



California Regional Water Quality Control Board

Santa Ana Region



Matthew Rodriguez
*Secretary for
Environmental Protection*

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288
www.waterboards.ca.gov/santaana

Edmund G. Brown Jr.
Governor

December 27, 2012

Daniel Bott
Orange County Water District
18700 Ward Street
Fountain Valley, CA 92708

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR ORANGE COUNTY WATER DISTRICT GROUNDWATER
RECHARGE FACILITIES MAINTENANCE PLAN, CITIES OF ANAHEIM AND
ORANGE, COUNTY OF ORANGE, CALIFORNIA (OUR FILE NO. 30-2012-01)
(U.S. ARMY CORPS OF ENGINEERS PERMIT NO. SPL-2012-00066-JPL)**

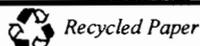
Dear Mr. Bott:

On January 24, 2012, Regional Board staff received an application for Clean Water Act Section 401 water quality standards certification (401 Certification) for the Orange County Water District (OCWD) Recharge Facilities Regional Maintenance Plan. Included with the application were the following:

- Documentation showing that an application for a California Department of Fish and Game (CDFG) Lake or Streambed Alteration Agreement for the project has been submitted;
- \$944 as a flat fee required to process this 401 Certification, as specified by California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3) and which is summarized on the State Water Resources Control Board (SWRCB) Dredge and Fill Fee Calculator¹;
- A copy of the OCWD's certified California Environmental Quality Act Environmental Impact Report for the project; and
- A copy of the Application for Department of the Army Permit for the project, submitted to the United State Army Corps of Engineers (USACE) in compliance with Clean Water Act Section 404 (404 Permit).

¹ Regional Board staff made the determination that this project meets the definition of a Restoration Project as specified in the SWRCB Dredge and Fill Calculator (fee category vii) such that total charges to process the 401 Certification are \$944. Restoration project are projects undertaken for the sole purpose of restoring or enhancing the beneficial uses of water. This project will enhance the Groundwater Recharge (GWR) and other beneficial uses.

California Environmental Protection Agency



On November 29, 2012, Regional Board staff received a copy of an Informal Section 7 Consultation for the project completed by the United States Fish and Wildlife Service (USFWS).

This letter responds to your request for certification, pursuant to Clean Water Act Section 401, that the proposed project, described 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 amendments.

1. Project description:

This project entails the ongoing routine activities that are required to maintain the OCWD's groundwater recharge facilities. The groundwater recharge facilities consist of various off-stream recharge basins, basins constructed within stream channels, and in-stream channel modifications intended to encourage and maximize infiltration. Over time the percolation rate of the recharge facilities decreases as a result of the development of a clogging layer of fine grain sediment deposition and biological growth. The percolation rates are restored by removing the clogging layer from the recharge facilities with dozers, scrapers, and other heavy earth-moving equipment.

The Santa Ana River is the primary source of water used to recharge the Orange County Groundwater Basin. Since 1933, OCWD has been diverting water from the Santa Ana River for groundwater recharge. Currently, surface flows are diverted by two rubber dams into a series of recharge basins whose bottoms and sidewalls allow for percolation into the groundwater basin. Other sources of water used for recharge in the basins are recycled water and imported water delivered by the Metropolitan Water District.

In addition to the recharge facility basins, a six mile section of river channel from just west of Imperial Highway in the city of Anaheim to Chapman Avenue in the city of Orange is maintained for recharge. Sand levees are created and maintained to maximize recharge by spreading the flow across the width of the river to maximize the wetted surface area. Storm flows will wash out the levees, requiring their reconstruction. When necessary, heavy equipment is used to remove sediments in order to restore high percolation rates. A section of Santiago Creek in the City of Orange is also maintained for recharge.

The basins and off-river system (conveyance channels) are located along and adjacent to the Santa Ana River from Imperial Highway to Chapman Avenue. In addition, recharge basins are located north of the Santa Ana River in the City of Anaheim and along Santiago Creek in the City of Orange. See Figure 1, "OCWD Recharge Basins."

With the Maintenance Plan application, OCWD requests authorization to complete the following activities that will impact waters of the U.S., waters of the State and riparian areas subject to CDFG jurisdiction (See Table 2:"Covered Activities"):

Sediment/Disturbance Removal

Sediment will be disturbed and removed from the recharge facilities under dry and wet conditions. Under dry conditions, the recharge facilities are drained and dried out, and sediment and silt on the bottoms and side walls of the basins are broken-up and/or scraped and removed by heavy equipment. Under wet conditions, a submerged cleaning device vacuums silt from the basin bottom, simultaneously with its accumulation. Silt removed by the submerged cleaning device is transferred to a small pit located adjacent to the recharge basin.

