
State Water Resources Control Board

WATER QUALITY ORDER NO. [WQ-XXXX-XXXX-DWQ] WASTE DISCHARGE REQUIREMENTS AND CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION

Effective Date: TBA

Expiration Date: TBA

Program Type: Fill/Excavation

Project Type: Channel Construction and Maintenance

Project: Routine Maintenance of Concrete Facilities for the San Bernardino County MSWSMP (Project)

Applicant: San Bernardino County Flood Control District (DPW)

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Water Board Contact Person: If you have any questions, please call State Water Resources Control Board (State Water Board) Staff listed above or (916) 341-5478 and ask to speak with the Wetlands Permitting and Enforcement Unit Supervisor.

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I. Order

This Waste Discharge Requirements and Clean Water Act section 401 Certification (Order) is issued at the request of the San Bernardino County Flood Control District (hereinafter Permittee) for the Project. This Order is for the purpose described in application and supplemental information submitted by the Permittee. The application was received on January 3, 2020. The application was deemed complete on April 8, 2021.

State Water Board staff requested additional information necessary to supplement the contents of the complete application. All supplemental information was received on January 26, 2022.

II. Public Notice

The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from April 19, 2021 to May 19, 2021. Notice of the draft Order was provided pursuant to Water Code section 13167.5 from June 16, 2022 to July 16, 2022.

III. Project Purpose

The purpose of the Project is to provide a comprehensive approach to maintain the design capacity of the Permittee's flood control facilities. The Project objective is for the Permittee to meet its principal functions of flood protection and water conservation in a timely and cost-effective manner, for the benefit of residents, businesses, and other stakeholders.

IV. Project Description

The Project is the routine maintenance of concrete lined flood control facilities to maintain design capacity, conveyance of downstream flows, and flood protection. The Project includes the San Bernardino County Master Storm Water System Maintenance Program Maintenance Plan (Maintenance Plan) and Maintenance Plan Standard Operating Procedures that describes regularly performed maintenance activities for each facility, description of work, vehicle and equipment needs, and anticipated activity timing and frequency.

V. Project Location

The proposed Project occurs in San Bernardino County (County). The County has an area of approximately 20,105 square miles and is composed of three distinct geographic regions: The Valley, Mountain, and Desert Regions. The County Flood Control District (District) is organized into six flood control zones. Flood Control Zones 1, 2, and 3 are in the Valley Region, Zone 5 is in the Mountain Region, and Zones 4 and 6 are primarily in the Desert Region, although some facilities in Zone 6

are in the Mountain Region. Maps showing the Project location are found in Attachment A of this Order.

VI. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the Colorado River and Santa Ana Regional Water Quality Control Boards (collectively Regional Water Boards). Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water quality control plans (Basin Plans). The Basin Plans for the Regional Water Boards and other plans and policies may be accessed at the State Water Resources Control Board's Plans and Policies Web page (http://www.waterboards.ca.gov/plans_policies/). The Basin Plans include water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.

Project impact and receiving waters information can be found in Attachment B. Table 1 of Attachment B shows the receiving waters and beneficial uses of waters of the state impacted by the Project. Individual impact location and quantity is shown in Table 2 of Attachment B.

VII. Description of Direct Impacts to Waters of the State

This Order authorizes direct temporary impacts to waters of the state. The Project will not result in permanent impacts to waters of the state. Proposed activities that may result in temporary impacts to waters of the state include: (1) mechanized land clearing including vegetation, sediment, and debris removal within concrete channels; (2) flood control structure repair and in-kind replacement including appurtenant structures such as inlets, outlets, culverts, spillways, bottom controls, water quality structures, riprap, and channel inverts; (3) water diversion and dewatering as-needed for maintenance activities; and (4) herbicide and biopesticide application to maintain areas free of vegetation and as vector control to manage for mosquitoes, respectively. Individual project impact locations and quantities are shown in Table 2 of Attachment B.

Total Project fill/excavation quantities for all impacts are summarized in Table 1.

Table 1: Total Project Fill/Excavation Quantity for Temporary Impacts¹

| Aquatic Resources Type | Acres | Linear Feet |
|------------------------|-------|-------------|
| Stream Channel | 398.8 | 493,925 |

VIII. Description of Indirect Impacts to Waters of the State

The State Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. Indirect impacts to waters of the state and their designated beneficial uses could potentially result from Project activities. Such impacts would likely be short term and may result from mechanized land clearing, flood control structure repair, water diversion and dewatering, herbicide and biocide application, and disturbances associated with access routes. The potential indirect impacts are adequately reduced through adherence to this Order and the Project’s Standard Operating Procedures.

