



# California Regional Water Quality Control Board

## Santa Ana Region



**Matthew Rodriguez**  
*Secretary for  
Environmental Protection*

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**Edmund G. Brown Jr.**  
*Governor*

October 9, 2012

Daniel Bott  
Orange County Water District  
18700 Ward Street  
Fountain Valley, CA 92708

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR PRADO CONSTRUCTED WETLANDS LONG TERM  
MAINTENANCE, NEAR CITY OF CORONA, COUNTY OF RIVERSIDE, CALIFORNIA  
(OUR FILE NO. 30-2011-12)**

Dear Mr. Bott:

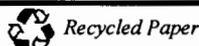
On April 25, 2011 you submitted an application for Clean Water Act Section 401 water quality standards certification (401 Certification) for the Orange County Water District's Prado Constructed Wetlands Long Term Maintenance Project. Included with the application was the following:

- Documentation showing that an application for a California Department of Fish and Game (CDFG) Lake or Streambed Alteration Agreement for the project has been submitted;
- \$640 as a flat fee<sup>1</sup> required to process this 401 Certification, as specified by California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3) and which is summarized on the State Water Resources Control Board (SWRCB) Dredge and Fill Fee Calculator;
- A copy of the California Environmental Quality Act (CEQA) Notice of Exemption filed for the project; and
- A copy of the Application for Department of the Army Permit for the project, submitted to the United State Army Corps of Engineers (USACE) in compliance with Clean Water Act Section 404 (404 Permit).

In early September 2011 we received a copy of the final CDFG Streambed Alteration Agreement that had been completed for the proposed project. In addition, on August 1, 2012 we received a copy of the Biological Opinion issued by the United States Fish and

<sup>1</sup> It was determined that the proposed project meets the specifications of a restoration project as described on the SWRCB's Dredge and Fill Calculator for a \$640 fee (as of April 25, 2011, the date the application was submitted) is required.

***California Environmental Protection Agency***



Wildlife Service (USFWS) specifying actions to be taken to reduce the possible impacts that the project may have on listed species (i.e., least Bell's vireo {*Vireo belli pusillus*} and Santa Ana Sucker {*Catostomus santaanae*}) and their critical habitat in the project area.

This letter responds to your request for certification, pursuant to Clean Water Act Section 401, that the proposed project, described 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 amendments.

1. Project description:

The proposed project entails the ongoing maintenance activities necessary for the long-term operation of the Prado Constructed Wetlands (PCW). The PCW were constructed in 1996 to serve as a natural water treatment facility to reduce nitrate concentrations in the Santa Ana River. When in full operation, the PCW consists of an approximately 465-acre area with 46 individual man-made ponds, 45 weir boxes, conveyance channels, and a series of intervening dikes and maintenance roads. This project is separate from the activities that are proposed to restore the wetlands that were damaged during flooding in 2010 and is being completed under previously issued State<sup>2</sup> and Federal permits.

Proposed maintenance activities include:

Wetland Ponds

Once a year, 1/3 of the wetland ponds will be drained and silt, sand and vegetation will be removed to maintain the productivity of the wetland ponds. As a result, 2/3 of the ponds will be in operation at all times. The material will be removed from the wetland ponds with earth movers, bulldozers, front-end loaders or similar equipment. The excavated material will be stored onsite and used to rebuild pond levees and access roads when needed. The volume of material removed from the ponds typically will not exceed 10,000 cubic yards of material per year.

Diversion Berm

The diversion berm will be reconstructed across the Santa Ana River as needed to divert up to 1/2 of the river's low flow into the PCW. When constructed, the berm will be approximately 45 feet in width, 200 feet in length and 6 feet to 10 feet in height. Because the berm is washed away during high flows, it generally requires reconstruction up to six times per year. The materials used to repair and/or reconstruct the diversion berm will be obtained only from the Santa Ana River at the diversion berm site. It will be necessary to excavate approximately 30,000 cubic yards of sediment from the River annually to repair and/or reconstruct the diversion berm.

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<sup>2</sup> 401 Certification file number 332005-51

### Diversion/Conveyance Channels

The PCW contains a series of diversion and conveyance channels that convey surface water flows to the wetland ponds. Periodically the levees along the diversion channels wash out or erode. Existing sediment from the SAR will be excavated to rebuild the diversion channel levees. An average of 10,000 cubic yards of material will be excavated annually to maintain the diversion channels. In addition, ongoing removal activities of invasive species such as the giant reed (*Arundo donax*) occur in the channels to maintain adequate surface water flows through the channels. Diversion channels will require rebuilding and/or maintenance up to six times per year.

### Access Roads

A network of access roads at the PCW is needed to maintain the wetlands and facilitate habitat and wildlife management. The roads are constructed on the perimeter of the site and on sand levees along channels and around ponds. Periodically the access roads wash out and require reconstruction. In addition, invasive plant growth encroaching onto roads must be periodically removed. Sediment from the river will be excavated to rebuild the access roads. Up to six times a year, access roads will require rebuilding and/or maintenance. An average of 10,000 cubic yards of material will be excavated to maintain the access roads.