Vegetation Removal

Native and non-native vegetation will be removed, as necessary, along the banks of existing recharge basin facilities and around existing water conveyance structures. A combination of herbicides, hand tools, mechanical vegetation cutters and heavy equipment will be used to remove vegetation.

Maintenance and Repair of Existing Access Roads and Ramps

Heavy equipment such as dozers and scrapers will be used as necessary to re-grade and repair access roads and ramps.

Maintaining Existing Water Conveyance Structures

Maintenance of existing water conveyance structures, including culverts, transfer tubes, inlet and outlet structures, weirs, flumes, sluice gates, trash racks, rubber dams, rip rap, grade stabilizers, sump pumps, transfer pumps, and valves will be conducted. These maintenance activities will not include the construction of new water conveyance structures or the replacement of existing structures that would involve a larger construction footprint.

Existing earthen Dike and Levee Repair

Existing earthen dikes and levees will be repaired, including replacing them after storm events, using heavy equipment.

2. Location: See Table 1: OCWD Recharge Facilities²
3. Receiving water: Santa Ana River Reach 2, Santiago Creek
4. Fill Area: Water of the United States: 4.36 acres of permanent impact to riparian habitat (WILD beneficial use recognized in Basin Plan); 302.11 acres of temporary impact to streambed habitat (WARM, WILD, RARE beneficial uses) and 685.12 acres of temporary impact of lake habitat (WARM, WILD, RARE beneficial uses)

² The OCWD numbering of Santa Ana River and Santiago Creek stream reaches differs from how the Regional Board lists the reaches of these waters in the Basin Plan.

- 5. Dredge volume: NA
- 6. Federal permit: Individual Permit No. SPL-2012-00066-JPL
- 7. Mitigation:

As compensatory mitigation, the applicant proposes a combination of habitat creation, habitat restoration, and resource management activities within seven OCWD groundwater recharge basins. A habitat management plan (HMP) will be prepared within six months after the approval of the Maintenance Plan and implemented for each basin where mitigation is proposed. Existing HMPs prepared for the Burris Basin and Five Coves Basin would be incorporated into the HMP for the Maintenance Plan.

The Table below identifies the amount of existing native vegetation, the amount of native vegetation that is expected to be created and restored and the overall amount of open space that would be maintained and managed.

**Mitigation Plan Summary
(Acres)**

Basin	Existing Native Vegetation	Native Vegetation Created	Native Vegetation Restored	Overall Amount of native vegetation maintained
Smith Basin	*27.47	0.0	4.33	*31.80
Conrock Basin	4.71	2.0	2.27	8.98
Huckleberry Basin	1.07	0.0	.80	1.87
Santiago Basin	34.54	0.0	13.40	47.94
Five Coves Basin	1.6	1.7	0.0	3.3
Burris Basin	8.4 (includes 2.6 acre sand nesting island)	0.0	0.0	8.4
Mills	0.0	5.0	0.0	5.0
Total	77.79	8.7	20.80	107.29
*Includes 8.6 acres of open water habitat that would not be disturbed				

Several avoidance and minimization measures as listed in the Maintenance Plan are to be employed during maintenance activities to reduce impacts to wildlife, native plants, and water quality. For example, the Maintenance Plan includes measures to avoid impacts to rare, threatened or endangered species and nesting birds while conducting maintenance activities.

The Mitigation Plan specifies reporting of 1) annual project maintenance activities, 2) long term project agreement status, and 3) annual status of project enhancement and restoration areas to be submitted to the USACE, CDFG and Regional Board.

Finally, the OCWD acknowledges the continued degradation of aquatic habitat in the Santa Ana River below Imperial Highway, where groundwater recharge facilities have been maintained since 1933. Therefore OCWD pledges to continue participating as an active member of the Santa Ana Sucker Conservation Team to help address the loss of habitat for the federally-endangered Santa Ana sucker (*Catostoma santanna*). OCWD will contribute voluntary annual fees to help fund population studies and restoration programs for the Santa Ana sucker.

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, NPDES No. CAG 998001, at the Regional Board's website: www.waterboards.ca.gov/santaana.

