

State of California
California Regional Water Quality Control Board
Santa Ana Region

February 4, 2022

STAFF REPORT

ITEM: *

SUBJECT: San Bernardino Department of Public Works, Environmental Management Division, Flood Control District - West Fontana Channel Flood Control Improvement Project (Banana to Hickory), Unincorporated Fontana, San Bernardino County, Order No. R8-2022-0005

DISCUSSION:

Water Code section 13260, subdivision (a) requires that a report of waste discharge (ROWD) be filed by any person discharging waste or proposing to discharge waste that could affect the quality of the waters of the State (WOTS).

Under federal Clean Water Act (CWA) section 401, applicants for a federal permit or license for any activity that may result in a discharge to waters of the United States (WOTUS) must obtain a state Water Quality Certification (Certification) that the proposed activity will comply with state water quality standards.

Most Certifications are issued in connection with U.S. Army Corps of Engineers (USACE) CWA section 404 permits for dredged and fill material discharges. The State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards) (collectively, Water Boards) administer the Certification program in accordance with the requirements of California Code of Regulations title 23, section 3830 et seq. Since November 2003, Certifications have been issued by the Executive Officer accompanied by authorization to discharge in accordance with State Water Board Order No. 2003-0017-DWQ ("Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that Have Received State Water Quality Certification").

Recent U.S. Supreme Court rulings and U.S. Environmental Protection Agency (USEPA) jurisdictional clarifications regarding the scope of WOTUS have effectively limited the scope of USACE permitting authority under CWA section 404. As a result, certain discharge activities are no longer considered to be discharges of dredged and fill material to WOTUS. Further, these non-CWA section 404 discharges no longer require Certification under CWA section 401. However, to the extent that dredged and fill material are discharged to the WOTS, the Water Boards retain their permitting authority under the Porter-Cologne Water Quality Control Act (Porter Cologne Act), Water Code

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section 13000 et seq. Permitting occurs in the form of Waste Discharge Requirements (WDRs) prescribed pursuant to Water Code section 13263, subdivision (a).

The San Bernardino County Department of Public Works, Environmental Management Division, Flood Control District (Discharger) is proposing to increase the capacity of the West Fontana Channel (Channel) to convey 100-year stormflows (Project) in unincorporated Fontana, San Bernardino County. Although WOTUS exist onsite, the USACE informed the Discharger on June 3, 2021 that federal jurisdiction would be disclaimed for site waters. Therefore, WDRs have been developed for discharges to WOTS.

The Project would widen the Channel to a maximum of 110 feet between Banana and Hickory Basins to accommodate an increased rate of stormflows from upstream channel improvements previously certified under CWA section 401. The Project proposes to construct 200 feet of concrete rectangular sections, place non-grouted slope protection on trapezoidal sections, and create "transition lengths" between the sections and culverts. Of three new concrete box culverts, two would replace existing culverts beneath railway bridges, and the third would enlarge the existing culvert beneath the Calabash Avenue crossing. Further construction would replace one existing access ramp and establish two more ramps; replace the existing concrete weir at the outlet of Banana Basin; build "junction structures;" and make any ancillary modifications. Excavations may be as deep as 25 feet among all earthmoving activities.

The east-west trending Channel is located in an unincorporated part of the city of Fontana, east of Etiwanda Avenue and along the south side of Whittram Avenue. The Project area (including non-impact staging) extends 3,168 linear feet (LF; 0.6 mile) west from the outlet of Banana Basin (near Banana Avenue) downstream to the inlet of Hickory Basin (near Hickory Avenue). Midway of the Project area, the Channel is crossed by Calabash Avenue. The Channel is trapezoidal with an earthen bottom and generally armored side walls. Maps showing the Project location are found in Attachment A of the tentative Order No. R8-2022-0005.

