



California Regional Water Quality Control Board

Santa Ana Region



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Secretary for
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Arnold Schwarzenegger
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September 30, 2010

Ms. Ann T. Truong
CalTrans
3337 Michelson Dr. 3rd Floor, Ste. 300
Irvine, CA 92612

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR STATE ROUTE (SR)-91 WIDENING PROJECT BETWEEN SR-91/SR-55 INTERCHANGE AND SR-91/SR-241 INTERCHANGE, CITY OF ANAHEIM, ORANGE COUNTY (CORPS FILE NO. NOT AVAILABLE) (SARWQCB REFERENCE NO. 302010-37)

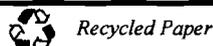
Dear Ms. Truong:

On July 16, 2010, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), for the proposed widening of State Route (SR) -91 between the SR-55 and SR-241 interchanges, in northeastern portion of the city of Anaheim and the southeastern portion of the city of Yorba Linda, 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: The proposed project will improve capacity and operational deficiencies along a six-mile section of SR-91, by adding one general-purpose lane in each direction between SR-55 (PM 9.1) and west of SR-241 (PM 15.1), with the exception of the westbound portion of the project, between Imperial Highway and SR-55. This project includes:

- 1) Widening of the Imperial Highway bridge (Bridge No. 55-0474), which crosses SR-91, and the Weir Canyon Road Undercrossing (Bridge No. 55-0505) in both the eastbound and westbound directions;
- 2) Construction of a new sound wall along the westbound section of SR-91, from Imperial Highway to the Weigh Station;

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3) Construction of a retaining wall (approximately 761 feet in length) along the eastbound side of SR-91, at the Lakeview Avenue Overcrossing (Bridge No. 55-0475) to accommodate the additional lane at this location;

4) Modify drainage facilities by extending (or relocating) existing inlets along the roadway shoulder edges, to conform to the newly constructed edges of the roadway's shoulders. The reconfigured longitudinal drainage systems will be augmented at the new edge of shoulder with additional inlets or concrete channels/ditches to carry the increased drainage associated with the widening of the roadway; and,

5) Removal and replacement of all existing irrigation systems.

The project is located within various Sections of Township 3 and 4 South and Range 8 and 9 West of the U.S. Geological Survey *Black Star Canyon, California*, 7.5-minute topographic quadrangle map (33° 51' 38.38" N/ -117° 46' 44.08" W).

- Receiving Waters: Santa Ana River
- Fill Area: 0.57 acre of temporary impact to riparian habitat.
0.03 acre of temporary impact to streambed habitat
- Dredge Volume: N/A
- Federal Permits: US Army Corps of Engineers non-reporting Nationwide Permit.

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:

- Best Management Practices ("BMPs") will be specified in the project Storm Water Pollution Prevention Plan ("SWPPP").
- Any temporarily-impacted areas will be re-vegetated with native vegetation.
- Post construction, permanent structural BMPs will include: slope surface stabilization, overside drains, culvert inlet and outlet headwalls and velocity dissipation

- Post construction permanent treatment BMPs will include: engineered vegetated biostrips and/or bioswales to pre-treat overland storm water sheet flow, prior to its entrance to other stormdrain conveyance systems leading to the Santa Ana River.

Offsite Water Quality Standards Mitigation Proposed: None

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 (USFWD) and the California Department of Fish and Game (CDFG) will ensure those impacts are mitigated to an acceptable level.

Post-construction water quality impacts resulting from the use of the right-of-way improvement projects that are certified by this document 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, and subsequent iterations thereof. These requirements include the development and implementation of appropriate Best Management Practices for the purpose of removing transportation-related pollutants from discharges from Caltrans' rights-of-way and easements.

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 conditions contained in any other permit or approval for this project issued by the State of California, or any subdivision thereof, may result in appropriate enforcement action, including imposition of administrative civil liability.

You have applied for a permit from the U.S. Army Corps of Engineers (USACE), in compliance with Clean Water Act Section 404. The proposed project is subject to USACEs' CWA Section 404 non-reporting Nationwide Permit. CalTrans approved a California Environmental Quality Act (CEQA) Negative Declaration (ND) for the project on April 23, 2009.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR or ND prepared by the lead agency in determining whether to approve a Section 401 Certification. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project, which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.



As required by Section 15096, in determining whether to issue water quality standards certification for this project, the Regional Board has considered the ND for the proposed project and the information provided in CalTrans' application for water quality standards certification.

In the issuance of this Certification, the Executive Officer has considered those sections of the ND that relate to water quality. In its ND, the applicant has identified mitigation measures for minor impacts to water quality standards the project will cause. Based on the mitigation measures proposed in the applicant's ND, and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. The Regional Board independently finds that changes or alterations have been required or incorporated into the project that 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 the applicable Clean Water Act Section 404 permit.
- 2) Prior to beginning construction, the applicant shall submit a Habitat Mitigation and Monitoring Plan (HMMP) that, in coordination with USACE, CDFG and USFWS, ensures no net loss of area that supports riparian habitat-related beneficial uses associated with the Santa Ana River Reach 2¹.
- 3) Areas that are temporarily impacted shall be mitigated as proposed.
- 4) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work.

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.

¹ See Chapter 3 and Table 3-1 in "Water Quality Control Plan (for the) Santa Ana River Basin – Region 8, 1995," as amended.



- (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:
www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf



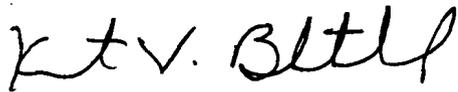
Ms. Ann T. Truong

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Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold
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

