



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
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Arnold Schwarzenegger
Governor

December 23, 2009

Nardy Khan
Department of Public Works
County of Orange
300 North Flower Street
Santa Ana, CA 92702

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE NORTHERN REACH OF LOS ALAMITOS CHANNEL
(ORANGE COUNTY FLOOD CONTROL DISTRICT [OCFD] FACILITY C01)
MAINTENANCE REPAIR PROJECT, ORANGE COUNTY (ACOE REFERENCE NO.
NOT AVAILABLE) (SARWQCB REFERENCE NO. 302009-43)**

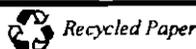
Dear Ms. Khan:

On September 8, 2009, we received an application from LSA Associates, Inc. for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for channel stabilization and repair work in the northern reach of the Los Alamitos Channel (C01) in the City of Los Alamitos, Orange County. 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: Repair activities within the northern reach of channel C01 include the excavation of 2,000 cubic yards (cy) of eroded earthen fill and placement of approximately 3,900 cy of ungrouted 24-inch rock along the southeastern side slope and approximately three feet of the bottom invert for approximately 2,534 linear feet. The channel's post construction profile will remain the same as its existing profile (typical section). The project will take place within Section 36 of Township 4 South, Range 12 West, of the U.S. Geological Survey *Los Alamitos, California*, 7.5-minute topographic quadrangle map (33.80779° / -118.07795).

Receiving water: San Gabriel River

California Environmental Protection Agency



Fill area: 0.16 acre of permanent impact to wetland (2,534 linear feet) and 0.26 acre of permanent impact to nonwetland (2,534 linear feet)

Dredge volume: 2,000 cubic yards.

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 13.

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:

- Additional Best Management Practices ("BMPs") will be specified in the project Storm Water Pollution Prevention Plan ("SWPPP").
- Temporarily-impacted areas will be allowed to re-vegetate naturally.

Offsite Water Quality Standards Mitigation Proposed:

As proposed, 0.32 of wetlands will be created within the East Garden Grove Wintersburg Channel area of the Santa Ana River watershed. This mitigation is part of a larger project within the East Garden Grove Wintersburg Channel, which will create over six acres of wetland.

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 BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2009-0009, commonly known as the Orange County Municipal Storm Water Permit.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003, NPDES No. CAG 998001, at the Regional Board's website: www.waterboards.ca.gov/santaana/. 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 2009-0009-DWQ, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of pollutants from the project site.

Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State.

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 County of Orange adopted a Mitigated Negative Declaration for this project on December 15, 2009. The Executive Officer has considered the City's Mitigated Negative Declaration in the issuance of this Certification.

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

- 1) This Certification will expire 60-months from the date of issuance.
- 2) 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.
- 3) The applicant must comply with the requirements of the Clean Water Act section 404 permits.
- 4) The applicant shall create not less than 0.32 acre of wetland within the East Garden Grove Wintersburg Channel watershed, as proposed. The applicant shall complete a functional assessment of the mitigation site within 24 months of its establishment, using published and generally accepted methods, preferably the California Rapid Assessment Method, for the purpose of evaluation the condition and ecological success of the mitigation site. The findings of the assessment shall be posted to the website <http://www.cramwetlands.org/>
- 5) This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP.

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. 2003-0017-DWQ is available at

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 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 – Yvette Cardenas
Department of Fish and Game – Naeem Siddiqui
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Bill Orme
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini
and David Smith

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