



California Regional Water Quality Control Board

Santa Ana Region



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Arnold Schwarzenegger
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February 13, 2012

Nardy Khan
Orange County Public Works
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REVISED CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE SANTA ANA RIVER INTERCEPTOR LINE RELOCATION PROJECT, ANAHEIM, COUNTY OF ORANGE, CALIFORNIA (SARWQCB PROJECT NO. 302010-24)

Dear Ms. Khan:

This correspondence represents a revision of the Clean Water Act Section 401 Water Quality Standards Certification (Certification) issued from this office on November 1, 2010 for the subject project. The information contained within this Certification shall supersede any prior iteration of said Certification for the subject project.

On January 26, 2012, we received on your behalf from PCR Services, Corp., your request to amend the November 1, 2010 Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for the County of Orange to relocate the Santa Ana Regional Interceptor (SARI) pipeline away from the Santa Ana River's flow path. The purpose of this pipeline relocation project is to protect and secure the SARI line and to enable Prado Dam emergency discharges of up to 30,000 cfs without risking damage to the SARI line. Board staff recognizes the SARI as a vital wastewater conveyance from the upper to the lower Santa Ana River watershed. This letter responds to your request to revise the November 1, 2010, original certification for this project, as described in PCR Services' January 26, 2012, letter request and summarized below, and affirms that the additional project elements will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

Project Description: Construction of two wastewater pipelines with a combined total length of approximately 5 miles. Construction will involve tunneling under the Santa Ana River with Tunneling Boring Machines (TBMs), cut and cover trenching, constructing a temporary bike path detour, and flushing and filling the decommissioned pipeline section with clean sand or driller's mud. The total length of the proposed SARI replacement pipeline is approximately 3.9 miles (20,700

California Environmental Protection Agency



feet). The proposed Yorba Linda Spur (YLS) sewer line will be installed along a 1 mile segment of La Palma Avenue, in the City of Yorba Linda, on the north side of the river. The work will take place within Sections 29, 30, & 32 of Township 8 South, Range 3 West, of the U.S. Geological Survey *Prado Dam & Black Star Canyon* quadrangle maps (33° 52' 34.17" N/ 117° 44' 06.47" W).

- Revised Elements : Construction of a new manhole and associated access and reconstruction and reconfiguration of slope protection for the new manhole; installation of a temporary construction access road along the base of the existing slope protection; and subsequent removal and restoration of the temporary access road. Work will occur on and along the base of the existing grouted rip-rap slope located below the maintenance access road that lies along the east side of the SAVI Ranch commercial development and proceed east on the north side of SR-91. All work will occur on the upper terrace of the Santa Ana River floodplain in an area that is considered jurisdictional Waters of the U.S., but is only occasionally subject to flows when the Prado Dam releases volumes of 5,000 cfs or greater.
- Receiving water: Unnamed tributaries to Santa Ana River
- Original Fill area: 0.01 acres of permanent impact to a wetland habitat, 0.19 acres of temporary impact to a wetland habitat, 0.001 acres of permanent impact to a streambed habitat, and 0.014 acres temporary impact to streambed habitat (cumulative total: 32 linear feet of permanent impacts and 228 linear feet of temporary impacts).
- Additional Fill area: 0.064 acres of permanent impact to non-wetland Waters of the U.S. (210 linear feet); 0.521 acres of temporary impact to Waters of the U.S. (850 linear feet), including up to 0.028 acre of riparian/wetland habitat (80 linear feet) associated with construction and subsequent removal of a temporary access road, a truck turnout, a temporary construction area, and access to new slope protection and temporary access ramp.
- Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Individual Permit IP No.: SPL-2010-01163-JPL

Mitigation for water quality impacts was provided for in the original application for Certification, as listed below, and you have proposed to provide additional mitigation as described in PCR Services' January 26, 2012, letter request. The proposed supplemental mitigation is summarized below:

Onsite water quality standards mitigation included under original certification and required for all additional construction activities under this revision:

- Silt curtains, silt fencing and sand bags will be placed at the perimeter of all construction areas until loose earthen materials and debris have been secured.
- FEIS/EIR Mitigation Measures relevant to Water Quality (WQ1 through WQ7) and Biological Mitigation Measures (BR-24 through BR-36) relevant to Aquatic Habitat will be implemented. (Listed on FEIS/EIR pages 7-3, 7-4, and 7-11 to 7-13)
- Removal of temporary fill and/or restoration of temporarily impacted waters, including wetlands, to pre-construction contours.
- Non-wetland streambed and wetland areas displaced by concrete apron and Arizona dip crossings will be offset by expanding existing non-wetland stream bottom and wetland (depressional) features by recontouring when temporary fill is removed.
- Replanting of native vegetation, maintenance and monitoring will follow and conclude construction activities.

