



California Regional Water Quality Control Board San Diego Region



Matthew Rodriguez
Secretary
for
Environmental Protection

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Governor

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(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

December 20, 2011

In reply, please refer to: mporter: 25850

Mr. Anthony G. Evans
Chief Financial Officer
South Bay Expressway, LLC
1129 L Media Road
San Diego, CA 92154

Mr. Gary Gallegos, Director
SANDAG
401 B Street
Suite 800
San Diego, CA 92101

Dear Mr. Evans and Mr. Gallegos:

SUBJECT: Transfer of Responsibilities for 401 Certification No. 99C-133, as amended, for SR 125 from South Bay Expressway, LLC to San Diego Association of Governments

On December 12, 2011 the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) received a request via e-mail from South Bay Expressway, LLC (SBX) to transfer Clean Water Act Section 401 Water Quality Certification (Certification) responsibilities for the State Route 125 South Toll Road from SBX to the San Diego Association of Governments (SANDAG). Certification No. 99C-113 was issued on July 24, 2001 to California Transportation Ventures and Caltrans. The subject certification was subsequently amended on August 21, 2007 and May 1, 2008 (attached). Through bankruptcy proceedings, California Transportation Ventures merged into what is now SBX on April 28, 2011. Caltrans, as co-applicant, would continue to maintain partial responsibilities as indicated in the certification and amendments.

The December 12, 2011 request included a draft agreement between SBX and SANDAG titled "Assignment and Assumption of Permit Obligations" (attached). The request stated that the assignment and assumption of responsibilities between the parties is scheduled to become effective December 21, 2011. Assuming execution of this agreement by both parties, the San Diego Water Board agrees to the proposed transfer of all associated responsibilities with the Certification, as amended, to SANDAG upon the effective date in the signed document. For our records, please forward a copy of the final agreement, once signed.

California Environmental Protection Agency

In the subject line of any response, please include the requested **"In reply refer to:"** information located in the heading of this letter. For questions pertaining to the subject matter, please contact Mike Porter at 858-467-2726 or mporter@waterboards.ca.gov.

Respectfully,



for James G. Smith, AEO
DAVID W. GIBSON
Executive Officer

cc: (sent electronically only)

Mr. Bruce April, Caltrans District 11
bruce_april@dot.ca.gov

Enclosures:

Clean Water Act Section 401 Water Quality Certification No. 99C-133, with amendments.

DRAFT Assignment and Assumption of Permit Obligations

California Regional Water Quality Control Board

San Diego Region

Internet Address: <http://www.svrwb.ca.gov/~rwqcb9/>
9771 Clairemont Mesa Boulevard, Suite A, San Diego, California 92124-1324
Phone (858) 467-2932 • FAX (858) 571-6972

CERTIFIED RETURN MAIL RECEIPT REQUESTED
Z 498 397 772

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



PROJECT: State Route 125 South Toll Road (File No. 99C-133)

APPLICANT: Mr. Bruce April
California Dept. of Transportation (Caltrans)
P.O. Box 85406
San Diego, CA 92186-5406

Mr. Kent Olsen
California Transportation Ventures (CTV)
707 Broadway, Suite 1600
San Diego, CA 92101

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

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 shall 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

California Environmental Protection Agency

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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) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

SPECIAL CONDITIONS:

This 401 Water Quality Certification applies to temporary and permanent fill associated with the construction of the project as proposed, and with the implementation of this project after build-out for the life of the project.

The 401 Water Quality Certification from the Regional Water Quality Control Board, San Diego Region (Regional Board) applies only to the four-lane freeway and the following interchanges: Otay Mesa Road, Olympic Parkway, Telegraph Canyon / Otay Lakes Road, and East H Street.

The 401 Water Quality Certification does not apply to 1) future lane additions, 2) the freeway to freeway interchange with Route 905, 3) the construction of proposed local interchanges with Lonestar Road, future Rock Mountain Road, and future Birch Parkway, 4) the construction of the proposed extension of La Media Road and the second bridge structure at Otay River Valley and 5) the two additional bridges over the Sweetwater River Valley.

