

Santa Ana Regional Water Quality Control Board

November 20, 2013

Yelena Voronel
City of Fullerton
303 W. Commonwealth Avenue
Fullerton, CA 92832-1775

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE RAYMOND AVE/BNSF GRADE SEPARATION PROJECT, FULLERTON, ORANGE COUNTY, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 302013-20)

Dear Ms. Voronel:

On September 4, 2013, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the City of Fullerton for a project to construct a grade separation structure at the intersection of Raymond Avenue and the Burlington Northern Santa Fe (BNSF) main line railroad crossing in the city of Fullerton, Orange County. The applicant has also submitted a filing fee of \$9,468.00, which satisfies this project's fee requirement for consideration for a 401 Certification. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site, which is based on the most current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3). 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 consists of the following activities as they relate to water quality: Outlets from proposed storm drains in the project area into the Fullerton Creek flood control channel will be constructed, and existing storm drains channels tributary to the Fullerton Creek Channel will be modified. The proposed storm drain system will discharge into the Fullerton Creek Channel at two new locations (via Rerouted Line A and Proposed Line B). The point of connection for Rerouted Line A will be near the existing Valencia Drive crossing of Fullerton Creek Channel and the point of connection for Proposed Line B will be immediately west of the Truslow Avenue cul-de-sac. As such, there will be a total of four points of connection from the project area to Fullerton Creek Channel with implementation of the proposed project (Existing Lines E and C, Rerouted Line A, and Proposed Line B). These proposed drainage improvements will

require permanent (discharge of fill into, grading and elimination) and temporary (reconstruction or re-engineering) impacts to existing Lines A, C, and E as follows:

Rerouted Line A: The proposed Raymond Avenue undercrossing of the BNSF tracks will interfere with existing drainage systems in the project area. Flows from the existing concrete trapezoidal channel to the east of the undercrossing (Line A) will be rerouted into a new underground storm drain system. Line A will be rerouted southerly towards Ash Avenue, where it will cross Raymond Avenue. These rerouted flows will be conveyed to the north beneath the proposed Valencia Drive connector road and then westerly beneath Valencia Drive (Rerouted Line A). Rerouted Line A will be constructed using a 60-inch-diameter reinforced concrete pipe (RCP) and will be installed under the existing railroad tracks toward Valencia Drive. A new storm drain main line (proposed Line B) will be used to convey flows around the Raymond Avenue underpass and to connect to Fullerton Creek Channel adjacent to Valencia Drive.

Construction of the 60-inch-diameter RCP under the existing railroad tracks associated with Rerouted Line A will require elimination of an approximately 738 square-foot (0.02 acre) section of the existing Line A concrete-lined trapezoidal channel. The remaining section of existing Line A (25,707 square feet or 0.59 acre) will be temporarily impacted and reconstructed as a concrete channel (i.e., the original configuration).

Because the existing culvert beneath Raymond Avenue that conveys flow from Line A to Line E will be eliminated, Line E (an earthen channel) will also be permanently and temporarily impacted. Approximately 6,700 square feet (0.15 acre) of the Line E channel will be filled, graded and eliminated, and the remaining 4,749 square feet (0.11 acre) will be reconstructed as a concrete v-ditch. Line E will continue to convey some flows from north of the BNSF tracks to the Fullerton Creek Channel through a new concrete transition structure.

South of the BNSF tracks, existing Line C, will likewise be permanently and temporarily impacted due to the proposed Valencia Drive Bridge crossing of Raymond Avenue. Approximately 3,952 square feet (0.09 acre) of the Line C concrete channel will be filled, graded and eliminated and the remaining 6,698 square feet (0.15 acre) will be temporarily impacted and reconstructed as a concrete-lined channel. A small system of two catch basins and 18-inch to 24-inch diameter pipes will collect flow on Valencia Drive, connect to the modified Line C, which will continue to convey runoff through a new 24-inch RCP at the channel's existing connection to Fullerton Creek Channel.

