



California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

Arnold Schwarzenegger
Governor

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Aziz Elattar
Caltrans, District 7
100 South Main Street, MS 16A
Los Angeles, CA 90012

WATER QUALITY CERTIFICATION FOR PROPOSED (STATE ROUTE 1 SOLSTICE CREEK FISH PASSAGE RESTORATION) PROJECT (Corps' Project No. 2006-01012-MDC), SOLSTICE CREEK, MALIBU, LOS ANGELES COUNTY (File No. 06-101)

Dear Mr. Elatter:

Regional Board staff has reviewed your request on behalf of Caltrans, District (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on July 1, 2008.

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, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-5733.

[Original Signed by]
Tracy J. Egoscue
Executive Officer

July 16, 2008
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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ATTACHMENT A

**Project Information
File No. 06-101**

1. Applicant: Caltrans, District 7
100 South Main street, MS 16A
Los Angeles, CA 90012

Phone: (213) 897-0686 Fax: (213) 897-2593
2. Applicant's Agent: Department of Transportation, District 7
100 South Main street, MS 16A
Los Angeles, CA 90012

Phone: (213) 897-4595 Fax: (213) 897-2593
3. Project Name: State Route 1 Solstice Creek Fish Passage Restoration
4. Project Location: Malibu, Los Angeles County

<u>Longitude</u> (decimal degrees)	<u>Latitude</u> (decimal degrees)
118.7420	34.0331
118.7424	34.0329
118.7421	34.0328
118.7422	34.0330
118.7430	34.0333
118.7432	34.0334
118.7430	34.0335
118.7428	34.0333

5. Type of Project: Fish passage culvert restoration
6. Project Purpose: The proposed project (Project) will restore steelhead passage by rebuilding the existing culvert.
7. Project Description: The Project is located along State Route 1 (SR1), the Pacific Coast Highway, in the City of Malibu. The existing reinforced concrete pipe arch culvert under SR1 conveys flows from Solstice Creek to Dan Blocker State Beach and the Pacific Ocean. The Project will

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remove the concrete bottom, construct a series of rock weirs and create a stable channel. In 2003, Caltrans proposed a passage restoration with the installation of baffles and check dams (File No. 03-092). The project has now been re-designed to maximize fish passage periods.

On the seaward side of the bridge, the Project will construct a stable channel with step-pools and rock weirs for an approximately 36-meter (120-foot) length beginning at the culvert outlet. This stable channel will extend about 15 meters (50 feet) outside of the existing Caltrans right-of-way. Culvert modifications will entail the removal of the inlet and outlet aprons and well as the concrete bottom. On the landward side of the bridge, step pools and rock weirs will be constructed as in the downstream channel. The excavation required is 2,281 cubic yards with approximately 1,860 cubic yards of rock slope protection and concreted rock slope protection.

Impacts to Vegetated Streambed:

Excavation of the channel bed will occur to a depth of three to ten feet with a bottom width of 10-14 ft and a top width of 23 to 60 feet. Five rock weirs will be constructed, each spaced at 25 feet apart, for a total linear distance of approximately 120 feet.

Impacts to Unvegetated Streambed (Culvert):

Construction will require the complete removal of the concrete inlet and outlet aprons and channel bed. Horizontal struts will be installed to provide structural protection for the bridge footings. Excavation depth will be approximately 6 feet deep. Rock protection will be placed to act as a roughened channel through the culvert.

Impacts to Beach:

Construction will involve excavation of the channel bed to a depth of 6 feet with the width limited to the existing toe of slope. Four rock weirs will be constructed, each spaced about 25 feet apart, for a total linear distance of approximately 150 feet.

8. Federal Agency/Permit:

U.S. Army Corps of Engineers
NWP No. 27 and 33 (Permit No. 2006-01012-MDC)

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9. Other Required Regulatory Approvals: California Department of Fish and Game Streambed Alteration Agreement
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15333 (Small Habitat Restoration Projects):
11. Receiving Water: Solstice Creek (Hydrologic Unit No. 404.32)
12. Designated Beneficial Uses: MUN*, REC-1, REC-2, WARM, WILD, MIGR, SPWN, *Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (vegetated streambed): 0.05 permanent acres (75 linear feet) and 0.003 temporary acres (150 linear feet).
Non-wetland waters (unvegetated streambed): 0.12 permanent acres (236 linear feet).
Non-wetland waters (beach): 0.17 permanent acres (100 linear feet) and .20 permanent acres (120 linear feet).
14. Dredge Volume: 2,281 cy
15. Related Projects Implemented/to be Implemented by the Applicant: The project was originally designed to construct a fish ladder system (File No. 03-092). However, the design provided limited passage periods for fish migration. Therefore, the design was revised to provide a natural stable channel by removing the concrete bed and aprons and installing a series of rock weirs. Several restoration projects have been implemented in the upper watershed by the National Park Service in cooperation with various agencies to facilitate fish passage restoration. Future restoration projects by stakeholder may be implemented over the next 5 years as the watershed is monitored for value and function.

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16. Avoidance/
Minimization
Activities:

The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:

- Work will be scheduled to occur outside of rainy season and at times of low flow.
- Project and staging areas will be kept to a minimum
- No cleaning of equipment shall be performed within the project limits.
- Disturbed areas will be hydro- seeded with native species
- Dust control measures will be used.
- Equipment fueling or maintenance will occur off-site.

17. Proposed
Compensatory
Mitigation:

None

18. Required
Compensatory
Mitigation:

The Project is restoration, therefore this Regional Board will not require additional mitigation. See *Attachment B Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

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Conditions of Certification File No. 06-101

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 15, are incorporated as additional conditions herein.

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5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
14. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
15. Sediment removal at each phase shall not go beyond the extent as defined in the application packet.
16. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
17. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities where clearing involves areas to be partially cleared (i.e. some vegetation is to remain in the same reach or in an adjacent reach). The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
18. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
19. All project, construction, or maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are

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Conditions of Certification File No. 06-101

subject to restoration and revegetation requirements, and may require additional Certification action.

20. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:
- pH
 - temperature
 - dissolved oxygen
 - turbidity
 - total suspended solids(TSS)
 - Downstream TSS shall be maintained at ambient levels
 - Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

21. The Applicant shall restore all areas of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours where appropriate and revegetated with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.

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22. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** by **January 1st** of each year for a minimum period of **five (5) years** after planting or until restoration success has been achieved. The report shall describe in detail all of the project or construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
- (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
23. Prior to any subsequent maintenance activities within the subject drainages, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the drainage’s existing condition; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
24. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.

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- (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
25. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

_____ (Signature)
_____ (Title)”

- 26. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **06-101**. Submittals shall be sent to the attention of the 401 Certification Unit.
- 27. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
- 28. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
- 29. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been

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corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

30. *Enforcement:*

- (a) 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.
- (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) 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 SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

31. This Certification shall expire five (5) years from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.