The applicant provided a copy of the Draft and Final Environmental Impact Report (EIR) that was completed for this project. The Final EIR was certified on July 18, 2012. Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board must consider the environmental impact report (EIR) or Negative Declaration prepared for a project by the Lead Agency, and reach its own conclusions on whether and how to approve the project. Regional Board staff has reviewed the project EIRs, especially the sections concerning impacts to water quality and aquatic habitat. In addition, Regional Board staff has reviewed the Informal Section 7 Consultation completed by the USFWS. As a result of staff's review, the Regional Board independently determines that the project, with the application of mitigation and avoidance measures as specified in the project Maintenance Plan, will have less than a significant impact on the environment.

This 401 Certification is contingent upon the execution of the following conditions:

1. The applicant must implement the proposed mitigation in a timely manner.
2. The discharger must comply with all conditions and provisions of a Department of Army Section 404 Individual Permit for the project
3. The conditions of the project's CDFG Streambed Alteration Agreement must be implemented.
4. The reports described in the mitigation plan must be submitted to Regional Board staff on the schedule as specified. .

5. The impact avoidance and minimization measures and the site design, source control, and structural source control Best Management Practices (BMPs) must be implemented for the project, as described in the 401 application materials.
6. The project proponent must utilize appropriate BMPs during project activities to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.
7. 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, and metal cutting or forming wastes including grinding debris and slag, must not be discharged to soils or waters of the state. All waste concrete must be removed.
8. 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. Equipment must not be operated in areas of flowing water.
9. 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 of the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in appropriate enforcement action, including imposition of administrative civil liability, the revocation of this Certification, and civil or criminal liability.

Under California Water Code, Section 1058, and Pursuant to 23 CCR 3860, the following shall be included as conditions of all water quality standards 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.

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 State Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf.

This letter constitutes a conditional water quality standards certification. Although we anticipate no further regulatory involvement, if the above 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, we may formulate Waste Discharge Requirements for the project.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation 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.

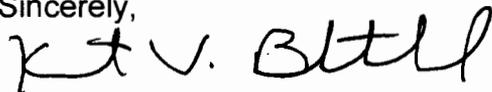
In response to a suspected violation of any condition of this certification, the SARWQCB may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SARWQCB deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the SARWQCB may add to or modify the conditions of this certification as appropriate to ensure compliance.

Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. This letter constitutes a technically conditioned water quality certification. Please notify our office five (5) days before construction begins on this project.

If you have any questions, please call Dave Woelfel at (951) 782-7960, or Mark Adelson at (951) 782-3234.

