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Refer To File #: 060182-0162

VIA E-MAIL & U.S. MAIL

June 7, 2013

Mr. Darren Bradford
Environmental Scientist
California Regional Water Quality Control Board,
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Re: F/ETCA Comments - Revised Tentative Order No. R9-2013-0007 and ESA PWA Letter of April 26, 2013

Dear Mr. Bradford,

Please find enclosed the Foothill/Eastern Transportation Corridor Agency's (F/ETCA's) comments on and proposed revisions to the above-referenced Revised Tentative Order. We are also providing a letter from our consultant, RBF, responding to an April 26, 2013 letter prepared by ESA PWA regarding F/ETCA's presentation at the San Diego Water Board's hearing on March 13, 2013. Thank you for your consideration.

Very truly yours,

Carollyn B. Lobell
of Nossaman LLP

CBL/
Attachment
cc: Ms. Kelly Dorsey, SDRWQCB
Mr. Doug Feremenga, TCA

ATTACHMENT: Comments on Revised Tentative Order No. R9-2013-0007

1. Findings, N, California Environmental Quality Act.

The paragraph at the top of page 10, second sentence, references the Tesoro Extension as a segment of the Transportation Improvement Project. This should be replaced with a reference to the Tesoro Extension as a modification of the Transportation Improvement Project, as stated in correspondence submitted by and on behalf of F/ETCA to the San Diego Water Board. See for example, the Nossaman LLP March 29, 2013 letter Responding to Questions for Written Response on Tentative Order No. R9-2013-0007, pages 1, 5-10.

2. Mitigation

Finding F, page 7, first line on the page, includes the correct mitigation acreage of 20.31. Finding N on page 11, second paragraph, contains a prior number of 21.27. The Final HMMP, which is posted on the San Diego Water Board's website, contains the current information on mitigation acreage. In addition, Table 5, Impact and Compensatory Mitigation Summary, on page B-13, should also be updated to reflect the current acreages of mitigation for waters of the state (wetland) at Site A:

3. Section VIII.A. Receiving Water Monitoring

F/ETCA respectfully requests some minor changes in the wording of Section VIII.A. as shown in the proposed redline/strikeout changes below, starting on page 21 of the Revised Tentative Order. In order for F/ETCA to assure it can properly implement the receiving water monitoring regardless of the availability of a viable coalition or group, the monitoring responsibilities must recognize, consistent with Water Code section 13267, that the discharger can conduct monitoring individually rather than as a member of a group. Further, the monitoring responsibilities should recognize, consistent with Water Code section 13267, that if the monitoring is done with a coalition, the discharger's responsibilities pursuant to the group monitoring program and as a member of the coalition shall bear a reasonable relationship to the monitoring necessary to establish compliance of permitted discharges with this WDR. Finally, the monitoring provisions must take into account that the identification of sampling locations will take into account, and will be subject to TCA's ability to obtain permission to enter private property owned by third parties.

VII. RECEIVING WATER MONITORING

A. The Discharger shall develop a monitoring program to assess effects of the project on the physical, chemical, and biological integrity of receiving waters. In addition, monitoring shall be performed by the Discharger to assess compliance with the receiving water limitations of this Order. The monitoring may be performed ~~either~~ by the Discharger. The monitoring may also be performed ~~or~~ through participation in a

water body monitoring coalition ~~or both as determined by~~ with the approval of the San Diego Water Board.

1. **Monitoring Coalitions.** To achieve maximum efficiency and economy of resources, the San Diego Water Board encourages the Discharger to establish or join a water body-monitoring coalition. Discharger is not required to establish or join a water body-monitoring coalition to meet the requirements of this WDR. If Discharger establishes or joins a water body-monitoring coalition, Discharger shall remain responsible only for monitoring activities reasonably related to establishing compliance with discharges permitted by this WDR. Monitoring Coalitions enable the sharing of technical resources, trained personnel, and associated costs and create an integrated water and sediment monitoring program within each water body.

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2. **Monitoring Plan**

d. **Spatial Representation.** The Monitoring Plan shall be designed to ensure that the sample stations are spatially representative to evaluate positive or negative site specific impacts on watershed conditions resulting from the Tesoro Extension project within the water body segment or region of interest, subject to third party private property rights and ability to obtain access.