

California Regional Water Quality Control Board San Diego Region

> Over 50 Years Serving San Diego, Orange, and Riverside Counties Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA



Arnold Schwarzenegger Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353 (858) 467-2952 • Fax (858) 571-6972 http://www.waterboards.ca.gov/sandiego

August 31, 2009

Nardy Khan County of Orange OC Public Works 300 North Flower Street Santa Ana, CA 92703-5000

Certified Mail – Return Receipt Requested 7007 0710 0000 5763 4687 In reply refer to: CIWQS No.: 205029: cloflen

### Subject: Notice of Violation No. R9-2009-0159 Failure to Comply with Clean Water Act Section 401 Certification 05C-009 for the Aliso Creek Outlet Maintenance Program

### Site Location: Aliso Creek Ocean Outlet, Orange County, CA

Dear Nardy Khan:

Enclosed please find Notice of Violation (NOV) No. R9-2009-0159 for alleged violations of Clean Water Act Section 401 Water Quality Certification 05C-009 (hereafter Certification) Conditions B.2 and C.1.a.

In the subject line of any response, please include the requested "**In reply refer to:**" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Chad Loflen at (858) 467-2727 or cloflen@waterboards.ca.gov.

Respectfully,

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David T. Barker, P.E. Senior Water Resource Control Engineer Surface Water Basins Branch

California Environmental Protection Agency



Nardy Khan County of Orange NOV No. R9-2009-0159

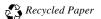
Enclosure: Notice of Violation R9-2009-0159

cc via email: (w/encl.)

Cori Farrar U.S. Army Corps of Engineers, Regulatory Division Corice.J.Farrar@usace.army.mil

Certification No.	05C-009
CIWQS Place ID	205029
Reg. Measure No.	176637
Violation No.	836057
	836058
NOV ID No.	370356

California Environmental Protection Agency





# **California Regional Water Quality Control Board**

San Diego Region

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August 31, 2009

IN THE MATTER OF:

Nardy Khan County of Orange, OC Public Works 300 North Flower Street Santa Ana, CA 92703 NOTICE OF VIOLATION NO. R9-2009-0159

CIWQS Place No. 205029

**Clean Water Act Section 401** 

### Subject Sites: Aliso Creek Outlet Maintenance Program Project, 401 Certification No. 05C-009

## YOU ARE HEREBY NOTIFIED OF:

# VIOLATIONS OF CLEAN WATER ACT §401 WATER QUALITY CERTIFICATION NO. 05C-009, WDID #9000001348

You are in violation of Clean Water Act (CWA) Section 401 Water Quality Certification 05C-009. Such violations subject you to possible enforcement action by the California Regional Water Quality Control Board, San Diego Region (Regional Board). Pursuant to California Water Code (CWC) Section 13385, any person who violates any waste discharge requirements or dredged and fill material permit or any water quality certification issued pursuant to Section 13160, shall be liable civilly in accordance with the section. Pursuant to CWC Section 13385 the maximum civil liability that the Regional Board may assess is ten thousand dollars (\$10,000) per day of violation (per violation). CWC Section 13385(e) requires that, when pursuing civil liability under CWC Section 13385, "At a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation."

### **Rescinding of the 401 Water Quality Certification**

Pursuant to Porter-Cologne Water Quality Control Act 13381 waste discharge requirements or dredged or fill material permits may be terminated or modified for cause, including, but not limited to, all of the following:

(a) Violation of any condition contained in the requirements or permits.

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# **Summary of Violations:**

### I. FAILURE TO SUBMIT THE REQUIRED ANNUAL MONITORING REPORT → Pursuant to Certification Condition C.1.a:

• The County of Orange shall submit monitoring results annually by March 1 of each year.

**Violation:** To date the Regional Board has not received the annual monitoring report for the 2008 year, which was due on March 01, 2009.

### II. FAILURE TO PROVIDE REQUIRED NOTIFICATION OF ACTIVITIES > Pursuant to Certification Condition B.2:

• The County of Orange shall notify the Regional Board in writing at least five days prior to actual start dates for the semi-annual maintenance activities and at least three days prior to the first five routine sand-breaching activities.

**Violation:** In a June 19, 2009 conference call with the United States Army Corps of Engineers, the County of Orange indicated that they had not notified the Regional Board of any of the first five routine sand-breaching activities already conducted during the 2009 year.

Pursuant to Additional Conditions A.10 of the Certification, in response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. The Regional Board is considering adding to and/or modifying the conditions of the Certification in response to these violations and the continued history of non-compliance with Certification conditions.

You must take all actions necessary to come into compliance with the Certification to avoid further enforcement. Questions pertaining to the issuance of this Notice of Violation should be directed to Chad Loflen at 858-467-2727 or cloflen@waterboards.ca.gov. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

David Barker, Supervising Engineer Attn: Chad Loflen California Regional Water Quality Control Board, San Diego Region 9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340

David Barker Supervising Engineer

august 31, 2009

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