



California Regional Water Quality Control Board

Santa Ana Region



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Secretary for
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Arnold Schwarzenegger
Governor

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Kurt Edwards, Engineering Supervisor
Southwest Gas Corporation
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CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR REPLACEMENT OF SOUTHWEST GAS PIPELINE AT GROUT CREEK PROJECT, FAWNSKIN AREA, COUNTY OF SAN BERNARDINO, CALIFORNIA (OUR FILE NO. 362010-07)

Dear Mr. Edwards:

On June 16, 2010, Regional Board staff received an application for a Clean Water Act Section 401 Water Quality Standards Certification (401 Certification) for the above referenced project. Included with the application were the following:

- Documentation showing that an application for a California Department of Fish and Game (CDFG) Lake or Streambed Alteration Agreement for the project has been submitted;
- A copy of a California Environmental Quality Act (CEQA) Notice of Exemption for this project that had been posted and filed by the Clerk-Recorder for the County, claiming the project is categorically exempt from the provisions of CEQA, pursuant to CEQA Guidelines Section 15302 (Class 2) Replacement or Reconstruction.
- \$640 as the fee required to process this 401 Certification, as specified by California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3).
- A Southwest Gas Corp. Memorandum for Record that states that although it is anticipated that the proposed project will not impact any Waters of the U.S., if there were to be a spill of drilling fluid (via a "frac-out" (defined below)), although unlikely, the project has the potential to impact Waters of the U.S. Therefore, the proposed project meets the requirements for a non-notifying US Army Corps of Engineers (ACOE) Clean Water Act Section 404 Nationwide Permit 12.

California Environmental Protection Agency



- A Frac-out Contingency Plan description for the project. The plan describes the steps to be taken to mitigate impacts from a release of drilling fluid, should one occur, to the creek and surrounding area..

This letter responds to your request for certification, pursuant to Clean Water Act Section 401, that the proposed project, described 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 amendments:

1. Project description:

A section of an active Southwest Gas Pipeline has become exposed in the Grout Creek channel, presumably as the result of creek flow and naturally occurring erosion. This section of pipeline now lies between 0 and approximately 12 inches below the surface of the creekbed. The project area pipeline lies within CalTrans right-of-way in the community of Fawnskin, San Bernardino County. The project entails abandoning the existing pipeline that crosses the creek and replacing it with a new pipeline that is approximately 6-7 feet deeper, but otherwise in the same location as the existing pipeline. Horizontal drilling will be used to place the new pipeline under the creek bed. The drill entry points would be from either the west or east side of the creek in areas that are bare ground or on a parking lot and outside of waters of the U.S. The applicant states that there will be no discharges to waters of the U.S. as a result of the project, unless there is a spill of drilling fluid. The drilling fluid, consisting of a bentonite/water mixture, may escape to the surface through underground fractures. This event is known as a hydro-geologic fracture or "frac-out". The applicant states that this event is unlikely. However, a contingency plan has been developed to mitigate impacts to the environment from a "frac-out".

2. Location: 34.2692 north, 116.9481 west,
Township 2N, Range 1W, Section 11,
Fawnskin, CA, USGS Quadrangle
3. Receiving water: Grout Creek which is tributary to Big Bear Lake.
4. Fill Area: 0 acres (there may be potential impacts from accidental release of drilling fluids)
5. Dredge volume: NA
6. Federal permit: NW #12, Utility Line Activities
7. Mitigation: The applicant proposes no mitigation for the proposed project.

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.

Construction de-watering discharges 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, NPDES No. CAG 998001, at the Regional Board's website: www.waterboards.ca.gov/santaana/.

Pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines, the Southwest Gas Corporation has filed a CEQA Guidelines section 15302 "Class 2" Categorical Exemption and declares that the project consists of replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity. The Regional Board has independently reviewed the project and concludes that it is categorically exempt from CEQA pursuant to CEQA Guidelines (14 CCR) section 15302 because the project is a replacement of an existing facility that involves no expansion of capacity.

This 401 Certification is contingent upon the execution of the following conditions:

1. The project proponent shall implement the best management practices (BMPs) described in the 401 Certification application to minimize impacts to water quality and beneficial uses. The BMPs described in the application include avoiding all existing vegetation, replacing all original soils and boulders once the project is completed and conducting the project in the dry season when the creek bed is dry.
2. If necessary, the Frac-out Contingency Plan shall be implemented. The Regional Board may require mitigation and/or appropriate clean up or remediation activities if there is a frac-out. The applicant shall immediately notify the State Office of Emergency Services at 800 852 7550 and promptly contact Regional Board staff if there is a significant spill resulting from the project.
3. The project proponent shall utilize Best Management Practices 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.
4. 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.

5. 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.
6. 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 of the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in appropriate enforcement action, including imposition of administrative civil liability, the revocation of this Certification, and civil or criminal liability.
7. The discharger must comply with all conditions and provisions of Department of Army Section 404 Nationwide Permit 12.

Under California Water Code, Section 1058, and Pursuant to 23 CCR 3860, the following shall be included as conditions of all water quality standards 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.

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 State Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf.

This letter constitutes a conditional water quality standards certification. Although we anticipate no further regulatory involvement, if the above 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, we may formulate Waste Discharge Requirements for the project.

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.

In response to a suspected violation of any condition of this certification, the SARWQCB 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 SARWQCB deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the SARWQCB may add to or modify the conditions of this certification as appropriate to ensure compliance.

Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. This letter constitutes a technically conditioned water quality certification. Please notify our office five (5) days before construction begins on this project.

If you have any questions, please call David G. Woelfel at (951) 782-7960, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold
Executive Officer

cc: U.S. Army Corps of Engineers – Los Angeles Regional Office
U.S. Environmental Protection Agency, Supervisor of the Wetlands Regulatory Office – Tim Vendlinski (WTR-8)
State Water Resources Control Board, DWQ - Water Quality Certification Unit
State Water Resources Control Board, OCC – David Rice
California Department of Fish and Game – Anna Malloy