IX. Avoidance and Minimization

Projects receiving certification from the State Water Board must demonstrate that the Project design has first avoided and then minimized impacts to waters of the state to the maximum extent practicable. The avoidance and minimization measures described in the Project’s Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP) (See chapter four of the Project FEIR) are incorporated as conditions of this certification. The avoidance and minimization measures generally focus on: worker environmental awareness training, special status biological resource monitoring and avoidance, minimizing scope, duration, and frequency of work activities by modeling and scheduling, working in the dry season, avoiding stockpiling in and preventing wastes from entering waters of the state, preventing degradation of water quality caused by water diversions and construction activities, and monitoring to prevent pollution discharges to waters of the state.

X. Compensatory Mitigation

No compensatory mitigation was required because no permanent impacts are authorized by this Order. The Project consists of in-kind maintenance activities conducted within fully concrete channels that will not permanently impact waters of the state or their beneficial uses.

¹ Includes only temporary direct impacts to waters of the state and does not include area of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

XI. California Environmental Quality Act (CEQA)

On February 12, 2019, the San Bernardino County Flood Control District, as lead agency, certified an environmental impact report (EIR) (State Clearinghouse (SCH) No. 2014061100) for the Project and filed a Notice of Determination (NOD) at the SCH on February 12, 2019. Pursuant to CEQA, the State Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment C.

XII. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

XIII. Fees Received

An application fee of \$1,949.00 was received on January 16, 2020. The fee amount was determined as required by California Code of Regulations, Title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as Category A - Fill & Excavation Discharges (Fee Code 84) with the dredge and fill fee calculator. An additional fee of \$167,150.00 based on total Project impacts was received on June 16, 2021.

XIV. Conditions

Specific condition justifications required by Title 40, Code of Federal Regulations (CFR) Part 121.7(d)(1) are provided below each condition, or set of conditions, in *italic text*.

These conditions are generally required to comply with the state's Anti-Degradation Policy (State Board Resolution No. 68-16), which requires that any "activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the state will be maintained." All Regional Board Water Quality Control Plans incorporate the state's Anti-Degradation Policy by reference. The state Anti-Degradation Policy incorporates the federal Antidegradation Policy (40 CFR Part 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected." According to U.S. EPA, dischargers of dredged or fill material comply with the federal Antidegradation Policy by complying with U.S. EPA's section 404(b)(1) Guidelines. The State Water Boards adopted a modified version of U.S. EPA's section 404(b)(1) Guidelines in the Dredge or Fill Procedures (State Supplemental Guidelines).

The State Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watersheds of the Project. In accordance with this Order, the Permittee may proceed with the Project under the following terms and conditions:

A. Authorization

Impacts to waters of the state shall not exceed quantities shown in Table 1.,

This condition protects water quality by ensuring that the impacts to waters are not greater than what is proposed in the application. Larger impacts lead to a greater potential for adverse impacts on water quality. Water Code section 13264 prohibits any discharge that is not specifically authorized in this order.

B. Reporting and Notification Requirements

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment D, including specifications for photo and map documentation during the Project. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment D, which must be signed by the Permittee or an authorized representative.

1. Project Reporting

- a. Notification Prior to Maintenance Activities:** The Permittee shall notify the State Water Board of maintenance activities a minimum three (3) weekdays (Monday through Friday) prior to the start of maintenance. In the event of an emergency requiring urgent maintenance, Permittee shall make every effort to notify State Water Board 24 hours (one day) in advance, and at a minimum must notify State Water Board by email as soon as possible when commencing work. Notification shall be emailed to State Water Board c/o Mark Chin, Environmental Scientist, at Mark.Chin@Waterboards.ca.gov.
- b. Annual Reporting:** The Permittee shall submit an Annual Report beginning one year after the effective date of the Certification (i.e., date of signature), on the first day of the month following the end of each year. Annual reporting shall continue until a Notice of Project Complete Letter is issued to the Permittee.

If the Project is not implemented as approved in this Order, then adverse impacts on water quality and beneficial could occur. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

2. Project Status Notifications

- a. Commencement of Construction:** The Permittee shall submit a Commencement of Construction notice at least three (3) weekdays (Monday through Friday) prior to start of initial ground disturbance activities. In the event of an emergency requiring urgent maintenance, Permittee shall make every effort to notify State Water Board 24 hours (one day) in advance, and at a minimum must notify State Water Board by email as soon as possible when commencing work.

This condition protects water quality by ensuring that the Permittee is implementing the Project within the proposed work windows. If the Project is not implemented within the proposed and approved work windows, then adverse impacts on water quality and beneficial uses could occur. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

- b. Request for Notice of Completion of Discharges Letter:** The Permittee shall submit a Request for Notice of Completion of Discharges Letter following completion of active Project construction activities, including any required restoration. This request shall be submitted to the State Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, State Water Board staff shall issue a Notice of Completion of Discharges Letter to the Permittee which will end the active discharge period.

This condition protects water quality by ensuring that the permittee has implemented the Project as proposed and approved, that temporary impact sites have been restored, and the Project area is stable. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

- c. Request for Notice of Project Complete Letter:** The Permittee shall submit a Request for Notice of Project Complete Letter when construction and/or any post-construction monitoring is complete, and no further Project activities will occur. This request shall be submitted to State Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the State Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period and associated annual fees.

This condition protects water quality by ensuring that the permittee has implemented the Project as proposed and approved, that temporary impact sites have been restored, and the Project area is stable. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

3. Conditional Notifications and Reports:

The following notifications and reports are required as appropriate.

a. Accidental Discharges of Hazardous Materials²

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Water Code, Section 13271):

- i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
 - first call – 911 (to notify local response agency)
 - then call – Office of Emergency Services (OES) State Warning Center at:(800) 852-7550 or (916) 845-8911
 - Lastly, follow the required OES, procedures as set forth in the Office of Emergency Services' Accidental Discharge Notification Web page (http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf)
- ii. Following notification to OES, the Permittee shall notify State Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means.
- iii. Within five (5) working days of notification to the State Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.

These conditions protect water quality by giving the Permittee a series of steps to follow if there is a spill that has the potential to adversely impact water quality and beneficial uses. These steps should help mitigate the damage done by such a spill. Monitoring and reporting

² "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Safety Code, Section 25501.)

requirements are authorized by Water Code sections 13267 and 13383.

b. Violation of Compliance with Water Quality Standards: The Permittee shall notify the State Water Board of any event causing a violation of compliance with water quality standards. Notification may be delivered via written notice, email, or other verifiable means.

- i. Examples of noncompliance events include: lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the state, and water contact with uncured concrete.
- ii. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.

These conditions protect water quality by alerting the Water Boards to events that cause violations of water quality standards. Being aware of such events allows the water board to assess the cause of the issue and require remediation if necessary. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

c. In-Water Work and Diversions:

- i. The Permittee shall notify the State Water Board at least three (3) days prior to initiating work in water or stream diversions. Notification may be delivered via written notice, email, or other verifiable means.
- ii. Within three (3) working days following completion of work in water or stream diversions, an In-Water Work and Diversions Water Quality Monitoring Report must be submitted to State Water Board staff.

These conditions protect water quality by alerting the Water Boards when in water work and/or stream diversions will be taking place and requiring the permittee to monitor water quality while those activities are taking place. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

d. Modifications to Project

Project modifications may require an amendment of this Order. The Permittee shall give advance notice to State Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a Modifications to Project Report. The Permittee shall inform State Water Board staff of any Project modifications that will interfere with the Permittee's compliance

with this Order. Notification may be made in accordance with conditions in the certification deviation section of this Order.

e. Transfer of Property Ownership:

This Order is not transferable in its entirety or in part to any person or organization except after notice to the State Water Board in accordance with the following terms:

- i. The Permittee must notify the State Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Permittee and purchaser must sign and date the notification and provide such notification to the State Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the State Water Board Deputy Director to be named as the permittee in a revised order.
- ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.

f. Transfer of Long-Term Best Management Practice Maintenance:

If maintenance responsibility for post-construction best management practices (BMPs) is legally transferred, the Permittee must submit to the State Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee must provide such notification to the State Water Board with a Transfer of Long-Term BMP Maintenance Report at least 10 days prior to the transfer of BMP maintenance responsibility.

C. Water Quality Monitoring

1. General:

If surface water is present, continuous visual surface water monitoring shall be conducted during active construction periods to detect accidental discharge of visible construction related pollutants (e.g. oil and grease, turbidity plume, or uncured concrete).

This condition protects water quality by requiring the Permittee to visually monitor for obvious signs of water quality degradation. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383. The anticipated costs are minimal as the reporting obligations require only visual monitoring.

2. Accidental Discharges/Noncompliance:

Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, State Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

This notification ensures that corrective actions required to minimize the impact or clean up such discharges can be taken as soon as possible. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

3. In-Water Work or Diversions:

During planned work in-water or stream diversions, the Permittee shall ensure that any discharge(s) to waters of the state shall conform to the following water quality standards:

- a. Waste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses.
- b. The discharges shall not result in changes in turbidity that adversely affect beneficial uses.
- c. The discharge shall not alter the natural receiving water temperature of inland surface waters in a way that would adversely affect beneficial uses.