The Project would permanently impact 2.50 acres (ac) of WOTS, of which 0.30 ac is delineated as WOTUS. The Project also would temporarily impact 2.60 ac of WOTS, of which 0.80 ac is delineated as WOTUS. A total of 5.10 ac of WOTS would be impacted by the Project. The WOTS contain no wetlands and no riparian vegetation that constitute quality habitat. The Discharger has conducted surveys for sensitive species, and one Burrowing Owl (*Athene cunicularia*) was observed onsite in December 2019. An "owl burrow plan" is incorporated into the operating procedures.

On April 26, 2021, the California Department of Fish and Wildlife, Region 6 issued Lake and Streambed Alteration Agreement (LSA) No. EPIMS-SBR-14225-R6 for the Project. Mitigation for the dredge and fill impacts of the Project would be conducted by the offsite purchase and preservation of 0.55 acre and 1,357.50 LF of higher quality habitat at the

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Cajon Creek Habitat Conservation Management Area (mitigation bank in San Bernardino County).

On December 9, 2021, the Santa Ana Water Board Executive Officer issued a letter provisionally authorizing the Discharger to proceed with construction activities prior to the adoption of this Order, provided that the Discharger implements "Avoidance and Minimization Measures." Most of these measures pertain to the prevention of pollutants from entering or leaving the Project site. The Discharger is conditioned to submit a "Commencement of Construction Report" at least seven days prior to initial ground disturbance and to submit a "Preconstruction Endangered Species Report" on observed habitat conditions and any occupation of sensitive species known in this area at least three days prior to initiating Project activities.

The Project would implement Best Management Practices (BMPs) to prevent further sedimentation from erosion, among potential pollutant discharges that could impact surface waters. Prior to commencing construction, the Discharger will obtain an individual permit for construction storm water runoff and will prepare a Storm Water Pollution Prevention Plan (SWPPP).

The Discharger, as the lead agency for compliance with the California Environmental Quality Act (CEQA), circulated an Initial Study/Mitigated Negative Declaration (IS/MND; State Clearinghouse Number 2006121089) for its own Project on March 3, 2020. The San Bernardino County Board of Supervisors further adopted the IS/MND on July 28, 2020, and the Clerk of the Board issued a Notice of Determination for the IS/MND on July 29, 2020.

The Santa Ana Water Board staff has considered the IS/MND adopted by the San Bernardino County and subsequent information provided by the Discharger. More specifically, the Santa Ana Water Board staff considered those sections of the IS/MND pertaining to impacts to water quality standards, the stormwater BMPs to be implemented, and the conditions set forth in the tentative Order No. R8-2022-0005 and determined that potentially adverse impacts to water quality objectives should be reduced to a less than significant level and beneficial uses protected, if all stated mitigation and conditions are performed. Compensatory mitigation includes the purchase of 0.55 ac of higher quality habitat at Cajon Creek Habitat Conservation Management Area in San Bernardino County.

Santa Ana Water Board staff is relying on the City's IS/MND for compliance with CEQA, and staff has determined that no further environmental review is required for the Project under the CEQA Guidelines.

For further information on the proposed Project, please contact Santa Ana Water Board staff Glenn Robertson at Glenn.Robertson@waterboards.ca.gov

RECOMMENDATION:

Adopt Order No. R8-2022-0005 as presented.

Comments were solicited from the following:

U.S. Environmental Protection Agency (R9cwa401@epa.gov)

Deanna L. Cummings, U.S. Army Corps of Engineers, Los Angeles District
(Deanna.L.Cummings@usace.army.mil)

Cindy Castenada, California Department of Fish and Wildlife, Region 6
(Cindy.Castenada@wildlife.ca.gov) (LSA No. EPIMS-SBR-14225-R6)

Sheri Ortega, Cajon Creek Habitat Conservation Management Area
(Ortegas@VMCmail.com)

David Lancaster, State Water Board, Office of the Chief Counsel
(David.Lancaster@waterboards.ca.gov)

State Water Board, Division of Water Quality – Water Quality Certification Unit
(Stateboard401@waterboards.ca.gov)

Harold Zamora, Environmental Management Division Chief, San Bernardino County
Flood Control (HZamora@dpw.sbcounty.gov)

Nancy Sansonetti, Environmental Management Division, San Bernardino County Flood
Control (Nancy.Sansonetti@dpw.sbcounty.gov)

State of California
California Regional Water Quality Control Board
Santa Ana Region

Order No. R8-2022-0005

Waste Discharge Requirements
for
San Bernardino County Department of Public Works,
Environmental Management Division, Flood Control District
West Fontana Channel Flood Control Improvement Project (Banana to Hickory)
Unincorporated Fontana, San Bernardino County

Findings

The California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board), finds that:

1. This Order prescribes Waste Discharge Requirements (WDRs) for the San Bernardino County Department of Public Works, Environmental Management Division, Flood Control District (Discharger), for the West Fontana Channel Flood Control Improvement Project, Banana to Hickory Basins (Project).
2. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the operative Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) and other plans and policies. The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the State (WOTS), water quality objectives (WQOs) to protect those uses, and State and federal antidegradation policies.
3. The Santa Ana Water Board has the authority to regulate the discharge of dredged and fill materials through the issuance of WDRs pursuant to California Water Code (CWC) section 13263. The Santa Ana Water Board has determined that WDRs are necessary to adequately address the Project's potential impacts to the beneficial uses of WOTS.
4. This Order regulates the discharge of dredged and fill material to WOTS.
5. On October 22, 2020, the Discharger submitted an application for Project WDRs. The application was assigned Santa Ana Water Board WDID No. 362020-16. The application was determined complete on October 29, 2021.

6. An application fee of \$1,949.00 was received with the application on October 28, 2020. Additional Project impact fees totaling \$18,189.00 were submitted on December 3, 2021. The fee amount was determined as required by California Code of Regulations, title 23 (Title 23), sections 3833(b)(3) and 2200(a)(3), and was calculated as Category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.
7. On January 23, 2020, the U.S. Environmental Protection Agency (USEPA) and U.S. Army Corps of Engineers (USACE) issued the Navigable Waters Protection Rule, which revised the definition of waters of the U.S. (WOTUS). On June 3, 2021, the USACE informed the Discharger that federal jurisdiction would be disclaimed for site waters. Therefore, WDRs are appropriate for the regulation of dredge and fill discharges to the total of 5.10 ac of WOTS.
8. The Discharger proposes to enlarge and modify an undersized channel to convey 100-year stormflows. The West Fontana Channel (Channel) is trapezoidal with an earthen bottom and generally armored side walls. Upstream improvements would increase the rate of stormflow to the Banana and Hickory Basins and, therefore, the undersized capacity of the existing Channel between the Basins must be upgraded by widening the Channel to a maximum of 110 feet. The Discharger proposes to construct 200 feet of concrete rectangular sections, place non-grouted slope protection on trapezoidal sections, and create "transition lengths" between the sections and culverts. Of three new concrete box culverts, two would replace existing culverts beneath railway bridges, and the third would enlarge the existing culvert beneath the Calabash Avenue crossing.
9. Further construction activities would include the following: replace one existing access ramp and establish two more ramps; replace the existing concrete weir at the outlet of Banana Basin; build "junction structures" and make any ancillary modifications. Excavations may be 25 feet deep among all earthmoving activities.
10. On December 9, 2021, the Santa Ana Water Board Executive Officer issued a letter provisionally authorizing the Discharger to proceed with construction activities prior to the adoption of this Order, provided that the Discharger implements "Avoidance and Minimization Measures." Most of these measures pertain to the prevention of pollutants from entering or leaving the Project site.
11. The Project would implement Best Management Practices (BMPs) to prevent further sedimentation from erosion, among potential pollutant discharges that could impact surface waters.
12. The Project is located within an unincorporated part of the city of Fontana, San Bernardino County (34.094 °N / -117.502 °W; Section 10 South, Township 60W,

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Range 9 and 10), where the Channel is east of Etiwanda Avenue and south of Whittram Avenue. The Project site begins at the outlet of Banana Basin near Banana Avenue and extends downstream to the inlet of Hickory Basin near Hickory Avenue. Midway of the Project area, the Channel is crossed by Calabash Avenue. Maps showing the Project location are found in Attachment A of this Order.

13. It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.
14. The Channel is tributary to the San Sevaine Channel and has the following designated beneficial uses (existing or potential):
 - i. Municipal and Domestic Supply (MUN)
 - ii. Groundwater Recharge (GWR)
 - iii. Non-contact Water Recreation (REC 2)
 - i. Wildlife Habitat (WILD)
15. The Project would permanently impact 2.50 ac of WOTS, of which 0.30 ac are delineated as WOTUS. The Project would temporarily impact 2.6 ac of WOTS, of which 0.80 ac are delineated as WOTUS. On June 3, 2021, the USACE informed the Discharger that jurisdiction would be disclaimed for the total of 1.10 acres of the above-referenced federal waters. Therefore, WDRs are appropriate for the regulation of dredge and fill discharges to the total of 5.10 ac of WOTS (3,168 linear feet; LF).
16. The 5.10-ac area of disturbance contain no wetlands and no riparian vegetation that constitute quality habitat. There would be no physical loss or degradation of an ecological condition. However, the Discharger has conducted onsite surveys for sensitive species, and a Burrowing Owl (*Athene cunicularia*) was observed on the Channel slope in December 2019. On April 26, 2021, the California Department of Fish and Wildlife, Region 6 issued Lake and Streambed Alteration Agreement (LSA) No. EPIMS-SBR-14225-R6 for the Project. The LSA contains a plan to obviate impacts to burrowing owls. The Santa Ana Water Board concurs with the Project's agreed mitigation for impacts to WOTS and its beneficial uses. Mitigation would be conducted by the offsite purchase and preservation of 0.55 ac and 1,357.50 LF of higher quality habitat at the Cajon Creek Habitat Conservation Management Area (mitigation bank in San Bernardino County).
17. Water Code section 13263 authorizes the Santa Ana Water Board, after any necessary hearing, to prescribe requirements as to the nature of any proposed

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discharge with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements must implement any relevant water quality control plans that have been adopted and take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Water Code section 13241. In accordance with subdivision (g) of Water Code section 13263, all discharges of waste into WOTS are privileges, not rights, and the WDRs in this Order shall not create a vested right to continue to discharge and are subject to rescission or modification.

18. Pursuant to Water Code section 13267, the Santa Ana Water Board, in establishing or reviewing any water quality control plan or WDRs, or in connection with any action relating to any plan or requirement authorized by Water Code section 13000 et seq., may investigate the quality of any WOTS within its region. In conducting such an investigation, the Santa Ana Water Board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of these reports must bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. The WDRs contained in this Order incorporate requirements for water quality monitoring and Project reporting, which are necessary to ensure that the discharge of dredged and fill material complies with WDRs and is protective of the environment.
19. The WDRs in this Order are adopted pursuant to Water Code sections 13263 and 13267. The WDRs set forth the requirements, prohibitions, and other conditions to implement the Basin Plan, and the Discharger's responsibilities for monitoring and reporting. The Discharger is responsible for ensuring compliance with the WDRs. In addition, this Order regulates the discharge of fill material to WOTS.
20. Pursuant to California Code of Regulations title 14, Chapter 3, section 15096, as a responsible agency, the Santa Ana Water Board is required to consider California Environmental Quality Act (CEQA) documents prepared by the lead agency to determine a Project should receive WDRs. A responsible agency has responsibility to mitigate and avoid only the direct and indirect environmental effects of those parts of the Project that it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by California Code of Regulations section 15091 and, if necessary, section 15093 for each and every significant impact of the project.
21. The Discharger, as the lead CEQA agency, adopted a Mitigated Negative Declaration (IS/MND; State Clearinghouse No. 2006121089) for the Project on March 3, 2020. The San Bernardino County Board of Supervisors, Clerk of the Board issued a Notice of Determination for the IS/MND on July 29, 2020.

22. As required by California Code of Regulations section 15096, in approving this Order, the Santa Ana Water Board has considered the IS/MND adopted by the Discharger and the County of San Bernardino, as well as subsequent information provided by the Discharger. If all stated conditions set forth in this Order are performed, potentially adverse impacts to water quality standards should be reduced to a less than significant level and beneficial uses would be protected.
23. The Santa Ana Water Board has considered antidegradation pursuant to State Water Resources Control Board (State Water Board) Resolution No. 68-16 and Title 40, Code of Federal Regulations section 131.12 and finds that the discharge permitted under this Order is consistent with those provisions. This Project is not anticipated to result in the degradation of WOTS. The WDRs ensure that the highest level of water quality is maintained consistent with the maximum benefit to the people of the State.
24. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and Title 23, section 2050 et seq. Additionally, the Santa Ana Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Discharger, if the Santa Ana Water Board determines that the Project fails to comply with any of the conditions of this Order.
25. The Santa Ana Water Board has notified the Discharger and other interested agencies and persons of its intent to prescribe WDRs for the discharge, and has provided them with an opportunity for public hearing and an opportunity to submit their written views and recommendations.

Requirements

IT IS HEREBY ORDERED that the Discharger shall comply with the following waste discharge requirements:

- A. Discharge Specifications:
 1. No activities associated with the Project shall cause or threaten to cause a nuisance or pollution as defined in Water Code section 13050.
 2. The discharge of any substance in concentrations toxic to animal or plant life is prohibited.
 3. The groundwater in the vicinity of the Project shall not be degraded as a result of the Project activities or placement of fill for the Project.
 4. The discharger shall comply with conditions described in and required by the State Water Board's NPDES General Permit for Storm Water

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Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, as amended by Order No. 2012-0006-DWQ; NPDES No. CAS000002) and any subsequent iterations thereof.

5. The discharger shall comply with the local regulations associated with the Santa Ana Water Board's Municipal Storm Water Permit issued to San Bernardino County and co-permittees under NPDES No. CAS618036 and WDR Order No. R8-2010-0036, and subsequent iterations thereof.
6. If construction dewatering discharges, including temporary stream diversions, are necessary to carry out the Project, the discharger shall comply with Santa Ana Water Board Order No. R8-2020-0006, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimis) Threat to Water Quality.
7. The discharge of fill materials shall be limited to the placement of native fill and "inert waste," as defined per California Code of Regulations, title 27 (Title 27), section 20230. The discharge of fill material other than native soil is prohibited, unless authorized by the Santa Ana Water Board.

B. Discharge Prohibitions:

1. The direct discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid or liquid wastes, into channels, surface waters, or any place where they would contact or be eventually transported to surface waters, including flood plains, is prohibited.
2. The discharge of oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
3. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
4. Discharges to surface waters of wastes or pollutants that are not otherwise regulated by a separate NPDES permit are prohibited.
5. During the grading and filling operation, there shall be no onsite fueling, lubrication, changing of oil or other equipment fluids and their filters, or any other maintenance or storage of construction equipment within or next to drainage areas or other surface runoff conveyances.

