



California Regional Water Quality Control Board

Santa Ana Region



Matthew Rodriguez
Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

February 8, 2012

Mitch Alderman
San Bernardino Associated Governments
1170 West 3rd Street, 2nd floor
San Bernardino, CA 92410

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE BURLINGTON NORTHERN SANTA FE (BNSF)
RAILROAD EASTERN MAINTENANCE FACILITY PHASE 3 PROJECT, COUNTY OF
SAN BERNARDINO, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE)
(SARWQCB PROJECT NO. 362011-26)**

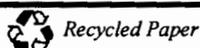
Dear Mr. Alderman:

On November 15, 2011, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from San Bernardino Associated Governments. The applicant reports the project will accommodate passenger and/or commuter railroad fleet projections for the Inland Empire, through the ultimate build-out year of 2030 and support increased transportation demands over the next three decades. The proposed improvements include the replacement of a 25-foot section of existing concrete channel associated with the west branch of Lytle Creek Channel with a concrete box culvert structure, and extending an existing bridge structure. 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 project includes the installation of a new "tail track" system between Citrus and Laurel Street, within the existing BNSF rail track right-of-way, in the City of Colton. The new system will alleviate vehicle storage issues caused by the current track configuration. To carry out the project, a 25-foot section of the existing concrete-lined Lytle Creek Channel will be replaced with a cast-in-place concrete box culvert structure. The project will also fill the existing concrete-lined, trapezoidal channel on the project site and replace it with 48-inch drainage pipe. This drainage pipe will connect to an existing 48-inch outlet that discharges runoff

California Environmental Protection Agency



directly to the Lytle Creek Channel. The project also includes an extension of an existing bridge structure on the project site. A proposed box girder bridge will span Lytle Creek Channel. The bridge will be constructed on 30-inch diameter cast-in-drilled-hole (CIDH) concrete piles. All bridge piles will be placed a minimum of eight inches from the outside of the concrete channel wall. The work will take place within an un-sectioned part of the U.S. Geological Survey *San Bernardino South* quadrangle map (34.086675° N/ -117.320231° W).

Receiving water:	Lytle Creek & an un-named tributary to Lytle Creek
Fill Area:	0.04 acres of permanent impact to streambed habitat (225 linear feet), 0.02 acres of temporary impact to streambed habitat (25 linear feet)
Dredge/Fill volume:	200 cubic yards. No permanent fill will be placed below the ordinary high water mark of Lytle Creek
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.
- All construction activities will be conducted during the dry-season

Offsite Water Quality Standards Mitigation Proposed:

- None

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. R8-2010-0036 (NPDES Permit No. CAS618036), commonly known as the San Bernardino County Municipal Storm Water Permit, and subsequent iterations thereof. Order No. R8-2010-0036 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, including the preparation of a Storm Water Pollution Protection Plan (SWPPP).

The Southern California Regional Rail Authority (SCRRA) filed California Environmental Quality Act (CEQA) Notices of Exemption that address this project on September 19, 1991, and on August 30, 2007. In its Notices, SCRRA cites CEQA in Public Resources Code Section Section 21080(b)(10), and Guidelines for Implementation of CEQA, California Code of Regulations Title 14 Section 15275(a), which state that CEQA does not apply to mass transit projects for, "...the institution or increase of passenger or commuter service on rail lines or high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities." From information provided by the project applicant, the Regional Board has independently concluded that this the exemptions cited apply to this project, and that this project is statutorily exempt from CEQA. Further, the Regional Board 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) 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.
- 3) 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.
- 4) 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.

- 5) 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.
- 6) 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.
- 7) 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.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 9) 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.
- 10) Construction de-watering discharges, including temporary stream diversions necessary for project construction 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 at www.waterboards.ca.gov/santaana/.
- 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.

Mitch Alderman
San Bernardino Associated
Governments

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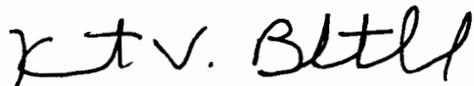
February 8, 2012

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/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):

HDR Engineering, Inc., Sr. Env. Planner – Clint Meyer clint.meyer@hdrinc.com
U. S. Army Corps of Engineers, Los Angeles Office- Daniel Swenson
State Water Resources Control Board, OCC- David Rice
State Water Resources Control Board, DWQ -Water Quality Certification Unit
California Department of Fish and Game - Joanna Gibson
U.S. EPA- Supervisor of the Wetlands Regulatory Office WTR- 8

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