

State of California
California Regional Water Quality Control Board
Santa Ana Region

December 2, 2022

STAFF REPORT

ITEM: *11

SUBJECT: IDI Logistics, LLC, PLC North On and Off Site Commercial Development Project, Perris and Riverside County, Order No. R8-2022-0069

DISCUSSION:

Under federal Clean Water Act (CWA) section 401, applicants for a federal permit or license for any activity that may result in a discharge to WOTUS must obtain a state Water Quality Certification (Certification) that the proposed activity will comply with state water quality standards.

Most Certifications are issued in connection with U.S. Army Corps of Engineers (USACE) CWA section 404 permits for dredged and fill material discharges. The State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards) (collectively, Water Boards) administer the Certification program in accordance with the requirements of California Code of Regulations title 23, section 3830 et seq. Since November 2003, Certifications have been issued by the Executive Officer accompanied by authorization to discharge in accordance with State Water Board Order No. 2003-0017-DWQ, ("Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that Have Received State Water Quality Certification").

Due to the scope of the federal regulatory definition of waters of the United States (WOTUS), not all discharge activities are considered to be discharges of dredged or fill material to WOTUS and therefore do not require Certification under CWA section 401. However, to the extent that discharges of dredged and fill material are to non-federal waters of the state (WOTS), the Water Boards retain their permitting authority to regulate these discharges under the Porter-Cologne Water Quality Control Act, Water Code section 13000 et seq. Permitting occurs in the form of Waste Discharge Requirements (WDRs) prescribed pursuant to Water Code section 13263, subdivision (a).

The Discharger is seeking a CWA section 404 permit from the USACE under Nationwide Permit Number 14, Linear Transportation Projects, and Nationwide Permit

Number 39, Commercial and Institutional Developments for Project impacts to WOTUS. The Project also includes impacts to non-federal WOTS.

The Project consists of constructing a warehouse building to satisfy the commercial needs of the City of Perris. The other components of the Project would include construction of an industrial track, detention basin, drainage channel, and reconstruction of Case Road Bridge as well as replacement of sewer line and providing offsite roadway improvements.

The Project site contains several agricultural ditches and roadside drainage features that flow only in direct response to precipitation and/or irrigation. These features convey surface flow and/or exhibit wetland characteristics with the potential to support beneficial uses as drain toward San Jacinto River. The WOTS at the Project site includes the San Jacinto River (and its adjacent terrace wetlands), Drainage A, several ephemeral drainage features (Case Road Ditch North, Case Road Ditch South, Ditches A, B, E, G, and Ellis/Case Road Ditch) and a ponded area that occurs along Ellis Avenue. Among these waters, the San Jacinto River (and its adjacent terrace wetlands) and Drainage A are jurisdictional WOTUS. The Project would result in permanent loss of 0.88 acre (6,691 linear feet) of WOTS, of which 0.20 acre consist of wetland and 0.68 acre consist of non-wetland WOTS. Of the 0.88 acre of total impacts to WOTS, 0.15-acre (576 linear feet) impacts would be subjected to WOTUS (0.12 acre is wetland and 0.03 acre is non-wetland WOTUS). There would be no temporary impacts to WOTUS/WOTS associated with the Project.

The Discharger proposes to provide compensatory mitigation for permanent impacts to 0.88 acre of federal and non-federal WOTS through purchase of 0.88 acre of rehabilitation credits and 0.88 acre of re-establishment credits (totaling 1.76 acres at 2:1 mitigation to impact ratio) at the Riverpark Mitigation Bank.

The Project activities must implement best management practices (BMPs) to control and prevent discharges, such as sediment from erosion of soil surfaces and other pollutants that could impact surface waters. The Discharger proposes that BMPs would be implemented as part of the stormwater pollution prevention measures in accordance with appropriate stormwater permit requirements.

For further information on the proposed Project, please contact Santa Ana Water Board staff Hossein Shahrokhnia at hossein.shahrokhnia@waterboards.ca.gov.

RECOMMENDATION:

Adopt Order No. R8-2022-0069 as presented.

State of California
California Regional Water Quality Control Board
Santa Ana Region

Order No. R8-2022-0069

Waste Discharge Requirements and Clean Water Act
Section 401 Water Quality Certification
for
IDI Logistics, LLC
PLC North On and Off Site Commercial Development Project
City of Perris, Riverside County

Findings

The California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board), finds that:

1. This Order prescribes Waste Discharge Requirements (WDRs) and serves as a Clean Water Act (CWA) section 401 Water Quality Certification (Certification) for the PLC North On and Off Site Commercial Development Project (Project) of IDI Logistics, LLC (Discharger).
2. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the operative Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) and other plans and policies. The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the state (WOTS), water quality objectives (WQOs) to protect those uses, and the state and federal antidegradation policies.
3. The Santa Ana Water Board has the authority to regulate the discharge of dredged and fill materials through the issuance of WDRs pursuant to Water Code section 13263. The Santa Ana Water Board has determined that WDRs are necessary to adequately address the Project's potential impacts on the beneficial uses of WOTS.
4. This Order regulates the discharge of fill material to WOTS, including waters of the United States (WOTUS). As a result of the discharge of fill to WOTUS, this Order also serves as a CWA Certification for federal permitting for the Project by the U.S. Army Corps of Engineers (USACE) under Nationwide Permit Number 14, Linear Transportation Projects, and Nationwide Permit Number 39, Commercial and Institutional Developments.

5. This Order is also issued in compliance with the State Water Resources Control Board's (State Water Board) *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures), which was adopted on April 2, 2019, became on effective May 28, 2020, and was revised April 6, 2021.
6. On December 23, 2021, Glenn Lukos Associates, on behalf of the Discharger, submitted an Application for Discharges of Dredged or Fill Material to WOTS for the Project, which was assigned Santa Ana Water Board WDID No. 332021-26.
7. An application fee of \$2,417.00 was received on January 18, 2022. The fee amount was determined as per California Code of Regulations title 23 (Title 23), sections 3833(b)(3) and 2200(a)(3) and was calculated as A - Fill and Excavation Discharge (fee code 84) with the dredge and fill fee calculator. An additional fee of \$16,542 based on total Project impacts was received on October 26, 2022.
8. The Application was considered complete on January 22, 2022.
9. The Project consists of constructing a warehouse building to satisfy the commercial needs of the City of Perris. The other components of the Project would include construction of an industrial track, detention basin, drainage channel, reconstruction of Case Road Bridge as well as replacement of sewer line and providing offsite roadway improvements.
10. The Project site is located within the City of Perris in Riverside County (33.776036° N, -117.214863° W). The Project site is comprised of several Assessor's Parcel Numbers (APNs) 310-170-006, 310-170-007, 310-170-008, 310-220-050, 310-220-053, 310-220-028, 327-020-013, 330-090-027. It includes a parcel of land north of Ellis Avenue and various portions of Case Road extending south of East G Street to west of the Interstate (I)-215 Freeway, Ellis Avenue extending east of Goetz Road to the San Jacinto River, and South Redlands Avenue extending south of East 4th Street to Ellis Avenue. Maps showing the Project location are found in Attachment A of this Order.
11. The Project site contains a total of 1.51 acres of WOTUS/WOTS consisting of several agricultural ditches and roadside drainage features that flow only in direct response to precipitation and/or irrigation. These features convey surface flow and/or exhibit wetland characteristics with the potential to support beneficial uses and drain toward San Jacinto River. The WOTS on the Project site include the San Jacinto River (and its adjacent terrace wetlands). The San Jacinto River enters the Project site from the northeast boundary and extends in a southwestern direction approximately 903 linear feet before existing the Project

site. Other WOTS include Drainage A, several ephemeral drainage features (identified as Case Road Ditch North, Case Road Ditch South, Ditches A, B, E, G, and Ellis/Case Road Ditch) and a ponded area that occurs along Ellis Avenue. The San Jacinto River (and its adjacent terrace wetlands) and Drainage A are jurisdictional WOTUS.

