



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

September 24, 2008

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 BUENA PARK STORM CHANNEL (A03S01) REPAIR AND STABILIZATION PROJECT, ORANGE COUNTY (ACOE REFERENCE NO. SPL – 2008 – 00700 – JPL)

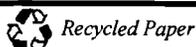
Dear Ms. Khan:

On June 20, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for channel stabilization and repair work in Buena Park Storm Channel A03S01 near the City of Buena Park, 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) and subsequent Basin Plan amendments:

Project Description: Excavation of approximately 5,600 cubic yards of eroded or failed channel banks and the placement of approximately 17,100 tons of un-grouted rip-rap, along a total of 1,990 feet of the Buena Park Storm Channel. Excavated material will be stockpiled at the Miller Retarding Basin for future use. The work will take approximately 4 months to complete and is located in three reaches of the Channel between Knott Avenue and Regio Avenue within Section 25 of Township 4 South, Range 11 West, of the U.S. Geological Survey *Anaheim, California*, 7.5-minute topographic quadrangle map (31 deg. 51 min. 58.68 sec. N/ -118 deg. 00 min. 54.72 sec. W).

Receiving water: Buena Park Channel.

California Environmental Protection Agency



Fill area: 0.43 acre of permanent impact to wetland (1,990 linear feet total).

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit Nos. 3 and 13.

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 the Channel flows 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”).

Offsite Water Quality Standards Mitigation Proposed:

- 0.6 acre of invasive riparian plant species (*Arundo donax*) will be eradicated in the Orange County Santa Ana River mitigation area. The eradication work will occur concurrently with other eradication efforts, totaling 1.0 acre, to meet existing and planned permit obligations for similar repair projects in Fullerton Creek and Greenville-Banning Channel¹. The work will occur according to the “Habitat Mitigation Monitoring Plan” prepared by Environmental & Regulatory Specialists, Inc., and dated July 9, 2008 (“Mitigation Plan”).

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. R8-2002-0010, 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.

¹ The Greenville-Banning Channel project was issued a Certification on June 10, 2008 and the Fullerton Channel improvement project was waived in September 2005.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2003-0061, 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. R8-2003-0061 at: www.waterboards.ca.gov/santaana/pdf/03-61.pdf.

The wetlands within the affected reach of Buena Park Storm Channel are the result of nuisance flow from the urbanized tributary area. Consequently, Regional Board staff does not believe that the Regional Board's "no-net-loss" policy under the California Wetlands Conservation Policy (1993) should apply.

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), the County of Orange and the Executive Officer have determined that the project is exempt from provisions of CEQA under a Categorical Exemption pursuant to Guidelines Section 15301 for maintenance and minor alteration of an existing facility. The proposed work constitutes maintenance and minor alteration of an existing facility.

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 permits.
- 2) The applicant must eradicate 0.6 acres of invasive plant species in the Lower Santa Ana River Watershed as proposed. The eradication effort must occur according to the July 9, 2008 Mitigation Plan and include a minimum of 6-years of follow-on maintenance. The initial eradication work must start within 12-months of the start of the proposed project. Certification that the eradication effort is being completed solely in satisfaction of State and Federal permits, licenses, or authorizations for the Buena Park Storm Channel repairs and stabilization, must be submitted to the Executive Officer not later than November 24, 2008.

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

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Department of Public Works
County of Orange

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September 24, 2008

Should there be any questions, please contact Adam Fischer at (951) 320-6363, 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 – Jason Lambert
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

APF:401/certifications/Buena park chnl repairs 302008-17

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