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GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

April 16, 2013

Bill Farthing
Orange County Transportation Authority
550 South Main Street
Orange, CA 92863

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE LAKEVIEW AVENUE GRADE SEPARATION PROJECT, COUNTY OF ORANGE, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 302013-02)

Dear Mr. Farthing:

On January 24, 2013, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the Orange County Transportation Authority for a project to eliminate the current and potential environmental impacts and hazards posed by the existing at-grade crossing of Lakeview Avenue and the Burlington Northern Santa Fe (BNSF) railway line, in the City of Placentia. 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 railroad grade separation is located along the cities of Placentia and Anaheim. Project parameters include the installation of an 86-foot long box culvert, transition structures, and riprap within Atwood Channel in the City of Placentia. At the upstream and downstream ends of the culvert, 30 ft long concrete transition structures with debris noses will be installed and 20 ft of riprap will be laid along either side of the channel. To construct the box culvert, temporary shoring will be installed along the existing earthen banks. The existing channel walls will be removed/recontoured and a cast-in-place box culvert will then be constructed. The work will take place within Township 3 South, Range 9 West, of the U.S. Geological Survey *Anaheim, California* quadrangle map (33° 51' 56.44" N/ -117° 49' 11.51" W).

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

Receiving water: Atwood Channel, Carbon Canyon, Coyote Creek, and San Gabriel River

Fill area: 0.11 acre of permanent impact to streambed habitat (207 linear feet) and 0.21 acre of temporary to streambed habitat

Dredge/Fill volume: 1,100 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:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.

Offsite Water Quality Standards Mitigation Proposed:

- The applicant will mitigate permanent impacts to areas under California Department of Fish and Wildlife (CDFW) jurisdiction (0.18 acre) at a 2:1 ratio based on the low value of the existing habitat. The proposed mitigation would equal a mitigation ratio of 3.27:1 for permanent impacts to areas under Corps jurisdiction (0.11 acre). The applicant will purchase a total of 0.36 acre of credits will from the Santa Ana Watershed Authority (SAWA) In-Lieu Fee Program.

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 CDFW 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.

The applicant reports that the project qualifies for a Public Resources Code (PRC) Division 13 Section 21080.13 statutory exemption from the provisions of the California Environmental Quality Act (CEQA). The applicant filed a CEQA Notice of Exemption for the project with the County of Orange on March 09, 2010. The applicant has submitted a determination by the Orange County Transportation Authority that the project is exempt, citing PRC Section 21080.13 which states, "This division shall not apply to any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation." The Board acknowledges that the applicant's project is statutorily exempt from the provisions of CEQA.

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 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.
- 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) 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.
- 6) 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.
- 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) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.

- 9) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work as a denoted element of any project SWPPP or WQMP.
- 10) Applicant shall ensure all procedures and policies specified within the project's WQMP, shall adequately address any hydraulic conditions of concern generated during and as a result of this project.
- 11) 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.

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/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 mail):

U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Wildlife - Kevin Hupf, KHupf@dfg.ca.gov
State Water Resources Control Board, DWQ-Water Quality Certification Unit - Bill Orme
LSA Associates, Nicole West – Nicole.west@las-assoc.com