12. The Project would result in a permanent loss of 0.88 acre (6,691 linear feet) of WOTS, of which 0.20 acre consist of wetland and 0.68 acre consist of non-wetland WOTS. Of the 0.88 acre of total impacts to WOTS, 0.15-acre (576 linear feet) impacts would be subject to USACE jurisdiction and are considered WOTUS (0.12 acre wetland and 0.03 acre non-wetland WOTUS). There would be no temporary impacts to WOTUS/WOTS impacts associated with the Project.
13. The Project site is within the Perris Valley Hydrologic sub area and comprised of several ephemeral ditches and intermittent tributary to the San Jacinto River. San Jacinto River, Reach 3, has existing beneficial uses – Rare, Threatened, or Endangered Species (RARE) and the following designated intermittent beneficial uses – Agricultural Supply (AGR), Groundwater Recharge (GWR), Water Contact Recreation (REC1), Non-contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Wildlife habitat (WILD).
14. The Discharger proposes to provide compensatory mitigation for permanent impacts to 0.88 acre of WOTS through purchase of 0.88 acre of rehabilitation credits and 0.88 acre of re-establishment credits (totaling 1.76 acres at 2:1 mitigation to impact ratio) at the Riverpark Mitigation Bank.
15. This Order is adopted pursuant to Water Code section 13263, subdivision (a), which provides that the Santa Ana Water Board may, after any necessary hearing, prescribe requirements (WDRs) as to the nature of any proposed discharge with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The WDRs must implement any relevant water quality control plans that have been adopted and take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Water Code section 13241.
16. This Order is further issued in part pursuant to CWA section 401 (33 U.S.C § 1341). Specifically, this Order certifies that any discharge from the referenced Project will comply with the applicable provisions of CWA section 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), as long as all of the conditions in this Order are met.

17. This Order is also adopted pursuant to Water Code section 13267, subdivision (b)(1) which authorizes the Santa Ana Water Board to require technical and monitoring program reports, submitted under penalty of perjury, from persons discharging or proposing to discharge waste within the Santa Ana Region, in connection with the issuance of WDRs. This Order incorporate requirements for water quality monitoring and Project reporting, which are necessary to ensure that the discharge of dredged and fill material complies with WDRs and is protective of the environment. In accordance with Water Code section 13267, the burden, including costs, of generating these reports bears a reasonable relationship to the need for the report and the benefits to be obtained from them.
18. On July 13, 2010, the City of Perris, as the lead agency under the California Environmental Protection Act (CEQA; Public Resources Code, § 21000 et seq.) certified an Environmental Impact Report (EIR) for the Project (State Clearinghouse No. 2008071060). The City of Perris filed a Notice of Determination (NOD) with the State Clearinghouse and Clerk of Board Supervisors Riverside County on July 19, 2010. Subsequently, on June 9, 2020, the City of Perris approved an Addendum to the EIR and filed an NOD on June 11, 2020. On July 29, 2021 and on August 31, 2021, the City of Perris filed NODs with the State Clearinghouse and Clerk of Board Supervisors of Riverside County concerning determinations that additional changes to the Project did not require supplemental or subsequent CEQA analysis.
19. The Santa Ana Water Board is a responsible agency under CEQA for the purposes of issuing this Order. As a responsible agency, the Santa Ana Water Board “responsible for considering only the effects of those activities involved in a project which it is required by law to carry out or approve.” (Public Resources Code, § 21002.1, subd. (d).) In approving this Order, the Santa Ana Water Board has considered the EIR certified by the City of Perris, as well as the Addendum and later CEQA analyses approved by the City of Perris, and subsequent information provided by the Discharger. More specifically, the Santa Ana Water Board considered those sections of the EIR and Addendum pertaining to impacts to water quality. The Santa Ana Water Board finds that compliance with the mitigation measures in the lead agency’s mitigation monitoring and reporting program (MMRP) and the conditions in this Order will reduce potentially adverse impacts to water quality to a less-than-significant level and protect beneficial uses of receiving waters.
20. The Santa Ana Water Board has considered the federal and state antidegradation policies (State Water Board Resolution No. 68-16 and 40 C.F.R

§ 131.12) and finds that the discharge permitted under this Order is consistent with those policies. Filling wetlands, riparian areas, headwaters, and other waters causes partial or complete loss of the beneficial uses provided by those waters. This Order requires that impacts to federal and non-federal WOTS be mitigated through avoidance and minimization to the maximum extent practicable and that unavoidable loss of beneficial uses is offset with compensatory mitigation, including the restoration (reestablishment or rehabilitation), establishment (creation), enhancement, and/or preservation of other WOTS. The mitigation requirements in this Order comply with the State Water Board's Dredge or Fill Procedures and the United States Environmental Protection Agency's Clean Water Act section 404(b)(1) Guidelines.

21. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, section 2050 et seq. Additionally, the Santa Ana Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Discharger, if the Santa Ana Water Board determines that the Project fails to comply with any of the conditions of this Order; or when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C § 1313).
22. The provisions of this Order are severable and, if any provision of this Order or the application of any provisions of this Order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.
23. The filing of a request by the Discharger for modification, revocation and re-issuance, or termination of this Order or a notification of planned changes or anticipated noncompliance does not stay any requirements of this Order.
24. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the discharger from liabilities under federal, state, or local laws, nor guarantee the Discharger a capacity right in the receiving waters.
25. This Order does not convey any property rights of any sort, or any exclusive privilege. The ability to discharge waste is a privilege, not a right; nothing in in this Order shall create a vested right to continue any discharges authorized herein, which are subject to rescission or modification. (Wat. Code, § 13263, subd. (g).)

26. The Santa Ana Water Board has notified the Discharger and other interested agencies and persons of its intent to prescribe WDRs for the discharge and has provided them with an opportunity for a public hearing and to submit comments. The Santa Ana Water Board, in a public meeting, heard and considered all comments pertaining to this discharge.

Requirements

IT IS HEREBY ORDERED that the Discharger, in order to meet the provisions contained in Water Code section 13000 et seq. and regulations adopted thereunder, shall comply with the following:

A. Discharge Specifications

1. No activities associated with the Project shall cause or threaten to cause a condition of nuisance, contamination or pollution as defined in Water Code section 13050.
2. The groundwater in the vicinity of the Project shall not be degraded as a result of the Project activities or placement of fill for the Project.
3. The Discharger must, as applicable, obtain coverage under and comply with the State Water Board's *NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Order No. 2009-0009-DWQ, as amended by Order No. 2012-0006-DWQ; NPDES No. CAS000002) and any subsequent amendments (Construction General Permit). If the Project construction activities do not require coverage under the Construction General Permit, the Discharger must develop and implement a runoff management plan or equivalent construction best management practices (BMP) plan, to prevent the discharge of sediment and other pollutants during construction activities.
4. The Discharger shall comply with the local regulations associated with the Santa Ana Water Board's Municipal Stormwater Permit issued to Riverside County and co-permittees under NPDES No. CAS618033 and WDRs Order No. R8-2010-0033, and subsequent iterations thereof.
5. If construction dewatering discharges, including temporary stream diversions, are necessary to carry out the Project, the Discharger shall enroll and comply with Santa Ana Water Board Order No. R8-2020-0006, *General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimis) Threat to Water Quality*.

6. The discharge of fill materials shall be limited to the placement of native fill and "inert waste", as defined in California Code of Regulations title 27, section 20230. The discharge of fill material other than native soil is prohibited.
7. Construction and post-construction BMPs shall be implemented.
8. The Discharger shall restore areas of temporary disturbance which could result in a discharge to WOTS. Restoration must include grading of disturbed areas to pre-Project contours to the extent feasible and revegetation with native species.

B. Discharge Prohibitions

1. The permanent impacts to WOTUS and non-federal WOTS shall not exceed quantities identified in Finding 12.
2. The discharge of waste, in a manner or location other than as described in the Application or findings of this Order, or for which valid WDRS are not in force, is prohibited.
3. Except for authorized fill discharges to WOTS, the direct discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid or liquid wastes, into channels, surface waters, or any place where they would contact or be eventually transported to surface waters, including flood plains, is prohibited.
4. The discharge of oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
5. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
6. Discharges to surface waters of wastes or pollutants that are not authorized by this Order or regulated by a separate permit are prohibited.
7. During the grading and filling operation, there shall be no onsite fueling, lubrication, changing of oil or other equipment fluids and their filters, or any other maintenance or storage of construction equipment within or next to drainage areas or other surface runoff conveyances.

