

Santa Ana Regional Water Quality Control Board

July 24, 2013

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

**REVISED CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE A06 LOFTUS CHANNEL MAINTENANCE PROJECT,
BREA, COUNTY OF ORANGE, CALIFORNIA (ACOE REFERENCE NO. NOT
AVAILABLE) (SARWQCB PROJECT NO. 302011-03)**

Dear Ms. Khan:

What follows is a revision of the Clean Water Act Section 401 Water Quality Standards Certification (Certification) issued from this office on May 16, 2011 for the subject project. A revision was requested because of recalculations that show a reduction in permanent impacts and an increase in temporary impacts to streambed habitat that will result from the removal of sediment within the project area. Please note that deleted text is shown in "strikeout" and for added text is underlined and in bold. This revision supersedes any prior iteration of the Certification for the subject project.

On January 10, 2011, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Orange County Public Works for the proposed maintenance activities to stabilize the side slopes of Loftus Channel for Erosion prevention and remove sediments to ensure adequate flood capacity. 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: Excavation of approximately 3,400 cubic yards of sediment from 9,200 linear feet of the regularly maintained Loftus Channel; filling and compacting of the earthen side slopes of the channel; and installation of a total of 1,555 linear feet of rip rap. The work will take place within Sections 13, 17, & 18 of Township 3 South, Range 9 & 10 West, of the U.S. Geological Survey *La Habra and Yorba Linda* quadrangle maps (33° 54' 3.85" N/ 117° 52' 0.83" W).

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

Receiving water: Fullerton Creek, Coyote Creek, San Gabriel River

Fill area: 5.74 5.61 acres of permanent temporary impact (excavation of sediment) to streambed habitat (9,200 linear feet); 0.13 acre of permanent impact (rip-rap) to waters (1,555 linear feet)

Dredge/Fill volume: 4,650 cubic yards: 3400 cubic yards of dredged sediment and 1250 cubic yards of riprap fill;

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 31

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.
- Stockpiled material and sediments will be contained through the use of silt fencing.
- Removed sediments will be collected and disposed of away from stormwater conveyance facilities.

Offsite Water Quality Standards Mitigation Proposed:

- ~~The applicant will provide a total of 12.0 acres of compensatory mitigation acreage, at predetermined locations, as stated within application documents. The proposed mitigation acreage consists of riverine habitat enhancement and management by removing non-native vegetation to allow for natural re-colonization.~~
- **No off-site mitigation is proposed because of the temporary nature of the excavation impacts, the minimal permanent impact (area of rip-rap rock placement), and the existing, low level of biological function of the project area. The project is not expected to result in the loss or degradation of biological function.**

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, including the preparation of a SWPPP.

Pursuant to the California Environmental Quality Act (CEQA), Orange County Public Works filed a CEQA Guidelines Section 15301 "Class 1" Categorical Exemption, which declares that the project involves the operation, repair, maintenance, and minor alteration of public/private structures that result in a negligible expansion of uses. The dam/reservoir configuration and uses will remain unchanged and the proposed project will not expand the dam/reservoir beyond its original design volume. The Regional Board has considered the County's Categorical Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed project are necessary to 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) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of the work, as a denoted element of project Storm Water Pollution Prevention Plan (SWPPP) or Water Quality Management Plan (WQMP).
- 3) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 4) 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 the revocation of this Certification and civil or criminal liability.
- 5) 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.
- 6) 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.

- 7) 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.
- 8) 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.
- 9) Construction de-watering 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/

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.

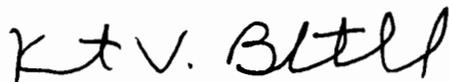
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean 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

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):

U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Wildlife – Russell M. Barabe
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme