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California Regional Water Quality Control Board San Diego Region

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Action on Request for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Discharge of Dredged and/or Fill Materials

PROJECT: I-5/Crown Valley Parkway Interchange
Improvement Project,
Certification Number: 10C-003
WDID Number: 9 00002021

APPLICANT: Dave Rogers
City of Laguna Niguel
27801 La Paz Rd.
Laguna Niguel, CA, 92677

CIWQS Reg. Mes. ID:372723 Place ID:748484 Party ID:377991
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ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004 DWQ

PROJECT DESCRIPTION:

The project is located in the City of Laguna Niguel on Crown Valley Parkway between Cabot Rd. and Interstate 5 (I-5). The project will widen the south side of Crown Valley Parkway and associated bridge over Oso Creek. The widening will lengthen the existing right-turn lane onto the southbound I-5 on-ramp and add a lane to the northbound I-5 entrance ramp intersection. At the intersection of Forbes Rd, improvements will include construction of a second left-turn lane in each direction on Crown Valley Parkway. Forbes Rd. will be widened south of Crown Valley Parkway by adding one southbound lane to accept the dual left turns from westbound Crown Valley Parkway. The project construction includes installing a double wide reinforced concrete box culvert to replace the existing concrete open trapezoidal channel. The project will temporarily impact 0.1 acres (421 linear feet) of an unnamed tributary and Oso Creek.

California Environmental Protection Agency

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STANDARD CONDITIONS:

The following three standard conditions apply to all Certification actions, except as noted under Condition 3 for denials (Action 3).

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility 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. The validity of any non-denial Certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADDITIONAL CONDITIONS:

In addition to the three standard conditions, the City of Laguna Niguel must satisfy the following:

A. GENERAL CONDITIONS:

1. The City of Laguna Niguel must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), to support this 401 Water Quality Certification (Certification) and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must supersede conflicting provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the San Diego Water Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.
2. During construction, the City of Laguna Niguel must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.

3. City of Laguna Niguel must permit the San Diego Water Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Certification.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 - d. Sampling of any discharge or surface water covered by this Order.
4. The City of Laguna Niguel must notify the San Diego Water Board within 24 hours of any unauthorized discharge, including hazardous or toxic materials, to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional best management practice (BMPs) or other measures that will be implemented to prevent future discharges.
5. The City of Laguna Niguel must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
6. This Certification is not transferable to any person except after notice to the Executive Officer of the San Diego Water Board in accordance with the following term.
 - a. **Transfer of Property Ownership:** City of Laguna Niguel must notify the San Diego Water Board of any change in ownership of the project area. Notification of change in ownership must include, but not be limited to, a statement that City of Laguna Niguel has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the Executive officer of the San Diego Water Board within **10 days** of the transfer of ownership.
 - b. **Transfer of Mitigation Responsibility:** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in Section D shall include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the

San Diego Water Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board within **10 days** of the transfer date.

7. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must 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.
8. In response to a suspected violation of any condition of this Certification, the San Diego Water 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 San Diego Water Board deems appropriate, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
9. In response to any violation of the conditions of this Certification, the San Diego Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.
10. City of Laguna Niguel and successor owners must submit annual progressive reports to the San Diego Water Board prior to **August 1** of each year following the issuance of this Certification until the project has reached completion.

B. PROJECT CONDITIONS:

1. Prior to the start of the project, and annually thereafter, the City of Laguna Niguel must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and BMP implementation and maintenance.
2. City of Laguna Niguel must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for discharges of dredged or fill material that has received State Water Quality Certification. These General Waste Discharge Requirement are accessible at:
http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.

3. The City of Laguna Niguel must notify the San Diego Water Board in writing at least **5 days** prior to the actual commencement of dredge, fill, and discharge activities.
4. The City of Laguna Niguel must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, and any subsequent re-issuance as applicable, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.
5. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the San Diego Water Board pursuant to CWC § 13260.
6. Discharges of concentrated flow during construction or after completion must not cause downstream erosion or damage to properties or stream habitat.
7. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each work day or sooner if rain is predicted.
8. All surface waters, including ponded waters, must 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. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
9. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.

