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MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

July 11, 2016

Mr. Vincent Gin
Orange County Public Works
300 North Flower Street
Santa Ana, CA 92703

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE LANE CHANNEL SLOPE RESTORATION PROJECT,
CITY OF IRVINE, COUNTY OF ORANGE, CALIFORNIA (ACCE REFERENCE NO.
NOT AVAILABLE) (SARWQCB PROJECT NO. 302016-08)**

Dear Mr. Gin,

On March 11, 2016, we received an application from Orange County Public Works (Applicant) for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project (Project) to repair the slopes of Lane Channel, re-establish the channel to its original cross-section, and increase habitat function. The proposed Project is situated adjacent to the Interstate-405 freeway, in a section of Lane Channel (F08) between Jamboree Road and Main Street in the City of Irvine, CA. The proposed Project will result in 3.42 acres temporary impacts to jurisdictional waters. The Applicant has submitted a filing fee of \$55,350.00, which satisfies the Project fee requirement for consideration of a 401 Certification. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site, which is based on the most current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, Section 2200 (a) (3) in effect when the application was submitted.

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: The Project will grade approximately 4,100 linear feet of earthen channel to restore to the original cross-section design with a 24-foot wide invert and 1.5:1

WILLIAM RUH, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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(horizontal:vertical) side-slopes. The channel invert and slope surfaces will be further stabilized by installing a Geocell® (cellular confinement system) in-plane with the graded slope surface. The Geocell will be installed approximately six to eight inches deep into the channel's side slopes, prior to being filled with soil. The Project includes introduction of 68,500 cubic yards of appropriately characterized imported soils into the regraded channel.

The Project will also remove 50,000 cubic yards of unclassified accumulated sediments from the channel bottom. The excavated sediment will be exported and disposed offsite at the Frank R. Bowerman Landfill, located in the City of Irvine.

Temporary diversion of channel flows by installing a sandbag dam at the upstream end of the Project will be necessary during construction. The proposed sandbag dam will be three to four feet in height, with a sump pump placed immediately up gradient of the dam. A 12- to 18-inch diameter PVC diversion pipe will be placed in the channel to divert flows that would otherwise flow through the channel bed of the construction area. The diversion pipe will run along and around the construction area and release diverted flows back into the channel at the downstream end of the Project until construction activities are completed.

The work will take place within Sections 5 and 6 of Township 6 South, Range 9 West of the U.S. Geological Survey *Tustin*, CA 7.5 minute topographic quadrangle map (33° 40' 44" N, -117° 50' 50" W)

Receiving water:

Lane Channel, a tributary of Peters Canyon Wash, has designated beneficial uses (existing or potential) that include: contact recreation (REC1), non-contact recreation (REC2), groundwater recharge (GWR), warm freshwater habitat (WARM), and wildlife habitat (WILD).

Fill area:

Temporary Impact to Wetland Habitat	0.70 acre	linear feet not available
Temporary Impact to Streambed Habitat	2.72 acres	linear feet not available

Dredge/Fill volume: 50,000 cubic yards to be removed/ 68,500 cubic yards of fill

Federal permit: U.S. Army Corps of Engineers (USACE) Nationwide Permit No. 3, Maintenance: (a) Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills; (b) Discharges associated with the removal of accumulated sediments and debris in the vicinity of existing structures, including intake and outfall structures and associated canals.

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.
- Temporary impacts to wetland and streambed habitats shall be mitigated through natural recruitment of vegetation within the channel.

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 Wildlife should 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 Santa Ana Regional Board 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 the Applicant substantially comply with the requirements of the State Water Resources Control Board General NPDES Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order Number 2012-0006-DWQ.

Pursuant to the California Environmental Quality Act (CEQA), Orange County Public Works filed a CEQA Guidelines Section 15302 "Class 2" Categorical Exemption with the Orange County Clerk Recorder Department on December 15, 2015. The "Class 2" Exemption declares the proposed Project involves the replacement and reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced, and have substantially the same purpose and capacity as the structure replaced. The Regional Board has independently considered the CEQA 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) This Order for Water Quality Certification will remain valid until the USACE 2012 Nationwide permits expire on March 18, 2017, or through an extended period beyond the expiration date that is authorized in writing by the USACE.
- 2) The Applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.
- 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 from the Project site.
- 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 onsite, except as necessary to complete the proposed Project. No equipment shall be operated in areas of flowing water.
- 7) This 401 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 appropriate enforcement action, including the revocation of this Certification and imposition of administrative civil or criminal liability.

- 8) A copy of this Certification and any subsequent amendments must be maintained onsite for the duration of work as a denoted element of any Project SWPPP or WQMP.
- 9) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 10) Construction de-watering discharges, including temporary stream diversions necessary for Project construction in the San Diego Creek/ Newport Bay Watershed, are regulated under either Regional Board Order No. R8-2015-0004, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimis) Threat to Water Quality, or Order No. R8-2009-0045, General Discharge Permit For Discharges To Surface Waters Of Groundwater Resulting From Groundwater Dewatering Operations And/Or Groundwater Cleanup Activities At Sites Within The San Diego Creek/Newport Bay Watershed Polluted By Petroleum Hydrocarbons, Solvents, Metals And/Or Salts. Prior to the diversion of Lane Channel flows, the Applicant shall sample and analyze the diverted water to determine which order applies, and then submit to the Regional Board the applicable Notice of Intent. For more information, please review Order No. R8-2015-0004 and Order No. R8-2009-0045 at www.waterboards.ca.gov/santaana/.
- 11) The Applicant shall ensure that all fees associated with this Project shall be paid to each respective agency prior to conducting any onsite construction activities.
- 12) Prior to any grading, in Project locations where wetland and riparian habitats, and riparian mitigation sites are slated to be impacted, functional assessments conducted using the California Rapid Assessment Method, February 2012. Site mitigation assessments shall be conducted from October through December, until success criteria are met for five consecutive years. This information shall be reported to <http://www.californiawetlands.net/tracker/>
- 13) Effective perimeter control BMPs must be in place at all times to control the discharge of pollutants from the Project site during construction. Construction waste must be contained and protected against wind and exposure to storm water at all times unless being actively handled. Chemical, fuel, and lubricant containers must be kept closed and protected from damage or upset at all times unless being actively used. Soil and landscaping material stockpiles must have effective erosion control BMPs in place to prevent their being transported in storm water or directly into the channel, and may not be located within waters of the United States. Discharges of wastewater from the site are prohibited.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all 401 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 that the Applicant 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 401 Water Quality 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 Sections 13350 and/or 13385.

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

Mr. Vincent Gin
Orange County Public Works
SARWQCB # 302016-08

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Should there be any questions, please contact Marc Brown at or (951) 321-4584 or marc.brown@waterboards.ca.gov, or Wanda Cross at (951) 782-4468 or wanda.cross@waterboards.ca.gov.

Sincerely,



KV Kurt V. Berchtold
Executive Officer

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 Barabe – rbarabe@dfg.ca.gov
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme