

Santa Ana Regional Water Quality Control Board

November 17, 2014

Jeremy Hampton
Orange County Parks
13042 Old Myford Road
Irvine, CA 92602

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE HANGMAN'S PARKING AREA REPAIR AND ARIZONA
CROSSING REPLACEMENT PROJECT, MODJESKA CANYON, COUNTY OF
ORANGE, CALIFORNIA (ACOE REFERENCE NO. SPL-2012-00232-SME)
(SARWQCB PROJECT NO. 302013-10)**

Dear Mr. Hampton:

On May 3, 2013, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Orange County Parks for a project to restore and protect Orange County Park's Hangman's Tree parking lot and the at-grade crossing in the vicinity of Santiago Canyon Road and Modjeska Canyon Road. On October 15, 2014 we received confirmation that the County of Orange will act as CEQA Lead Agency for the project and as such is responsible for CEQA compliance.

The proposed activities will restore the Hangman's Tree parking lot to conditions prior to storm flow damage sustained in late 2010. The project will restore access for docent-led hikes and will provide emergency access to Whiting Ranch and Limestone Park. The applicant has also submitted a filing fee of \$1,715.00, which satisfies this project's fee requirement for 401 Certification. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site based on the iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3) in effect when the application was submitted.

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 will restore the Hangman's Tree parking and an at-grade "Arizona" crossing, which sustained erosive damage during the 2010 storm season. The parking lot restoration portion of the project will include backfilling approximately 400 linear feet of streambed and riparian

habitat, which had expanded as a result of washing away the existing structures during the 2010 storm season. Project activities also include the placement of 300 linear feet of large rock rip rap armament around the streambed edge of the parking lot, to guard against future erosion. Additionally, the project will include the reconstruction of a damaged Arizona crossing where the road crosses the active channel of Santiago Creek.

The work will take place within Section 19 of Township 5 South, Range 7 West, of the U.S. Geological Survey *El Toro* 7.5 minute topographic quadrangle map (33° 43' 13" N, - 117° 38' 53" W).

Receiving water: Santiago Creek, which has present or potential beneficial uses, including: contact recreation (REC1), non-contact recreation (REC2), groundwater recharge (GWR), wildlife habitat (WILD), municipal and domestic supply (MUN), and warm freshwater habitat (WARM).

Fill area:

Permanent Impact to Riparian Habitat	0.19 acres	200 linear feet
Temporary Impact to Riparian Habitat	0.33 acres	300 linear feet
Temporary Impact to Streambed Habitat	0.2 acres	100 linear feet

Dredge/Fill volume: 9,790 cubic yards

Federal permit: U.S. Army Corps of Engineers Permit No. SPL-2012-00232-SME

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:

- Orange County Parks will enhance 0.38 acres of riparian habitat through the removal of invasive *Arundo donax* (Giant Reed) in a nearby area.

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 Wildlife 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 the California Environmental Quality Act (CEQA), Orange County Parks filed a CEQA Categorical Exemption on August 7, 2014, citing CEQA Guidelines Sections 15301, 15303 and 15304 and declaring that the project involves the operation, repair, maintenance, and minor alteration of public/private structures that result in a negligible expansion of uses, and that the project consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of mature, scenic trees except for forestry and agricultural purposes. The Regional Board has independently considered the County's Categorical Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed project are necessary to 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 shall be timely implemented. Materials documenting the purchase or acquisition 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) The applicant shall provide documentation, which illustrates the location(s), as well as the specific area(s) within the locations where the proposed mitigation will be implemented.

- 4) The applicant shall design the proposed Arizona crossing constructed and maintained in a manner that allows wildlife to freely pass through the crossing without risk of being crushed by vehicles, opportunistically preyed upon, or otherwise harassed .
- 5) 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.
- 6) 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.
- 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, shall not be discharged to soils or waters of the state. All waste concrete shall 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. No equipment shall 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 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.
- 10) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 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.

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.

Jeremy Hampton
Orange County Parks
RWQCB #: 302013-10 CIWQS #: 794062

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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

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):

Stantec Consulting Services Inc. – Michael Weber – Michael.weber@stantec.com
U.S. Army Corps of Engineers, Los Angeles Office - James Mace
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Wildlife – Kim Freeburn
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme