



Santa Ana Regional Water Quality Control Board

December 3, 2015

Mr. Vathana Chy
California Department of Transportation
3347 Michelson Drive, Suite 100
Irvine, CA 92612

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE SR 241 HAUL ROAD HYDRAULIC IMPROVEMENT
PROJECT, CITY OF NEWPORT BEACH, COUNTY OF ORANGE, CALIFORNIA
(USACOE REFERENCE NO. SPL-2-12-00834-SCH) (SARWQCB PROJECT NO.
302015-17)**

Dear Mr. Chy:

On August 3, 2015, we received an application from the California Department of Transportation (Caltrans) (Applicant), for a Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project (Project) located along State Route 241 in eastern Orange County. The purpose of the proposed Project is to control sediment transport into a drainage structure, and subsequent receiving waterbody. The proposed Project is situated along the northbound side of State Route 241, north of Haul Road. The proposed Project will cause 0.06 acre of permanent impacts to waters of the United States. The Applicant has submitted a filing fee of \$1,229.00, which satisfies the Project fee requirement for consideration of 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) 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 proposed Project consists of reconfiguration of the existing drainage structure by removing an existing headwall structure and installing a 20-foot length of 60-inch diameter corrugated steel pipe (CSP), buried to a depth of ten feet. The CSP will be connected vertically to a 10-foot section of 60-inch diameter CSP, which will function as the drainage structure's riser. The riser will have three-inch diameter

SARWQCB #: 302015-17 CIWQS #: 817413

drainage perforations for drainage inlets. A manhole and manway access will be installed for accessibility to the buried 20' section of CSP. The constructed drainage structure will be completed at-grade with a 50'x50' concrete pad and a 26 cubic yard gabion cutoff basket placed at the upgradient end of the pad. The lower three feet of the six-foot high gabion basket will be positioned below grade. A total of 0.07 acres (96 cubic yards) of the drainage inlet area will be filled with the concrete pavement and the gabion wall.

The work will take place within Section 108 of Township 5 South, Range 8 West of the U.S. Geological Survey *El Toro* 7.5 minute topographic quadrangle map (33° 44' 19.09" N, - 117° 43' 0.63" W).

Receiving water:

The unnamed waterbody and Hicks Canyon Wash have designated beneficial uses (existing or potential) that include: contact recreation (REC1), non-contact recreation (REC2), wildlife habitat (WILD), warm freshwater habitat (WARM), and groundwater recharge (GWR).

Fill area:

Permanent Impact to Streambed Habitat	0.07 acre	linear feet not available
---------------------------------------	-----------	---------------------------

Dredge/Fill volume: 96 cubic yards

Federal permit: U.S. Army Corps of Engineers (USACOE) Permit No. 31 (Maintenance of Existing Flood Control Projects)

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.

Offsite Water Quality Standards Mitigation Proposed:

- 0.07 acre of permanent impacts to waters of the U.S. (non-wetland) will be mitigated at a 1:1 ratio by removing dams along San Juan Creek located in the Cleveland National Forest. The proposed mitigation is a result of a Memorandum of Understanding between Caltrans and the U.S. Forest Service dated August 10, 2009.

SARWQCB #: 302015-17 CIWQS #: 817413

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 should 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 the Applicant substantially comply with the requirements of the State Water Resources Control Board General NPDES Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order Number 2012-0006-DWQ.

Pursuant to the California Environmental Quality Act (CEQA), Caltrans proposed and filed a CEQA Guidelines Section 15304 (b) "Class 4" Categorical Exemption on December 1, 2014, which declares that the Project consists of minor public or private alterations in the condition of land, water, and/or vegetation that do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Specifically, the Categorical Exemption applies to new gardening or landscaping, including the replacement of existing conventional landscaping, with water efficient or fire resistant landscaping. The Regional Board has considered the Caltrans Categorical Exemption in the issuance of this Certification and 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 Project scope of work, 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 from the Project site.

SARWQCB #: 302015-17 CIWQS #: 817413

- 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 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 appropriate enforcement action, including revocation of this Certification and imposition of administrative 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 Storm Water Pollution Prevention Plan (SWPPP), Water Quality Management Plan (WQMP) and/or Habitat Mitigation and Monitoring Plan (HMMP).
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 9) 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 401 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.

SARWQCB #: 302015-17 CIWQS #: 817413

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 that the Applicant 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/wqo_2003-0017.pdf

Should there be any questions, please contact Marc Brown at or (951) 321-4584 or marc.brown@waterboards.ca.gov, or Wanda Cross at (951) 782-4468 or wanda.cross@waterboards.ca.gov.

Sincerely,



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

cc (via electronic mail):

Caltrans – Kedest Ketsela – kdedest.ketsela@dot.ca.gov
U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Wildlife – Russell Barabe – rbarabe@dfg.ca.gov
State Water Resources Control Board, DWQ-Water Quality Certification Unit - Bill Orme
U.S. EPA -Supervisor of the Wetlands Section - Jason A. Brush