



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Acting Secretary for
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Edmund G. Brown J
Governor

March 18, 2011

Mr. Christopher Stone
Los Angeles County Flood Control District
900 S. Fremont Ave.
Alhambra, California 91803

DENIAL WITHOUT PREJUDICE OF WATER QUALITY CERTIFICATION FOR PROPOSED DEVIL'S GATE DAM AND RESERVOIR SEDIMENT REMOVAL PROJECT (Corps' Project No. 2010-01122-CO), ARROYO SECO, CITY OF PASADENA, LOS ANGELES COUNTY (File No. 10-170)

Dear Mr. Stone:

On December 1, 2010, the Los Angeles Regional Water Quality Control Board (Regional Board) received an application for a Clean Water Act (CWA) Section 401 Water Quality Certification of the proposed Devil's Gate Dam and Reservoir sediment removal project (Devil's Gate Project) from the Los Angeles County Flood Control District (LACFCD). On December 13, 2010, Regional Board staff, Valerie Carrillo, and LACFCD staff conducted a joint inspection of the project site. The Regional Board sent a request for more information (RFI) for the proposed project application on December 14, 2010 and a response to the RFI was sent by LACFCD dated December 30, 2010. In addition, we have received a revised 'Avoidance and Minimization' Figure dated February 24, 2011.

At this time, we are unable to issue the Certification for the Devil's Gate Project, as proposed, because we cannot conclude that impacts to waters of the United States have been appropriately avoided and minimized and that the project would not result in an unacceptable degradation of water quality. Therefore, I hereby deny your application without prejudice pursuant to §3859(d) of Title 23 of the California Code of Regulations (23 CCR) because it is inadequate.

As described in the application for the proposed Devil's Gate Project and in the response to the RFI, LACFCD is proposing to remove 1.6 million cubic yards of sediment, vegetation and debris from a 50-acre area within the Devil's Gate Reservoir, in the City of Pasadena. The application and supporting documents indicate that the sediment removal activities are required to provide proper function of the flood control system in accordance with its original design in order to protect public safety. The 2009 Station Fires caused significant erosion and contributed significant sediment loading within the Devil's Gate Reservoir basin and resulted in diminished

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flood control capacity. Additional considerations associated with required sediment removal activities include limited capacity at sediment placement sites; truck traffic; and potential environmental impacts of maintenance projects.

In our review of your application and the additional materials, we do not find that the potential significant impacts have been minimized to the fullest degree possible and we do not find an analysis of alternatives, which should include alternatives in terms the overall size of the project (the volume of materials to be removed and the acreage impacted) and the timing and staging of the impact. Alternatives need to be identified and adequately analyzed for a project, such as the one proposed, to proceed. Mitigation for unavoidable impacts can be considered when the most appropriate alternative has been identified.

Before a CWA Section 401 Certification can be issued for the proposed Devil's Gate Project, you must demonstrate that appropriate alternatives, in terms of the amount of material to be removed and in terms of the timing or phasing of the removal of materials, were considered. These alternatives should include as a minimum:

- 1) LACFCD shall identify cleanout alternatives sufficient to protect public safety other than 'return to design capacity.'

LACFCD has proposed a "total cleanout" to bring the project back to its original design contours which were developed when the reservoir was constructed. Based on past cleanout history for this basin, LACFCD has removed sediment from the reservoir in this manner approximately every ten to fifteen years and then the reservoir has been allowed to fill and provide riparian habitat.

We anticipate that the 'total cleanout' alternative will then permit LACFD to not conduct work in this basin for the next ten to fifteen years. The Regional Board is not aware of other plans for the long-term maintenance of this basin.

LACFCD shall identify the immediate, public safety, capacity need which allows proper function of the flood control system and the corresponding sediment removal need. With this basis, LACFCD shall then develop an alternative(s) for this amount of sediment removal. Alternatives may include a long-term maintenance plan or only the short-term plan allowing for the long-term plan to be developed at a later date.

- 2) LACFCD shall identify cleanout alternatives which would minimize the 50-acre impact and identify alternatives for phasing the project to minimize impacts over time.

Given a 1.6 million cubic yards removal and the associated 50 acres of habitat loss (or other amount as identified, above), LACFD shall identify alternatives which include lesser initial

volumes but repeated cleanouts over several periods including two years and five years. LACFCD shall analyze these alternatives for cumulative impacts to habitat and affected species using the habitat.

When considering the alternatives, the evaluations should analyze all significant impacts including the potential environmental impacts including permanent or temporary loss of habitat, and potential for erosion. The final analysis should include the rationale for the determination that the proposed project is the most appropriate design for this project which meets project needs and that there are not other, more appropriate, project designs which avoid or minimize impacts to waterways while also meeting project needs.

In addition, as acknowledged in your letter of December 30, 2010, the issuance of a CWA Section 401 certification will await complete fees, final CEQA determination, and a detailed compensatory mitigation plan,

You may choose to revise or submit any pertinent updated information in the future. Additional fees may be required, pursuant to 23 CCR §3833(4), if the revised application is not filed within twelve months of the date of this action; the revised application does not correct the procedural problems which led to this denial without prejudice; or the project has changed significantly in scope or its potential for adverse impact.

We remain committed to working with LACFCD to develop the best short-term and long-term plans for this Dam and Reservoir, and for the other reservoirs in this region.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Section 401 Program, at (213) 576-6759 or LB Nye at (213) 576-6785.

Sincerely,



Samuel Unger, P.E.
Executive Officer

cc:

Michael D. Antonovich, Los Angeles County Supervisor
Bill Orme, State Water Resources Control Board
Eric Raffini, US Environmental Protection Agency
Cherry Oo (File No. 2010-00833-CO), US Army Corps of Engineers
Sarah Rains, California Department of Fish and Game
Kelly Schmoker, California Department of Fish and Game

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