



# California Regional Water Quality Control Board

## Santa Ana Region



Linda S. Adams  
Acting Secretary for  
Environmental Protection

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Edmund G. Brown, Jr.  
Governor

March 1, 2011

Ms. Nardy Khan  
Orange County Public Works  
300 N. Flower Street, 7<sup>th</sup> Floor  
Santa Ana, CA 92703

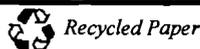
**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE ORANGE PARK BOULEVARD BRIDGE OVER HANDY  
CREEK PROJECT, ORANGE PARK ACRES, COUNTY OF ORANGE, CALIFORNIA  
(ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 302010-33)**

Dear Ms. Khan:

On August 17, 2010, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Orange County Public Works for the replacement of the existing Orange Park Boulevard vehicle, equestrian and pedestrian bridge over Handy Creek. The existing bridge, which features both concrete and wooden decking, will be replaced with a single cast-in-place concrete slab bridge. 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:** Replace the existing Orange Park Boulevard bridge crossing Handy Creek. The new bridge will have a span of approximately 40 ft. This will allow the width of the creek channel invert under the new bridge to be increased by 18 ft. (for a total proposed channel invert width of 30 ft.) A new concrete invert slab will be placed in the widened portion of the channel invert. The project will also entail widening the creek channel invert to 30 ft. for a distance of 20 ft. upstream and 20 ft. downstream of the new bridge. The current riprap and concrete lining of the channel invert upstream and downstream of the bridge will be replaced with new riprap to a depth of 3 ft. for a distance of 30 ft. upstream and 30 ft. downstream of the new concrete invert slab. Within the widened portion of the invert, an interim (2:1) slope of riprap will be placed to maintain the channel side slope and allow it to transition into anticipated subsequent Handy Creek channel projects. The work will take place within Section 23

*California Environmental Protection Agency*



of Township 4 South, Range 9 West, of the U.S. Geological Survey *Orange* quadrangle map (33.810362° N/ 117.782321° W).

Receiving water: Handy Creek

Fill area: < 0.01 acres of permanent impact to streambed habitat and 0.02 acres of temporary impact to streambed habitat

Dredge/Fill volume: 127 cubic yards

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:

- As compensatory mitigation for impacts to Sycamore Riparian Woodland (CDFG jurisdiction) the applicant will plant three western sycamores on site.

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 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.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to review an Environmental Impact Report (EIR) or Negative Declaration 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 Mitigative Negative Declaration (MND) prepared by Orange County Public Works for County of Orange for the proposed project in approving this Certification. Based on the mitigation proposed in the MND, 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 applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) 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.
- 3) The project proponent shall utilize Best Management Practices 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.
- 4) 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.
- 5) 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.
- 6) 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/)

- 7) 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.
- 8) Proposed mitigation shall be timely implemented. Materials documenting the purchase of necessary mitigation credits shall be provided to this office prior to the discharge of fill to, or the dredging or excavation of material from, waters of the state.

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](http://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 - Jason Lambert  
U.S. Environmental Protection Agency, Supervisor of the Wetlands Regulatory Office -  
Eric Raffini (WTR-8)  
State Water Resources Control Board, DWQ-Water Quality Certification Unit, Bill Orme  
State Water Resources Control Board, OCC - David Rice

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