C. Provisions

1. The conditions of the Executive Officer's December 9, 2021 provisional authorization letter shall be followed by the Discharger.
2. Low impact development features and construction and post-construction best management practices (BMPs) shall be implemented as described in the preliminary Water Quality Management Plan submitted with the application.
3. The Discharger shall maintain a copy of this Order at the Project site so that it is always available to site operating personnel. Key operating personnel shall be familiar with the Order's content.
4. The Discharger shall comply with all of the requirements of this Order. Any violation of this Order constitutes a violation of the Water Code, may constitute a violation of the CWA and related regulations, and is grounds for enforcement action, termination of this Order, revocation and re-issuance of this Order, denial of an application for re-issuance of this Order, or a combination thereof.
5. The Discharger shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.
6. The provisions of this Order are severable and, if any provision of this Order or the application of any provisions of this Order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.
7. The filing of a request by the Discharger for modification, revocation and re-issuance, or termination of this Order or a notification of planned changes or anticipated noncompliance does not stay any requirements of this Order.
8. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the Discharger from liabilities under federal, State, or local laws, nor guarantee the Discharger a capacity right in the receiving waters.
9. This Order does not convey any property rights of any sort, or any exclusive privilege.

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10. The Discharger shall submit to the Santa Ana Water Board staff reports and notices per the checklist and cover page noted in Attachment B, along with the perjury statement in Attachment C.
11. This Order is not transferable in its entirety or in part to any person or organization except after notice to the Santa Ana Water Board in accordance with the following terms:
 - a. The Discharger shall notify the Santa Ana Water Board by submitting a Transfer of Property Ownership Report of any change in ownership or interest in ownership of the Project area. The Discharger and purchaser shall sign and date the notification and provide such notification to the Santa Ana Water Board at least ten days prior to the transfer of ownership. The purchaser shall also submit a written request to the Santa Ana Water Board to be named as the discharger in a revised order.
 - b. Until such time as this Order has been modified to name the purchaser as the discharger, the Discharger identified in this Order shall continue to be responsible for all requirements set forth in this Order.
12. In the event of any change in control or ownership of land or waste discharge facility presently owned or controlled by the Discharger, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to the Santa Ana Water Board.
13. The Discharger shall submit to the Santa Ana Water Board an annual report each year on the anniversary of this Order. Annual reporting shall continue until a *Notice of Project Complete Letter* is issued to the Discharger. The contents of the annual report shall include a Project status, construction summary, and schedule (including ground disturbance, site clearing and grubbing, and site construction), and the implementation status of BMPs during the active discharge period. If the Project has not started, the Discharger shall provide an estimated start date and reasons for delay.
14. The Discharger shall submit a *Commencement of Construction Report* to the Santa Ana Water Board at least seven days prior to start of initial ground disturbance activities.
15. The Discharger shall submit a *Request for Notice of Completion of Discharges Letter* following completion of active Project construction activities, including any required restoration and Discharger-responsible

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mitigation. This request shall be submitted to the Santa Ana Water Board staff within thirty days following completion of all Project construction activities. Upon acceptance of the request, Santa Ana Water Board staff will issue to the discharger a *Notice of Completion of Discharges Letter*, which will end the active discharge period and, if appropriate, associated annual fees.

16. The Discharger shall submit a *Request for Notice of Project Complete Letter* when construction and any required post-construction monitoring is complete and no further Project activities will occur. This request shall be submitted to Santa Ana Water Board staff within thirty days following completion of all Project activities. Upon approval of the request, the Santa Ana Water Board staff will issue to the discharger a *Notice of Project Complete Letter*, which will end the post-discharge monitoring period and associated annual fees.
17. The Discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. Records may be maintained electronically. This period may be extended during the course of any unresolved enforcement action or litigation regarding this discharge or when requested by the Santa Ana Water Board.
18. The Santa Ana Water Board and other authorized representatives shall be allowed to:
 - a. Enter premises where a regulated facility or activity is located or conducted, or where records are kept under the requirements of this Order;
 - b. Access and copy any records that are kept under the requirements of this Order;
 - c. Inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
 - d. Photograph, sample, and monitor for the purpose of assuring compliance with this Order.
19. This Order becomes effective on the date of adoption by the Santa Ana Water Board.

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20. This Order will remain valid for five years from the date of this Order's adoption. This Order expires on February 4, 2027, and the Discharger must file a new dredge and fill application in accordance with Title 23, Division 3, Chapter 9 of the California Code of Regulations not later than 180 days in advance of this expiration date.

