



# California Regional Water Quality Control Board

## Santa Ana Region



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Arnold Schwarzenegger  
Governor

October 13, 2010

Naresh P. Varma  
San Bernardino County  
Flood Control District  
825 E Third Street, Room 201  
San Bernardino, CA 92415

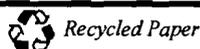
**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE PLUNGE CREEK SPILLWAY REPAIR PROJECT, CITY  
OF HIGHLAND, COUNTY OF SAN BERNARDINO, CALIFORNIA (ACOE  
REFERENCE NOT AVAILABLE )(SARWQCB PROJECT NO. 362010-09)**

Dear Mr. Varma:

On June 25, 2010, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from San Bernardino County Flood Control District Department for the repair of a damaged section of Plunge Creek spillway, located on the downstream side of Orange Street in the City of Highland. Upstream from this location, Plunge Creek is a naturalized, meandering channel with a training revetment along its southern bank to direct flows to the Orange Street bridge over the creek. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

**Project Description:** Excavate the lower portion of the existing spillway to a depth of 8 feet and a radius of 250 feet around the base of the spillway, to determine the location of the existing damaged structure. Construction activities will include cutoff walls, replace a lower invert section, complete invert repair and overlay, construct spillway walls, construct stilling basin rock pad, construct rock slope protection, and construct reinforced concrete wing walls. The work will take place within Section 3 of Township 1 South, Range 3 West, of the U.S. Geological Survey *San Bernardino Base Meridian*, 7.5-minute topographic quadrangle map (34° 6' 10.37" N/ 117° 10' 59.88" W).

***California Environmental Protection Agency***



Receiving water: Plunge Creek, tributary to the Santa Ana River

Fill area: 0.18 acres of permanent impact to a streambed habitat (425 linear feet), 1.07 acres of temporary impact to a streambed habitat (460 linear feet)

Dredge/Fill volume: None

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 3

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

#### Onsite Water Quality Standards Mitigation Proposed:

- Restoration of upland habitat from temporary access road construction.
- Permanently impacted areas of sandy river wash habitat will be allowed to passively revegetate.
- Post Construction monitoring and non-native plant control will be conducted in passive revegetated areas of sandy river wash habitat.
- Best Management Practices ("BMPs") will be specified in the project Storm Water Pollution Prevention Plan ("SWPPP").

#### Offsite Water Quality Standards Mitigation Proposed

- None

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2010-0036 (NPDES Permit No. CAS618036), commonly known as the San Bernardino County Municipal Storm Water Permit, and subsequent iterations thereof. Order No. R8-2010-0036 requires that you substantially comply with the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, including the preparation of a SWPPP.



The proposed project is subject to a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act.

Pursuant to the California Environmental Quality Act (CEQA), the San Bernardino County Flood Control District filed a CEQA Guidelines Sections 15301(e), (d) and 15302 (c) Categorical Exemption in June 2010, which declares that the project consists of the reconstruction of existing facilities where the new facilities will be located on the same site as the facilities replaced and will have substantially the same purpose and capacity as the facilities replaced. The proposed project involves negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed project includes routine operations, repair, maintenance and minor alterations to public structures and facilities and will not expand the existing structures beyond their original design capacity. The Regional Board has independently reviewed the project and concludes that it is categorically exempt pursuant to CEQA Guidelines section 15301 because the project is for repair and maintenance of an existing facility that involves negligible or no expansion of its existing use, and categorically exempt pursuant to section 15302 because the project is for reconstruction of an existing facility.

**This 401 Certification is contingent upon the execution of the following conditions:**

- 1) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) Mitigation shall be conducted as proposed. Post-construction monitoring and non-native plant control within the areas of temporary and of permanent impact shall be conducted annually for a period of not less than five (5) years.
- 3) All materials generated from construction activities associated with this project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified.
- 4) The project proponent shall utilize Best Management Practices during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.
- 5) Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.

- 6) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification 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. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401.

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 (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at: [www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo\\_2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf)

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jason Lambert  
Department of Fish and Game – Michael Flores  
State Water Resources Control Board, Office of Chief Counsel – David Rice  
State Water Resources Control Board DWQ – Water Quality Certification Unit  
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

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