To the extent that such additional construction associated with this project requires any federal permit, license, or approval, Caltrans and California Transportation Ventures shall submit new applications for 401 water quality certification.

Caltrans shall promote and pursue a regional air deposition study that will include the Sweetwater Reservoir Airshed.

A. Responsible Parties

1. The California Department of Transportation (Caltrans) and California Transportation Ventures (CTV) shall be individually responsible for complying with this certification.
2. Caltrans and CTV are considered to have full responsibility for correction of any and all problems that arise in the event of a failure which results in an unauthorized release of waste or wastewater. In the event of an inability to determine individual responsibility for a particular discharge, Caltrans shall be responsible for correcting any and all problems arising from such a discharge.

B. Construction

1. Caltrans and CTV shall, at all times, fully comply with the engineering plans, specifications and technical reports submitted with Caltrans' application for 401 Water Quality Certification and all subsequent submittals required as part of this certification. Subsequent submittals to the Regional Board will enable staff to review all changes pertaining to ultimate discharge points from the project and BMP structural controls prior to their construction.
2. Regional Board approved Biological Monitors shall be present during construction and grading to verify that appropriate protocols are followed and that construction remains within the permitted areas for all aquatic resources. Biological Monitors shall be present for a minimum of 4 hours per day when road construction or grading is occurring in or adjacent to "waters of the U.S." and for a minimum of 4 hours per week when grading is occurring elsewhere on the project. Semi-annual updates from the Biological Monitors shall be sent to the Regional Board for review.
3. In accordance with Section 13260 of the CWC, Caltrans and CTV shall file with the Board a report of any material change or proposed change in the character, location, or quantity of this waste discharge. Any proposed material change in operation shall be reported to the Executive Officer at least 30 days in advance of the proposed implementation of any change. This shall include, but not be limited to, all significant additional unforeseen grading, all proposed expansion of development, or any change in the ultimate discharge locations. For the purpose of this 401 Certification, this includes any proposed change in the boundaries of the wetland or streambed fill sites.

In addition, in accordance with Water Quality Order No. 99-08-DWQ, Section A, 4a., "The discharger shall amend the SWPPP whenever there is a change in construction or operations which may affect the discharge of pollutants to surface waters, ground waters, or a municipal separate storm sewer system (MS4). The SWPPP shall also be amended if the discharger violates any condition of this General Permit or has not achieved the general objective of reducing or eliminating pollutants in storm water discharges. If the Regional Board determines that the discharger is in violation of this General Permit, the SWPPP shall be amended and implemented in a timely manner, but in no case more than 14-calendar days after notification by the Regional Board. All amendments should be dated and directly attached to the SWPPP."

4. Prior to discharge, Caltrans and CTV shall notify the Regional Board of any plans to discharge ground water or other non-storm water that has accumulated in utility trenches or in other portions of the project, as this action may require a separate permit, unless the discharge is treated by a structural BMP prior to discharge from the project site.

C. Project Design

1. Caltrans and CTV shall design the project to ensure that there will be no increase in the existing peak flow rate of a 25-year, 6-hour frequency storm event from the project site to prevent flows from exceeding pre-development values.

2. Jurisdictional waters of the U.S. that are crossed by roadways associated with the project shall have a bridge or culvert that will accommodate a 100-year storm event.

3. Bridges or culverts on San Miguel Creek (Sta 166+50) or at Proctor Valley Road (Sta 147+00) shall be of sufficient width to provide velocities that will not require any hardscape downstream to attenuate flows. If culverts are used at these sites, the natural streambed within the culvert shall not be hardscaped. (Arch culverts may be used at these sites. Hardscape material may be placed immediately upstream of the culvert to prevent undercutting.)

D. Storm Water Compliance

1. Caltrans and CTV shall comply with the requirements of the State Water Resources Control Board Order No. 99-06-DWQ. Prior to approval of Caltrans' Storm Water Management Plan (SWMP) Caltrans and CTV shall comply with the requirements of Regional Board Order No. 97-08.

2. Caltrans and CTV shall comply with the State Water Resource Control Board Order No. 99-08-DWQ, General Permit for Storm Water Discharges Associated with Construction Activity.