Sampling shall be conducted in accordance with Table 2 sampling parameters.³

³ Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, the method shall be approved by State Water Board staff. Grab samples shall be taken between the surface and mid-depth and not be collected at the same time each day to get a complete representation of variations in the receiving water. A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

Table 2: Sample Type and Frequency Requirements

| Parameter | Unit of Measurement | Type of Sample | Minimum Frequency |
|----------------|---------------------|----------------|-------------------|
| Oil and Grease | N/A | Visual | Continuous |
| Turbidity | N/A | Visual | Continuous |
| Temperature | °F (or as °C) | Grab | Every 4 hours |

This condition protects water quality by requiring the permittee to develop a water quality monitoring plan to be implemented when installing diversions and performing in-water work. If the monitoring finds any degradation of water quality, the cause can be determined, and remediation can be required as necessary. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices required under this order are sufficient to protect beneficial uses and water quality objectives.

D. Standard

Each standard condition in Section XIV.D is required to be included in all water quality certifications by California Code of Regulations, title 23, Chapter 28, Section 3860.

1. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, Title 23, chapter 28, Article 6 commencing with section 3867. Additionally, the State Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Permittee, if the State Water Board determines that: the Project fails to comply with any of the conditions of this Order; or, when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Water Code, section 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. section 1313). For purposes of Clean Water Act section 401(d), the condition constitutes a limitation necessary to assure compliance with water quality standards and appropriate requirements of state law.
2. This Order is not intended and shall not be construed to apply to 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 subsection 3855(b) of

chapter 28, Title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. This Order is conditioned upon total payment of any fee required under Title 23 of the California Code of Regulations and owed by the Permittee.
4. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, 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 Order.

E. General Compliance

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.

This condition is necessary to ensure that the Permittee adheres to the conditions set forth in this Order. (Water Code, section 13385.)

2. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.

This condition is necessary to ensure that the Permittee complies with water quality plans and policy. (State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Dredge or Fill Procedures), Section IV.B.1. See Resolution 2021-0012 and 2019-0015).

3. In response to a suspected violation of any condition of this Order, the State Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent

limitations, water quality standards, and/or other appropriate requirement of state law.

This condition is necessary because the Water Boards may investigate the quality of waters of the state, establish monitoring and inspection requirements, and require corrective actions when necessary. (Wat. Code, §§ 13267, 13383.)

4. The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order; and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.

This condition protects water quality by ensuring that the Project is implemented as proposed and approved. (Wat. Code, § 13264.) Deviations from the approved plans and practices could result in adverse impacts to water quality.

5. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law.

This condition protects water quality by ensuring that this Order and all of its conditions that protect water quality remain in place if federal licenses or permits are revoked or expire. (Wat. Code, § 13624.)

6. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program (MMRP) (See chapter four of the Project FEIR) which is incorporated herein by reference and any additional measures as outlined in Attachment C, CEQA Findings of Fact.

This condition protects water quality by requiring that the Permittee ensure that grantees implementing the individual projects adhere to the mitigation measures in the Project's MMRP. These mitigation measures are designed in part to protect water quality and beneficial uses. (Cal. Code of Regs., tit. 14, § 15097.)

F. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E of this Order.

This condition is authorized by Water Code section 13267, which requires any person discharging waste that could affect the quality of waters to provide to

the Water Boards, under penalty of perjury, any technical or monitoring program reports as required by the Water Boards. The signatory requirements are consistent with 40 C.F.R. section 122.22.

2. The Permittee shall grant State Water Board, Colorado River Regional Water Board, and Santa Ana Regional Water Board staff or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
 - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
 - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
 - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
 - d. Sample or monitor for the purposes of assuring Order compliance.

These conditions protect water quality by allowing the Water Boards, or a representative, to investigate site conditions to ensure that the Project is compliant with this Order. These conditions are authorized pursuant to the Water Boards' authority to investigate the quality of any waters of the state within its region under Water Code sections 13267 and 13383.

3. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.

This condition protects water quality by requiring the Permittee to distribute this Order to all entities working on the Project so that they are aware of the Order conditions and can conduct the work accordingly. (Wat. Code, § 13263.)

