



# California Regional Water Quality Control Board

## Santa Ana Region



Linda S. Adams  
Secretary for  
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348  
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221  
www.waterboards.ca.gov/santaana

Arnold Schwarzenegger  
Governor

August 8, 2008

James Wagner  
City of Huntington Beach  
2000 Main Street  
PO Box 190  
Huntington Beach, CA 92648

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE MAGNOLIA STREET IMPROVEMENT PROJECT, CITY OF HUNTINGTON BEACH (ACOE REFERENCE NO. SPL-2008-00501-YJC)**

Dear Mr. Wagner:

On April 7, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for roadway improvements to Magnolia Street in the City of Huntington Beach. 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) and subsequent Basin Plan amendments:

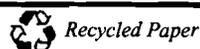
**Project Description:** Widening of a 900-foot long segment of Magnolia Street between Pacific Coast Highway and Huntington Beach Channel. The widening will increase the roadway from 64 feet to 80 feet and will include a new road surface with bike lanes, curb and gutter, pedestrian lighting, sidewalks, wetlands viewing areas, and two storm drain inlets that discharge to the Huntington Beach Wetlands on either side of the roadway. Construction will take between 2 and 3 months. The project is located within Section 13 of Township 6 South, Range 11 West, of the U.S. Geological Survey *Newport Beach, California*, 7.5-minute topographic quadrangle map (33.6411 degrees N/ - 117.9723 degrees W).

**Receiving water:** Huntington Beach Wetlands.

**Fill area:** 0.007 acre of permanent impact to coastal wetland; approximately 3.5 square feet will be temporarily affected during construction.

**Dredge/Fill volume:** N/A

**California Environmental Protection Agency**



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 and subsequent submittals. The proposed mitigation is summarized below:

**Onsite Water Quality Standards Mitigation Proposed:**

- Pollutants in storm water runoff from the roadway will be removed using trash racks and storm drain inlet filters with oil absorbent properties.

**Offsite Water Quality Standards Mitigation Proposed:**

- The City of Huntington Beach proposes to make a contribution to the Huntington Beach Wetlands and Wildlife Conservancy for restoration of 0.80 acres of the 0.97 acre Upper Magnolia Marsh<sup>1</sup>. The restoration work will occur as part of the Huntington Beach Wetlands restoration project, certified on March 24, 2008. For practical purposes, the City will fund restoration of the entire 0.97 acre of Marsh with the mitigation contribution. The excess compensatory mitigation is for impacts from the Newland Street widening project, certified on October 10, 2007. Pursuant to Condition 2 of that Certification, evidence of the contribution payment was provided on July 17, 2008.

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 Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2002-0010, commonly known as the Orange County Municipal Storm Water Permit. Order No. R8-2002-0010 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, Water Quality Order 99-08 DWQ, including the preparation of a SWPPP.

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. You have applied for a Coastal Development Permit from the California Coastal Commission. Pursuant to the California Environmental Quality Act (CEQA), the City of Huntington Beach adopted a Mitigated Negative Declaration on November 17, 2004. Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as shown in the associated negative declaration prior to

---

<sup>1</sup> The proposed compensatory mitigation amount is the result of the larger impacts to waters of the State defined by the Department of Fish and Game.

reaching a decision on the project. The Regional Board has considered the City's Mitigated Negative Declaration in the issuance of this Certification and finds that changes or alterations have been required, or incorporated into the proposed project, which 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 Clean Water Act section 404 permit.

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. 200-0017-DWQ is available at: [www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jae Chung  
State Water Resources Control Board, OCC – David Rice  
State Water Resources Control Board, DWQ-Water Quality Certification Unit – Bill Orme  
California Coastal Commission – Rami Talleh  
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini and David Smith

APF:401/certifications/magnolia st improvements 302008-09

