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SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Santa Ana Regional Water Quality Control Board

August 31, 2015

Mr. Steve Ollo  
City of Irvine  
6427 Oak Canyon  
Irvine, CA 92618

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE CULVER DRIVE/UNIVERSITY DRIVE INTERSECTION IMPROVEMENT PROJECT, CITY OF IRVINE, COUNTY OF ORANGE, CALIFORNIA (ACOE REFERENCE NO. SPL-2015-00056-GS) (SARWQCB PROJECT NO. 302014- 20)**

Dear Mr. Ollo:

On December 5, 2014, we received from the City of Irvine (Applicant) an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project (Project) that will improve traffic conditions by widening the southern and northern legs of the intersection of Culver Drive and University Drive in the City of Irvine. This will also require the construction or modification of the storm drain system. The Applicant has also submitted a filing fee of \$2,034.00, which satisfies the Project fee requirement for consideration of 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) in effect when the application was submitted.

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 involves the construction and connection of a new catch basin and lateral pipe to the existing Sand Canyon Flood Control Channel box culvert located in Culver Drive just south of the intersection of Culver Drive and University Drive. The Project entails construction of a 3.5-foot-wide catch basin along a new curb alignment in the southwest quadrant. A new 14-foot-wide basin will be constructed to replace the existing 10-foot basin in the southeast quadrant along the new curb alignment. At the

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northeast corner, the existing 14-foot-wide basin will be removed and replaced with a new 21-foot-wide basin to receive existing street flows and to maintain an acceptable flooded width at University Drive.

The existing Sand Canyon Flood Control Channel box culvert in the Culver Drive will be widened to the east to accommodate proposed street widening at the southeast corner. Storm drain laterals will be constructed and modified as required to convey storm flows to the Sand Canyon Flood Control Channel. After implementation of the Project, runoff will continue to drain in a northerly direction along Culver Drive and south of University Drive. Runoff along Culver Drive and north of University Drive will continue in a southerly direction to catch basins that are located in Culver Drive and south of University Drive. Runoff along University Drive will continue to drain in a westerly direction to the proposed in-line natural treatment system at the intersection's northwestern quadrant.

The work will take place within Section 89 of Township 6 South, Range 9 West of the U.S. Geological Survey *Tustin, California* 7.5 minute topographic quadrangle map(33.657153° N, -117.827693° W).

Receiving water: Beneficial use designations (existing or potential) for Sand Canyon Wash include: contact recreation (REC1), non-contact recreation (REC2), wildlife habitat (WILD), municipal and domestic supply (MUN), groundwater recharge (GWR), warm freshwater habitat (WARM), and rare, threatened, and endangered species (RARE).

Fill area:

Permanent Impact to Riparian Habitat	0.07 acres	linear feet: not available (n/a)
Temporary Impact to Riparian Habitat	0.13 acres	linear feet: n/a

Dredge/Fill volume: Not Available

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.
- The Applicant will enhance 0.20 acres of riparian habitat for 0.07 acres of permanent impacts to in-kind habitat. The habitat is located in Mason Park, which is adjacent to the Project site.

**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 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 Santa Ana Regional Board 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.

This 401 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 conditions contained in any other permit or approval for this Project issued by the State of California, or any subdivision thereof, may result in appropriate enforcement action, including imposition of administrative civil liability.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an Environmental Impact Report or Negative Declaration prepared by the lead agency in determining whether to approve a project. A responsible agency has responsibility to mitigate and avoid only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board has considered the Mitigated Negative Declaration (MND) prepared for the proposed Project and filed by the City of Irvine on August 27, 2014 and subsequent information provided in the Applicant's application, in approving this Certification. More specifically, the Regional Board has considered those sections of the MND relating to water quality. Based upon the mitigation proposed in the MND and the conditions set forth in this Certification, impacts to water quality should be reduced to a less than significant level and beneficial uses will be protected if all stated mitigation and conditions are performed. Thus, the Regional Board independently finds that changes or alterations have been required in, or incorporated into the Project that 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) Proposed mitigation shall be timely implemented. Materials documenting the completion of the mitigation requirements as stated above, shall be provided to the Regional Board 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 Project scope of work, 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 from the Project site.

- 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 401 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, WQMP and/or HMMP.
- 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 WQMP shall adequately address any hydraulic conditions of concern generated during, and as a result of, this Project.
- 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.
- 12) Prior to any grading for the Project in riparian areas or wetlands that are slated to be impacted, functional assessments of these areas shall be conducted using the California Rapid Assessment Method, February 2012 (CRAM). Similarly, wetland and riparian habitat mitigation sites shall be assessed periodically with CRAM, beginning with the end of the first growing season following the initial planting of the mitigation site. Mitigation site assessments shall be conducted annually, during the period from October through December, until success criteria are met for consecutive years. This information shall be reported to <http://www.californiawetlands.net/tracker/>

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

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RWQCB #: 302014-20 CIWQS #: 813244

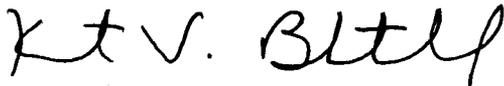
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conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at:  
[www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Should there be any questions, please contact Marc Brown at (951) 321-4584 or [marc.brown@waterboards.ca.gov](mailto:marc.brown@waterboards.ca.gov).

Sincerely,



Kurt V. Berchtold  
Executive Officer  
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

PCR – Beth Jolie Martinez – [b.martinez@pcrnet.com](mailto:b.martinez@pcrnet.com)  
U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes  
State Water Resources Control Board, OCC - David Rice  
CA Department of Fish and Wildlife – Russell Barabe - [rbarabe@dfg.ca.gov](mailto:rbarabe@dfg.ca.gov)  
SWRCB, DWQ - Water Quality Certification Unit - Bill Orme