C. Mitigation Requirements

1. Compensatory mitigation by the Discharger is required to offset unavoidable permanent impacts from the Project to WOTUS and non-federal WOTS. Prior to discharging fill material, the Discharger shall submit to the Santa Ana Water Board the receipt of the purchase of 1.76 acres of rehabilitation and/or re-establishment credits at the Riverpark Mitigation Bank.
2. If mitigation credits do not become available in a timely manner at Riverpark Mitigation Bank, the Discharger may obtain Santa Ana Water Board Executive Officer's written approval for the choice of another mitigation bank, and if needed, adjust the mitigation ratio and credit type consistent with the bank conditions to adequately offset the Project impacts. In no case shall the mitigation to impacts ratio be less than 2:1.
3. The Discharger shall retain responsibility for providing compensatory mitigation until the Santa Ana Water Board has received documentation of the credit purchase.
4. Until mitigation credits become available at Riverpark Mitigation Bank or use of another mitigation bank is approved by the Executive Officer, the Discharger shall provide a financial security for compensatory mitigation in the form of an irrevocable Letter of Credit (LOC) acceptable to Santa Ana Water Board as described below:
 - a. An irrevocable LOC shall be obtained for the amount to perform all compensatory mitigation pursuant to this Order.
 - b. The amount of the LOC shall be based on a cost estimate that shall be submitted to Santa Ana Water Board for approval 30 days prior to commencing Project activities.
 - c. The Discharger shall provide a draft copy of the LOC to Santa Ana Water Board for review and approval 30 days prior to execution. The LOC shall not be executed without Santa Ana Water Board's prior approval.
 - d. The final executed LOC shall be submitted to Santa Ana Water Board 15 days prior to commencing Project activities.
 - e. Upon execution of the LOC, the Discharger shall provide the original and one copy of the executed document to Santa Ana Water Board.
 - f. In the event that the LOC will expire and not be renewed before the compensatory mitigation obligations have been met, the Discharger shall be responsible for providing Santa Ana Water Board a new LOC

to replace the existing LOC at least 60 days prior to the expiration date.

D. Provisions

1. The Discharger shall maintain a copy of this Order at the Project site so that it is always available to site operating personnel. Key operating personnel shall be familiar with the Order's content.
2. The Discharger shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.
3. This Order is not transferable to any person without written approval by the Santa Ana Water Board's Executive Officer. Prior to any change in ownership, the Discharger shall notify the Santa Ana Water Board's Executive Officer in writing at least 30 days in advance. The notice must include a written transfer agreement between the existing owner and the new owner. At a minimum, the transfer agreement must contain a specific date for transfer of responsibility for compliance with this Order and an acknowledgment that the new owner or operator is liable for compliance with this Order from the date of transfer. The Santa Ana Water Board may require modification or revocation and reissuance of this Order to change the name of the Discharger and incorporate other requirements as may be necessary under the Water Code.
4. The Discharger shall submit an annual report each year on the anniversary of this Order. Annual reporting shall continue until a *Notice of Project Complete Letter* is issued to the Discharger. The contents of the annual report shall include a construction summary, Project status and schedule (including ground disturbance, site clearing and grubbing, and site construction), and the implementation status of Best Management Practices during the active discharge period. If the Project has not started, the Discharger shall provide an estimated start date and reasons for delay.
5. The Discharger shall submit a *Commencement of Construction Report* at least seven days prior to start of initial ground disturbance activities.
6. The Discharger shall submit a *Request for Notice of Completion of Discharges Letter* following completion of active Project construction activities, including any required restoration and Discharger-responsible mitigation. This request shall be submitted to the Santa Ana Water Board staff within thirty days following completion of all Project construction activities. Upon acceptance of the request, Santa Ana Water Board staff will issue to

- the discharger a *Notice of Completion of Discharges Letter*, which will end the active discharge period and, if appropriate, associated annual fees.
7. The Discharger shall submit a *Request for Notice of Project Complete Letter* when construction and any required post-construction monitoring is complete and no further Project activities will occur. This request shall be submitted to Santa Ana Water Board staff within thirty days following completion of all Project activities. Upon approval of the request, the Santa Ana Water Board staff will issue to the Discharger a *Notice of Project Complete Letter*, which will end the post discharge monitoring period and associated annual fees.
 8. The Discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. Records may be maintained electronically. This period may be extended during the course of any unresolved enforcement action or litigation regarding this discharge or when requested by the Santa Ana Water Board.
 9. The Discharger shall report any noncompliance that may endanger human health or the environment. Information shall be provided orally to the Santa Ana Water Board office and the Office of Emergency Services within twenty-four (24) hours of when the Discharger becomes aware of the incident. If noncompliance occurs outside of business hours, the Discharger shall leave a message on the Santa Ana Water Board's office voicemail. A written report shall also be provided within five business days of the time the Discharger becomes aware of the incident. The written report shall contain a description of the noncompliance and its cause, the period of noncompliance, the anticipated time to achieve full compliance, and the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 10. The Discharger shall allow the Santa Ana Water Board, or an authorized representative, upon presentation of credentials and other documents as may be required by law to:
 - a. Enter premises where a regulated facility or activity is located or conducted, or where records are kept under the requirements of this Order;
 - b. Access and copy any records that are kept under the requirements of this Order;