4. A copy of this Order must be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.

This condition protects water quality by requiring that all construction personnel are familiar with the contents of this Order and that the Order must be kept at Project sites for easy access and reference. Being familiar with the

Order and having it on site will allow the personnel to complete work in accordance with the conditions of the Order. (Wat. Code, § 13263.)

G. Construction

1. Dewatering and Other In-Water Work

- a. The permittee shall follow the Water Diversions and Dewatering Plan submitted to State Water Board on January 28, 2020.

This condition protects water quality by requiring the Permittee to develop a water quality monitoring plan to be implemented when installing diversions and performing in-water work. If the monitoring finds any degradation of water quality, the cause can be determined, and remediation can be required as necessary. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices required under this order are sufficient to protect beneficial uses and water quality objectives.

- b. All temporary dewatering/diversion methods shall be designed to isolate the immediate work area and to have the minimum necessary impacts to waters of the state.

This condition protects water quality by requiring the Permittee to minimize the Project's footprint in waters. (Dredge or Fill Procedures, Section IV.B.1.)

- c. All dewatering/diversion facilities shall be installed such that natural flow is maintained upstream and downstream of Project areas.

This condition protects water quality by requiring Permittee to maintain streamflow upstream and downstream of the Project area while diversions are in place. Stream flow is important for maintaining beneficial uses and water quality parameters such as dissolved oxygen and temperature. (Dredge or Fill Procedures, Section IV.B.1.)

- d. Any temporary dams or diversions shall be installed such that the dewatering/diversion does not cause sedimentation, siltation, or erosion upstream or downstream of Project areas.

This condition protects water quality by requiring that diversions do not affect flow velocity or rate and do not affect natural sediment transport functions of streams. Sedimentation or erosion related to diversions could cause long term instability of the Project reach and lead to short

and long term impacts to water quality and beneficial uses. (Dredge or Fill Procedures, Section IV.B.1.)

- e. All dewatering/diversion methods shall be removed as soon as practicable upon completion of dewatering/diversion activities.

This condition protects water quality by requiring the Permittee to remove dewatering/diversion equipment and structures as soon as practicable after they are no longer needed. The longer that diversions and dewatering equipment are in place, the greater the potential for them to fail, be overwhelmed, or otherwise cause water quality degradation. (Dredge or Fill Procedures, Section IV.B.1.)

- f. In the event of rain, any in-water work area shall be temporarily stabilized before stream flow overtops or overwhelms the diversion structure. If bare earth is exposed in the facility that is undergoing maintenance the stream bed shall be stabilized so that the disturbed bare earth areas will not come in contact with stream flow.

This condition protects water quality by requiring the Permittee to stabilize the streambed behind diversions before they are overwhelmed. If stream flow is allowed over exposed and non-stabilized work areas this would lead to erosion of the site, downstream sedimentation, and long-term instability of the project reach that could lead to further degradation of water quality and beneficial uses. (Dredge or Fill Procedures, Section IV.B.1.)

- g. The Permittee shall not use or allow the use of erosion control products that contain synthetic materials within waters of the state at any time, except for plastic sheeting used in water diversion and dewatering activities. The Permittee shall first request approval from the State Water Board if an exception from this requirement is needed for a specific location.

This condition protects water quality by limiting the use of synthetic materials. Synthetic, non-biodegradable materials used in erosion control products are persistent in the environment. When they do break down, they break down into smaller and smaller pieces of the original material, which can have adverse effects on water chemistry and fauna. Due to their potential effects on water quality and the environment these synthetics should be avoided where not necessary. (Dredge or Fill Procedures, Section IV.B.1.)

- h. All work performed within waters of the state shall be completed in a manner that minimizes impacts to beneficial uses.

This condition protects water quality by requiring the permittee to minimize impacts to beneficial uses of waters of the state. Protecting beneficial uses will generally also protect water quality. (Dredge or Fill Procedures, Section IV.B.1.)

- 2. Fugitive Dust:** If dust suppression measures are utilized, they shall be performed such that they do not result in a discharge to waters of the state.

This condition protects water quality by ensuring that the Permittee does not discharge sediment or other wastes into waters while performing dust suppression activities. (Dredge or Fill Procedures, Section IV.B.1.)

3. Good Site Management “Housekeeping”

- a. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation.

Removal of vegetation within and adjacent to waters results in a higher water quality degradation through erosion, decreased shading, decreased riparian buffering, decreased allochthonous nutrient and habitat inputs, and other pathways. Limiting this vegetation removal to the minimum necessary to complete the Project is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)

- b. Where temporary or permanent impacts have not been approved, construction vehicles must not enter waters of the state.

