



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

December 10, 2009

Nardy Khan
Department of Public Works
County of Orange
300 North Flower Street
Santa Ana, CA 92702

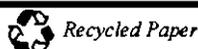
**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE EAST GARDEN GROVE WINTERSBURG CHANNEL
(C05) MAINTENANCE REPAIR PROJECT, ORANGE COUNTY (ACOE REFERENCE
NO. NOT AVAILABLE) (SARWQCB REFERENCE NO. 302009-42)**

Dear Ms. Khan:

On September October 19, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for channel stabilization and repair work in East Garden Grove Wintersburg Channel (C05) in the City of Huntington Beach, Orange County. 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: Removal and replacement of a section of 18-inch diameter corrugated metal pipe (CMP) that discharges to an existing concrete outfall structure, with a new section of 18-inch CMP and repair of the eroded channel bank immediately adjacent to the existing outfall structure within the C05 Channel. Bank repairs will be performed approximately 30 linear feet upstream and downstream of the CMP/outlet structure, for a total of 60 linear feet of the bank repairs. A maximum of approximately 88 cubic yards (CY) of soil will be excavated and reintroduced, along with an additional estimated 100 CY of imported fill. The project will take place within Section 27 of Township 5 South, Range 11 West, of the U.S. Geological Survey *Seal Beach, California*, 7.5-minute topographic quadrangle map (33.69803° / -118.04191).

California Environmental Protection Agency



Receiving water: East Garden Grove Wintersburg Channel, a tributary of Bolsa Bay /Huntington Harbor.

Fill area: 0.01 acre of permanent and 0.0059 acre of temporary impact to streambed (60 linear feet total).

Dredge volume: <10 cubic yards.

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 12.

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:

- Pollutants in channel flows that result from project activities will be removed using flocculent-impregnated fiber wattles and hydrocarbon booms.
- Additional Best Management Practices ("BMPs") will be specified in the project Storm Water Pollution Prevention Plan ("SWPPP").
- Temporarily-impacted areas will be allowed to re-vegetate naturally.

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. R8-2009-0009, commonly known as the Orange County Municipal Storm Water Permit.

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/ .

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act (CEQA), Orange County Public Works filed a Class 2 (c) (CEQA Guidelines Section 15302(c)) Categorical Exemption, which declares that the project 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 substantially the same purpose and capacity as the facilities replaced related to: (c) the reconstruction of existing utility facilities involving negligible or no expansion of capacity. The Regional Board has 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:

The applicant must comply with the requirements of the Clean Water Act section 404 permits.

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.

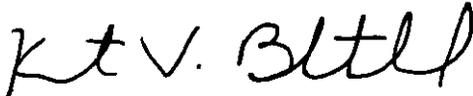
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean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



for GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Yvette Cardenas
Department of Fish and Game – Naeem Siddiqui
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Bill Orme
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini
and David Smith

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