3. Caltrans and CTV shall submit their Storm Water Pollution Prevention Plan (SWPPP) for the project at least 30 days prior to the beginning of construction.

4. Caltrans and CTV shall employ all appropriate standard BMPs to reduce or eliminate pollutants in storm water discharges from the construction sites to the Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT). At a minimum erosion control BMPs shall be designed for a 2-year, 6-hour rain event, and sediment control basins shall be designed in accordance with the General Construction Permit, Water Quality Order No. 99-08-DWQ, Section A, No. 8.

5. Caltrans and CTV shall cover exposed slopes with appropriate BMPs within 14 days of completion of the slope. The minimum slope incline to be covered shall be at 10:1. Clearing or grading shall occur at a minimum needed only to facilitate the active phase of the project. Landscaping of each segment between interchanges must be initiated prior to the start of grading or construction of the next phase of the project, unless the next phase of the project requires soil disturbance to balance earthwork. If this is the case, then appropriate soil stabilization controls shall be deployed within 14 days from the cessation of soil-disturbing activities or one day prior to the onset of precipitation, whichever occurs first.

6. Caltrans and CTV shall plant permanent landscape material and begin irrigation within one year of ground disturbances. The areas between future Olympic Parkway (Orange Ave.) and Route 54 shall be completely landscaped with appropriate irrigation by opening day of this section of the toll road.

7. Caltrans and CTV shall use post-construction BMP devices that best meet the maximum extent practicable (MEP) performance standard. Post-construction BMPs shall be designed to meet at least a 80% efficiency removal rate for total metals, and at least an 80% efficiency removal rate for Total Suspended Solids (TSS)/sediments. BMPs shall be designed to remove oil & grease, pathogens, and trash to the maximum extent practicable. There shall be no net increase in nutrient concentrations from the BMPs.

8. Caltrans and CTV shall ensure funding for maintenance for features necessary to satisfy conditions of water quality certification: such funding shall be first priority for any allocation of revenue from tolls collected.

E. Storm Water and Receiving Water Monitoring

1. Caltrans and CTV shall implement a monitoring program that ensures removal effectiveness standards are met from the project at discharge points below BMPs at five sites (located in tributary drainage areas 2, 9, 13, 15, & 18. See Table 1) during all specified rain events, and at five discharge locations downstream of the BMPs that are randomly selected for each specified rain event. Tributary drainage areas are identified in the "State Route 125 Toll Road Water Quality Data and Best Management Practices Evaluation" document, received on February 26, 2001. Monitoring shall occur during all storm events with a rainfall totals of 0.25 inches at 75% probability, beginning when construction starts (for construction BMPs that are in use and for permanent BMPs that have been installed and are in use). Monitoring shall continue for at least five years following project construction completion. Five years after construction completion Caltrans and CTV may make a request to the Regional Board that water quality monitoring be discontinued or that the monitoring program be changed. The storm event must be preceded by an antecedent dry period of a minimum of 48 hours, with a period of 72 hours preferred. For safety reasons, no monitoring shall occur starting 6 p.m. December 24th and ending 6 a.m. December 26th and also starting 6 p.m. December 31 and ending 6 a.m. January 2nd of each year.

Table 1. State Route 125 Sampling locations

Trib. Area	To	From	Selected BMP	Tributary Area Hectares	Reasoning
	Stations				
2	44+00	65-00	EDB	14.1	discharges to La Media Road and ultimately to Otay.
9	116+00	120-50	Treatment Train	6.23	discharging to Telegraph, treatment train sampling will give us effectiveness of combination.
13	139+00	142+20	Bioswale + SFD	2.6	discharges to H St. and it is a bioswale with a SFD combination, effectiveness has not been fully determined for this treatment train.
15	147+80	161-00	SFD	21.86	Large CDS unit - will provide supporting data statewide.
18	178+20	196+00	SFD	15.5	end of project, some of flow could be due to SR54 traffic.

SFD- Small Footprint Device

Discharges from BMPs shall be monitored for, but not limited to chromium, copper, lead, nickel, zinc, pH, total suspended solids, total dissolved solids, nitrate, ammonia, orthophosphorus, total phosphorus, oil & grease, total polycyclic aromatic hydrocarbons, fecal coliform, total coliform, and any pesticides that are used at the project site.

