



# California Regional Water Quality Control Board

## Santa Ana Region



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Arnold Schwarzenegger  
Governor

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Dr. Josephine Axt  
U.S. Army Corps of Engineers  
PO Box 532711  
Los Angeles, CA 90053-2325

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE GREEN RIVER GOLF COURSE ACCESS ROAD REALIGNMENT PROJECT, UNINCORPORATED ORANGE COUNTY (ACOE REFERENCE NO. NOT AVAILABLE)**

Dear Dr. Axt:

On July 22, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for the realignment of the access road to the Green River Golf Course in unincorporated Orange County. An amended application and project description was received on October 15, 2009. 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) and subsequent Basin Plan amendments ("Basin Plan"):

#### Project Description:

Realignment of the access road to the Green River Golf Course. The road realignment will involve the demolition of the existing access road bridge and the construction of a new bridge approximately 1,500 feet east of its present location. The realignment is part of the river embankment armoring proposed to occur downstream of the existing road bridge over the Santa Ana River (Reach 9, Phase 2b Project), for which Certification was waived. However, the road realignment was not within the scope of the earlier waiver. The new bridge abutments will be armored with rock slope protection. Instead of a key down, launch rip-rap will be placed at the toe of the rock slope protection in order to protect the abutments against long-term scour. The embankments of the River at the new bridge site are currently armored with rock slope protection. Flows within the River will be diverted around the work sites. The project is located within Section 36 of Township 3 South, Range 8 West, of the U.S. Geological Survey *Yorba Linda, California*, 7.5-minute topographic quadrangle map (33 deg. 52 min. 12 sec. N/ -117 deg. 40 min. 18 sec. W).

Receiving water: Santa Ana River.

*California Environmental Protection Agency*



Fill area: 0.05 acre of permanent impact to riverine wetland and 0.8 acre of temporary impact to streambed (1,000 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 and subsequent submittals. The proposed mitigation is summarized below:

**Onsite Water Quality Standards Mitigation Proposed:**

- Temporarily excavated areas of waters of the U.S. will be re-vegetated with riparian plants according to the Draft Mitigation Plan dated July 24, 2009.
- Best management practices ("BMPs") will be used to remove pollutants in storm water runoff during construction.
- Additional site-specific BMPs will be specified in the site's Storm Water Pollution Prevention Plan ("SWPPP").

**Offsite Water Quality Standards Mitigation Proposed:**

- The Corps will perform *Arundo donax* removal, habitat restoration, and species management within a 0.25 acre area located upstream of the bridge and road relocation project.
- A 0.85 acre portion of the previously concrete-lined reach of the Santa Ana River along the Green River Golf Course will have its northern bank altered into a naturalized riparian reach. The work will occur as part of a larger effort to naturalize a total of 11 acres of the previously concrete-lined reach. The concrete-lined channel had been severely damaged during a flood event in 2005; work on the south bank, described above, and the naturalization of the north bank, will correct the damaged condition.

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 Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project is part of a larger plan of development that is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ (currently in effect) or Water Quality Order 2009-0009-DWQ (effective July 1, 2010), is required, as is development of a SWPPP to control the discharge of pollutants from the project site.

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 at:  
[www.waterboards.ca.gov/santaana/board\\_decisions/adopted\\_orders/orders/2009/09\\_003\\_deminimus\\_permit\\_wdr.pdf](http://www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2009/09_003_deminimus_permit_wdr.pdf)

You have prepared a 404(b)(1) evaluation pursuant to the requirements of Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act ("CEQA"), the Orange County Planning Commission certified an Environmental Impact Report (EIR) for the proposed project on December 19, 2001 (State Clearinghouse No. 97071087). An Addendum to the EIR was completed on September 10, 2009.

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 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.

As required by Section 15096, the Regional Board has considered the EIR and its Addendum prepared for the proposed project in approving this Certification. More specifically, the Regional Board has considered those sections relating to water quality. Based on the mitigation proposed in the EIR and Addendum, and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. Thus, the Regional Board finds that changes or alterations have been required in, or incorporated into the 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 discharge of woody invasive plant propagules to waters of the State is prohibited. In the event that the discharger disturbs any woody invasive vegetation, all resulting propagules must be removed from waters of the State, or from uplands where propagules could be discharged to waters of the State, and disposed of according to published and generally accepted methods.
2. The discharger must eradicate 0.25 acre of *Arundo donax* along the Santa Ana River. The eradication effort must occur according to published and generally-accepted methods and include a minimum of 5-years of follow-on maintenance. Within 3-months from the date of this Certification, the discharger must provide to the Executive Officer, site plans showing the location of the eradication area, and must have initiated work.

3. The discharger must alter a 0.85 acre area of the bank along the Santa Ana River within the Green River Golf Course in order to allow it to revert to a riparian streambank as proposed. Prior to initiation of the work and not later than 6-months from the date of this Certification, the discharger must submit for approval by the Executive Officer, a work plan which includes site plans, representative cross-sections, materials to be used, and a construction schedule. The construction schedule must include a completion deadline not to exceed 36-months from the date of this Certification. The discharger must fully implement the plan upon approval by the Executive Officer.
4. The new bridge must not create a barrier to the passage of aquatic wildlife under normal flow conditions<sup>1</sup>. Within 60-days of the completion of construction activities, the discharger must perform follow-up monitoring in order to validate the channel design flow velocity calculations and to assure the performance of the bridge. In the event that flows exceed the calculated flow velocities, the discharger must, using qualified expert opinion, re-evaluate whether the increased normal flow velocities constitute a barrier to the passage of aquatic wildlife, and take corrective action to reduce the normal flow velocities as needed. Any necessary corrective action must be completed within 24-months from completion of construction activities.
5. Regional Board staff and other authorized representatives shall be allowed:
  - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification and applicable waste discharge requirements;
  - b. Access to copy any records that are kept under the requirements of this Certification and applicable waste discharge requirements;
  - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from the project site; and
  - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification and applicable waste discharge requirements.
6. This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP.

**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

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<sup>1</sup> Flow velocities are controlled by the Dam Operator at Prado Dam, where flow is currently generally restricted to 10,000 cubic feet per second ("cfs"), but is normally 300 cfs.

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. 200-0017-DWQ is available at: [www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)



Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

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

APF:401/certifications/green river golf course road 302009-26