native materials, if they provide an obstacle to flow, or can contribute to or cause erosion, or cause changes in sediment load, are to be removed no later than upon completion of the permitted activity.