Vehicles operating within waters that are outside of the approved Project boundary will lead to water quality impacts that were not proposed and which are not authorized by this Order. Water quality is protected by not allowing this activity. (Wat. Code, § 13264, Dredge or Fill Procedures, Section IV.A.2.d.)

- c. Staging and storage areas shall have effective perimeter controls to ensure that any leaks, spills, or other waste materials do not discharge to the surrounding area or to waters of the state.

This condition is necessary to ensure that no unauthorized discharges occur. (Wat. Code, § 13264.)

- d. When no longer needed, all construction-related equipment, materials, and temporary BMPs shall be removed from Project sites.

The longer equipment and other unneeded materials are left on site the higher the likelihood of a leak, spill, or other unintended impact

becomes. Removing these materials from site as soon as they are no longer needed is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)

- e. All imported riprap, rocks, and gravels that are used shall be pre-washed.

Imported rock materials have the potential to harbor unwanted and detrimental invasive species, pathogens, sediments, compounds, etc. Requiring these materials to be washed before being brought to, and used on, site is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)

4. Hazardous Materials

- a. Permittee shall follow the Standard Operating Procedure for Minimization of Controllable Discharge of Pollutants described in the Project EIR, Appendix A.

This condition protects water quality by requiring the Permittee to monitor for obvious signs of water quality degradation. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

- b. Prior to use in waters of the state, all equipment shall be cleaned of any substances that are detrimental to water quality.

Equipment can harbor the same detrimental substances as the rock materials noted above. Motorized equipment can also introduce petroleum products and other compounds into waters. Requiring that equipment be cleaned of these detrimental substances before being used in waters is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)

- c. Operation and storage of vehicles and equipment shall not result in a discharge or threatened discharge of oil, grease, other petroleum products, or any other waste that may be detrimental to the quality of waters of the state.

Petroleum products and other waste materials that may leak, leach, or fall from equipment may be detrimental to water quality. This condition protects water quality by ensuring that these materials are not discharged to waters of the state when equipment is being used or stored. (Dredge or Fill Procedures, Section IV.B.1.)

- d. Vehicles and equipment that operate in waters of the state shall be regularly inspected for leaks. At no time shall the Permittee allow the

use of any vehicle or equipment that leaks any substance possibly detrimental to water quality.

Fluids that leak from vehicles and equipment are generally detrimental to water quality. This condition protects water quality by requiring regular inspections of vehicles and equipment and not allowing leaking vehicles and equipment to be used. (Dredge or Fill Procedures, Section IV.B.1.)

- e. Raw cement, concrete (or washing thereof), asphalt, drilling fluids, lubricants, paints, coating material, oil, petroleum products, or any other substances which could be hazardous to fish and wildlife resulting from or disturbed by project-related activities, shall be prevented from contaminating fill material and/or entering waters of the state.

The materials listed above are detrimental to water quality. These materials can either be directly or indirectly, chronically or acutely toxic to aquatic organisms and are generally detrimental to water quality through alteration of water chemistry and general water quality (pH, dissolved oxygen, specific conductance, organic enrichment, dissolved and particulate metals, fine sediment, etc). This condition protects water quality by not allowing these compounds to be discharged into waters. (Dredge or Fill Procedures, Section IV.B.1.)

- f. Equipment working in waters of the state, including in areas protected by diversions, shall be removed from the delineated waters for fueling, service, or maintenance whenever feasible. When use of stationary equipment that requires refueling or service in delineated waters is planned, BMPs for managing the additional risk posed by that refueling and service shall be implemented. Such BMPs should include any precautions as necessary to ensure potential spills and leaks do not result in a discharge into waters of the state.

Fuels and other petroleum products are detrimental to water quality. This condition protects water quality by requiring equipment to be removed from waters before fueling, or, if that is not possible, for special procedures to be developed to mitigate the risk of fueling equipment in waters. (Dredge or Fill Procedures, Section IV.B.1.)

- g. On-site containment for storage of chemicals classified as hazardous shall include secondary containment and appropriate management as indicated in the Construction General Permit.

Hazardous materials are detrimental to water quality. Secondary containment around hazardous material storage sites help ensure that

any leaks or spills of such materials do not result in a discharge to waters. (Dredge or Fill Procedures, Section IV.B.1.)

5. Invasive Species and Soil Borne Pathogens

- a. Imported fill and planting materials must be free of pathogens that could harm local plant or animal populations.**

Invasive species can be detrimental to water quality by outcompeting native species, altering soil/water chemistry, causing channel downcutting, lowering groundwater levels, altering allochthonous inputs, altering shading, reducing habitat for native fauna, etc. (Dredge or Fill Procedures, Section IV.B.1.)

