



# California Regional Water Quality Control Board

## Santa Ana Region



Linda S. Adams  
Secretary for  
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348  
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221  
[www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

Arnold Schwarzenegger  
Governor

February 16, 2010

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 REPLACEMENT OF STORM DRAIN CULVERT BENEATH SANTIAGO CANYON ROAD, ORANGE COUNTY (SARWQCB REFERENCE NO. 302009-21) (ACOE REFERENCE NO. SPL-2009-00536-JPL)**

Dear Ms. Khan:

On June 9, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by LSA Associates, Inc., for the replacement of an existing storm drain culvert beneath Santiago Canyon Road in unincorporated Orange County. Recently, we received the County's response to a draft certification for this project that was issued on July 30, 2009. 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:** Installation of a new 36-inch storm drain culvert beneath Santiago Canyon Road, including two inlets for storm water runoff from the road surface, and an new culvert inlet on the upstream side of Santiago Canyon Road. An existing 24-inch culvert will be removed. The new storm drain outlet will discharge at the bottom of the roadway embankment to an un-named ephemeral drainage tributary to Santiago Creek. The proposed storm drain will increase the capacity to convey storm water runoff beneath the road by 224%. However, increased flows are not anticipated. The reason for retrofitting of the existing culvert is in part for ease of maintenance.. The roadway will be re-paved upon

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installation of the new storm drain and the road embankment will be re-graded and re-vegetated with native plants. The work site is located within Section 29 of Township 5 South, Range 7 West, of the U.S. Geological Survey *El Toro, California*, 7.5-minute topographic quadrangle map (33 deg. 42 min. 30 sec. N/ -117 deg. 38 min. 10 sec. W).

Receiving water: An un-named ephemeral drainage tributary to Santiago Creek.

Fill area: 0.0007 acres of ephemeral drainage (15 linear feet).

Dredge volume: Not applicable.

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 18.

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. R8-2009-0030, commonly known as the Orange County Municipal Storm Water Permit. Order No. R8-2009-0030 requires that you substantially comply with the requirements of the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, including the preparation of a SWPPP for projects greater than one acre.

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), Orange County Public Works adopted a Mitigated Negative Declaration for this project, on July 8, 2009. Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as shown in the associated negative declaration prior to reaching a decision on the project. The Regional Board has considered the County's Mitigated Negative Declaration in the issuance of this Certification and finds that changes or alterations have been required, or incorporated into the proposed project, which 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 applicable Clean Water Act section 404 permits.
- 2) Best management practices used to stabilize disturbed soils against erosion must include, but are not limited to, seeding the area with an appropriate mix of native vegetation.

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/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 Mark Adelson at (951) 782-3234.

Sincerely,



for GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Mark Durham  
Department of Fish and Game – Erinn Wilson  
State Water Resources Control Board, Office of Chief Counsel – David Rice  
State Water Resources Control Board, DWQ – Water Quality Certification Unit  
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

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