



California Regional Water Quality Control Board Los Angeles Region



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Matthew Rodriguez
Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

Mr. Ken H. Riesz, Sr.
El Segundo Energy Center
301 Vista del Mar
El Segundo, CA 90245

WATER QUALITY CERTIFICATION FOR PROPOSED REPLACEMENT OF EL SEGUNDO GENERATING STATION UNITS 3 & 4 MAMMAL AND DIVER PROTECTION BARRIER PROJECT (Corps' Section 10 Project), PACIFIC OCEAN, CITY OF EL SEGUNDO, LOS ANGELES (File No. 11-136)

Dear Mr. Riesz:

Board staff has reviewed your request on behalf of El Segundo Energy Center (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on September 9, 2011.

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, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

Samuel Unger
Samuel Unger, P.E.
Executive Officer

Sept: 22, 2011
Date

DISTRIBUTION LIST

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ATTACHMENT A

Project Information
File No. 11-136

1. Applicant: El Segundo Energy Center
Ken H. Riesz
301 Vista del Mar
El Segundo, CA 90245
Phone: (310) 615-6142 Fax: (310) 615-6060
2. Applicant's Agent: Eric Miller
MBC Applied Environmental Sciences
3000 Red Hill Ave
Costa Mesa, CA 92626
Phone: (714) 850-4830 Fax: (714) 850-4840
3. Project Name: Replacement of Mammal and Diver Protection Barrier
4. Project Location: El Segundo Generating Station, Los Angeles

| | |
|-----------------|------------------|
| <u>Latitude</u> | <u>Longitude</u> |
| 33.9072 N | 118.4331 W |
5. Type of Project: Mammal and Diver Barrier
6. Project Purpose: The purpose of the proposed project is to replace the marine mammal and diver protection barrier with one incorporating barrier on the El Segundo Generating Station cooling water intake structure.
7. Project Description: To comply with the Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling adopted by the State Water Resources Control Board and implemented on October 1, 2010, the existing marine mammal and diver protection barrier on the ESGS Units 3&4 intake structure will be replaced by one with barrier-elements spaced no greater than 9-inches on center. The new barrier will be pre-fabricated and then installed on the intake structure by divers. Underwater activities subject to this permit include the removal of the existing barrier elements and installation of the new barrier. The project will result in a reduced potential for the intake of marine mammals or

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recreational divers into the ESGS Units 3&4 cooling water system. All components of the existing barrier will be removed from the intake, recovered from the worksite, and transported to shore for proper disposal. The removal and installation will include removing all biofouling organisms (mussels, barnacles, etc.) that have attached to the intake and associated structures (including the existing barrier elements). Potential impacts to water quality could result from the cleaning operation which will utilize hydroblasting the surfaces clean. This will result in the temporary suspension of material washed away from the intake structure, including mussel shell fragments, sediment, barnacle fragments, etc.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
Section 10 Permit
9. Other Required Regulatory Approvals: California Coastal Commission
Coastal Development Permit
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 Replacement or Reconstruction.
11. Receiving Water: El Segundo, Pacific Ocean (Hydrologic Unit No. 405.13)
12. Designated Beneficial Uses: PROC, REC-1, REC-2, COMM, MAR, WILD, MIGR, SPWN, SHELL
13. Impacted Waters of the United States: Ocean: 0.01 temporary acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The El Segundo Generating Station Units 1&2 cooling water intake system operated until about May 2010. Since then, it has not operated. Discharges from the ESGS are permitted under Order No. 00-084, NPDES Permit No. CA0001147.

In 2005, the California Energy Commission (CEC) approved the El Segundo Power Redevelopment Project. In 2007, the project applicant submitted a Petition to Amend the Final Commission Decision, which among other things, evaluated the project herein.

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On June 30, 2010, the CEC approved the Petition to Amend. The project includes the demolition of the existing Units 1&2, and construction of the new Units 5 through 8.

In June 2011, the ESGS Units 1&2 intake and discharge conduits were temporarily sealed with concrete at their terminus within the plant forebay. No adverse impacts were anticipated for this project except transient effects to water quality resulting from the concrete pumping and the minor loss of fouling organisms.

16. Avoidance/ Minimization Activities:

The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:

- The diver support vessel will have (and adhere to) a Spill Contingency Plan.
- Hydroblasting will be limited to the area where the new intake screens will be mounted.
- The area to be cleaned by hydroblasting is very minimal (27.9 ft by 21.3 ft). The marine growth on this area (which based on subtidal observations consists mostly of mussels (*Mytilus* spp) and barnacles (*Balanus* spp) would be jettied off and fall to the seafloor. This is similar to the effect from a heat treatment, and no adverse water quality impacts are expected.

17. Proposed Compensatory Mitigation:

The Applicant has not proposed any additional compensatory mitigation.

18. Required Compensatory Mitigation:

Since the project impacts are temporary and minimal in nature, the Regional Board will not require any additional compensatory mitigation.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

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Conditions of Certification File No. 11-136

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and 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 Subsection 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. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this Certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

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6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact the Land Disposal Unit at the Regional Board for further information regarding the disposal of solid wastes.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.

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13. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
14. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
15. All project maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
16. Ocean water quality monitoring shall be performed by the Applicant. A Water Quality Monitoring Plan shall be submitted prior to any project construction activities. Baseline sampling may be conducted at one location within the project boundary. Monitoring for the following shall be included:
 - pH
 - temperature
 - dissolved oxygen
 - turbidity
 - total suspended solids(TSS)
 - visual assessment for floating particulates (oil and grease shall not be visible)

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be measured at least once prior to project commencement (baseline sampling) and then monitored on a daily basis during the first week of construction, and then on a weekly basis, thereafter, until the work is complete. Monitoring shall ensure compliance with all water quality objectives specified in the 2009 Ocean Plan.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Construction activities shall not result in the degradation of beneficial uses or non-compliance of any water quality objectives. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

17. The Applicant shall restore **all areas** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. The Applicant shall implement all necessary

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Best Management Practices to control water quality impacts from activities associated with this project.

18. The Applicant shall submit to this Regional Board a **Final Report** by **January 1st** of each year until project completion. The Final Report shall describe in detail all of the project/construction activities performed during the previous year and all restoration efforts. At a minimum the Final Report shall include the following documentation:
 - (a) Color photo documentation of the pre- and post-project site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of "no net loss" of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
19. All applications, reports, or information submitted to the Regional Board shall be signed:
 - (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
20. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

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"I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)"

21. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **11-136**. Submittals shall be sent to the attention of the 401 Certification Unit.
22. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
23. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2009-009-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
24. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
25. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been

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corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

26. *Enforcement:*

- (a) 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 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.
- (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) 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 SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

27. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.