Receiving waters located on the Otay and Sweetwater Rivers shall be sampled quarterly for water quality and annually for sediment quality. Monitoring shall begin when construction starts and continue for at least five years following project construction completion. Five years after construction completion Caltrans may make a request to the Regional Board that water quality monitoring be discontinued or that the monitoring program be changed. Receiving waters shall be monitored for the constituents listed above as well as acute toxicity, temperature and dissolved oxygen. Sediments shall be monitored for, but not limited to, acute toxicity, aluminum, cadmium, chromium, copper, lead, nickel, zinc, total polycyclic aromatic hydrocarbons, oil & grease, and any pesticides that are used at the project site.

2. Annual monitoring reports and semi-annual updates with the analysis results shall be submitted to the Regional Board.
3. Caltrans and CTV shall submit a final water and sediment quality monitoring plan to the Regional Board for review 30 days prior to construction or grading.
4. All construction BMPs shall be inspected before and after each storm event and once every 24 hours during extended storm events to verify BMP effectiveness and implement repairs or design changes as soon as feasible.
5. All post-construction BMPs shall be inspected at least monthly, and after each rain event of 0.25 inches at 75% probability, and weekly during extended periods of wet weather to ensure that they are functioning properly for the life of the project.
6. Each inspection shall be documented. Annual inspection summary reports including inspection, maintenance, and repair information shall be submitted to the Regional Board by April 1st of each year for the previous calendar year, and may be incorporated into the Caltrans Annual Report submitted as required by Order 99-06.

F. Mitigation for Wetland and Streambed Losses

1. Prior to grading the project areas, the Caltrans and CTV shall execute and record a perpetual conservation easement in a form acceptable to the U.S. Fish & Wildlife Service (USFWS) for biological conservation purposes. The conservation easement or other legal limitation on the mitigation property shall be adequate to demonstrate that the site will be maintained without future development or encroachment on the site or which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the U.S. that it supports. The conservation easement or other appropriate legal limitation which shall prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development,

and any other infrastructure development that would not maintain or enhance the wetland functions and values of the site. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, paved maintenance roads, and areas of maintained landscaping for recreation.

2. Caltrans and CTV shall submit a Conceptual Restoration and Management Plan, as required by the USFWS Biological Opinion, for all mitigation no later than 30 days prior to the start of construction or grading of the project and shall submit a Final Restoration and Management Plan for all mitigation no later than 30 days prior to the start of construction of the mitigation site(s).
3. Caltrans and CTV shall submit annual mitigation monitoring reports to the Regional Board by April 1st of each year for the previous calendar year.
4. In addition to the proposed vernal pool mitigation of 0.70 acres of pool basin area (2:1 ratio) on a 12 acre site on Otay Mesa, Caltrans and CTV shall preserve and/or enhance an additional 0.32 acres of vernal pools (2:1 ratio for impacts to functional pools on Otay Mesa) to be located on Otay Mesa in perpetuity, and shall preserve the associated watershed for each basin in perpetuity.

G. Discharge Prohibitions

1. The direct discharge of wastes, including trash/ litter, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plains, is prohibited.
2. The discharge of floating oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
3. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
4. The discharge of decant water from active dredging or fill sites, or from dredged material stockpile or storage areas to surface waters or surface water drainage courses, is prohibited, except as conditionally allowed following the submittal of a discharge plan.
5. The groundwater in the vicinity of the project shall not be degraded as a result of the placement of fill for the project.
7. The discharge of materials other than storm water, which are not otherwise regulated by a separate NPDES permit or allowed by this Certification, to "waters of the U.S." or "waters of the State" are prohibited.

