California Regional Water Quality Control Board

San Diego Region

Linda S. Adams
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger Governor

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351372

8709

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340 (858) 467-2952 • Fax (858) 571-6972 http://www.waterboards.ca.gov/sandiego

November 18, 2008

Certified Mail: 7008 1140 0004 9971 8757

In reply refer to: WPS:08C-061:JEBSEN

WDID

Place

Party

CIWQS:

Reg. Measure

City of San Diego 9192 Topaz Way San Diego, CA 92123 Attention: Marco Gallegos

Dear: Mr. Gallegos

SUBJECT: Action on Request for Clean Water Act Section 401 Water Quality

Certification for the Fox Canyon Sewer Repair Project Water Quality

Certification No. 08C-061

Enclosed find Clean Water Act Section 401 Water Quality Certification for discharge to Waters of the U.S., and acknowledgment of enrollment under State Water Resources Control Board Order No. 2003-017-DWQ for the Fox Canyon Sewer Repair Project. A description of the project and location can be found in the project information sheet and on location and site maps compiled by the California Regional Water Quality Control Board, San Diego Region (Regional Board), which are included as Attachments 1 through 4.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that you have accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the California Regional Water Quality Control Board, San Diego Region, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at http://www.swrcb.ca.gov.

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City of San Diego 401 Certification 08C-061 -2-

November 18, 2008

include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions regarding this notification, please contact Ms. Jody Ebsen directly at (858) 636-3146 or by email via jebsen@waterboards.ca.gov.

Respectfully,

JOHN H. ROBERTUS Executive Officer

cc: Refer to Attachment 2 of Certification 08C-014 for Distribution List.

Enclosures:

- Clean Water Act Section 401 Water Quality Certification No. 08C-061 for the Fox Canyon Sewer Repair Project
- 2. Attachment 1 Project Information
- 3. Attachment 2 Distribution List
- 4. Attachment 3 Project Location Map
- 5. Attachment 4 Project Site Map

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Acting Secretary for
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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: Fox Canyon Sewer Repair Project,

Certification No. 08C-061, WDID 9 000001823

APPLICANT: City of San Diego

9192 Topaz Way

San Diego, CA 92123

Attention: Marco Gallegos

CIWQS:

Reg. Mes. ID: 351372 Place ID: 725304 Party ID: 8709

ACTION:

☑ Order for Low Impact Certification	☐ Order for Denial of Certification
☐ Order for Technically-conditioned Certification	☐ Waiver of Waste Discharge Requirements
☑ Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	☐ Enrollment in Isolated Waters Order No. 2004-004 DWQ

The proposed project is the repair and protection of a sewer line involving the encasing of a section of pipe, repairing a break in the pipe, and repair to a joint displacement in Fox Canyon, south of University Avenue, west of Winona Avenue in the City Heights Community of San Diego.

STANDARD CONDITIONS:

The following three standard conditions apply to <u>all</u> certification actions, except as noted under Condition 3 for denials (Action 3).

 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).

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at http://www.swrcb.ca.gov.

Recycled Paper





- 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 San Diego must satisfy the following:

A. GENERAL CONDITIONS:

- 1. The City of San Diego 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 (Regional Board), to support this 401 Water Quality 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 Regional Board and reevaluation for individual Waste Discharge Requirements and/or certification amendment.
- During construction, the City of San Diego 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 San Diego must permit the Regional 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 San Diego must notify the Regional 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 San Diego 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 Regional Board. City of San Diego must notify the Regional Board of any change in ownership of the project area. Notification must include, but not be limited to, a statement that the property owner has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands the permit requirements and must implement them; the seller and purchaser must sign and date the notification. The notification for transfer of mitigation responsibility shall include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification. Notification must be provided within 10 days of the sale of the property.
- 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 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, 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 Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

B. Project Conditions:

- The City of San Diego 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 have received State Water Quality Certification. These General Waste Discharge Requirement are accessible at: http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regula-ted_projects.pdf.
- 2. The City of San Diego must comply with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.
- 3. 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 Regional Board pursuant to CWC § 13260.
- 4. Discharges of concentrated flow during construction or after completion must not cause downstream erosion or damage to properties or stream habitat.
- 5. 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.
- 6. 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.
- 7. 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. STREAM PHOTO DOCUMENTATION PROCEDURE:

1. The City of San Diego must conduct photo documentation of the project site, including all areas of temporary impact, prior to and after project construction, and mitigation areas, including all areas of permanent and temporary impact, prior to and after project construction.

D. REPORTING:

- All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
- 2. All reports and information submitted to the Regional 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. The City of San Diego must submit a report to the Regional 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.
- 4. All applications, reports, or information submitted to the Regional 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."

5. The City of San Diego must submit reports required under this certification, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; Project No. 08C-014
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 Regional Board.

Report Topic	Certification Condition	Due Date(s)
Project Completion Report	D3	Within 30 days of project completion

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On August 28, 2008, receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Jody Ebsen
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-636-3146
jebsen@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the Fox Canyon Sewer Repair Project (Project No. 08C-014) 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," 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 Regional 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 Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).

JOHN H. ROBERTUS

Executive Officer

Regional Water Quality Control Board

Attachments:

- 1. Project Information
- 2. Distribution List
- 3. Location Map
- 4. Site Map

ATTACHMENT 1 PROJECT INFORMATION

Applicant:

City of San Diego,

Attention: Marco Gallegos

9192 Topaz Way San Diego, CA 92123 Telephone: 858-292-6410 FAX: 858-292-6310

Project Name:

Fox Canyon Sewer Repair Project

Project Location:

South of University Avenue, west of Winona Avenue in the City

Heights Community of San Diego

Type of Project:

Sewer Repair

Project Description:

The proposed project is the repair and protection of a sewer line involving the encasing of a section of pipe, repairing a break in the

pipe, and repair to a joint displacement.

