

Linda S. Adams Secretary for Environmental Protection

San Diego Region

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Certifified Mail No. 7008 1140 0002 4285 3766

Mr. Matthew O. Tucker	In reply, refer to:	
North County Transit District 810 Mission Avenue Oceanside, CA 92054	WDID No. 9 000001611 CIWQS:	·
	Party No. 31651 Place No. 646850 Reg. Measure, No. 320977	1
	. •	

Dear Mr. Tucker:

SUBJECT: Action on Request to Amend Clean Water Act Section 401 Water Quality Certification No. 07C-017 for the Oceanside Passing Track Extension project

The California Regional Water Quality Control Board San Diego Region (Regional Board) is amending the Oceanside Passing Track Extension project Certification Number 07C-017. This amendment has been requested by the North County Transit District. Specifically two items were requested: 1) Condition C.3. be removed from the Certification as conservation easements are not allowed within the rail line right of way; and 2) To allow the North County Transit District to have the option to mitigate at the North County Habitat Bank. The Regional Board agrees to the removal of Condition C.3., but disagrees with the option to mitigate at North County Habitat Bank as the Regional Board finds that onsite mitigation is ecologically and geographically more suitable in this case. If, at a later date, the North County Transit District and/or Amtrak determine that permanent impacts are to occur at the mitigation site, North County Transit District and/or Amtrak must apply for revised amendments to the Certification.

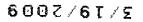
Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that North County Transit District has accepted and will comply with all conditions of the Certification. Failure to comply with all conditions of this Certification may result in enforcement actions against the North County Transit District.

Changes to the Certification are shown in strikeout and underline fonts below.

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at http://www.swrcb.ca.gov.





Schwarzenegger Governor

ADDITIONAL CONDITIONS

C. MITIGATION

3. Within 90 days of the issuance of this certification, North County Transit District must provide a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. The conservation easement or other legal limitation on the mitigation property must be adequate to demonstrate that the site will be maintained without future development or encroachment on the site or which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the U.S. that it supports. The conservation easement or other appropriate-legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland functions and values of the site. Other infrastructure development to be prohibited includes, but is not limited to, additional utility-lines, paved maintenance roads, and areas of maintained landscaping for recreation. The North County Transit District-must submit proof of a completed preservation mechanism within one year of issuance of this certification. If a future railroad maintenance project temporarily impacts the mitigation areas, the impacted habitat must be replaced on-site and in-kind within one year. If a future railroad related capital improvement project permanently impacts the mitigation area, the North County Transit District must provide in-kind mitigation at an off-site location at a ratio higher than 1:1 to be approved by Regional Board via amendment to this Certification.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions regarding this notification, please contact Mike Porter directly at (858) 467-2726 or by email mporter@waterboards.ca.gov.

Respectfully Fertis

John H. Robertus Executive Officer

California Environmental Protection Agency

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Mr. Tucker Oceanside Passing Track Amendment

cc: Ms. Crystel Doyle U.S. Army Corps of Engineers San Diego Field Office 6010 Hidden Valley Road Suite 105 Carlsbad, CA 92011

> Ms. Janet Struckwrath U.S. Department of the Interior Fish and Wildlife Service 6010 Hidden Valley Road Carlsbad, CA 92011

Ms. Tamara Spear California Department of Fish and Game South Coast Region Habitat Conservation Planning – South 4949 Viewridge Avenue San Diego, CA 92123

State Water Resources Control Board Division of Water Quality 401 Water Quality Certification and Wetlands Unit P.O. Box 100 Sacramento, CA 95812-0100

Mr. Eric Raffini Wetlands Regulatory Office U.S. Environmental Protection Agency, Region 9 75 Hawthorne Street San Francisco, CA 94105 R9-WTR8-Mailbox@epa.gov

Mr. Dan Tormey ENTRIX, Inc. 2140 Eastman Avenue, Suite 200 Ventura, CA 93003

Patrick O'Neill BRG Consulting, Inc. 304 Ivy Street San Diego, California 92101-2030

Mr. John Eschenbach Amtrak Engineering 603 C Garrison Street Oceanside, CA 92054

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