C. POST CONSTRUCTION STORM WATER MANAGEMENT:

1. All storm drain inlet structures within the project boundaries must be stamped and/or stenciled (or equivalent) with appropriate language prohibiting non-storm water discharges.
2. The BMPs proposed for this project include:
 - a. Vegetated Swale

required to be improved as part of the project. Alternatively, the City of Laguna Niguel may submit a letter documenting that the Moulton Niguel Water District accepts full responsibility for the inspection and maintenance of all BMPs installed on all roads that are required to be improved as part of the project, including, but not limited to Cabot Road, Crown Valley Parkway, and Forbes Road.

6. As specified in the project's Water Quality Management Plan the treatment BMPs will be inspected semi-annually and after every storm event exceeding 0.5 inches of precipitation.
7. Records must be kept regarding inspections and maintenance in order to assess the performance of the systems and determine whether adaptations are necessary to protect receiving waters.

D. COMPENSATORY MITIGATION FOR LOSS OF WATERS OF THE U.S./STATE:

1. The City of Laguna Niguel must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the United States/State. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species. The City of Laguna Niguel must implement all necessary BMPs to control erosion and runoff from areas associated with temporary impacts (dredge and fill material within the channel) from this project within 90 days of completion of the project.

E. PHOTO DOCUMENTATION PROCEDURE:

1. City of Laguna Niguel, and its successors, must conduct photo documentation of the project site, including all areas of permanent and temporary impact, prior to and after project construction, post construction BMPs, and mitigation areas, including all areas of permanent and temporary impact, prior to and after project construction. Photo documentation must be conducted in accordance with the State Water Resources Control Board Standard Operating Procedure 4.2.1.4: Stream Photo Documentation Procedure, included as **Attachment (5)**. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced. City of Laguna Niguel must submit this information in a photo documentation report to the San Diego Water Board with **Project Annual Reports**. The report must include a compact disc that contains digital files of all the photos (jpeg file type or similar).

F. REPORTING:

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the San Diego Water Board for failure to furnish requested information pursuant to CWC section 13268.
2. All reports and information submitted to the San Diego Water Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.
3. City of Laguna Niguel must submit a **Final Project Annual Report** to the San Diego Water Board within 30 days of completion of the project. The report should include as-built drawings no bigger than 11" x 17" and photos of the completed project including post-construction BMPs.
4. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:
 - a. For a corporation, by a responsible corporate officer of at least the level of vice president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
5. A duly authorized representative of a person designated in Items 4.a. through 4.c. above may sign documents if:
 - a. The authorization is made in writing by a person described in Items 4.a. through 4.c. above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the San Diego Water Board Executive Officer.
6. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

7. City of Laguna Niguel must submit reports required under this Certification, or other information required by the San Diego Water Board, to:

Executive Officer
 California Regional Water Quality Control Board
 San Diego Region
 Attn: 401 Certification; Project No. 10C-003
 9174 Sky Park Court, Suite 100
 San Diego, California 92123

6. Required Reports: The following list summarizes the reports, excluding spill notifications and emergency situations, required per the conditions of this Certification to be submitted to the San Diego Water Board.

Report Topic	Certification Condition	Due Date(s)
Project Annual Reports	A.10	August 01, Annually
Notification of dredge/fill	B.3	5 days prior
Photo-Documentation	E.1	With Annual Reports
As-Built Drawings	F.3	Final Annual Report

CEQA FINDINGS:

1. The City of Laguna Niguel is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)), and filed a Notice of Exemption on April 21, 2008. The City of Laguna Niguel determined the project is exempt per Categorical Exemption Class I.

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On **January 26, 2010** receipt of the project application was posted on the San Diego Water Board web site to serve as appropriate notification to the public. No comments were received for this project.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Alan Monji
 California Regional Water Quality Control Board, San Diego Region
 9174 Sky Park Court, Suite 100
 San Diego, CA 92123
 858-637-7140
amonji@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the I-5/Crown Valley Parkway Interchange Improvement Project (Project No. 10C-003) 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. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017 DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the San Diego Water Board's Water Quality Control Plan (Basin Plan).



DAVID W. GIBSON
Executive Officer
Regional Water Quality Control Board

7/21/10
Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Project and Site Map
 4. Post-Construction BMP Map
 5. Stream Photodocumentation Procedure