Proposed Line B: Due to limited drainage collection systems in the existing streets north of the BNSF tracks, a new 60-inch to 72-inch RCP storm drain system (Proposed Line B) will be constructed within roadways from the proposed Raymond Avenue undercrossing north to Sudene Avenue, in order to intercept gutter flow on Raymond Avenue. Proposed Line B will outlet into Fullerton Creek Channel, west of the Truslow Avenue cul-de-sac. The proposed Raymond Avenue undercrossing will create a sump where flows that are not intercepted into the Proposed Line B storm drain will collect.

Two catch basins in the sump of the Raymond Avenue underpass will collect these remaining surface flows and route them through a new pump station to the Proposed Line B main line storm drain at Truslow Avenue.

Temporary Drainage System: It should be noted that a temporary Raymond Avenue detour road (temporary at-grade crossing of the BNSF) will be implemented during the aforementioned proposed project activities. An interim drainage system for the detour road and shoofly track will be installed, both of which will affect the existing drainage systems and the construction phasing of the ultimate system. Under this interim scenario, the existing Line C and existing Line E will not be available to convey any flows during the time period when the shoofly track and detour road are in operation. Therefore, in order to convey flows from the existing Line A to the Fullerton Creek Channel, the proposed Rerouted Line A will be constructed first.

The work will take place within Sections 34 and 35 of Township 3 South, Range 10 West, of the U.S. Geological Survey *Anaheim* quadrangle map (33.86695° N/ - 117.90689° W). According to the project's Storm Water Pollution Prevention Plan, all construction activities and structural best management practices (BMPs) will be implemented in accordance with all applicable local, state and federal storm water and water quality management regulations. Post construction water quality management procedures will be in accordance with the project's Water Quality Management Plan.

Receiving water: Unnamed tributaries to Fullerton Creek Channel (A03)

Fill area:

Temporary Impact to Streambed Habitat	0.20 acre	2,837 linear feet
Permanent Impact to Streambed Habitat	0.08 acre	903 linear feet

Dredge/Fill volume: 700 cubic yards

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:

- None

Offsite Water Quality Standards Mitigation Proposed:

- Mitigation for natural substrate-bottomed channel permanent impacts associated with the Raymond Avenue Grade Separation Project are proposed to be satisfied via contribution to the Riverside-Corona Resource Conservation District In-Lieu Fee Program (RCRCD-ILFP), which benefits the Santa Ana River Watershed. Although the proposed project is located with the San Gabriel River Watershed, it is (1) located within the service area map of the RCRCD-ILFP, (2) is located within 3.25 miles of the Santa Ana River mainstem, and (3) there is no currently approved Mitigation Bank or In-Lieu Fee Program within the San Gabriel Watershed (the San Gabriel Mountains Regional Conservancy In-Lieu Fee Program is currently pending approvals). A total of 0.25 acre of streambed enhancement mitigation credits will be purchased in order to mitigate 0.08 acre of permanent impact to streambed habitat.

Impacts	Mitigation Ratio	Mitigation
0.08 acre of permanent impact to streambed habitat	3.125:1 ratio	0.25 acres of enhanced streambed habitat mitigation

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.

The applicant reports that the project qualifies for a Public Resources Code Division 13 Section 21080.13 statutory exemption from the provisions of the California Environmental Quality Act (CEQA). The applicant filed a CEQA Notice of Exemption for the project with the County of Orange on August 21, 2013. CEQA Guidelines Section 15282, summarizing CEQA statutory exemptions, includes part (g) which states, "*Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation as set forth in Section 21080.13 of the Public Resources Code (PRC)*" (is exempt from the reporting requirements of CEQA). PRC Section 21080.13 states, "*This division shall not apply to any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation.*" The Board acknowledges that the applicant's project is statutorily exempt from the provisions of CEQA, and has independently determined that no changes or alterations to the proposed project are necessary to avoid or mitigate water quality impacts and that the project will not have a significant effect on water quality.

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 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) 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.
- 4) 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.
- 5) 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.
- 6) 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.
- 7) 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.

- 8) 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.
- 9) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 10) 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.
- 11) 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/
- 12) 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.

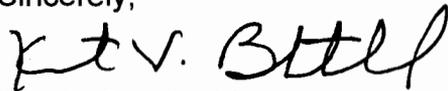
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean 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. 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/wqo2003-0017.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):

AECOM – Erik Larsen – erik.larsen@aecom.com
U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Game – Russell M. Barabe
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme