



California Regional Water Quality Control Board

Santa Ana Region



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Secretary for
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Arnold Schwarzenegger
Governor

May 13, 2009

Jill Fariss
Southern California Edison
2244 Walnut Grove Avenue, #3A
Rosemead, CA 91770

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE DEMEN'S CANYON ACCESS ROAD IMPROVEMENTS, SAN BERNARDINO COUNTY (ACOE REFERENCE NO. NOT AVAILABLE)

Dear Ms. Fariss:

On January 28, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the construction of two Arizona-style stream crossings for the Demen's Canyon access road in San Bernardino County. 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) and subsequent Basin Plan amendments:

Project Description: Construction of two concrete, Arizona-style road crossings for one perennial and another ephemeral drainage. The crossings will replace two existing, bare-earth, Arizona-style crossings. The areas to either side of the crossings will be armored with grouted rip-rap. The work will take place within Section 15 of Township 1 North, Range 7 West, of the U.S. Geological Survey *Cucamonga Peak, California*, 7.5-minute topographic quadrangle map (34 deg. 09 min. 59 sec. N/ - 117 deg. 36 min. 09 sec. W and 34 deg. 09 min. 53 sec. N/ - 117 deg. 36 min. -3 sec. W).

Receiving water: Thorpe Canyon Creek and an un-named, ephemeral drainage tributary thereto.

Fill area: 0.01 acres of permanent impact to drainages (128 linear feet total).

California Environmental Protection Agency



Dredge volume: Not applicable.

Federal permit: U.S. Army Corps of Engineers Nationwide Permit Nos. 14 and 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:

- The grouted rip-rap will be placed in order to slow the water velocities after crossing the concrete road surfaces.
- Sandbags, straw wattles, silt fences, and other best management practices ("BMPs") will be employed to remove pollutants from storm water runoff from the project site.
- Grouted rip-rap will be placed around the trunks of mature riparian vegetation, with a one-foot buffer, to the extent practical.

Offsite Water Quality Standards Mitigation Proposed:

- An in-lieu fee payment will be made to the Santa Ana Watershed Association ("SAWA") towards the eradication 0.02 acre of invasive plant species.

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. This project is less than 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 99-08 DWQ, is not required.

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:
http://www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2009/09_003_deminimus_permit_wdr.pdf

You have applied for Nationwide Permits 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 15303 for the new construction of limited small new facilities and Guidelines Section 15301 for the minor alteration of existing structures or facilities where existing uses are not expanded. The project consists of the alteration of an existing access road and does not expand the uses of the roadway.

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

- 1) The discharger must pay an in-lieu fee payment to the Santa Ana Watershed Association towards the eradication of 0.02 acre of invasive plant species. The fee payment must include funding for a minimum of 6-years of follow-on maintenance and the completion of biological condition assessments, using published and generally accepted methods (e.g., California Rapid Assessment Method), for the purpose of evaluating the marginal improvement to the eradication project area. Evidence of the fee payment must be provided to the Executive Officer by October 30, 2009.
- 2) The proposed rock must consist of natural stone and the grout and concrete must be colored in a manner that blends the artificial structures into the overall landscape.
- 3) Project activities must not depress the dissolved oxygen content of receiving waters below 5 mg/L as a result of controllable water quality factors. When natural dissolved oxygen content is less than 5 mg/L, the discharger must not cause further depression.
- 4) Project activities must not raise the pH of receiving waters above 8.5 or lower pH below 6.5 as the result of controllable water quality factors.
- 5) Project-related activities shall not cause the background natural turbidity, as measured in Nephelometric Turbidity Units (NTUs), in receiving waters to be increased by values greater than the following Basin Plan objectives at a distance of 100 feet from the activity:
 - a. If natural turbidity is between 0 and 50 NTU, the maximum increase shall not exceed 20% of the measured natural turbidity.
 - b. If natural turbidity is 50 to 100 NTU, the increase shall not exceed 10 NTU.
 - c. If natural turbidity is greater than 100 NTU, the maximum increase shall not exceed 10% of the measured natural turbidity.
- 6) An effective monitoring plan must be developed and implemented to document compliance with conditions 3, 4, and 5 above. Any suspected violation of these conditions must be reported to Regional Board staff in writing within 24-hours of discovery. The monitoring plan and records of monitoring activities must be maintained on site for the duration of the proposed discharge and be available for inspection by Regional Board staff.
- 7) The applicant must comply with the requirements of the Clean Water Act section 404 permits.

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. 200-0017-DWQ is available at http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, 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 – Mark Durham
Department of Fish and Game – Erin Wilson
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

APF:401/certifications/demen's cyn access rd 362009-01