



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

December 2, 2008

Kevin Burton
Irvine Ranch Water District (IRWD)
3512 Michelson Drive
Irvine, CA 92612

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE VISTA VERDE CREEK ACCESS ROAD, CITY OF LAKE FOREST, ORANGE COUNTY (ACOE REFERENCE NO. NOT AVAILABLE)

Dear Mr. Burton:

On July 31, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification"), submitted on your behalf by Harmsworth Associates, for the replacement of an Arizona-style creek crossing in the City of Lake Forest. 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"):

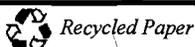
Project Description: Replacement of an Arizona-style creek crossing at Vista Verde Creek. The access road will consist of asphalt approach roads and a concrete road surface at the creek bottom and partly up the banks. The concrete will be keyed into the ground on both sides with a cut-off wall to prevent scour from undermining the roadway. The access road follows the alignment of a sewer and is located on private property within an easement to IRWD. The project is located within Section 22 of Township 6 South, Range 8 West, of the U.S. Geological Survey *El Toro, California*, 7.5-minute topographic quadrangle map (33.63942 degrees N/ -117.70413degrees W).

Receiving water: Vista Verde Creek.

Fill area: 0.003 acre of permanent impact to an ephemeral creek (9 linear feet).

Dredge/Fill volume: N/A

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

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 affects 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.

The creek crossings have the potential to cause or contribute to erosion or degradation of the waterway. IRWD staff does not believe that erosion of the Vista Verde Creek could occur through localized increases in flow velocities as water flows across the smoother surface of the roadway because the channel substrate is resistant to erosion. Channel degradation could occur downstream of the crossing if significant amounts of sediment are trapped behind the crossing, thereby causing a condition of "hungry water". However this potential impact is addressed by maintaining the finished elevation of the roadway such that it matches upstream elevations.

The proposed project is subject to 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 Irvine Ranch Water District and the Executive Officer have determined that the project is Categorically Exempt from provisions of CEQA according to Guidelines Sections 15301 as the project involves the replacement of an existing structure.

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

- 1) Best management practices must be implemented to remove pollutants from storm water runoff discharges from the project site to the maximum extent practicable.
- 2) The discharger must comply with the provisions and conditions of the Clean Water Act Section 404 permit.
- 3) The proposed road crossing must not cause or contribute to channel instability or the physical degradation of the channel.
- 4) In order to monitor long-term trends in the stability of Vista Verde Creek and the potential impacts of the proposed road crossing, IRWD must provide a report documenting the post-construction physical condition of the area of the creek affected by the new crossing 50 feet up-stream, 50 feet down-stream, and immediately on either side of the crossing. The report must include representative site photos which include the completed roadway as a visual reference point, and channel and bank elevations. The report must be



submitted in an electronic format. The report must be provided to the Executive Officer not later than 60 days from the completion of the crossing.

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

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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/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
State Water Resources Control Board, OCC – David Rice
Department of Fish and Game – Naeem Siddiqui
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/vista verde ck crossing 302008-18