Offsite Water Quality Standards Mitigation Proposed:

- None

Supplemental Water Quality Standards Mitigation:

- Permanent impacts will be mitigated by providing a contribution to the Santa Ana Watershed Association (SAWA) sufficient to fund ongoing habitat restoration of 0.321 acres of non-wetland waters of the U.S., consisting of *Arundo* eradication and maintenance. This represent mitigation at a 5:1 ratio (5 x 0.064 acre impact = 0.321 acres of mitigation).
- Temporary impacts will be mitigated by providing a contribution to SAWA sufficient to fund ongoing habitat restoration of 0.521 acres of non-wetland waters of the U.S., consisting of *Arundo* eradication and maintenance at a 1:1 ratio.

- Replanting of native vegetation, maintenance and monitoring will follow and conclude construction activities.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level.

Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2009-0030 (NPDES Permit No. CAS618030), commonly known as the Orange County Municipal Storm Water Permit, and subsequent iterations thereof. Order No. R8-2009-0030 requires that you substantially comply with the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, including the preparation of a SWPPP.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an environmental impact report (EIR) or negative declaration prepared by the lead agency in determining whether to approve a Section 401 Certification. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board has considered the County of Orange's EIR prepared for the proposed project, and information subsequently provided in the County's application, in approving this Certification. In the issuance of this Certification, the Executive Officer has considered those sections of the County's Environmental Impact Report and its Addendum, Supplemental Environmental Assessment/ Addendum to Environmental Impact Report IP 03-226 (State Clearinghouse No. 2004044001) approved on November 5, 2009, that relate to water quality. Based on the mitigation proposed and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. The Regional Board independently finds that changes or alterations have been required or incorporated into the project that avoid or mitigate impacts to water quality to a less than significant level.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) All materials generated from construction activities associated with this project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified.
- 3) Waters of the Region shall be free of changes in turbidity that adversely affect beneficial uses. During the sediment removal activities, the turbidity upstream of the project and at the downstream end of the project in which sediment removal activities are occurring shall be compared on a daily basis. There shall not be an increase in turbidity resulting from controllable factors at the downstream monitoring point when compared with turbidity monitored at the upstream (background) monitoring point that exceeds the following:
 - a. If background turbidity is 0-50 NTU, not to increase more than 20%
 - b. If background turbidity is 50-100 NTU, not increase more than 10 NTU
 - c. If background turbidity is > 100 NTU, not to increase more than 10%

Turbidity test results shall be submitted to Regional Board staff in a timely manner.

- 4) Vegetative debris, including mulched material, leaves, and twigs/branches, and other trash which results from or is uncovered by the vegetation removal operations shall be removed from the construction area as soon as possible.
- 5) The project proponent shall utilize Best Management Practices during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.
- 6) Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, hydraulic fluid, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, slag and other welding debris, metal or

wood dust, cuttings or shavings, etc., shall not be discharged to soils or waters of the state. All waste concrete shall be removed.

- 7) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.
- 8) An effective monitoring plan must be developed and implemented to document compliance with conditions 3, 4 and 6 above. Any suspected violation of these conditions must be reported to Regional Board staff in writing within 24-hours of discovery. The monitoring plan and records of monitoring activities must be maintained on site for the duration of the proposed discharge and be available for inspection by Regional Board staff.
- 9) Adherence to the requirements of this certification does not relieve the proponents of this project from compliance with requirements of local, county, other state, and federal agencies.
- 10) Discharges of construction dewatering wastes at the project site shall be permitted under and in compliance with appropriate waste discharge requirements, such as Regional Board Order No. R8-2009-0003, "General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to water Quality."
- 11) Onsite water quality standards mitigation proposed shall be timely implemented.
- 12) Measures intended to minimize or prevent construction related impacts to water quality shall be implemented continuously throughout the construction period of the project.
- 13) This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any of the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and appropriate enforcement action.

- 14) This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP, and be available for inspection upon request by Regional Board staff.
- 15) The applicant shall make a contribution to SAWA sufficient to provide for at least 0.842 acre of mitigation credit in the form of Arundo eradication and maintenance to compensate for permanent and temporary impacts associated with additional construction activities as described in the January 26, 2012 letter request to amend the original Certification.. OC Flood Control District shall provide proof of such contribution to the Santa Ana Regional Water Quality Control Board within 90 days of issuance of this Amendment.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality

standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes an Amended Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. 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.

This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at: www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jason Lambert
Department of Fish and Game – Juan J. Lopez-Torres
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

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