- b. Imported fill material must be free of weed and invasive species' seeds and live plants.**

Invasive species can be detrimental to water quality by outcompeting native species, altering soil/water chemistry, causing channel downcutting, lowering groundwater levels, altering allochthonous inputs, altering shading, reducing habitat for native fauna, etc. This condition protects water quality by requiring that the Project does not introduce invasive species into Project areas. (Dredge or Fill Procedures, Section IV.B.1.)

- c. Equipment and machinery used in project activities shall be inspected and cleaned of non-native invasive vegetation prior to on-site use.**

Invasive species can be detrimental to water quality by outcompeting native species, altering soil/water chemistry, causing channel downcutting, lowering groundwater levels, altering allochthonous inputs, altering shading, reducing habitat for native fauna, etc. This condition protects water quality by requiring that the project does not introduce invasive species into Project areas. (Dredge or Fill Procedures, Section IV.B.1.)

6. Roads

- a. Existing roads shall be used to access Project sites when practicable.**

Unpaved roads are a source of excess sediment delivery to streams throughout California. New roads need not be constructed if existing roads can be used. This condition protects water quality by limiting new sources of excess sediment. (Dredge or Fill Procedures, Section IV.B.1.)

- b. All existing roads used for the Project shall be left in a condition equal to or better than their condition prior to Project use.

Unpaved roads are a source of excess sediment delivery to streams throughout California. If these roads are properly designed and maintained their impact to water quality can be minimized. These roads often fall into disrepair because due to lack of maintenance or repair. This condition protects water quality by requiring that roads used for this Project are, at the very least, left in the condition that they were in before the project used them. (Dredge or Fill Procedures, Section IV.B.1.)

- c. The number of access routes, number and size of staging areas, and the total area of the activity must be limited to the minimum necessary to achieve the project goals. Routes and work area boundaries must be clearly demarcated.

Unpaved roads are a source of excess sediment delivery to streams throughout California. This condition protects water quality by minimizing sources of excess sediment and other wastes. (Dredge or Fill Procedures, Section IV.B.1.)

- d. Where use of existing roads is not practicable, temporary access routes in or adjacent to waters must be approved by Water Board staff on a case-by-case basis. Temporary access roads shall be designed and constructed to the minimum number and width necessary to complete the Project and do not cause a discharge of sediment or other wastes to waters of the state.

Unpaved roads are a source of excess sediment delivery to streams throughout California. This condition protects water quality by requiring necessary new roads to be designed and constructed such that they do not discharge excess sediment or other wastes to waters. (Dredge or Fill Procedures, Section IV.B.1.)

7. Sediment Control

- a. Effectively installed sediment control materials must be used along the construction zone to minimize soil or sediment along the embankments from migrating into the waters of the state for the entire duration of the Project.

If erosion control BMPs are not followed then these disturbed areas will likely discharge excess sediment to waters, which will degrade water quality. This condition protects water quality by requiring application of erosion and sediment control BMPs which will reduce the potential for sediment discharge. (Dredge or Fill Procedures, Section IV.B.1.)

- b. All sediment control materials shall be onsite and ready for use prior to initiation of ground disturbing activities.

Disturbed areas can discharge excess sediment to waters, which will degrade water quality. If the erosion and sediment control materials are not applied immediately following the ground disturbing activity there is a window in which preventable erosion and sediment discharges could occur. This condition protects water quality by ensuring that these erosion and sediment control materials are on site and ready to be installed as soon as the disturbance takes place. (Dredge or Fill Procedures, Section IV.B.1.)

- c. Use of any stream channel or bank armor or artificial structural components placed to prevent channel or bank erosion or movement shall be avoided where possible, minimized when unavoidable, and shall be designed so that hydrology and hydraulics of the project area and the affected channel (upstream and downstream) is not adversely affected.

This condition is necessary to ensure that any bank armor or other structural components are avoided where possible, and minimized when necessary, to minimize adverse affects on hydrology. (Dredge or Fill Procedures, Section IV.B.1.)

8. Stabilization/Erosion Control

- a. Effective erosion control BMPs shall be used for all disturbed areas to prevent discharges to waters of the state.

This condition protects water quality by requiring application of erosion and sediment control BMPs which will reduce the potential for sediment discharge. (Dredge or Fill Procedures, Section IV.B.1.)

- b. All erosion control BMPs shall be onsite and ready for use prior to initiation of ground disturbing activities.

