



# California Regional Water Quality Control Board

## Santa Ana Region



**Linda S. Adams**  
Secretary for  
Environmental Protection

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**Arnold Schwarzenegger**  
Governor

September 13, 2010

Ernest Seidel  
OC Parks  
130142 Old Myford Road  
Irvine. CA 92602

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION  
FOR BOXCAR BRIDGE ABUTMENT REPAIR AND SEDIMENT REMOVAL PROJECT,  
MODJESKA, ORANGE COUNTY  
(USACE REFERENCE NO. SPL-2010-00620-SME)  
(SARWQCB REFERENCE NO. 302010-20)**

Dear Mr. Seidel:

On June 24, 2010, we received an application on your behalf from ICF International (ICF) for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for sediment removal upstream and downstream of Boxcar Bridge, Modjeska, Orange County, and for repairs to the bridge's north abutment. The project is located within the Modjeska Canyon Nature Reserve, operated by OC Parks. 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:	Removal of sediment beneath and upstream and downstream of Boxcar Bridge to re-establish a 5-foot clearance beneath the bridge. Sediment is to be excavated from approximately 10 feet upstream to 10 feet downstream of the bridge. In addition, a single row of angular rip-rap will be placed along the toe of the existing north bridge abutment from 5 feet under the bridge to 15 feet upstream of the bridge, below the finished grade of the channel, to buttress the existing abutment. The project will take place within Section 28 of Township 5 South, Range 7 West, SBBM, shown on U.S. Geological Survey <i>Santiago Peak, California</i> , 7.5-minute topographic quadrangle map (33 42' 32" N, 117 36'52" W)
Receiving water:	Modjeska Creek, tributary to Santiago Creek, Irvine Lake and the Santa Ana River,
Fill area:	0.001 acre (20 linear feet) of permanent impact to streambed
Dredge volume:	145 yd <sup>3</sup> over an area of 0.02 acres

*California Environmental Protection Agency*



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Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 3.

You have proposed to mitigate water quality impacts as described in your Certification application and ICF's August 20, 2010, submittal. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- None.

Offsite Water Quality Standards Mitigation Proposed:

- For permanent impacts to 0.001 acres of streambed, 0.002 acres of stream bank will be enhanced by removal of non-native vegetation (principally carob (*Ceratonia siliqua*) seedlings and scrub) from a site approximately 250 feet upstream of the project site.

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/](http://www.waterboards.ca.gov/santaana/).

You have applied for coverage under Nationwide Permit No. 3 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) and CEQA Guidelines, the Orange County Parks has filed a CEQA Guidelines section 15301 "Class 1" Categorical Exemption and declares that the project consists of restoration and maintenance of an existing facility (bridge). The Regional Board has independently reviewed the project and concludes that it is categorically exempt pursuant to CEQA Guidelines section 15031 because the project will not expand the bridge or the channel it spans beyond its original design capacity and is therefore properly considered restoration and maintenance of an existing facility.

**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. 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.
3. The applicant must comply with the requirements of the Clean Water Act section 404 permit.
4. Vehicle maintenance, staging, storage and dispensing of fuel shall occur outside of the streambed and on established staging areas or existing roads only. Appropriate BMPS shall be employed to prevent the discharge of any vehicle fuel or lubricant to soils or to waters of the state.
5. 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.
6. The applicant shall carry out the mitigation described above. Documentation that the mitigation has been completed shall be submitted to this office by December 31, 2011.

**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.

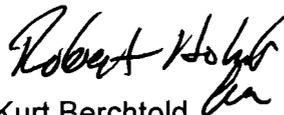
For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements 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/wqo\\_2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.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 – Forrest Vanderbilt  
Department of Fish and Game – Russel Barabe  
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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