



California Regional Water Quality Control Board

Santa Ana Region



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Secretary for
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Arnold Schwarzenegger
Governor

November 25, 2008

Charles Baker
Department of Transportation (Caltrans)
3337 Michelson Drive, Suite 380
Irvine, CA 92612

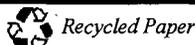
EMERGENCY CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR SOIL STABILIZATION BEST MANAGEMENT PRACTICES IN RESPONSE TO THE COMPLEX FIRE, ORANGE COUNTY (ACOE REFERENCE NO. NOT AVAILABLE)

Dear Mr. Baker:

On November 21, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the implementation of storm water runoff best management practices ("BMPs") to stabilize soils affected by the Complex Fire in Orange 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 ("Basin Plan"):

Project Description: Implementation of storm water runoff BMPs in waters of the U.S. to stabilize soils affected by the Complex Fire. BMPs include gravel bags, fibre rolls, silt fences, hydro-mulch, and similar BMPs. Installation of BMPs will generally proceed ahead of a rain event anticipated on November 25, 2008, in order to prevent potential debris flows from damaging transportation infrastructure. The project includes removal of debris captured by the BMPs following rain events for a period of one year. The project area is in Caltrans' right-of-ways for State Routes ("SR") 91, 57, and 142, in the vicinity of the Santa Ana River near the Orange/Riverside and Orange/San Bernardino County Lines.

California Environmental Protection Agency



Receiving water: Brea Creek, Carbon Canyon Creek, the Santa Ana River, and un-named tributaries thereto.

Fill area: 0.13 acre of temporary impact to ephemeral drainages.

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 13.

This certification addresses impacts to water quality standards associated with the dredging or filling of waters of the United States. Construction and post-construction impacts resulting from the project and use of the roadways are addressed by waste discharge requirements issued to the Department of Transportation (Caltrans) by the State Water Resources Control Board in Order No. 99-06 DWQ. These requirements include the development and implementation of appropriate Best Management Practices for the purpose of removing construction-related and transportation-related pollutants from discharges from Caltrans' rights-of-way and easements.

The proposed activities are subject a 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 statutorily exempt from provisions of CEQA according to Public Resources Code 21080(b)(4) and 21080.33 for emergency work. The proposed activities are intended to prevent damage to critical transportation infrastructure in consideration of pending rain events that threaten to cause potentially damaging debris flows.

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

- 1) The applicant must comply with the requirements of the Clean Water Act section 404 permits.
- 2) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work.

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:

www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.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 – Stephanie Hall
Department of Fish and Game – Michael Flores
State Water Resources Control Board, OCC – David Rice
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Bill Orme
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini
and David Smith

APF:401/certifications/complex fire soil stabilization 302008-29