8. The discharge of drilling mud to "waters of the U.S." or "waters of the State" is prohibited.

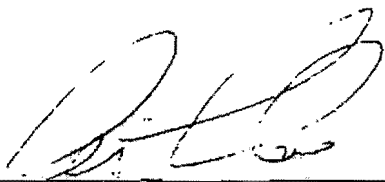
REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Cynthia Gorham-Test
California Regional Water Quality Control Board, San Diego Region
9771 Clairemont Mesa Blvd., Suite A
San Diego, CA 92124
858-467-4285

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the **State Route 125 South Toll Road** (File No. 99C-133) 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. 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

7/27/91
Date

Attachments 1 and 2

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: Mr. Bruce April
California Dept. of Transportation
P.O. Box 75406
San Diego, CA 92186-5406
Phone: 619-688-6754
Fax: 619-688-3192

Applicant
Representatives: Same

Project Name: State Route 125 South Toll Road (File No. 99C-133)

Project Location: The proposed project is located in southeastern San Diego County east of Chula Vista. The road extends approximately 11 miles in a north-south direction from Otay Mesa Road (Route 905) to Spring Valley Road (Route 54). The project site is situated within the USGS 7.5 minute Otay Mesa, CA and Jamul Mountains, CA quadrangles.

Type of Project: Freeway and Interchanges

Project Description: The proposed project consists of construction of a four-lane freeway (with plans for expansion to eight-lanes) extending from Otay Mesa Road (Route 905) to Spring Valley Road (Route 54). The following interchanges are included in this project: Otay Mesa Road, Olympic Parkway, Telegraph Canyon / Otay Lakes Road, and East H Street

Federal Agency/Permit: U.S. Army Corps of Engineers. Individual Permit, Terry Dean

Other Required Regulatory Approvals: California Department of Fish and Game Streambed Alteration Agreement, Don Chadwick

California Environmental Quality Act (CEQA) Compliance: Caltrans approved the Final Environmental Impact Report (SCH No. 89011118) on December 30, 1999 and the Federal Highway Administration approved the Report on January 21, 2000.

Receiving Water: Sweetwater Rivers, Otay Rivers, San Miguel Creek, Spring Valley Creek, and Unnamed tributary of San Miguel Creek.

Impacted Waters of the United States: Implementation of the proposed project will permanently impact 5.61 acres of wetlands and 2.15 acres of streambed. In addition, the project would temporarily impact 5.13 acres of wetlands.

Dredge Volume: 166,387 cubic yards

Related Projects Implemented/to be Implemented by the Applicant(s): Within the next five years, no additional projects are scheduled to be implemented, however, there are future plans to expand the freeway from four to eight lanes and to add additional interchanges to the highway.

Avoidance/Minimization Measures: General site layout has resulted in avoidance and minimization at many wetland/ streambed locations. Negotiations have included re-routing the freeway to avoid vernal pools.

Compensatory Mitigation: Impacts to waters of the U.S. are addressed in Section 4.6 of the FEIS dated January 2000, and in the Biological Assessment dated January 8, 1999. Mitigation for permanent wetlands impacts will include restoration of 15.78 acres of vireo quality habitat (ratio of 3:1) at one of the two sites: Dulzura Creek on Daley Ranch, or Otay River on Otay Ranch. Mitigation for temporary wetlands impacts will include 4.15 acres at the Otay River Bridge crossing and 0.98 acres at Sweetwater Bridge crossing of onsite restoration of non-vireo quality habitat. Mitigation for the fill of unvegetated streambed will include 2.15 acres of vireo quality habitat at Dulzura Creek on Daley Ranch, or Otay River on Otay Ranch. Mitigation for vernal pool impacts will involve restoration of 0.38 and 0.32 acres (2:1 ratio) of vernal pool surface area and supporting upland habitat on 12 acres of mitigation site on Otay Mesa. In addition to the above mitigation requirements this Certification has a special condition requiring that Caltrans and CTV shall preserve and/or enhance an additional 0.32 acres of vernal pools (2:1 ratio for impacts to pools on Otay Mesa) located on Otay Mesa in perpetuity and shall preserve the associated watershed for each basin in perpetuity.

Best Management Practices: Construction BMPs are described in the FEIS dated January 2000. Post-construction BMPs are described in the document: "State Route 125 Toll Road Water Quality Data and Best Management Practices Evaluation". Special conditions concerning BMPs are included in this certification. Caltrans storm water permits must be followed at all times. The General Construction storm water permit must be followed at all times.

**ATTACHMENT 2
DISTRIBUTION LIST**

Mr. Terry Dean, U.S. Army Corps of Engineers, San Diego Field Office

Mr. Paul Michel, U.S. Environmental Protection Agency, Region 9

Ms. Allison Rolfe, Audubon Society of San Diego

Mr. Tim Stevens, State Water Resources Control Board, Division of Water Quality



California Regional Water Quality Control Board

San Diego Region

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[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

August 21, 2007

In reply refer to:
WPS:18-1999133.02:meanc

Mr. Pedro Orso-Delgado
District Director
Caltrans District 11
4050 Taylor Street
San Diego, CA 92110

Mr. Greg Hulsizer
Chief Executive Officer
South Bay Expressway, L.P.
California Transportation Ventures, Inc.
880 Kuhn Drive
Chula Vista, CA 91914

Dear Mr. Orso-Delgado and Hulsizer:

RE: Request for Amendment to CWA Section 401 Water Quality Certification for State Route 125 South Toll Road (File No. 99C-133)

The Regional Board is amending Special Condition D.6 of the 401 Water Quality Certification for the State Route 125 South Toll Road (File No 99C-133). This decision is based on the review of your letter dated August 1, 2007. This amendment is needed to address scheduling changes involving the project's final landscaping that have occurred during the design/ build process for the project.

Changes/additions to **Special Condition D.6** of the 401 certification are shown in bold strikeout/underline below.

6. Caltrans and CTV shall ~~plant permanent landscape material and begin irrigation within one year of ground disturbances. The areas between future Olympic Parkway (Orange Ave.) and Route 54 shall be completely landscaped with appropriate irrigation by opening day of this section of the toll road.~~ complete landscaping and irrigation activities associated with the project in accordance with the August 1, 2007 Connector and Toll Road Landscaping Schedule submitted to the Regional Board. Prior to opening of the Toll Road:
 - A. All permanent structural treatment BMPs (including vegetated detention basins and Bio-swales) will be fully implemented and functional.
 - B. In areas that have not been permanently landscaped prior to road opening, finished slopes and drainage inlets will continue to be

California Environmental Protection Agency

Mr. Pedro Orso-Delgado
Mr. Greg Hulsizer

August 16, 2007

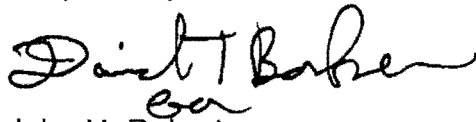
- 2 -

**monitored, maintained and protected in accordance with approved
Water Pollution Control drawings for the project.**

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 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 letter, please contact Christopher Means at 858-637-5581 or cmeans@waterboards.ca.gov.

Respectfully,



John H. Robertus
Executive Officer
San Diego Regional Water Quality Control Board

CC:

Mr. Bruce April
Caltrans District 11
4050 Taylor Street
San Diego, CA 92110

Ms. Jacqueline Dompe
EDAW
1420 Kettner Boulevard, Suite 500
San Diego, CA 92101

Mr. Robert Smith
U.S. Army Corps of Engineers
Regulatory Branch
16885 W. Bernardo Dr., Suite 300 A
San Diego, CA 92127



California Regional Water Quality Control Board

San Diego Region



Linda S. Adams
Secretary for
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May 1, 2008

In reply refer to:
WPC:18-1999133.02:meanc

Mr. Pedro Orso-Delgado
District Director
Caltrans District 11
4050 Taylor Street
San Diego, CA 92110

Mr. Greg Hulsizer
Chief Executive Officer
South Bay Expressway, L.P.
California Transportation Ventures, Inc.
880 Kuhn Drive
Chula Vista, CA 91914

Dear Mr. Orso-Delgado and Hulsizer:

RE: Request for Amendment No. 2 to CWA Section 401 Water Quality Certification for State Route 125 South Toll Road (File No. 99C-133)

The Regional Board is amending Condition F.2 of the 401 Water Quality Certification for the State Route 125 South Toll Road (File No 99C-133). This decision is based on the review of your letter dated April 22, 2008 and the revised *Final Habitat and Revegetation Plan for SR-125 South Sweetwater River Crossing* (amended by EDAW, April 2008).