I, Jayne Joy, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on February 4, 2022.

JAYNE JOY, P.E.
Executive Officer

TENTATIVE

San Bernardino County Dept. of Public Works, Flood Control District
West Fontana Channel Flood Control Improvement Project (Banana to Hickory)
Attachment A



Figure 1. Overview

San Bernardino County Dept. of Public Works, Flood Control District
West Fontana Channel Improvement Project, Banana Basin to Hickory Basin
Attachment A



Copies of this Form

In order to identify your Project, it is necessary to include a copy of the Project-specific Report and Notification Cover Sheet below with your report (see page 3). Please retain a copy for your records.

Report Submittal Instructions

- 1) Check the box on the *Report and Notification Cover Sheet* next to the report or notification you are submitting.
 - a) Part A (Annual Report): Submitted annually from the anniversary of the Project effective date until a Notice of Project Complete Letter is issued.
 - b) Part B (Project Status Notifications): Used to notify the Santa Ana Water Board of the status of the Project schedule that may affect Project billing.
- 2) Sign the *Report and Notification Cover Sheet* and attach all information requested for the Report Type.
- 3) Electronic Report Submittal Instructions:
 - a) Submit signed *Report and Notification Cover Sheet* and required information via email to: RB8-401Reporting@waterboards.ca.gov
 - b) Include in the subject line of the email: Order R8 2022-0005 and Report Type Name

Definition of Reporting Terms

- 1) **Active Discharge Period:** The active discharge period begins with the effective date of this Order and ends on the date that the Discharger receives a Notice of Completion of Discharges Letter or, if no post-construction monitoring is required, a Notice of Project Complete Letter. The Active Discharge Period includes all elements of the Project, including site construction and restoration, and any Discharger-responsible compensatory mitigation construction.
- 2) **Request for Notice of Completion of Discharges Letter:** This request by the Discharger to the Santa Ana Water Board staff pertains to projects that have post construction monitoring requirements (e.g., if site restoration were required to be monitored for five (5) years following construction). Santa Ana Water Board staff will review the request and send a Completion of Discharges Letter to the Discharger upon approval. This letter will initiate the post-discharge monitoring period and a change in fees from the annual active discharge fee to the annual post-discharge monitoring fee.
- 3) **Request for Notice of Project Complete Letter:** This request by the Discharger to the Santa Ana Water Board staff pertains to projects that either have completed

Definition of Reporting Terms

post-construction monitoring and achieved performance standards, or have no post-construction monitoring requirements and no further Project activities are planned. Santa Ana Water Board staff will review the request and send a Project Complete Letter to the Discharger upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.

Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

1. Map Format Information:

Preferred map formats of at least 1:24000 (1" = 2000') detail (listed in order of preference):

- **GIS shapefiles:** The shapefiles shall depict the boundaries of all Project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and, if possible, provide map with a North American Datum of 1983 (NAD83) in the California Teale Albers projection in feet.
- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5-minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

- 2. Photo-Documentation:** Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post-construction conditions.

Report and Notification Cover Sheet
Project:
Discharger:
Order No.:
Order Effective Date:

Report Type Submitted
<input type="checkbox"/> Report Type 1: Annual Report
<input type="checkbox"/> Report Type 2: Commencement of Construction Report
<input type="checkbox"/> Report Type 3: Request for Notice of Completion Dischargers Letter
<input type="checkbox"/> Report Type 4: Request for Notice of Project Complete Letter
<input type="checkbox"/> Report Type 5: Transfer of Property Ownership Report

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

X

Signature

STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)

I hereby authorize _____ to act in my behalf as my representative in the submittal of this report, and to furnish upon request supplemental information in support of this submittal.

