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**Santa Ana Regional Water Quality Control Board**

July 30, 2012

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

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE GREENVILLE BANNING (D03) TOE OF SLOPE REPAIR  
PROJECT, COUNTY OF ORANGE, CALIFORNIA (ACOE REFERENCE NO. NOT  
AVAILABLE) (SARWQCB PROJECT NO. 302012-23)**

Dear Ms. Khan:

On June 14, 2012, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Orange County Public Works for the above referenced project in the Costa Mesa area of Orange County. The purpose of the proposed project is to repair toe of slope erosion at three locations within the channel, where storm flows from heavy rains have eroded the earthen slopes. 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 proposed project consists of repairing toe of slope erosion at three sites within the channel. Site 1 includes toe of slope repair to both sides of the channel for 130 linear feet (LFT) on each side. Site 2 includes toe of slope repair to the southerly side of the channel for 300 LFT. Site 3 includes toe of slope repair to the southerly side of the channel for 100 LFT. The total length of the three repair sites is 530 LFT. All three sites are located between existing rock riprap sections that were previously constructed to repair toe of slope erosion. The project will construct a single row of pipe and wire, installing a chain link fence at the grade line, and attaching a filter fabric to the up-slope side of the fence. This repair method is basically the construction of a single chain link fence between support posts, the addition of filter fabric, followed by back filling with earthen material.

The project will restore the channel to its original design slope and grade. The work will take place within the City of Costa Mesa in Section 33 of Township 5 South, Range 10 West, of the U.S. Geological Survey *Newport Beach* quadrangle map (33° 41' 30" N/ 117° 55' 53" W).

Receiving water: Greenville Banning Channel (D03), tributary to the Santa Ana River

Fill area: 0.01 acre of permanent impact to streambed habitat (530 linear feet), and 0.14 acre of temporary impact to streambed habitat (530 linear feet)

Dredge/Fill volume: 650 cubic yards

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 3

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.
- Due to previous mitigation efforts for the Greenville-Banning Channel Repair Project (RWQCB Project Number: 302008-08), which was certified in 2008, this repair project will not need any additional compensatory mitigation for permanent impacts.
- Previous mitigation efforts include: (1) 0.16 acre of restored perennial streambed mitigation, (2) 0.18 acre of enhanced perennial streambed mitigation, (3) 1 acre of exotics (*Arundo donax*) removal within the County Santa Ana River Mitigation Area.

**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, including the preparation of a

SWPPP.

Pursuant to the California Environmental Quality Act (CEQA), the City of Anaheim Public Utilities Department and the Regional Board have determined that the proposed project is categorically exempt from provisions of CEQA under Class 1 Categorical Exemption (Section 15301): The proposed project consists of the repair of existing facilities involving negligible or no expansion of use beyond existing conditions related to (b) existing facilities of both investor and publicly-owned utilities used to provide drainage services. The project is also categorically exempt under Class 2 Categorical Exemption (Section 15302): In addition, the proposed project also consists of the reconstruction of existing facilities where the new facilities will be located on the same site as the facilities replaced and will have the same purpose and capacity as existing related to (c) the reconstruction of existing utility facilities involving negligible or no expansion of capacity.

**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 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.
- 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) 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.
- 7) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 8) Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities.
- 9) 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/)
- 10) Applicant shall ensure that all facilities (outlet structures, grade control structures, and eroded soil-cement access ramps etc.) will be restored to their original design and grade, and that vegetation within the project area will be maintained throughout perpetuity according to HMMP and WQMP specifications.

Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities. 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.

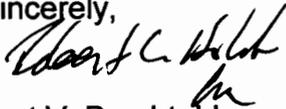
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean 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):

Orange County Public Works – Project Manager, Regulatory Permits – Denise Weaver  
U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes  
State Water Resources Control Board, OCC - David Rice  
California Department of Fish and Game - Kevin Hupf, [KHupf@dfg.ca.gov](mailto:KHupf@dfg.ca.gov)  
State Water Resources Control Board, DWQ-Water Quality Certification Unit - Bill Orme