



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
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Arnold Schwarzenegger
Governor

August 20, 2009

Joseph Solis
Department of Transportation ("Caltrans")
13571 Central Avenue
Brea, CA 92621

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR CLEANING THE COAL CANYON STATE ROUTE 91 BOX CULVERT, CITY OF ANAHEIM, ORANGE COUNTY (CORPS FILE NO. NOT AVAILABLE)

Dear Mr. Solis:

On June 18, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for the proposed cleaning of the box culvert crossing for State Route 91 at Coal Canyon, in the City of Anaheim, Orange County. This letter responds to your request for certification that the proposed project, described in the 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) and subsequent Basin Plan amendments ("Basin Plan"):

Project Description: Excavation of sediment accumulated in the box culvert and its immediate vicinity, for the State Route 91 crossing Coal Canyon. The interior of the culvert is not considered waters of the State and excavation work within the culvert does not constitute a discharge of dredge or fill. The project is located within Section 32 of Township 3 South and Range 8 West of the U.S. Geological Survey *Black Star Canyon, California*, 7.5-minute topographic quadrangle map (33 deg. 54 min. 31 sec. N/-117 deg. 52 min. 55 sec. W).

Receiving Waters: Coal Canyon Creek.

Fill Area: 0.29 acre of temporary impact to an ephemeral wash (up to 200 linear feet).

California Environmental Protection Agency



Dredge Volume: Not applicable.

Federal Permits: US Army Corps of Engineers Nationwide Permit No. 3.

This certification addresses impacts to water quality standards associated with the dredging or filling of waters of the United States. Construction and post-construction impacts resulting use of the roadways and from the project are addressed by waste discharge requirements issued to the Department of Transportation by the State Water Resources Control Board in Order No. 99-06 DWQ. These requirements include the development and implementation of appropriate Best Management Practices for the purpose of removing construction-related and transportation-related pollutants from discharges from Caltrans' rights-of-way and easements.

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act ("CEQA"), Caltrans and the Regional Board have determined that the proposed project is categorically exempt from provisions of CEQA according to Guidelines Section 15301 for the maintenance of an existing facility. The proposed project is intended to maintain the hydraulic capacity of an existing storm water drainage facility.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work.
- 2) Best management practices to stabilize disturbed soils must include the use of native plant species.
- 3) 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.

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. 200-0017-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 Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic message):

U. S. Army Corps of Engineers, Los Angeles Office – Mark Durham
State Water Resources Control Board, OCC – David Rice
State Water Resources Control Board, DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

APF: 401/certifications/SR 91 box culvert 302009-24