



# California Regional Water Quality Control Board

## Santa Ana Region



**Matthew Rodriguez**  
Secretary for  
Environmental Protection

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**Edmund G. Brown Jr.**  
Governor

October 24, 2011

Jason Bill  
California Department of Transportation,  
District 8  
464 W 4th St, 6th Floor, MS 822  
San Bernardino, CA 92401-1400

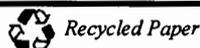
**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE KEN FIRE RESTORATION PROJECT, COUNTY OF SAN  
BERNARDINO, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE)  
(SARWQCB PROJECT NO. 362011-26)**

Dear Mr. Bill:

On September 22, 2011, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the California Department of Transportation for a project to protect the I-15 from debris flows following the Ken Fire. 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 project will consist of the construction of a 35'x50'x2' debris basin immediately upgradient from a 36" drainage culvert, which runs beneath Interstate-15. Project activities will also include the removal of accumulated sediment from within said 36" diameter drainage culvert. The work will take place within Section 19 of Township 2 North, Range 5 West, of the U.S. Geological Survey <i>Devore</i> quadrangle map (34° 14'45.13" N/ 117° 26'8.19" W).
Receiving water:	Unnamed Drainage of Cajon Wash (Lower Cajon Wash Watershed)
Fill area:	0.0997 acres of permanent impact to streambed habitat
Dredge/Fill volume:	322 cubic yards

**California Environmental Protection Agency**



Federal permit: USACOE Los Angeles District Regional General Permit 79,  
Preventative Maintenance and Construction in Burned  
Areas, Expires September 30, 2014

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:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.

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 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. 99-06-DWQ, issued to the Department of Transportation by the State Water Resources Control Board and subsequent iterations thereof. These requirements include the development and implementation of appropriate Best Management Practices for the purpose of removing construction-related and 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. This certification addresses impacts to water quality standards associated with the dredging or filling of waters of the United States.

You have applied for coverage by Regional General Permit (RGP) No. 79 from the U.S. Army Corps of Engineers, Los Angeles District, in compliance with Section 404 of the Clean Water Act. RGP 79 authorizes preventive maintenance and construction activities in waters of United States undertaken for the purpose of managing debris flows and sediment from burned areas. This RGP authorizes discharge of fill materials that would result in permanent impacts (up to 1/10 acre) or temporary impacts in waters of the United States located within the boundary of the Los Angeles District where fires have burned at least 20% of the drainage area within the past five years.

Pursuant to the California Environmental Quality Act (CEQA), Caltrans filed a CEQA Guidelines Section 15301 "Class 1" categorical exemption for Existing Facilities on September 9, 2011. Class 1 exemptions include minor modification of existing public structures involving negligible expansion of use. Regional Board staff has considered the CalTrans' Categorical Exemption in the issuance of this Certification.

**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) All materials generated from construction activities associated with this project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified.
- 3) The project proponent shall utilize BMPs during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.
- 4) Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.
- 5) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under

any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.

- 6) 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.
- 7) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work as a denoted element of any project SWPPP or WQMP.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 9) Applicant shall ensure all procedures and policies specified within the project's WQMP, shall adequately address any hydraulic conditions of concern generated during and as a result of this project.
- 10) Construction de-watering discharges, including temporary stream diversions necessary for project construction 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 at [www.waterboards.ca.gov/santaana/](http://www.waterboards.ca.gov/santaana/)
- 11) Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities

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:

[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)

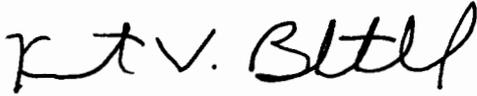
Jason Bill

- 6 -

October 24, 2011

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  
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jason Lambert  
Department of Fish and Game – Joanna Gibson  
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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*California Environmental Protection Agency*



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