



# California Regional Water Quality Control Board

## Santa Ana Region



**Linda S. Adams**  
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**Arnold Schwarzenegger**  
Governor

February 27, 2008

Jian Torken  
ICO Real Estate Group  
4221 Wilshire Boulevard, Suite 240  
Los Angeles, CA 90010

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE TRANSITIONAL ASSISTANCE DEPARTMENT BUILDING, CITY OF SAN BERNARDINO (ACOE REFERENCE NO. 2008 – 200 – SLP)**

Dear Mr. Torken:

On December 20, 2007, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by Thatcher Engineering & Associates, Inc., for the proposed County of San Bernardino Transitional Assistance Department Building in the City of San Bernardino. 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) and subsequent Basin Plan amendments:

**Project Description:** Construction of a two-story commercial building and related parking and infrastructure on a 3.97-acre site for the County of San Bernardino Transitional Assistance Department. The project will include the construction of a storm drain outfall to the adjacent Warm Creek Channel. The project is located at the southwest corner of Waterman Avenue and Fourth Street in an un-sectioned portion of Township 1 South, Range 4 West, of the U.S. Geological Survey *San Bernardino, California*, 7.5-minute topographic quadrangle map (34 deg. 07 min. 19 sec. N/ -117 deg. 30 min. 25 sec. W).

**Receiving water:** Warm Creek Channel.

**Fill area:** 0.05 acres of permanent impact to an urban flood control channel (50 linear feet).

**Dredge/Fill volume:** N/A

***California Environmental Protection Agency***



Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 39

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent submittals. The proposed mitigation is summarized below:  
Onsite Water Quality Standards Mitigation Proposed:

- Nuisance flow and 'first-flush' discharges from the project site will be treated in underground infiltration chambers and bio-filters along the west and south project boundaries. Discharges into the infiltration chambers will be pre-treated in a settling chamber that will remove pollutants that could clog the infiltration chambers. The bio-filters and infiltration chambers will be operated and maintained by the property owner(s).
- Nuisance flow and 'first-flush' discharges from landscaped areas will be infiltrated in local depressions within the landscaped areas. Roof-top runoff will also be directed into the nearby landscaped areas.
- Additional site-specific best management practices (BMPs) will be specified in the final Water Quality Management Plan (WQMP) and in the site's Storm Water Pollution Prevention Plan(s) (SWPPP).

Offsite Water Quality Standards Mitigation Proposed:

- No off-site water quality standards mitigation is proposed.

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 Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of pollutants from the project site.

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. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act (CEQA), the City of San Bernardino and the Executive Officer have determined that the project qualifies for a categorical exemption from provisions of CEQA according to Guidelines Section 15332 for certain in-fill development projects.

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

1. This Certification is conditioned upon the construction of all proposed storm water treatment facilities as proposed. All structural storm water treatment facilities shall be constructed and operational prior to the occupancy of the proposed building.
2. Regional Board staff and other authorized representatives shall be allowed:
  - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification or other applicable waste discharge requirements;
  - b. Access to copy any records that are kept under the requirements of this Certification or other applicable waste discharge requirements;
  - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from the project site; and
  - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification and other applicable waste discharge requirements.
3. This Certification and any subsequent amendments shall be maintained on site as a denoted element of any project SWPPP or WQMP.
4. ICO Real Estate Group must provide geographic information system shape files in a portable digital format to Regional Board staff not later than March 27, 2008. The shape files shall include the project boundaries and polygons for the structural storm water treatment facilities from, and including, storm drain line diversion structures to outlet structures from the bio-filters and infiltration chambers. The shape file attributes shall include the Regional Board File Number (362007-38), the project name, and the discharger name. For information regarding the required projection and other technical data specifications, please contact Cindy Li at (951) 782-4906.
5. This Certification is transferable only upon written notice to the Executive Officer. The notice shall include written acknowledgement of this Certification by the transferee's authorized representative.

**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.

Although we anticipate no further regulatory involvement, 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, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation 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.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

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.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf](http://www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.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 mail):

U. S. Army Corps of Engineers, Los Angeles Office – Shannon Pankratz  
State Water Resources Control Board, OCC – Erik Spiess  
State Water Resources Control Board, DWQ-Water Quality Certification Unit – Bill Orme  
California Department of Fish and Game, Ontario Office – Jeff Brandt  
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini and David Smith

APF:401/certifications/TAD svcs bldg 362007-38