This amendment is needed to address the unanticipated 0.25 acres of permanent impacts to jurisdictional wetlands associated with the Sweetwater River crossing. These impacts occurred due to design changes necessary to safely support the bridge piers. These additional impacts will be mitigated at a 2:1 ratio by the onsite creation of 0.5 acre of wetland habitat as proposed in the revised final revegetation plan. Additionally, Condition F.2 is amended to incorporate all the final mitigation plans developed for the project into the certification, due to the fact that the plans were finalized after the original certification was issued.

Changes/additions to **Condition F.2** of the 401 certification are shown in bold strikeout/underline below:

- Caltrans and CTV shall ~~submit a Conceptual Restoration and Management Plan, as required by the USFWS Biological Opinion, for all mitigation no later than 30 days prior to the start of construction or grading of the project and shall submit a Final Restoration and Management Plan for all mitigation no later than 30 days prior to the start of construction of the mitigation site(s).~~ Mitigate for permanent and temporary impacts to

Mr. Pedro Orso-Delgado
Mr. Greg Hulsizer

May 1, 2008

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jurisdictional waters of the US/State in accordance with the following final mitigation plans:

- A. Final Detailed Vernal Pool Restoration Plan for the Creation of Vernal Pools as Mitigation for State Route 125 South (EDAW, Feb 2004).**
- B. Final State Route 125 South Otay River Revegetation Plan for Temporary Impacts. (EDAW, Nov 2006).**
- C. Final Habitat Mitigation Monitoring and Revegetation Plan for SR-125 South Sweetwater River Crossing Temporary and Permanent Impacts (Chambers Group, Inc. Sept 2003. Amended by EDAW, April 2008).**

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 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 letter, please contact Christopher Means at 858-637-5581 or cmeans@waterboards.ca.gov.

Respectfully,



John H. Robertus
Executive Officer

CC:

Mr. Bruce April
Caltrans District 11
4050 Taylor Street
San Diego, CA 92110

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Mr. Pedro Orso-Delgado
Mr. Greg Hulsizer

May 1, 2008

- 3 -

Ms. Jacqueline Dompe
EDAW
1420 Kettner Boulevard, Suite 500
San Diego, CA 92101

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Regulatory Branch
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San Diego, CA 92127

Ms. Kelly Fisher
California Department of Fish & Game
4949 Viewridge Ave
San Diego, CA 92123

ASSIGNMENT AND ASSUMPTION OF PERMIT OBLIGATIONS

South Bay Expressway, LLC

Clean Water Act Section 401 Water Quality Certification for Discharge of Dredge and/or Fill Materials (“WQM Agreement”) entered into between California Transportation Ventures, Inc. (“CTV”), California Department of Transportation (“Caltrans”) and the California Regional Water Quality Control Board, San Diego Region on April 24, 2001

This ASSIGNMENT OF PERMIT OBLIGATIONS is dated as of December 21, 2011. South Bay Expressway, LLC (“Assignor”) and San Diego Association of Governments (“Assignee”) wish to enter into this Assignment and Assumption of Permit Obligations (the “Assignment”) to confirm the assignment to Assignee of certain obligations of Assignor under the WQM Agreement, attached hereto as Exhibit A (the “Permit”), and the assumption of such obligations by Assignee.

Assignment

NOW THEREFORE, in consideration of the provisions contained in this Assignment, and other consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all rights, duties and obligations of the Assignor under the Permit (the “Assigned Obligations”).
2. Assumption. Assignee hereby assumes the Assigned Obligations and agrees to comply therewith.
3. Assignor Remains Liable. Assignee shall be responsible only for compliance with the Assigned Obligations and Assignor shall remain liable for the portion of the obligations of the Assignor under the Permit arising prior to the date hereof, which are not assigned to, or assumed by, Assignee under this Assignment.
4. Counterparts. This Assignment may be executed in counterparts, each of which shall be an original and have the same effect as if both of the Parties executing the counterparts had executed a single instrument.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the day first above written.

Assignee

Assignor

SAN DIEGO ASSOCIATION OF GOVERNMENTS

SOUTH BAY EXPRESSWAY, LLC

By: _____

By: _____

Name (Print): _____

Name (Print): _____

Its: _____

Its: _____