



Enforcement News

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

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L.A. Regional Water Board Files Notice of Intent to Sue U.S. Army Corps of Engineers for Water Quality Violations

Cites Violations of Federal Clean Water Act at Verdugo Wash and Sepulveda Basin

The Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) has issued a 60-day notice of intent to sue the U.S. Army Corps of Engineers (Army Corps) for two unauthorized dredge and fill operations in Los Angeles County that violated the federal Clean Water Act and the California Porter-Cologne Water Quality Control Act (Porter-Cologne). The Water Board is being represented in the matter by the California Attorney General's office.

The 60-day notice of intent, which was signed by Los Angeles Water Board Executive Officer Samuel Unger and sent to the Army Corps on Oct. 31, cites unauthorized Army Corps dredge and fill operations at the Verdugo Wash in the city of Glendale and the Sepulveda Basin in the San Fernando Valley.

During the 60-day notice of intent period, the Los Angeles Water Board will attempt to seek a resolution through a formal agreement with the Army Corps that the Corps will, going forward, seek state water quality certifications before engaging in dredge and fill activities in waters of the United States.

The Verdugo Wash is a 9.5 mile long tributary of the Los Angeles River, and the Sepulveda Basin is a 2,000 acre flood risk management basin on the upper portion of the Los Angeles River. The Verdugo Wash and the Los Angeles River are waters of the United States and of the State of California.

These unauthorized dredging activities by the Army Corps have resulted in substantial discharges of sediment to these jurisdictional waters.

"The Army Corps of Engineers both implements and oversees dredge and fill operations in waters of the United States. The Corps is subject to the same requirements as all other dischargers when it implements dredge and fill projects," said Maria Mehranian, Chair of the Los Angeles Water Board. "Our action today will prevent unauthorized projects that result in habitat destruction from

happening in the future, and supports the Los Angeles River revitalization efforts by the Water Board, city of Los Angeles, and other stakeholders.”

One of the Los Angeles Water Board’s core functions is to protect the waters of California and the United States from pollution and contamination. The Clean Water Act and Porter-Cologne prevent the dredging and filling of waters of the United States except as allowed by a permit and state water quality certification.

In early 2012, the Los Angeles Water Board learned that the Army Corps had illegally removed vegetation and sediment at the confluence of the Verdugo Wash and the Los Angeles River. The Army Corps’ action was undertaken without receiving the required state certification from the Los Angeles Water Board under Section 401 of the Clean Water Act. The Army Corps’ unauthorized removal of habitat at the site harmed water quality in an approximate 6.5 acre area in the confluence.

In December 2012, the Los Angeles Water Board learned that the Army Corps had removed approximately 43 acres of vegetation from a designated wildlife preserve in the Sepulveda Basin. A subsequent investigation revealed that significant heavy equipment was used to remove vegetation from a large portion of the Basin.

Four water bodies within the Sepulveda Basin were affected: The Los Angeles River, Haskell Creek and Encino Creek, all waters of the United States, and Pothole Pond, a water of the State of California.

Specifically, the Army Corps, without state certification from the Los Angeles Water Board, removed riparian vegetation along Haskell Creek, which impacted water quality because heavy equipment used in the process caused direct sediment discharges to the water. Removal of the vegetation caused destabilization and erosion, which is a significant threat to water quality. Removal of vegetation along the banks of Haskell Creek impaired riparian and aquatic habitat and beneficial uses by increasing direct sunlight exposure and water temperature, which can affect several species of fish common in the Los Angeles River.

The Army Corps also conducted dredge and fill operations in the Los Angeles River and its tributary, Encino Creek. Islands within the river bed were modified, and in some areas cleared of vegetation and sediment by construction equipment.

The Los Angeles Water Board contends that the Army Corps routinely fails to apply for and obtain Clean Water Act Section 401 Water Quality Certifications from the Water Board for flood control maintenance activities, as required by law. In addition, the Army Corps routinely fails to implement best management practices or provide compensatory mitigation for permanent or temporary impacts to water quality.

During the 60-day notice period the Los Angeles Water Board is prepared to discuss remedies with the Army Corps for the violations. If resolution is not reached, the Water Board intends to sue the Army Corps in United States District Court, seeking a court order directing the Army Corps to restore or otherwise mitigate the damaged areas of the Verdugo Wash and the Sepulveda Basin, and issue an order directing the Army Corps to comply with Section 401 of the Clean Water Act for future dredge and fill activities.



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A copy of the Sixty-Day Notice of Intent to Sue may be found at:
<http://www.waterboards.ca.gov/losangeles/>