

Santa Ana Regional Water Quality Control Board

August 6, 2012

Tony Largo
Reservation Transportation Authority
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CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE HOG LAKE ROAD IMPROVEMENT PROJECT, COUNTY OF RIVERSIDE, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 332012-06)

Dear Mr. Largo:

On March 27, 2012, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification"), from the Reservation Transportation Authority for its project to pave Hog Lake Road with asphalt concrete and to make drainage and other improvements to this road. Hog Lake Road is currently a 8,473 foot-long, unpaved road located in an unincorporated area of southwest Riverside County, 30 miles east of the city of Temecula and four miles north of the town of Anza. Most of Hog Lake Road crosses through the San Jacinto Ranger District of the San Bernardino National Forest where it is designated as Forest Road 6S18; the remainder of the road is on the Ramona Indian Reservation or other private lands. 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 two parts. Both parts will include: minimum road grading, laying of class 2 aggregate road base material and pavement 22 feet in width, with 2 foot wide shoulders. Also included will be asphalt berms, down-drains and spillways, and the installation of striping and signage.

The first part of the project begins on Hog Lake Road at the intersection of Wheat Road and extends northeasterly along Hog Lake Road for 6,390 linear feet through National Forest and reservation lands. This part of the project includes installing a 10' x 5' double box culvert, with a skirt of riprap,

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on National Forest land where the existing road intersects an unnamed, intermittent stream.

The second part of the project begins at the intersection of Hog Lake Road and Bautista Road and extends 1,096 feet northeasterly along Hog Lake Road through privately owned land to the intersection of Hog Lake Road and Wheat Road. This part of the project will not be constructed at this time.

The work will take place within Sections 1, 36, 30 and 31 of Townships 7 South and 6 South, Range 2 East and 3 East, of the U.S. Geological Survey *Anza, CA* quadrangle map (33° 36' 25.71" N/ -116° 42' 45.22" W).

Receiving water: Canyon Lake, Lake Elsinore, Bautista Creek
Fill area: 0.148 acre of permanent impact to streambed habitat
Dredge/Fill volume: 760 cubic yards
Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 14

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:

- The Reservation Transportation Authority has purchased 1.0 acre (1 credit) in the Silverado Ranch Conservation Bank, 0.15 acre of which will be used to replace loss of Quino Checkerspot Butterfly habitat. Another 0.15 acre of the credit will be used to mitigate for the loss of the 0.15 acres of jurisdictional waters. A Mitigation Credit Purchase Agreement was submitted with the application verifying the purchase of mitigation credit.

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. On June 9, 2010, the U.S. Fish and Wildlife Service issued an Endangered Species Act Section 7 Biological Opinion (BO)

on this project. Appropriate Best Management Practices ("BMPs") will be implemented to reduce construction-related impacts to Waters of the State. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 2009-0009-DWQ, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of pollutants from the project site.

An August 2011, environmental assessment (EA) for the project was prepared by Frank Springer & Associates. The subject project includes lands that span jurisdiction of the U.S. Department of the Interior's Bureau of Indian Affairs (BIA) and the U.S. Department of Agriculture's United States Forest Service (USFS). Based upon the findings of the EA, the BIA (as lead agency) approved a Finding of No Significant Impact (FONSI) on August 20, 2011 for the subject project. On September 20, 2011, the USFS (as cooperating agency with signatory authority) also approved a FONSI for the subject project. Collectively, the two FONSI approvals fulfill requirements under the National Environmental Policy Act.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an environmental impact report (EIR) or negative declaration prepared by the lead agency in determining whether to approve a project. 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.

Section 21083.7 of CEQA provides that an environmental impact statement (EIS) or parts of an EIS may be used by the lead agency in lieu of an EIR or parts of an EIR.

In making this certification, the Regional Board has considered the project's EA, in lieu of an initial study, and the BIA's and USFS's FONSI's, in lieu of a negative declaration. More specifically, the Regional Board has considered those sections of the EA and FONSI's relating to water quality. Based on the mitigation proposed in the EA and the BO, 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. Thus, the Regional Board finds that changes or alterations have been required in, or incorporated into the 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 the applicable Clean Water Act section 404 permit, follow the "Conservation Measures" outlined in

the BO, and follow the "Design Criteria" outlined in L&L Environmental's, "Biological Assessment...for the Ramona Indian Reservation ...Road Improvement Project," revised August 13, 2009, which was submitted with the application.

- 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, the certification application and all materials submitted with the application, 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 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.

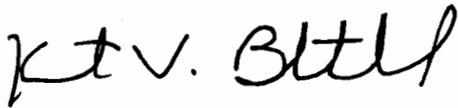
This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related 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

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):

Frank Springer & Associates, Inc. – Frank Springer
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U. S. Army Corps of Engineers, Los Angeles Office - Jason Lambert
Department of Fish and Game - Michael Flores
SWRCB Office of Chief Counsel I - David Rice
SWRCB DWQ - Water Quality Certification Unit
U.S. EPA Region 9 - Wetlands Regulatory Office WTR 8 – Paul Amata

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