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SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

March 11, 2013

Mike Linton
Vulcan Materials Company, Inc.
500 N. Brand Blvd., Ste. 500
Glendale, CA 91203

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE MUSCOY GROIN NO 2 STORM DRAIN PROJECT, COUNTY OF SAN BERNARDINO, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 362013-01)

Dear Mr. Linton:

On January 22, 2012, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Vulcan Materials Company, Inc., for a project to construct the storm drain infrastructure associated with the development of the Cajon Creek Project. The project is located in the City of San Bernardino Specific Plan No. 90-01. Specifically, the subject Project consists of a storm drain system that drains a 5.76-acre area. The proposed storm drain system includes installing drainage pipe of various sizes following an alignment generally along the west side of Cajon Boulevard from the BNSF Railway Company railroad overcrossing south of Institution Road. The Project continues southwesterly to its proposed outlet within the San Bernardino County Flood Control District Muscoy Groin No. 2, a U.S. Army Corps of Engineers facility.

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: Project activities include the construction of a 20-foot wide temporary construction road needed for access to construct the outlet structure, the trenching for storm drain pipe installation and connections. Activities include: the side casting of soils and other excavated materials; the laying of pipe; and the back-filling of previously excavated materials. Construction of the proposed outlet structure consists of grouted riprap except at its discharge end, where the riprap will be ungrouted.

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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Both the proposed temporary roadway and the ungrouted portion of the outlet structure will be revegetated with native Riversidean alluvial sage scrub species at the conclusion of the construction portion of the project. The work will take place within Township 1 North, Range 5 West, of the U.S. Geological Survey *Devore (unsectioned)* quadrangle map (34.183094° N/ -117.369607° W).

Receiving water: Unnamed ephemeral drainages, Cajon Creek

Fill area: 0.18 acre of temporary impact to streambed habitat (437 linear feet)

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 3 & 33

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.
- Vulcan will restore all temporary impacts (approximately 1.99 acres) to Riversidean alluvial fan sage scrub northwest of Muscoy Groin No 2.
- The temporary construction road as well as the ungrouted portion of the outlet structure, and an area downstream of the grouted storm drain outlet structure, will be revegetated as described in the Habitat Enhancement and Management Plan for the Cajon Creek Conservation Area (HEMP) approved by the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife.

Offsite Water Quality Standards Mitigation Proposed:

- The portion of the project site located south of Institution Road and along the northwesterly side of Muscoy Groin No. 2, is located within designated Critical Habitat for the San Bernardino kangaroo rat. Approximately 5.347 acres of designated Critical Habitat are within the project site. From this acreage, 3.113 acres will be permanently impacted, 1.992 acres will be temporarily impacted and 0.242 acre will be avoided.

Vulcan Materials Company will provide seven (7) credits from the Cajon Creek Mitigation Bank in order to mitigate for the 3.113 acres of permanent impacts caused from the grouted portion of the outlet structure, the 0.18acre impacts to jurisdictional waters, and the potential impacts associated with seasonal flows.

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 Wildlife 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 the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity Order No. 2009-00009 DWQ, commonly known as the General Stormwater Construction Permit.

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 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.

As required by Section 15096, the Regional Board has considered the Final EIR (dated October 9, 1993) prepared for the proposed project, and information provided subsequently in your application, in approving this Certification. Based on the mitigation proposed and the conditions set forth in this Certification, the Regional Board concludes that 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) Proposed mitigation shall be timely implemented. Materials documenting the purchase of necessary mitigation credits shall be provided to this office prior to the discharge of fill to, or the dredging or excavation of material from, waters of the state.

- 3) 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.
- 4) 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.
- 5) 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.
- 6) 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.
- 7) 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.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 9) 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/
- 10) 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.

- 11) Site mitigation assessments shall be conducted from October through December, until success criteria are met for consecutive years. This information shall be reported to <http://www.californiawetlands.net/tracker/>

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

Mike Linton
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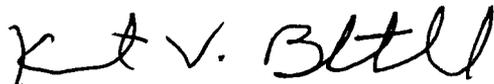
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Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at:
www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf

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):

Gresham Salvage – Mark Ostoich; mark.ostoich@greshamsavage.com
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
California Department of Fish and Wildlife – Juan J. Lopez-Torres
U.S. EPA- Supervisor of the Wetlands Regulatory Office WTR- 8