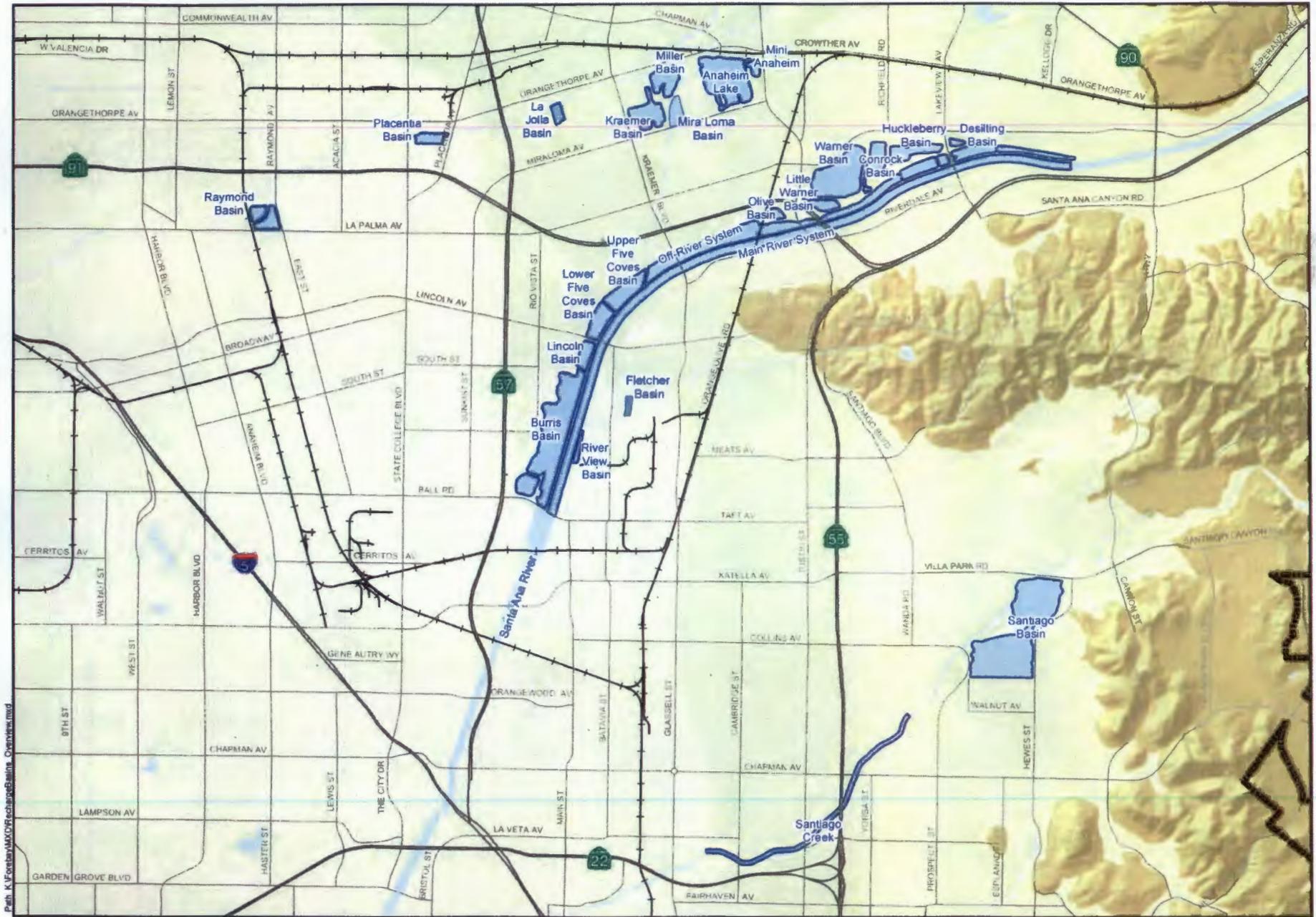
Sincerely,



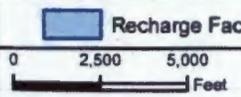
Kurt V. Berchtold
Executive Officer

cc: U.S. Army Corps of Engineers – Jason Lambert
U.S. Environmental Protection Agency, Supervisor of the Wetlands Regulatory Office – Tim Vendlinski (WTR-8)
State Water Resources Control Board, DWQ - Water Quality Certification Unit
State Water Resources Control Board, OCC – David Rice
California Department of Fish and Game – Kevin Hupf
United States Fish and Wildlife Service – Christine Medak

Attachments – Figure 1, Table 1, and Table 2



Path: K:\Fontana\OCWD\RechargeBasins - Overview.mxd



OCWD Boundary

Recharge Facility Areas

OCWD Recharge Basins

Figure 1

Table 1: OCWD Recharge Facilities

Facility	Size (Wetted Acres)	Location	USGS	Latitude/ Longitude
Anaheim Lake	74.0	Tustin Ave. @ Miraloma Ave.	Orange- T4S/R9W	33 51 58/ 117 50 51
Burriss Basin	99.2	Ball Road & SR 57	Orange T4S/R9W	33 49 31/ 117 52 13
Conrock Basin	19.6	Richfield Rd. @ La Palma Ave.	Orange- T4S/R9W	33 51 20/ 117 49 36
Five Coves Basin	32.2	Lincoln Ave. @ Kingsley St.	Orange T4S/R9W	33 50 27/ 117 51 38
Fletcher Basin	4.89	Fletcher Ave. @ Batavia St.	Orange- T4S/R9W	33 49 41/ 117 51 35
Huckleberry Basin	21.7	Taylor St. @ La Palma Ave., La Palma	Orange- T4S/R9W	33 51 26/ 117 49 17
Kraemer Basin	29.0	Miraloma Ave. @ Kraemer Blvd.	Orange T4S/R9W	33 51 37/ 117 51 27
La Jolla Basin	5.6	La Jolla St. @ Red Gum St.	Orange T3S/R9W	33 51 38/ 117 52 09
Lincoln Basin	8.3	Lincoln Ave. @ Andalusia Ave.	Orange T4S/R9W	33 55 02/ 117 51 55
Little Warner Basin	9.8	La Palma Ave. @ Van Buren	Orange- T4S/R9W	33 51 02/ 117 50 03
Miller Basin	20.9	Miraloma Ave. @ Miller St.	Orange T4S/R9W	33 51 52/ 117 51 21
Mini-Anaheim Lake	5.5	Tustin Ave. @ Miraloma Ave.	Orange T4S/R9W	33 51 59/ 117 50 35
Miraloma Basin	13.0	Miraloma Ave. @ Kraemer Blvd.	Orange T4S/R9W	33 51 40/ 117 51 35
Off-River Channel	64.4	Tustin Ave. @ SR91	Orange- T4S/R9W	33 51 12/ 117 49 31
Olive Basin	4.6	SR-91 @ Tustin Ave.	Orange T4S/R9W/S5	33 50 59/ 117 50 25
Piacentia Basin	6.9	State College @ Orangethorpe	Anaheim T4S/R10W	33 51 28/ 117 53 10
Raymond Basin	13.3	La Palma Street/East St.	Anaheim T4S/R10W	33 50 55/ 117 54 29
Riverview Basin	3.5	Batavia Street @ Fletcher Ave.	Orange T4S/R10W	33 49 26/ 117 51 58
Santa Ana River Reach 2	96.2	Imperial Highway to SR 91	Orange T3,4S/R9W	33 51 23/ 117 48 49
Santa Ana River Reach 3	73.2	SR 91 to Lincoln Ave.	Orange T4S/R9,10W	33 50 38/ 117 51 08
Santa Ana River Reach 4	50.8	Lincoln Ave. to Ball Road	Orange T4S/R9,10W	33 49 29/ 117 52 00

