



State Water Resources Control Board

August 14, 2024

Ryan McCarter
Deputy Operating Officer
Santa Clara Valley Water District
Sent via Email: rmccarter@valleywater.org

**Anderson Dam Seismic Retrofit Project Drilling Program Phase 9
Santa Clara County
Coyote Creek, Anderson Lake**

NOTICE OF APPLICABILITY, CLEAN WATER ACT SECTION 401 GENERAL WATER QUALITY CERTIFICATION SANTA CLARA VALLEY WATER DISTRICT'S ANDERSON DAM SEISMIC RETROFIT PROJECT DRILLING PROGRAM PHASE 9

Dear Mr. McCarter:

On July 3, 2024, the State Water Resources Control Board (State Water Board) received Santa Clara Valley Water District's (Valley Water) Notice of Intent (NOI) to enroll the Anderson Dam Seismic Retrofit Project Drilling Program Phase 9 (Project) under the *General Order for Clean Water Act Section 401 Water Quality Certification Action, Order No. WQ-2021-0048-DWQ* for State Water Board Certification and Denial of the Corps' Nationwide Permits ([General Order WQ-2021-0048-DWQ](#), General Order)¹. Valley Water's NOI notes that the Project will be covered by United States Army Corps of Engineers' (USACE) Nationwide Permit (NWP) No. 6 – Survey Activities.

State Water Board staff reviewed Valley Water's NOI and supplemental information and finds the Project meets the requirements of the General Order. The Project is hereby enrolled under the General Order and Valley Water may proceed with the Project in accordance with the requirements contained in this Notice of Applicability (NOA) and the attached General Order following any additional federal and/or state approvals such as USACE notification of coverage under NWP No. 6.

Valley Water is responsible for complying with all applicable General Order requirements. Failure to comply with the General Order constitutes a violation of the California Water Code and may result in enforcement action or termination of enrollment under the General Order.

¹ https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/certification-denial-corps-nationwide-permit-project-general-order-10122021.pdf

PROJECT DESCRIPTION

The purpose of the Project is to conduct subsurface geotechnical investigations to evaluate and characterize seismic risk for existing foundation conditions to support the Anderson Dam Seismic Retrofit Project (ADSRP). The ADSRP includes the Anderson Dam Hydroelectric Project (Federal Energy Regulatory Commission Project No. 5737).

The Project includes conducting subsurface soil investigations by drilling up to 10 borings in and around Anderson Lake and Coyote Creek in Morgan Hill, California. More specifically, two of the bores (BB-03 and BB-04) will be drilled a minimum of 40 feet below ground surface (bgs) adjacent to the North Channel of Coyote Creek, four bores (BU-44, BU-45, BU-46, and BU-47) will be drilled about 230 feet bgs along an existing access road, two bores (RW-01 and RW-02) will be drilled up to 100 feet bgs near the proposed site entrance, and two bores (OW-40 and OW-41) will be drilled up to 100 feet bgs at the low-level outlet structure. All borings except BU-44, BU-45, BU-46, and BU-47 will be drilled with a track-mounted drill rig. Borings BU-44, BU-45, BU-46, and BU-47 will be drilled with a truck-mounted drill rig. Borings will have an approximate four-inch diameter. Only borings BB-03 and BB-04 will occur in Waters of the United States. Borings BB-03, BB-04, RW-01, and RW-02 will be backfilled with cement grout. Borings BU-44, BU-45, BU-46, and BU-47 will be backfilled with bentonite-cement grout with a vibrating wire piezometer installed. Borings OW-40 and OW-41 will be backfilled with bentonite-cement grout with a vibrating wire piezometer and standpipe installed. The piezometers and standpipes will be used to assess the depth of groundwater and influence of seepage. Following boring activities, the collected soil samples will be sent for laboratory testing. Generated waste will include soil and rock cuttings, drilling fluid, and cement-bentonite grout waste, and will be placed in drums and hauled off site for proper disposal.

The Project also includes seven trenches (T9, T10-N, T10-S, T11, T12, T13, and TS-13) ranging from two- to 10-feet deep and 35- to 250-feet long to investigate the dam's foundation materials and faulting properties. Only trenches T12 and T13 are located in Waters of the United States. To excavate trenches T10-S and T10-N, localized groundwater dewatering will be required. The dewatered groundwater will be pumped to Coyote Creek. Dewatering wells will be installed using a bucket auger and after installation pumps will be added to the wells with associated piping. Dewatering activities are expected to take one to four weeks to complete depending on subsurface conditions. Erosion control best management practices listed in Attachment C of the NOI will be installed at the discharge point. Upon completion of excavation activities, trenches will be backfilled with native soil, and ground conditions restored to the extent feasible. No impacts to instream pools or other wetted aquatic resources are expected. Additionally, no vegetation removal will be required.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The certification of projects under USACE's NWP No. 6 are generally exempt from the California Environmental Quality Act (CEQA). Proposed Project activities are not expected to have a significant effect on the environment and Valley Water has determined that the Project is categorically exempt from CEQA under California Code of Regulations, title 14, section 15304 (Minor Alterations to Land). Additionally, the State Water Board finds that no exceptions to this exemption applies to the Project activities approved by this NOA.

