



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

March 24, 2008

Andrew Oshrin
California Department of Transportation
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR DRAINAGE MODIFICATIONS AT CRYSTAL COVE STATE PARK, ORANGE COUNTY (CORPS FILE NO. NOT AVAILABLE)

Dear Mr. Oshrin:

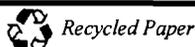
On January 30, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), for proposed drainage modifications at Crystal Cove State Park. This letter responds to your request for certification that the proposed project, described in your application 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: Removal of rock slope protection and related storm drain outfall headwalls at three locations; lining an existing storm drain line at the beach and replacing its outlet structure; and removing and covering a storm drain outfall in Los Trancos Creek. Areas affected by the removal of rock will be re-vegetated with coastal sage scrub. The storm drain outlet structures are located on the ocean-side of Pacific Coast Highway in Crystal Cove State Park within Section 131 of Township 7 South and Range 9 West of the U.S. Geological Survey *Laguna Beach, California*, 7.5-minute topographic quadrangle map (33.57364 degrees N/-117.83936 degrees W).

Receiving Waters: Los Trancos Creek; three un-named, historic, ephemeral coastal drainages¹; and the Pacific Ocean.

¹ Drainage to these features via the outfalls has been cut off according to Regional Board Order No. 00-87, Cease and Desist Order requiring The Irvine Company, the Department of Transportation, and the California Department of Parks and Recreation to Cease and Desist From Discharging or Threatening to

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Fill Area: 0.245 acres of temporary impact (895 total linear feet).
Dredge Volume: Not applicable.
Federal Permit: US Army Corps of Engineers Nationwide Permit Nos. 3 and 33.

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.

You have submitted an application for coverage under nationwide permits from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game and a Coastal Development Permit from the California Coastal Commission.

The proposed work is being completed, in part, as the result of Regional Board Cease and Desist Order No. 00-87 and California Coastal Commission Permit No. A-5-NPC-03-141. Respectively, these regulatory actions required that discharges from Caltrans' drainage facilities be redirected and that the drainage facilities be returned to a more natural condition.

Pursuant to California Environmental Quality Act (CEQA), Caltrans has determined that the project is Categorical Exempt from the requirements of CEQA. The Executive Officer has determined that the project is Categorical Exempt under Guidelines Section 15301, for repair, maintenance or minor alteration of existing facilities.

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

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:

Discharge Wastes Directly to Crystal Cove, Part of the Irvine Coast Area of Special Biological Significance (Cease and Desist Order No. 00-87).

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- (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/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 message):

U. S. Army Corps of Engineers, Los Angeles Office – Jae Chung and Cori Farrar
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, Ontario Office – Naeem Siddiqui
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini
and David Smith

APF: 401/certifications/crystal cove drainage 302008-03