December 10, 2013

Mr. David Elms
CA Department of Fish and Wildlife
PO Box 2160
17041 S. Lovekin Boulevard
Blythe, CA 92226

RE: ORDER FOR TECHNICALLY-CONDITIONED CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS

PROJECT: CA Natural Resources Agency, Salton Sea Species Conservation Habitat (SCH) Project, Located in Salton Sea - Imperial County, California, WDID No. 7A133126001

APPLICANT: CA Natural Resources Agency

ACTION:

1. ☐ Order for Standard Certification
2. ☒ Order for Technically-Conditioned Certification
3. ☐ Order for Denial of Certification

STANDARD CONDITIONS:

The following standard conditions apply to all certification actions, except as noted above under Action 3 for denials.

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 section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action (Actions 1 and 2) 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.

4. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law. For purposes of Clean Water Act (CWA) section 401(d), the applicability of any State law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Water Quality Certification (WQC).

   a. In response to a suspected violation of any condition of this WQC, the Colorado River Basin Regional Water Quality Control Board (Regional Water Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

   b. In response to any violation of the conditions of this WQC, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

ADDITIONAL CONDITIONS:

The following additional conditions apply to this certification:

1. This WQC applies towards the proposed project (Project) as described in an incomplete 401 application was received by the Regional Water Board on January 31, 2012 (California Environmental Quality Act (CEQA) documentation was not available at the time). A revised and complete application was received on August 21, 2013.

2. The Applicant shall provide the Regional Water Board and other interested agencies with written notification of any significant modifications made to the Project prior to implementation of the modifications.

3. This WQC does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

4. This WQC does not authorize the Applicant or any associated party to trespass on any land or property unless the applicant has obtained written authorization or acquired a special use authorization permit from the land or property owner.

5. A copy of this WQC shall be provided to the appropriate onsite Supervisor for the Project. All personnel performing work on the proposed Project shall be familiar with the content of this WQC. Copies of the WQC shall be readily available at the Project site at all times during periods of active work and shall be presented to regulatory agency representatives upon request.

6. The Applicant shall grant Regional Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this WQC and/or to determine the impacts the Project may have on waters of the United States.

7. The proposed Project shall not be enlarged or extend beyond the proposed Project impact area. The Applicant shall delineate the Project boundaries and staging areas with stakes, flags and/or temporary construction fencing.

8. The area of vegetation and soil disturbance shall be restricted to the smallest extent possible.

9. The Project shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.

10. The Project shall not discharge waste classified as "hazardous" as defined in Title 23 California Code of Regulations (CCR) section 2521, California Health and Safety Code section 25140, and Title 22, CCR, section 66260.10 et seq.

11. No oil, petroleum products, or rubbish shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States.

12. No equipment maintenance will be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter waters of the United States.

13. Equipment refueling shall not occur within waters of the United States.

14. Any oil or grease leaks shall be immediately cleaned up.

15. The Applicant shall ensure that all contaminated material and/or contaminated soil removed or excavated from the Project site is properly loaded, transported, and disposed of in accordance with Federal, State, and local regulations.

16. Staging/storage areas for equipment and materials shall be located outside of waters of the United States.

17. The Applicant shall ensure that all disturbed and filled areas are adequately stabilized and protected from erosion and siltation by implementing appropriate soil stabilization, sedimentation and silt control measures.

18. Any flow diversion used during construction shall be designed in a manner to prevent pollution, minimize siltation, and shall provide flows to downstream reaches. Flows shall be maintained to support existing aquatic life and riparian wetlands and habitat that may be located upstream and downstream from any temporary diversion.

19. The Applicant shall restore drainages, to the greatest extent possible, to the original bank configuration, stream bottom width, and channel gradient.

20. All temporary facilities and impacts shall be removed and restored to the preexisting conditions and contours to the extent practicable.

21. Construction related materials and wastes shall be removed from the Project site upon completion of the Project.

22. The Applicant shall submit Notice to the Regional Water Board within 60-days of completion of the Project. The Notice shall include: 1) a detailed summary of the mitigation and restoration activities implemented during the Project and 2) provide photographic documentation that supports the information summarized in the Notice.

23. The Regional Water Board reserves the right to suspend, cancel, or modify and reissue this WQC, after providing notice to the Applicant and/or responsible Site-Supervisor, if the Regional Water Board determines that the Project fails to comply with any of the terms or conditions of this WQC.

24. The Applicant shall orally notify the Regional Water Board of any noncompliance that may impact the beneficial uses of waters of the United States, as soon as notification is possible and notification can be provided without substantially impeding measures necessary to address the noncompliance.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

If you have any questions, please contact Jay Mirpour, Water Resources Control Engineer, at (760) 776-8981 or jmirpour@waterboards.ca.gov.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the referenced Project 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, and with other applicable requirements of State law.

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 the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan (Basin Plan).

for Jane L. Angel, P.E.

ROBERT PERDUE, Executive Officer
Colorado River Basin Regional Water Quality Control Board

JJM/

cc: Lanika Cervantes, USACE Los Angeles District
Bill Orme, SWRCB, Division of Water Quality, Water Quality Certification Unit
Elizabeth Goldmann, U.S. Environmental Protection Agency, Region 9
Thomas A. Vandenberg, Office of Chief Counsel, SWRCB

File: CA Natural Resources Agency, Salton Sea Species Conservation Habitat Project, WDID No. 7A133126001

PROJECT INFORMATION

Application Date: An incomplete 401 application was received by the Regional Water Board on January 31, 2012 (CEQA documentation was not available at the time). A revised and complete application was received on August 21, 2013

Applicant: Natural Resources Agency
Contact: David Elms, (760) 668-5042

Applicant Representative: Dudek,
Contact: Vipul Joshi, (760) 479-4284

Project Name: CA Natural Resources Agency, Salton Sea Species Conservation Habitat Project, WDID No. 7A133126001

Start and Completion: Construction of the initial portion of the project is anticipated to commence in January 2014 and be completed by August 1, 2016.