Valley Water is expected to file a Notice of Exemption with the Office of Planning and Research within five days of issuance of this NOA. (Cal. Code Regs., tit. 14, § 15062.)

PROJECT FEE

This NOA is conditioned on total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28. An application fee of \$9,845 was received electronically on July 22, 2024. The 2023-2024 Application Fee for a Category A: *Fill and Excavation*² Discharges is \$2,985, with an additional Project Fee of \$6,860. Accordingly, the total fee associated with this NOA is \$9,845. No additional payment is required at this time. Annual fees may apply if implementation of the Project, including any required monitoring or reporting, exceeds 12 months from this NOA. Annual fees will continue to be charged until a Notice of Project Complete Letter is issued by the Deputy Director for the Division of Water Rights (Deputy Director). Failure to notify the State Water Board of Project completion may result in continued billing of annual fees.

AUTHORIZED IMPACTS

Excavation and fill activities authorized by this NOA are limited to 0.37 acres/ 1,295 cubic yards/650 linear feet of temporary impacts³ to a streambed and 0 acres/linear feet of permanent impacts to a stream channel.

PROJECT SPECIFIC AVOIDANCE AND MINIMIZATION MEASURES

Valley Water shall implement the Avoidance and Minimization and Best Management Practices listed in Attachment C of its July 3, 2024 NOI.

REQUIREMENTS

Valley Water shall comply with all applicable conditions of the General Order, including but not limited to the following:

- Pursuant to section VI.D.4 of the General Order, Valley Water shall implement the Project in conformance with the information provided in its July 3, 2024 NOI. Any proposed changes to the Project design described in the NOI must be submitted to and approved by the Deputy Director prior to implementation.
- Pursuant to section VI.E.3.a of the General Order, Valley Water shall submit a Commencement of Construction notification to the Deputy Director at least seven days prior to starting initial ground disturbance activities.
- Pursuant to section VI.B.15.d.vi of the General Order, Valley Water shall store hazardous materials including chemicals, fuels, and lubricating oils at least 100 feet away from any delineated waters of the state and shall store such materials in appropriate containers with appropriate secondary containment.

² “Excavation” refers to removing sediment or soil in shallow waters or under no flow conditions, typically for purposes other than navigation. Examples include, but are not limited to, trenching for utility lines; other earthwork preliminary to discharge; removing sediment to increase channel capacity; and other flood control and drainage maintenance activities (e.g., debris removal, vegetation management and removal, detention basin maintenance and erosion control of slopes along open channels and other drainage facilities.) (Cal. Code Regs., tit. 23, § 2200.)

³ Temporary disturbances would result from dredging and boring activities.

- Pursuant to section VI.B.15.d.x of the General Order, Valley Water shall ensure all equipment and vehicle fueling and storage occur at least 100 feet from any waters of the state, in a location where fluids or accidental discharges cannot flow into waters of the state.
- Pursuant to section VI.E.3.b of the General Order, Valley Water shall submit a Request for Notice of Project Complete Letter to the Deputy Director within 30 days following completion of all Project activities. Upon approval of the request, the Deputy Director will issue a Notice of Project Complete Letter to Valley Water. Annual fees will be terminated concurrent with the date the Notice of Project Complete Letter is issued by the Deputy Director.
- Valley Water shall apply the water quality monitoring and reporting requirements of its Anderson Dam Tunnel Project and Northern Channel Reopening Plan, as originally approved by the Deputy Director on September 10, 2021, and any Deputy Director-approved amendments thereto, to monitor and report on water quality during any dewatering discharges to Coyote Creek, or anytime there is runoff from the Project site.

If you have questions regarding this NOA, please contact Bryan Muro, Project Manager, by email to: Bryan.Muro@waterboards.ca.gov or by phone to: (916) 327-8702. Written correspondence should be mailed to:

State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
Attn: Bryan Muro
P.O. Box 2000
Sacramento, CA 95812-2000.

Sincerely,



Eric Oppenheimer
Executive Director

Enclosures:

Enclosure A: General Order for Clean Water Act Section 401 Water Quality Certification Action, Order No. WQ 2021-0048-DWQ

Enclosure B: Project Maps

ec: Ms. Debbie-Ann Reese, Acting Secretary
Federal Regulatory Energy Commission
Via e-filing to FERC Docket for FERC Project No. 5737

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