



# California Regional Water Quality Control Board Santa Ana Region



**Linda S. Adams**  
Acting Secretary for  
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348  
(951) 782-4130 • Fax (951) 781-6288  
<http://www.waterboards.ca.gov/santaana>

**Edmund G. Brown Jr.**  
Governor

July 26, 2011

Matt Smith  
San Bernardino Associated  
Governments  
1170 W. 3<sup>rd</sup> St.  
San Bernardino, CA 92410

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE I-215 BI-COUNTY LINE HOV LANE GAP CLOSURE  
PROJECT, COUNTY OF SAN BERNARDINO, CALIFORNIA (ACOE REFERENCE  
NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 362011-08)**

Dear Mr. Smith:

On May 13, 2011, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from San Bernardino Associated Governments for the construction of approximately 7.5 miles of high occupancy vehicle (HOV) lanes in each direction on I-215, between Orange Show Road in San Bernardino County and the State Route 91/I-215 interchange in Riverside County (Project). 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 includes construction of approximately 7.5 mi of HOV lanes in each direction within the existing median, with minimal widening within the current right-of-way (ROW), and median barrier replacement. Permanent impacts to jurisdictional waters will occur as a result of the following construction activities: The widening will require improvements to on- and off-ramps along the corridor, with a reduction in the lengths of some acceleration and deceleration lanes. All widening will occur within existing ROW. The existing BNSF two-track railroad bridge over the freeway and the existing UPRR single-track railroad bridge over the freeway between the Iowa Avenue/La Cadena Drive interchange and the Barton Road interchange will be

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replaced. This will require construction of a railroad shoofly bridge over the freeway for each railroad line, so that railroad operations can continue during the construction period. The I-215 structures over the UPRR tracks south of I-10, over I-10, and over the Santa Ana River will be widened to accommodate the additional HOV lane in each direction. The work will take place within Sections 6, 7, and 32 of Township 1 and 2 South, Range 4 West, of the U.S. Geological Survey *San Bernardino South* quadrangle map (34° 01' 46.114" N/ 117° 19' 27.310" W).

Receiving water: Santa Ana River, Reche Canyon Channel, Highgrove Channel, and other unnamed tributaries to the Santa Ana River

Fill area: 0.04 acres of permanent impact to wetland habitat, 0.20 acres of temporary impact to wetland habitat; 0.38 acres of permanent impact to riparian habitat, 2.32 acres of temporary impact to riparian habitat

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. 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.
- All temporary impacted areas will be restored to pre-project conditions, according to the project's Mitigation Plan

**Offsite Water Quality Standards Mitigation Proposed:**

- Contribution to the Santa Ana Watershed Association In-Lieu Fee Program, at a minimum 2:1 mitigation ratio for permanent impacts to riparian habitat and 4:1 mitigation ratio for impacts to wetland habitat.

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 State Water Resources Control Board Order No. 99-06-DWQ (NPDES Permit No. CAS618036), commonly known as the Statewide CalTrans Storm Water Permit, and subsequent iterations thereof.

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 or Negative Declaration prepared by the lead agency in determining whether to approve a project. 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 CalTrans' Mitigated Negative Declaration (MND) prepared for the proposed project, particularly those sections of the MND that relate to water quality, and information provided subsequently in the agency's application, in approving this Certification. Based on the mitigation proposed and the conditions set forth in this Certification, Board staff concludes that the proposed project's impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. The Regional Board independently finds that changes or alterations have been required or incorporated into the project that 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) Proposed mitigation and BMPs shall be timely implemented. Materials documenting the purchase of necessary mitigation credits shall be provided to this office prior to discharge of fill to, or to the dredging or excavation of material from, waters of the state. Off-site mitigation credits shall be applied to riparian and wetland habitat located along or tributary to Reach 5 of the Santa Ana River.

- 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) Post-construction BMP's shall be developed, implemented and maintained in accordance to provisions contained within the State Water Resources Control Board Order No. 99-06-DWQ (NPDES Permit No. CAS618036), commonly known as the Statewide CalTrans Storm Water Permit, and subsequent iterations thereof.
- 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, shall not be discharged to soils or waters of the state. All waste concrete shall 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. No equipment shall 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 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.
- 9) BMPs 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, 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/](http://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.

Matt Smith  
San Bernardino Associated  
Governments

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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/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 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 message):

U. S. Army Corps of Engineers, Los Angeles Office – Gerry Salas  
State Water Resources Control Board, OCC – David Rice  
State Water Resources Control Board, DWQ – Water Quality Certification Unit  
CDFG, Region 6, Ontario Office – Joanna Gibson  
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

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