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Santa Ana Regional Water Quality Control Board

January 16, 2013

Jeanne Kuttel
California Department of Water
Resources
1416 9th St., Room 538-3
Sacramento, CA 95814

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE PERRIS DAM REMEDIATION PROJECT, COUNTY OF RIVERSIDE, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 332012-33)

Dear Ms. Kuttel:

On November 19, 2012, we received an application for Clean Water Act (CWA) Section 401 Water Quality Standards Certification ("Certification"), from the California Department of Water Resources for a project to repair and strengthen the western embankment and foundation of the Lake Perris Dam. This comes from results of a 2005 geotechnical investigation and seismic assessment, which concluded that the dam did not meet required seismic standards. Therefore, structural fortification of the dam is necessary such that the dam could withstand the seismic activity generated by a maximum credible earthquake. This letter responds to your request for certification that the proposed project, described in your application and summarized below, 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:

Structural upgrades to the dam's westerly toe include excavating upper and deeper foundation soils from the westerly toe area, and replacing them with re-compacted engineered fill and cement-deep-soil-mixing methods. Additionally, approximately 300,000 cubic yards (cy) of locally quarried rock will be laid for the dam's drainage blanket. A 1,030,000 cy stability berm will also be constructed on top of the improved foundation, along with proposed repairs to a small area of the dam's southerly abutment. The new stability berm will be constructed using materials collected and stockpiled primarily from a designated 135 acre (dry) lake bottom "borrow area" created along the lake's northeastern shoreline when the lake's water level was lowered 25 feet for the geotechnical investigation and for safety considerations.

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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The area immediately adjacent to the stability berm will be graded and improved to create a required monitoring zone. The above referenced activities will permanently impact 10.68 acres of riparian habitat, which had developed along the dam's westerly toe, as a result of seepage through the dam.

Excavation and replacement of a small portion of the dam will occur along the right abutment. Approximately 16,000 cy of material will be excavated and replaced. An additional 6,500 cy of material will be imported from the lake borrow area to complete the repair.

Activities in the 135 acre borrow area will include: clearing and grubbing at the excavation site(s); excavation of materials for use in the project; equipment staging areas and a proposed materials/equipment haul road. The aforementioned activity areas will all be located below the lake's pre-drawdown ordinary high water mark (OHWM). In all, approximately 1.7M tons (1.04 M cy) of soils will be removed and relocated from the borrow area.

Once the soils have been removed from the (once open-water) borrow area and relocated to the dam's toe revetment area, habitat mitigation efforts will commence to create greater than 10.68 acres of riparian habitat and restore and/or enhance 17.09 acres of riparian habitat within the project areas.

Approximately 1,800 cy of weathered-to-fresh granite rock, lesser amounts of decomposed granitic soil, and alluvial soil will be added along the haul road to ensure dry conditions for safe truck operation. Following project completion, this rock will be left in place to provide fisheries spawning habitat.

The work will take place within Sections 2, 4, 5, and 10 of Township 4 South, Range 3 West, of the U.S. Geological Survey *Perris quadrangle* map (33° 50' 31.51" N/ -117° 11' 04.50" W).

Receiving water:	Lake Perris
Fill area:	10.68 acres of permanent impact to riparian habitat, along the westerly toe of the dam. This habitat area was reportedly created and subsequently fed from seepage through the dam's base. 0.1 acre of temporary impact to streambed habitat (560 linear feet)
Dredge/Fill volume:	N/A
Federal permit:	Issuance of an individual CWA section 404 permit by the U.S. Army Corps of Engineers is pending.

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.
- Habitat mitigation to create greater than 10.68 acres of riparian habitat and restore and/or enhance 17.09 acres riparian habitat.
- A total of 11.75 acres of enhanced fisheries spawning areas will be developed within the project's borrow area. This will include: 9.0 acres of woody (orange tree cuttings) vegetation deposition, 1.03 of rock reef deposition and 1.72 acre of spawning gravel.

Offsite Water Quality Standards Mitigation Proposed:

- To mitigate for impacts to wetlands and waters of the U.S./State, habitat creation/restoration is proposed at ratio of at least 2 acres for 1 acre of impact (estimated 2.6:1 ratio), of which at least half, or ratio of 1:1 or more, will be accomplished by habitat creation. The riparian habitat mitigation site is located off-site in lands already preserved by the Riverside Conservation Authority (RCA) for the Western Riverside County Multispecies Habitat Conservation Plan (MSHCP), in an area west of the City of Beaumont, within the Santa Ana River watershed.
- Mitigation activities will include restoring a degraded, eroding stream channel, thereby restoring creek sinuosity and hydrological conditions that allow for the establishment of riparian habitat.

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 in accordance with the requirements of Order No. 2009-0009-DWQ, State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR or Negative Declaration prepared by the lead agency in determining whether to approve a project. 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 EIR prepared for the proposed project, and information provided subsequently in the Department's application, in approving this Certification.

In the issuance of this Certification, the Executive Officer has considered those sections of the project's Environmental Impact Report 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) Proposed mitigation shall be timely implemented. Materials documenting the methods necessary to complete the mitigation shall be provided to this office prior to the discharge of fill to, or the dredging or excavation of material from, waters of the state.
- 3) 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.
- 4) The project proponent shall utilize BMPs 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.
- 5) Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.

- 6) 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.
- 7) 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 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 civil or criminal liability.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 9) Construction de-watering discharges, including temporary stream diversions necessary for project construction may be regulated under 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. For more information, please review Order No. R8-2009-0003 at www.waterboards.ca.gov/santaana/
- 10) Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities.
- 11) Prior to conducting any project activities that will impact wetland or riparian areas, functional assessments of the areas slated to be impacted shall be conducted using the California Rapid Assessment Method, February 2012, and these findings shall be used to establish the minimum success criteria for the proposed mitigation site(s). Functional assessments of riparian mitigation sites shall also be conducted annually, during the period October through December, using the California Rapid Assessment Method, February 2012, until success criteria are met for consecutive years. This information shall be reported to <http://www.californiawetlands.net/tracker/>

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 a 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/wqo_2003-0017.pdf

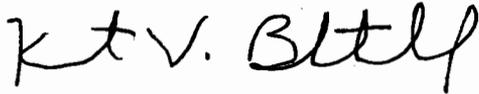
Jeanne Kuttell
California Department of Water
Resources

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January 16, 2013

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
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

Environmental Science Associates – Tom Barnes, tbarnes@esaasoc.com
U. S. Army Corps of Engineers, Los Angeles Office -Jason Lambert
CA Department of Fish and Wildlife – 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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