Table 1: OCWD Recharge Facilities (continued)

Facility	Size (Wetted Acres)	Location	USGS	Latitude/ Longitude
Santa Ana River Reach 5	52.6	Ball Road to Orangewood Ave.	Anaheim T4S/R10W	33 47 59/ 117 52 38
Santa Ana River Reach 6	18.79	Orangewood Avenue to Chapman Ave.	Anaheim T4S/R10W	33 47 28/ 117 52 51
Santiago Basin	166.2	Prospect Avenue@ Bond Street	Orange T4/R9/S16	33 48 15/ 117 48 23
Santiago Creek Reach 1	2.7	Chapman Ave. Crossing	Orange- T4S/R9W/	33 47 22/ 117 49 41
Santiago Creek Reach 2	4.9	SR 55 to Tustin St.	Orange- T4S/R9W	33 46 55/ 117 50 01
Santiago Creek Reach 3	2.6	Cambridge St. to Schaffer St.	Orange - T4S/R9W	33 46 44/ 117 50 49
Warner Basin	68.4	La Palma Ave. @ Van Buren	Orange- T4S/R9W	33 51 14/ 117 49 54
Weir Pond 1	5.4	Imperial Hwy. @ La Palma Ave.	Orange- T4S/R9W	33 51 24/ 117 48 11
Weir Pond 2	6.4	Imperial Hwy. @ La Palma Ave.	Orange- T4S/R9W	33 51 26/ 117 48 09
Weir Pond 3	15.7	Taylor St. @ La Palma Ave.	Orange T4S/R9W	33 51 24/ 117 48 56
Weir Pond 4	4.0	Taylor St. @ La Palma Ave.	Orange- T4S/R9W	33 51 21/ 117 49 05

Table 2: Covered Activities

Basin	Sediment Disturbance/ Removal	Vegetation Removal	Maintain Access Ramps	Maintain Existing Structures	Maintain Dikes and Levees
Anaheim Lake	X	X	X	X	
Burris Basin	X		X	X	X
Conrock Basin	X		X	X	
Five Coves Basin	X		X	X	
Fletcher Basin	X		X	X	
Huckleberry Basin	X		X	X	
Kraemer Basin	X	X	X	X	
La Jolla Basin	X		X	X	
Lincoln Basin	X		X	X	
Little Warner	X			X	
Miller Basin	X		X	X	
Mini-Anaheim Lake	X		X	X	
Miraloma Basin	X		X	X	
Off-River Channel	X		X	X	
Olive Basin	X		X	X	
Placentia Basin	X			X	
Raymond Basin	X			X	
Riverview	X		X	X	
Santa Ana River			X	X	X
Santiago Basin	X		X	X	
Santiago Creek	X				
Warner Basin	X	X	X	X	
Weir Pond 1	X	X		X	
Weir Pond 2	X	X		X	
Weir Pond 3	X	X		X	
Weir Pond 4	X	X		X	