X

Discharger Signature

San Bernardino County Dept of Public Works, Flood Control District
 West Fontana Channel Flood Control Improvement Project (Banana to Hickory)
 Attachment B

Report Type 1	Annual Report
Purpose:	Notify the Santa Ana Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
When to Submit:	Annual reports shall be submitted each year by the effective date. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Discharger.
Report Contents:	<p>Part A:</p> <ol style="list-style-type: none"> 1. Project progress and schedule, including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water BMPs. If construction has not started, provide estimated start date and reasons for delay. <p>Part B:</p> <ol style="list-style-type: none"> 1. Planned date of initiation of compensatory mitigation site installation. 2. If installation is in progress, a map of what has been completed to date. 3. If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan. 4. Mitigation Bank or In-Lieu Fee (ILF) 5. Status or proof of purchase of credit types and quantities. 6. Include the name of bank/ILF Program and contact information.

Report Type 2	Commencement of Construction
Purpose:	Notify the Santa Ana Water Board staff prior to the start of construction.
When to Submit:	Must be received at least seven (7) days to start of initial ground disturbance activities.
Report Contents:	<ol style="list-style-type: none"> 1. Date of commencement of construction. 2. Anticipated date when discharges to waters of the State will occur. 3. Project schedule milestones, including a schedule for onsite compensatory mitigation, if applicable.

Report Type 3	Request for Notice of Completion of Discharger Letter
Purpose:	Notify Santa Ana Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and Discharger-responsible compensatory mitigation, is complete.
When to Submit:	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project activities.
Report Contents:	<ol style="list-style-type: none"> 1. Status of storm water Notice of Termination(s), if applicable. 2. Status of post-construction storm water BMP installation. 3. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized. 4. Summary of Deviation discharge quantities compared to initial authorized impacts to waters of the State, if applicable. 5. An updated monitoring schedule for mitigation for temporary impacts to waters of the State and Discharger-responsible compensatory mitigation during the post-discharge monitoring period, if applicable.

Report Type 4	Request for Notice of Project Complete Letter
Purpose:	Notify Santa Ana Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
When to Submit:	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project activities.
Report Contents:	<p>Part A: Mitigation for Temporary Impacts (if applicable)</p> <ol style="list-style-type: none"> 1. A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance that could result in a discharge to waters of the State. 2. A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the State. Pre- and post-photo documentation of all restoration sites. <p>Part B: Discharger-Responsible Compensatory Mitigation (if applicable)</p> <ol style="list-style-type: none"> 1. A report establishing that the performance standards outlined in the compensatory mitigation plan have been met. 2. Status on the implementation of the long-term maintenance and management plan and funding of endowment. 3. Pre- and post-photo documentation of all compensatory mitigation sites. 4. Final maps of all compensatory mitigation areas (including buffers).

Report Type 5	Transfer of Property Ownership
Purpose:	Notify Santa Ana Water staff of change in ownership of the Project or Discharger-responsible mitigation area.
When to Submit:	At least ten (10) working days prior to the transfer of ownership.
Report Contents:	<ol style="list-style-type: none"> 1. A statement that the Discharger has provided the purchaser with a copy of this Order and that the purchaser understands and accepts: <ul style="list-style-type: none"> • the Order’s requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and • responsibility for compliance with any long-term BMP maintenance plan requirements in this Order. 2. A statement that the Discharger has informed the purchaser to submit a written request to the Santa Ana Water Board to be named as the Discharger in a revised order.

TENTATIVE

SIGNATORY REQUIREMENTS

*All Documents Submitted In Compliance With This Order
Shall Meet The Following Signatory Requirements:*

1. All applications, reports, or information submitted to the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) shall be signed and certified as follows:
 - a. For a corporation, by a responsible corporate officer of at least the level of vice-president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a State, federal, or other public agency, by either a principal executive officer or ranking elected official.
2. A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
 - a. The authorization is made in writing by a person described in items 1.a through 1.c above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the Santa Ana Water Board staff contact prior to submitting any documents listed in item 1 above.
3. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”