This condition protects water quality by ensuring that these erosion and sediment control materials are on site and ready to be installed as soon as the disturbance takes place. (Dredge or Fill Procedures, Section IV.B.1.)

- c. Disturbed work areas within waters of the state must be temporarily stabilized to prevent erosion at least forty-eight (48) hours prior to the predicted commencement of a rainfall event that is forecast to bring greater than or equal to one-half inch of precipitation with a greater than a fifty (50) percent probability of occurrence, as predicted by the

National Oceanic and Atmospheric Administration (NOAA) - National Weather Service. If the predicted commencement of such a rainfall event is less than forty-eight (48) hours after the prediction is issued, temporary stabilization of the disturbed in-water work areas must begin immediately.

Disturbed areas will likely discharge excess sediment to waters, which will degrade water quality. If these disturbed areas themselves are within a water there is the added risk of creating channel instability that will lead to long term erosion, channel incision, sedimentation, floodplain abandonment, water quality degradation, alteration of local groundwater levels, and aquatic habitat degradation. This condition protects water quality by requiring that in water work areas are stabilized prior to the onset of rainfall events. (Dredge or Fill Procedures, Section IV.B.1.)

- d. Any additional erosion or sediment control materials needed to stabilize an active worksite shall be installed at least forty-eight (48) hours before a predicted rain event described in c. above.

Disturbed areas can discharge excess sediment to waters, which will degrade water quality. Disturbed areas often cannot have erosion control materials in place while work is occurring. However, these areas still need to be stabilized before predicted rain events so that excessive erosion and sediment discharge does not occur. This condition protects water quality by ensuring that all disturbed areas are stabilized in advance of predicted rainfall events. (Dredge or Fill Procedures, Section IV.B.1.)

- e. Sediment control structures shall be maintained for effectiveness at least forty-eight (48) hours before a rain event and shall be repaired or replaced as needed. Buildup of soil behind silt fences shall be removed and any breaches or undermined areas repaired.

Disturbed areas will likely discharge excess sediment to waters, which will degrade water quality. Sediment control structures are often the last line of defense to keep this excess sediment from leaving the Project site. If these structures are not properly maintained, they are prone to failure. This condition protects water quality by ensuring that these sediment control structures are properly maintained and in working order before rainfall events. (Dredge or Fill Procedures, Section IV.B.1.)

H. Mitigation for Temporary Impacts

1. The Permittee shall restore all areas of temporary impacts to waters of the state and all Project site upland areas of temporary disturbance which could result in a discharge to waters of the state to pre-construction conditions.

If temporarily impacted areas are not restored, they could become permanent impact areas and contribute to long term impacts to water quality. This condition protects water quality by requiring temporarily impacted areas to be restored. (Dredge or Fill Procedures, Sections IV.A.2.d, IV.B.1.)

2. If temporarily disturbed areas are not showing sufficient recovery via natural processes within 365 days of impacts, compensatory mitigation may be required to offset temporal loss of waters of the state.

If temporarily impacted areas are not restored, they could become permanent impact areas and contribute to long term impacts to water quality. The longer the lag time between impact and restoration, the more opportunity there is for water quality degradation stemming from the disturbed areas. This condition protects water quality by ensuring that restoration is initiated in a reasonable amount of time after impacts have occurred. (Dredge or Fill Procedures, Sections IV.A.2.d, IV.B.4-5.)

I. Compensatory Mitigation for Permanent Impacts:

No compensatory mitigation is required; the Project must not result in any permanent impacts to waters of the state.

J. Order Deviation

1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water resources. Some modifications of Project locations or predicted impacts may qualify as Certification Deviations as set forth in Attachment F. For purposes of this Certification, a "Certification Deviation" is a Project locational or impact modification that does not require an immediate amendment of the Order, because the State Water Board has determined that any potential water resources impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.
2. A Project modification shall not be granted a Certification Deviation if it warrants or necessitates changes that are not addressed by the Order conditions or the CEQA environmental document such that the Project impacts are not addressed in the Project's environmental document or the

conditions of this Order. In this case a supplemental environmental review and different Order will be required.

XV. Water Quality Certification and Waste Discharge Requirements

I hereby issue the Order for the Routine Maintenance of Concrete Facilities for the San Bernardino County MSWSMP, SB20003IN, certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act 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).

The State Water Board will file a Notice of Determination (NOD) at the SCH within five (5) working days of issuance of this Order.

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited in strict compliance with the conditions of this Order and the attachments to this Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the Regional Water Boards' Water Quality Control Plans and Policies.

Karen Mogus
Deputy Director, Division of Water Quality
State Water Resources Control Board

Date

Draft