

Santa Ana Regional Water Quality Control Board

November 19, 2012

Nardy Khan
Orange County Public Works
300 N. Flower Street, 7th Floor
Santa Ana, CA 92702-4048

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE EDINGER AVE WIDENING OVER THE SANTA ANA RIVER PROJECT, COUNTY OF ORANGE, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 302012-24)

Dear Ms. Khan:

On June 15, 2011, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Orange County Public Works for a project to widen the Edinger Avenue bridge, which crosses the Santa Ana River (SAR) in the city of Santa Ana. The subject project proposes to widen the bridge from its current width of 52 feet to 104 feet, in order to accommodate traffic lanes, sidewalks, and bicycle lanes. 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: In preparation for the bridge's widening, pier debris noses within the SAR channel will first be removed with demolition equipment. A pile driver will next be used to install piles into the floor of the channel, to make way to extend pier walls. Excavation into the floor of the channel will be needed to construct footings to support the extended pier walls. Other excavation will take place behind existing abutments, using backhoe, bobcat, and dump trucks in order to widen the bridge. Construction of footing/pier wall extensions, abutment extensions, girders, and decks for new bridge section will be done using concrete pump trucks with hose. Hand crews and concrete ready-mix trucks will construct new driveway approaches, curbs, gutters, and sidewalks and asphalt paving machines will install new asphalt and concrete pavement on the widened road bed.

Associated construction activities will include widening Edinger Avenue as it transitions between the bridge and the existing roadway. Approximately 500 feet of Edinger Avenue would be widened 84 feet to the west and 78 feet to the east of the existing bridge. The hedgerows on the south side of the Edinger Avenue will be removed to the roots, in order to construct concrete sidewalks. Excavation would also take place along the upland areas of Edinger Avenue, to install retaining walls and privacy walls. The work will take place in the city of Santa Ana, within Section 22 of Township 5 South, Range 10 West, of the U.S. Geological Survey *Newport Beach* quadrangle map (33° 43' 38.70" N/ -117° 54' 54.88" W).

Receiving water: Santa Ana River

Fill area: 0.02 acre of permanent impact to streambed habitat (58 linear feet), 0.08 acre of temporary impact to streambed habitat (0 linear feet)

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 14

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:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.
- Permanent storm water quality BMPs will be installed as specified in the project's water quality management plan.

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. R8-2009-0030 (NPDES Permit No. CAS618030), commonly

known as the Orange County Municipal Storm Water Permit, and subsequent iterations thereof. Order No. R8-2009-0030 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.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR or Mitigated Negative Declaration (MND) prepared by the lead agency in determining whether to approve a Section 401 Certification. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

On September 11, 2012, a Notice of Determination for an MND was adopted by the Orange County Department of Public Works/Orange County Planning for the subject project. The project's MND was recorded by the County of Orange's County Clerk on September 13, 2012. The Regional Board has considered the County's MND in the issuance of this Certification. The Regional Board independently finds that changes or alterations have been required, or incorporated into the proposed project, which avoid or mitigate impacts to water quality to a less than significant level.

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) Proposed mitigation shall be timely implemented. Materials documenting the purchase of necessary mitigation credits shall be provided to this office prior to the discharge of fill to, or the dredging or excavation of material from, waters of the state.
- 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 BMPs 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.
- 7) This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
- 8) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work as a denoted element of any project SWPPP or WQMP.
- 9) Applicant shall ensure all procedures and policies specified within the project's WQMP, shall adequately address any hydraulic conditions of concern generated during and as a result of this project.
- 10) Impacts to surface water quality may occur during possible dewatering activities. Because the bridge widening requires piers and abutments to be driven between 60 and 80 feet bgs, it is anticipated groundwater will be encountered. Dewatering may be required to construct below grade elements of the bridge. Any below-grade structures shall be sealed to be impermeable to possible surrounding groundwater inundation. Wastewater generated as a part of dewatering shall be discharged to the sanitary sewer for treatment at a wastewater treatment plant, if possible.
- 11) Construction dewatering discharges, including temporary stream diversions necessary for project construction may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at www.waterboards.ca.gov/santaana/

Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities.

Under the 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/wqo2003-0017.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
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

RBF Consulting—Richard Beck, RBeck@rbf.com
U.S. Army Corps of Engineers, Los Angeles Office—Stephen Estes
State Water Resources Control Board, OCC—David Rice
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State Water Resources Control Board, DWQ—Water Quality Certification Unit—Bill Orme