Federal Agency/Permit:

U.S. Army Corps of Engineers §404, Nationwide Permit 12, ACOE

T. Dean

Other Required

Regulatory Approvals:

City of San Diego, site Development Permit, P. Grabski

California Environmental

Quality Act (CEQA)

Compliance:

On June 26, 2008, City of San Diego determined that the project is Categorically Exempt from CEQA (Class 1, PRC 21084, 14 CCR

15300 et seq.)

Receiving Water:

Unnamed tributary to Chollas Creek, Pueblo San Diego Hydrologic

Unit, San Diego Mesa Hydrologic Area, Chollas Hydrologic Sub

Area (908.22)

Affected Waters of the

United States:

~ Temporary: 0.003 acres of unvegetated streambed

Dredge Volume

N/A

Compensatory

Mitigation:

Temporary impacts will be restored to pre-existing conditions, and due to the relatively small temporary impacts no compensatory

mitigation is proposed.

Public Notice:

On August 28, 2008, receipt of the project application was posted

on the Regional Board web site to serve as appropriate notification

to the public.

Fees:

Total Due: \$500.00 Total Paid: \$500.00 (check No. 7570006)

CIWQS:

Regulatory Measure ID: 351372 Place ID: 725304

Party ID: 8709

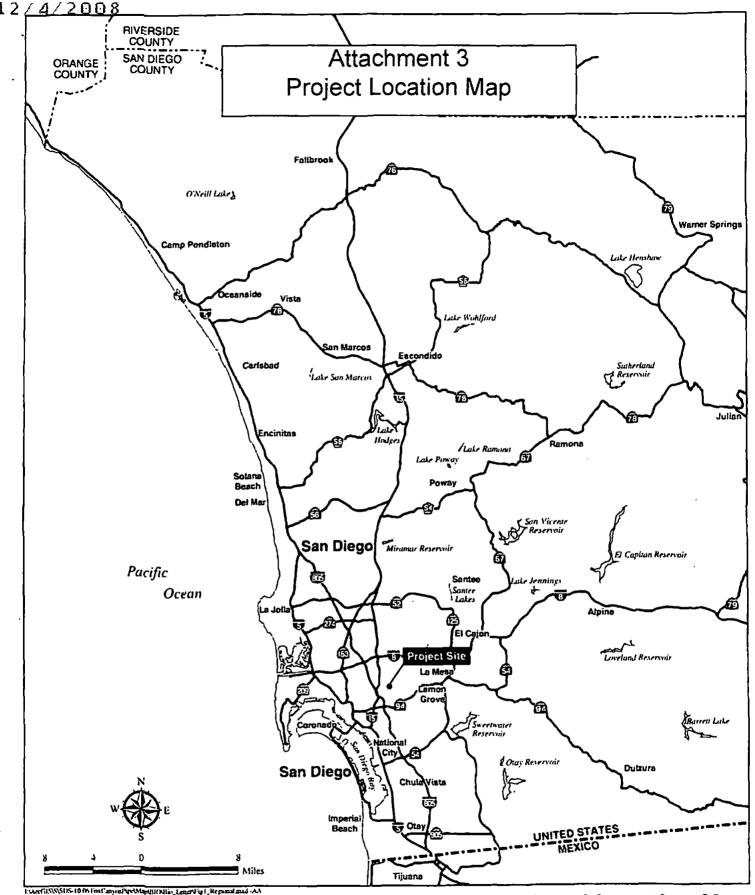
ATTACHMENT 2 DISTRIBUTION LIST

Mr. Terry Dean U.S. Army Corps of Engineers, Regulatory Branch San Diego Field Office 6010 Hidden Valley Road, Suite 105, Carlsbad CA 92011

Mr. Bill Orme State Water Resources Control Board, Division of Water Quality 401 Water Quality Certification and Wetlands Unit P.O. Box 100 Sacramento, CA 95812-0100

Ms. Elizabeth Goldmann (via e-mail)
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
Goldmann.Elizabeth@epamail.epa.gov

Ms. Sally Brown (via e-mail)
U.S. Department of the Interior
Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011
Sally Brown@fws.gov



Regional Location Map

FOX CANYON PIPE ENCASEMENT AND REPAIR

HELIX

Figure 1 ☆グラントン・ストー ∞ワロハントンハー



Corps / CDFG Jurisdictional Areas

FOX CANYON PIPE ENCASEMENT AND REPAIR

HELIX

Figure 4

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SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
 Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse 	A. Signature X
so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.	B. Received by (Printed Name) C. Date of Delivery
1. Article Addressed to: CITY OF San DIEGO	D. Is delivery address different from item 1? Yes If YES, enter delivery address below: No
9192 TOPGZ Way Attn: Marco Gallegor	
ATTN: Marco Gallegor 1	3. Service Type Certified Mail Registered Return Receipt for Merchandise C.O.D.
· ·	4. Restricted Delivery? (Extra Fee) Yes
Article Number (Transfer from service label) 7[008 1140 0004 9971 8757
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Sept 19	re San Nego
Street, Apr. 1 or PO Box N	10:9192 TOP42 Way
Ch. State.	1P+4 00 1A 97/23
PS Form 38	100, August 2006 See Reverse for Instructions