



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

Arnold Schwarzenegger
Governor

June 24, 2010

James Martinez
Birch/Kraemer, LLC
145 S. State College Blvd., 4th Floor
Brea, CA 92821

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE LOFTUS CHANNEL IMPROVEMENT PROJECT AT BIRCH HILLS GOLF COURSE, IN THE CITY OF BREA, ORANGE COUNTY (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB REFERENCE NO. 302009-48)

Dear Ms. Khan:

On October 13, 2009, we received an application on your behalf from PCR Services Corporation (PCR) for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for channel improvements within the Loftus Channel in the City of Brea, 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:	The in-place replacement and extension of a 29.7-foot by 18-inch diameter section of corrugated metal pipe (CMP) with a 43.4-foot by 18-inch diameter reinforced concrete pipe (RCP), within the Loftus Channel, to serve the future development of an approximately 4.7 acre area slated for Residential High-Density use as part of the Birch Hills Site project. Rip-rap will be placed immediately surrounding the outfall of the pipe. The project will take place within Section 18 of Township 3 South, Range 9 West, of the U.S. Geological Survey <i>Yorba Linda, California</i> , 7.5-minute topographic quadrangle map (33.916121 / -117.868562).
Receiving water:	Loftus Channel, tributary to Fullerton Creek, tributary of Coyote Creek
Fill area:	0.004 acre of permanent impact to streambed, 0.03 acres of temporary impact to streambed.
Dredge volume:	N/A
Federal permit:	U.S. Army Corps of Engineers Nationwide Permit Nos. 3, 7 & 33 .

California Environmental Protection Agency



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”) shall be incorporated within the channel to avoid transporting sediment downstream.
- Vehicle maintenance, staging, storage and dispensing of fuel shall occur on existing roads only.
- Spoil piles shall not be located within waters of the State/United States or in areas or in such a manner where spoil material could be washed into waters of the State/United States.
- Temporarily-impacted areas within the channel will be allowed to re-vegetate naturally.

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/.

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), the City of Brea filed a CEQA Guidelines Section 15301(b) “Class1” Categorical Exemption, which declares that the project consists of the reconstruction of existing facilities where the new facilities will be located on the same site as the facilities replaced and will have substantially the same purpose and capacity as the facilities replaced. The proposed project will not expand the channel beyond its original design capacity. The Regional Board has considered the County's 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. 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 of 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 appropriate enforcement action.
2. Prior to the discharge of fill, the discharger must execute measures that adequately assign the responsibility for maintaining the hydrology of the newly installed drainage system.
3. This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP, and be available for inspection upon request by Regional Board staff.
4. Prior to transfer of ownership of property for which this project falls within, applicant must provide transfer of ownership information to the Regional Board.
5. The applicant must comply with the requirements of the Clean Water Act section 404 permit.

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.



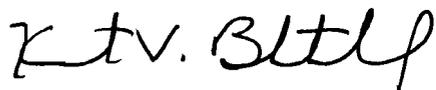
For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements 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,



Kurt Berchtold
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

x:\401\certifications\loftus channel-birch hills gc_302009-48__24jun10.doc