### Water Conveyance Structures

Periodic vegetation removal activities, typically less than 100 square feet, are required at the outlets and inlets of water conveyance structures. Additionally, structures such as weir boxes and culverts, may be replaced during the term of this certification, which could result in minor, temporary disturbance to jurisdictional waters.

2. Location: 33.81° N-117.62° W  
Section 10, Township 3S, Range 7W, North Corona, USGS  
Quadrangle
3. Receiving water: Santa Ana River
4. Fill Area: 96 acres
5. Dredge volume: NA
6. Federal permit: Individual CWA Section 404 Permit, Number SPL-2012-  
00084-CLD
7. Mitigation:

The project applicant has agreed to complete several mitigation measures as conditions of the CDFG Streambed Alteration Agreement (Notification No. 1600-2011-01480R6) and the USFWS Biological Opinion completed for this project. The mitigation measures include:

a) Habitat Enhancement/Restoration

The applicant will enhance and restore no less than 24 acres, equivalent to 2 acres per year for 12 years, of native riparian habitat at locations within the PCW as approved by CDFG.

b) Annual Reporting of Maintenance Activities

The applicant will submit a report to CDFG annually that describes the maintenance activities conducted within the PCW during the calendar year.

c) Long Term Reporting

The applicant will provide CDFG with a status report of the project every four years for the life of the Agreement.

In addition, the applicant has proposed a number of avoidance/minimization measures that are to be implemented during the project. Furthermore, the CDFG Agreement required several avoidance/minimization measures.

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 (USF&WS) and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Accordingly, USFWS's Biological Opinion mandates several measures that are to be taken during the project to reduce impacts to federally listed species.

Construction de-watering discharges 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, NPDES No. CAG 998001, at the Regional Board's website: [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana).

The application provided a copy of a Notice of Exemption that was filed for this project on April 16, 2011, in compliance with the requirements of CEQA for Categorical Exemptions. The Notice of Exemption cites CEQA Guidelines Section 15302 (Class 2). Class 2 exemptions are for replacement or reconstruction of existing facilities, where the new structure will be located on the same site as the structure replaced, and will have substantially the same purpose and capacity as the structure replaced. Board staff has reviewed the supplemental information submitted with application including the

Biological Opinion and we have independently determined that the proposed project qualifies for a Class 2 CEQA Categorical Exemption.

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

1. The applicant must implement the proposed mitigation in a timely manner.
2. The conditions of CDFG Streambed Alteration Agreement Notification No. 1600-2011-0148-R6 Revision 2 must be implemented.
3. The reports required for the Streambed Alteration Agreement must also be submitted to the Regional Board on the schedule specified in the Agreement.
4. The avoidance/minimization measures and the site design, source control, and structural source control Best Management Practices (BMPs) must be implemented for the project, as described in the 401 application materials.
5. The project proponent must utilize appropriate BMPs during project activities to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.
6. 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, must not be discharged to soils or waters of the state. All waste concrete must be removed.
7. 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. Equipment must not be operated in areas of flowing water.
8. 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 of the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in appropriate enforcement action, including imposition of administrative civil liability, the revocation of this Certification, and civil or criminal liability.
9. The discharger must comply with all conditions and provisions of a Department of Army Section 404 Individual Permit for the project.

10. The OCWD shall coordinate with Regional Board Staff on all future studies to evaluate water quality benefits related to wetland treatment, especially the effects of the Prado Constructed Wetlands on Santa Ana River flows. In addition, all water quality studies prepared for the Prado Constructed Wetlands shall be forwarded to Regional Board staff.

**Under California Water Code, Section 1058, and Pursuant to 23 CCR 3860, the following shall be included as conditions of all water quality standards 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.

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 State Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at [www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf](http://www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf).

This letter constitutes a conditional water quality standards certification. Although we anticipate no further regulatory involvement, if the above 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, we may formulate Waste Discharge Requirements for the project.

In the event of any violation or threatened violation of the conditions of this certification, 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.

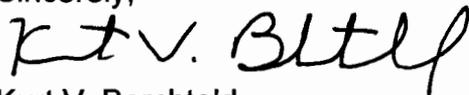
In response to a suspected violation of any condition of this certification, the SARWQCB may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SARWQCB deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the SARWQCB may add to or modify the conditions of this certification as appropriate to ensure compliance.

Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. This letter constitutes a technically conditioned water quality certification. Please notify our office five (5) days before construction begins on this project.

If you have any questions, please call Dave Woelfel at (951) 782-7960, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold  
Executive Officer

cc: U.S. Army Corps of Engineers – Crystel L. Doyle  
U.S. Environmental Protection Agency, Supervisor of the Wetlands Regulatory Office – Tim Vendlinski (WTR-8)  
State Water Resources Control Board, DWQ - Water Quality Certification Unit  
State Water Resources Control Board, OCC – David Rice  
California Department of Fish and Game – Kim Freeburn  
United States Fish and Wildlife Service – Heather Dyer