Project Description: The purpose or goal of this Project is to develop a range of aquatic habitats that will support fish and wildlife species dependent on the Salton Sea in Imperial County, California. The applicant's objectives include the following:

- Provide appropriate foraging habitat for piscivorous bird species;
- Develop habitats required to support piscivorous bird species;
- Support a sustainable, productive aquatic community;
- Provide suitable water quality for fish;
- Minimize adverse effects on desert pupfish (*Cyprinodon macularius*);
- Minimize risk of selenium;
- Minimize risk of disease/toxicity impacts;
- Develop and implement a monitoring plan;
- Develop a decision-making framework; and
- Provide proof of concept for future restoration.

The Natural Resources Agency's preferred alternative would create up to 3,770 acres of shallow ponds, contained within low berms, on either side of the New River at elevations less

than -228 feet mean sea level. The ponds would be supplied with a combination of brackish and saline water. This water would be pumped from the New River and Salton Sea, respectively, and blended to maintain an appropriate salinity range suitable for fish species that are currently adapted to living in the Sea's saline environment. The SCH Project is designed as a "proof-of-concept" project in which several Project features, characteristics, and operations could be tested under an adaptive management framework.

The proof-of-concept period would last for approximately 10 years after completion of construction. By that time, managers would have had time to identify those management practices that best meet the Project goals. After the proof-of-concept period, the Project would be operated until the end of the 75-year period covered by the Quantification Settlement Agreement (2078) or until funding were no longer available. The SCH ponds would be constructed and operated by the Department of Fish and Wildlife, on behalf of the Natural Resources Agency.

Project Location:

City or area: The Project site is located at the southern end of the Salton Sea, near the mouth of the New River, Imperial County, California

Longitude/ Latitude: 33° 6' 13.8" N and 115° 42' 2.8" W

Township/Range: The study area lies within the Westmorland West and Obsidian Butte 7.5-minute quadrangles.

The SCH Project site is located within Township 12 South, Range 12 East, and Sections 11-15, 20-24 and 26–29, San Bernardino Meridian.

Receiving Water(s): Salton Sea

Acres and Linear Feet Impacted:

For a complete description of temporary and permanent impacts to waters of the U.S. due to construction of the Project, please refer to Permit Number SPL-2010-00142-LLC, CA Natural Resources Agency, Salton Sea Species Conservation Habitat Project prepared by the Los Angeles District – U.S. Army Corps of Engineers.

Standard Best Management Practices (BMPs):

During construction, the following standard BMPs must be utilized, where feasible:

- Placement of temporary exclusion fencing during construction activities to minimize impacts on waters, wetlands and habitat,.
- Discharger shall abide by all litter and pollution regulations.
- Raw concrete/cement and/or washings, asphalt, paint and/or other coating materials, oil, petroleum products or any other material resulting from project related activities shall be prevented from contaminating soil and/or entering the waters or wetlands.
- No equipment maintenance shall be conducted within or near the streambed or tributaries where petroleum products or other pollutants may enter these areas under any flow.
- No equipment storage and/or material stockpile areas will be located within the streambed or tributaries.
- Erosion control measures, including placement of waddling/straw bales, will be implemented during construction activities involving grading or excavation.

Other Actions/Best Management Practices:

Best management practices would be used to minimize impacts on the environment during construction, operations, and maintenance. Standard erosion control measures would be used during construction to control offsite runoff of sediment that is loosened during construction.

An Erosion and Sediment Control Plan (ESCP) and a Stormwater Pollution and Prevention Plan (SWPPP) would be prepared and implemented to minimize impacts on water quality during construction and maintenance

activities. Typical measures include:

- Preservation of existing vegetation to the extent feasible,
- Installation of silt fences,
- Use of wind erosion control (e.g., geotextile or plastic covers on stockpiled soil), and
- Stabilization of site ingress/egress locations to minimize erosion.

The Project would comply with the Imperial County Air Pollution Control District's Regulation VIII rules for dust control (general requirements, construction and earthmoving activities, bulk materials, open areas, and conservation management practices), which are required for all projects.

Additionally, during construction and maintenance, contractors and staff would implement the following measures to reduce emissions from fuel combustion and work activities:

- Limit idling of inactive equipment and queuing vehicles to 2 minutes;
- Use low or zero-emission vehicles, including construction vehicles;
- Promote riding sharing among construction workers or provide shuttle service to the Project site;
- Maintain vehicle and equipment engines to manufacturer's specifications;
- Maintain on-road vehicle and off-road equipment tire pressures to manufacturer specifications. Check and re-inflate tires at regular intervals;
- Use lower-carbon fuels such as biodiesel blends where feasible;
- Use construction materials from local sources to the extent feasible; and
- Minimize vegetation removal necessary for construction to the extent feasible.

Mitigation:

For a complete description of mitigation requirements, please refer to Permit Number SPL-2010-00142-LLC, CA Natural Resources Agency, Salton Sea Species Conservation Habitat Project prepared by the Los Angeles

District – U.S. Army Corps of Engineers.

Federal Permit(s): U.S. Army Corps of Engineers Federal CWA Section 404 Standard Individual Permit, File Number SPL-2010-00142-LLC

Status of CEQA: On August 5, 2013, a Notice of Determination was prepared for this project pursuant to the provisions of CEQA. Lead Agency: The Natural Resources Agency, State Clearinghouse Number: 2010061062.

File: CA Natural Resources Agency, Salton Sea Species Conservation Habitat Project, WDID No. 7A133126001