

NOTICE OF INTENT
TO USE A NEPA ENVIRONMENTAL IMPACT STATEMENT IN PLACE OF A
CEQA ENVIRONMENTAL IMPACT REPORT
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER QUALITY, WATER QUALITY CERTIFICATION UNIT

Project: Water Quality Certification of the U.S. Army Corps of Engineers' (Corps) Regional General Permit 74 for temporary dredge and fill activities pursuant to the San Juan Creek and Western San Mateo Creek Watersheds Special Area Management Plan (SAMP).

The Corps is requesting a 401 water quality certification for Regional General Permit (RGP) 74 from the State Water Resources Control Board (State Water Board). Under section 401 of the Clean Water Act (33 U.S.C. § 1341), the Corps must receive authorization from the state where the activity occurs indicating that the Corps 404 Permit meets state water quality standards. The State Water Board must also comply with the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.) when issuing a 401 water quality certification.

The Corps is planning to issue RGP 74 for discharges of dredge and fill material resulting in temporary impacts to waters of the U.S. located in eligible areas of the San Juan Creek and Western San Mateo Watersheds Special Area Management Plan (SAMP) and the San Diego Creek Watershed SAMP. The Corps prepared a joint CEQA Environmental Impact Report (EIR) and National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) for the San Diego Creek Watershed SAMP. For the San Juan Creek and Western San Mateo Watersheds SAMP, the Corps prepared an EIS but did not prepare an EIR. Section 15221 of the CEQA guidelines¹ states that an EIS may be used in place of an EIR if it meets the provisions of the CEQA guidelines.

Section 15225 (a) of the CEQA guidelines states that prior to using the federal document, the CEQA Lead agency shall give notice that it will use the federal document in place of an EIR and that it has determined that the document meets the requirements of CEQA. State Water Board staff has determined that with the addition of a green house gas emission impacts analysis associated with the project, the EIS would meet the requirements of CEQA. The Corps evaluated Green House Gas Emissions according to CEQA Guidelines and prepared an addendum to the EIS. State Water Board staff has determined that the EIS with the Green House Gas Emissions Addendum meet the CEQA requirements for an EIR. As a result, the State Water Board, as the lead agency under CEQA, intends to use the Corps' EIS with the Green House Gas Emissions Addendum for the San Juan Creek and Western San Mateo Creek Watersheds SAMP in place of an EIR for the San Juan Creek and Western San Mateo Creek Watersheds SAMP. With this announcement, the State Water Board is providing notice of the public availability of the EIS and the associated addendum. It is the State Water Board's intent to use the EIS and Green House Gas Emissions Addendum as the environmental documents to satisfy CEQA's requirements for this water quality certification.

¹ The CEQA Guidelines are found in California Code of Regulations, title 14, § 15000 et seq.

Project Location: Orange County**Description of the Proposed Project:**

The San Juan Creek and Western San Mateo Creek Watersheds (Watersheds) SAMP would provide a framework for permit coverage for the San Juan Creek Watershed and the western portion of the San Mateo Creek Watershed. A SAMP is a voluntary watershed-level planning and permitting process involving local landowners and public agencies that seek permit coverage under the Clean Water Act Section 404 (33 U.S.C. § 1344) for future actions affecting jurisdictional waters of the U.S. The purpose of a SAMP is to provide for reasonable economic development and the protection and long-term management of sensitive aquatic resources (biological and hydrological). SAMPs are intended for specific geographic areas of special sensitivity that are also under intense development pressure. To the extent feasible, waters of the U.S., including wetlands, are avoided and unavoidable impacts are minimized and fully mitigated under the SAMP.

The Corps and the California Department of Fish and Game (CDFG) led the process of formulating the San Juan Creek and Western San Mateo Creek Watersheds (Watersheds) SAMP, and coordinated with other state and federal resource agencies, including the Santa Ana Regional Water Quality Control Board, United States Fish and Wildlife Service, Region I, and United States Environmental Protection Agency, Region IX on matters concerning their various related authorities. The SAMP formulation process has involved substantial, extended reviews of the conditions of the Watersheds and evaluation of potential environmental impacts.

The Corps performed a series of studies to assess the functional integrity of the aquatic resources in the Watersheds. Based on a set of scientifically based selection criteria, the agencies identified aquatic resources that were, or had reasonable potential to become, high value resources in the Watersheds. The Corps and CDFG identified these high value aquatic resources in the SAMP as "aquatic resource integrity areas." Aquatic resource integrity areas are aquatic resource areas with moderate to high integrity (water quality integrity, hydrologic integrity, or habitat integrity), and/or those aquatic resource areas that provide functions important for the sustainability of the Watershed's riparian ecosystem and their upland areas of influence (or local drainage). One of the goals of the SAMP is to establish an "Aquatic Resource Conservation Program," on a voluntary basis, which includes preservation, restoration, and management of aquatic resources.

Water quality integrity is defined as exhibiting a range of loading in the pollutant categories of nutrients, pesticides, hydrocarbons, and sediments that are similar to those that historically characterized riparian ecosystems in the region. Riparian ecosystems with hydrologic integrity exhibit the range of frequency, magnitude and temporal distribution of stream discharge, and surface and subsurface interaction between the stream channel, floodplain, and terraces that historically characterized riparian ecosystems in the region. Riparian ecosystems with habitat integrity exhibit the quality and quantity of habitat necessary to support and maintain a balanced, integrated, adaptive biological system having the full range of characteristics, processes, and organisms at the site-specific, landscape, and watershed scales that historically characterized riparian ecosystems in the region.

The main conditions of RGP 74 include:

- Discharges of dredged or fill material resulting in temporary impacts up to 0.5 acre of jurisdictional waters of the U.S. for each project in eligible areas of the SAMPs.
- No permanent impacts to waters of the U.S. are permitted, including impacts from fill, flooding, excavation, or drainage of waters of the U.S.
- No more than 0.1 acre of native wetland/riparian vegetation may be temporarily removed within lower quality aquatic resource areas.
- The 0.1 acre threshold for temporary vegetation removal does not apply to non-native vegetation.
- For facilities with an established maintenance baseline, over 0.1 acres of vegetation may be removed only if the work is consistent with an established maintenance baseline. This condition refers to activities such as flood control maintenance which have established baselines.
- Areas eligible for the use of RGP 74 are limited to jurisdictional waters of the U.S. located outside of the SAMP "aquatic resource integrity areas" and "aquatic resource conservation areas" within the San Diego Creek Watershed and the San Juan Creek/ Western San Mateo Creek Watersheds in Orange County, California.

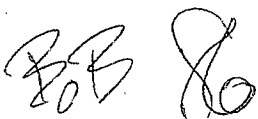
The San Diego Creek Watershed encompasses portions of the Cities of Irvine, Tustin, Santa Ana, and Lake Forest, and unincorporated Orange County. The San Juan Creek and Western San Mateo Creek Watersheds encompass portions of the Cities of Mission Viejo, Rancho Santa Margarita, San Juan Capistrano, Dana Point, and Laguna, and unincorporated Orange County.

The environmental documents may be viewed online at the State Water Board website: http://www.waterboards.ca.gov/water_issues/programs/cwa401/notices.shtml

Copies of the documents may also be viewed at the location listed below during normal business hours. If you would like to review the documents at our office, or if you have any questions, please contact me at (916) 341-5483 or rsolecki@waterboards.ca.gov

State Water Resources Control Board
Certification and Wetlands Program
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Sincerely,



Bob Solecki
Environmental Scientist
Certification and Wetland Program

March 16, 2011
Date