



California Regional Water Quality Control Board

Santa Ana Region



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Arnold Schwarzenegger
Governor

November 16, 2009

Matthew Cugini
Senior Engineer
California Dept. of Transportation (District 12)
3337 Michelson Drive, Suite 380
Irvine, CA 92612

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE EL MODENA-IRVINE CHANNEL BRIDGE WIDENING
PROJECT TO ADD AN AUXILIARY S/B LANE FROM TUSTIN RANCH ROAD TO
JAMBOREE ROAD AND WIDEN JAMBOREE ROAD OFF RAMP, CALIFORNIA
DEPARTMENT OF TRANSPORTATION, DISTRICT 12 (ACOE REFERENCE NO. NOT
AVAILABLE)(RWQCB REF. NO. 302009-40)**

Dear Mr. Cugini:

On September 16, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the proposed bridge widening and improvements to a section of Interstate 5 between Tustin Ranch Road and Jamboree Road in the City of Tustin, Orange County. On October 13, 2009, this office notified your office that the application for certification was incomplete, due to the lack of California Environmental Quality Act (CEQA) documents and because the required fee had not been submitted. On the same date, this office received the required supplemental information necessary to complete the application.

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 westerly side of the existing one-span El Modena-Irvine Channel Bridge will be widened 14 feet, and an 1500-foot second auxiliary southbound lane on Interstate-5 from Tustin Ranch Road to Jamboree Road will be added. The project will involve: 1) constructing a temporary dirt ramp to access the channel bottom from the levee; 2) excavating both channel walls to drive concrete precast piles as abutment

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foundation; 3) erecting falsework at the channel bottom and on both levees; and 4) placing reinforced steel and pouring concrete at the bridge abutments and the bridge deck. The project will not require the diversion of stream flow within the work area. The project is located within Section 64 of Township 5 South, Range 9 West, of the U.S. Geological Survey *Tustin, California*, 7.5-minute topographic quadrangle map (33°43'16.98" N/-117°47'53.95" W).

Receiving water: El Modena-Irvine Channel, which drains into San Diego Creek.

Fill area: Area of temporary access ramp and falsework pads

Dredge/Fill volume: 240 cu. ft.

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

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent application submittals. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- The project will occur outside of the rainy season.
- Pre-construction ground elevations will be restored upon completion of work.
- Areas where riparian vegetation is removed will be re-vegetated with native riparian plants.
- The work area will be delineated with fencing or other appropriate means to the minimal area necessary.
- Construction-phase best management practices (BMPs), such as silt fencing, gravel bags, and vehicle fueling and maintenance activity restrictions, will be employed to reduce the discharge of pollutants in storm water runoff from the site.

Offsite Water Quality Standards Mitigation Proposed:

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 Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. 99-06-DWQ, commonly known as the CalTrans 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 at: www.waterboards.ca.gov/santaana.

You have applied for a Nationwide Permit 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), the Regional Board has determined that the proposed project is categorically exempt from provisions of CEQA under Guidelines Section 15301 for the minor alteration of existing structures or facilities where existing uses are not expanded.

This 401 Certification is contingent upon the execution of the following conditions:

1. The discharger must maintain a copy of this Certification at the project site during construction.
2. The discharger must implement an effective combination of best management practices to maintain or restore the physical integrity of the affected waters of the State for the purpose of protecting its beneficial uses. The discharger must implement a corresponding post-construction monitoring program to assure that the proposed project does not result in permanent impacts to the water's physical integrity.

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.

Although we anticipate no further regulatory involvement, 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, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation 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.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.



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. 200-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wgo/wqo2003-0017.pdf.

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

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jason Lambert
State Water Resources Control Board, OCC – Erik Spiess
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Bill Orme
California Department of Fish and Game – Naeem Siddiqui
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini
and Dave Smith

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