



# California Regional Water Quality Control Board

## Santa Ana Region



**Linda S. Adams**  
Secretary for  
Environmental Protection

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**Arnold Schwarzenegger**  
Governor

August 20, 2009

Nardy Khan  
County of Orange Public Works  
P.O. BOX 4048  
Santa Ana, CA 92702

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE MAINTENANCE OF PETER'S CANYON CHANNEL (FACILITY F06) IN THE CITIES OF IRVINE AND TUSTIN, ORANGE COUNTY, CALIFORNIA**

Dear Ms. Khan:

On April 28, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by Vandermost Consulting Services, Inc. (Vandermost), for maintenance of Peters Canyon Channel (facility F06) located in the Cities of Irvine and Tustin, Orange County. This letter responds to Orange County's request for certification that the proposed project, described in the 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:** Maintenance activities include: rodent control, channel cleaning, grading access roads, channel/slope repair, trail maintenance, utility maintenance, and weed/vegetation control. Crack sealing and pavement overlay will be used for trail maintenance. Road maintenance will include placement of decomposed granite material. Vegetation management will include applying non-selective post-emergent herbicide to maintain the service road in a vegetative free condition and mowing vegetation on edge of roadway with flail mower on tractor or by hand. Sediment will periodically be removed from the channel bottom to maintain the channel hydraulic capacity. The overall project site is located within Sections 9, 10, 46 and 47 of Township 5 South, Range 9 West of the U.S. Geological Survey Tustin, California, 7.5-minute topographic quadrangle map (33 degrees N/117degrees W).

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Receiving water: Peters Canyon Channel and San Diego Creek

Fill area: Up to 7.67 acres.

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Individual Permit No. 200500058 – YJC.

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. R8-2009-0030, commonly known as the Orange County Municipal Storm Water Permit. Order No. R8-2009-0030 requires that you substantially comply with the requirements of the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, and subsequent amendments, including the preparation of a SWPPP.

Maintenance activities conducted under emergency conditions are not within the scope of this Certification. Emergency repairs, which are authorized by the U.S. Army Corps of Engineers under the Regional General Permit 63 (RGP 63) for Repair and Protection Activities in Emergency Situations, were certified by the State Water Resources Control Board on December 23, 2008.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2007-0041, NPDES No. CAG998002 ("Order No. R8-2007-0041), "General Discharge Permit for Discharges to Surface Waters of Groundwater Resulting from Groundwater Dewatering Operations and/or Groundwater Cleanup Activities at Sites Within the San Diego Creek/Newport Bay Watershed Polluted by Petroleum Hydrocarbons, Solvents, Metals, and/or Salts", as amended by Order No. R8-2009-0045. For more information, please review Order No. R8-2007-41 and Order No. R8-2009-0045 at:  
[www.waterboards.ca.gov/santaana/board\\_decisions/adopted\\_orders/orders/2007\\_order\\_s.shtml](http://www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2007_order_s.shtml)

You have applied for a Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Section 1602 Streambed Alteration Agreement from the California Department of Fish and Game. Pursuant to the California Environmental Quality Act (CEQA), Orange County Public

Works and the Regional Board have determined that the proposed project is categorically exempt from provisions of CEQA according to Guidelines Section 15301 for maintenance that does not expand existing uses.

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

- 1) This Certification will expire 60-months from the date of issuance.
- 2) 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.
- 3) Project activities must not depress the dissolved oxygen content of downstream 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 downstream 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 discharges from Peters Canyon Channel to be increased by values greater than the following Basin Plan objectives:
  - 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) This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP.

**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

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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/wqo2003-0017.pdf](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: U. S. Army Corps of Engineers, Los Angeles Office – Dan Swenson  
Department of Fish and Game – Erin Wilson  
State Water Resources Control Board, OCC – 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/Peters Canyon Channel Maintenance 302009-13