- c. Inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
 - d. Photograph, sample, or monitor for the purpose of assuring compliance with this Order or as otherwise authorized by the Water Code.
11. This Order becomes effective on the date of adoption by the Santa Ana Water Board.
12. This Order will remain valid for five years from the date of its adoption. The Discharger must file a new dredge and fill application in accordance with California Code of Regulations title 23, division 3, chapter 9 no later than 180 days in advance of this expiration date. The application, with filing fee, will be discussed between the Discharger and Santa Ana Water Board staff regarding any need for additional information and changes in fees prior to the issuance of new WDRs.

Any person aggrieved by this Santa Ana Water Board action may petition the State Water Board for review in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5:00 p.m. on the 30th day after the date of this Order; if the 30th day falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the statutes and regulations applicable to filing petitions are available on the State Water Board's website and can be provided upon request.

Attachments:

Attachment A – Maps

Attachment B – Reports and Notifications

Attachment C – Signatory Requirements

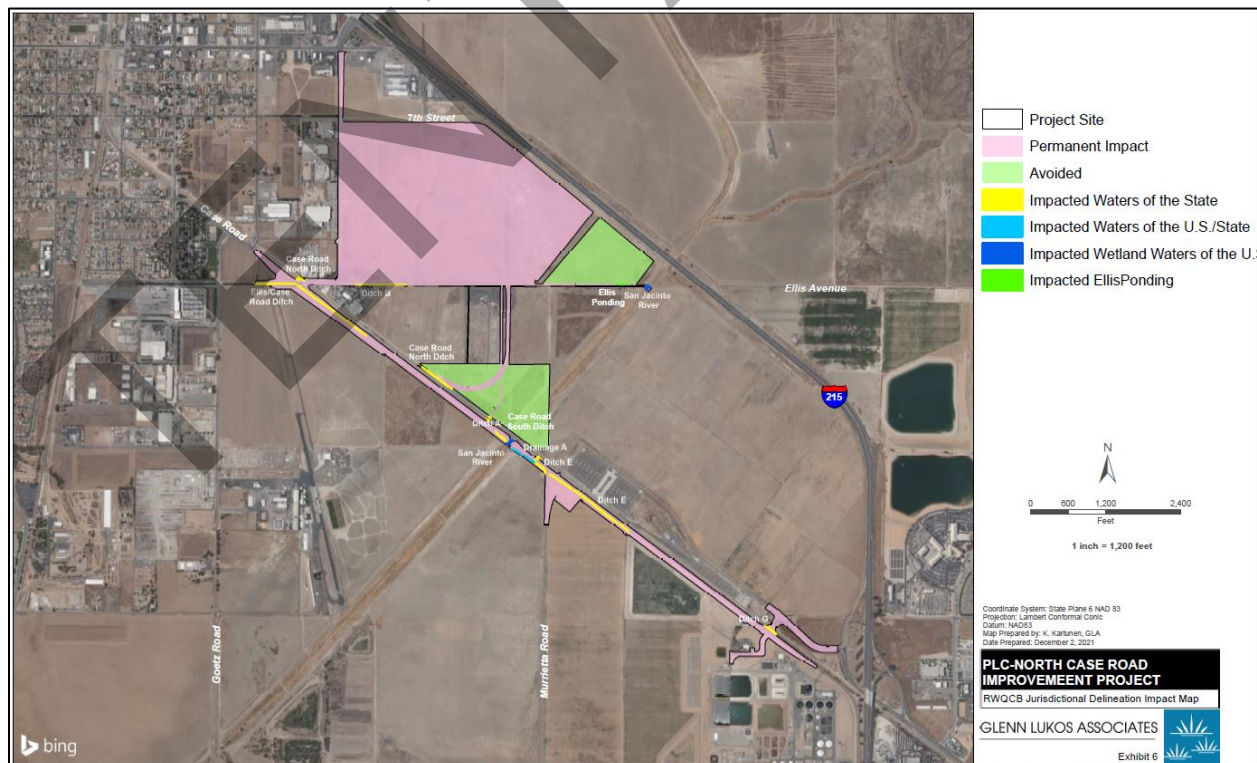
Attachment D – Compliance with Code of Federal Regulations

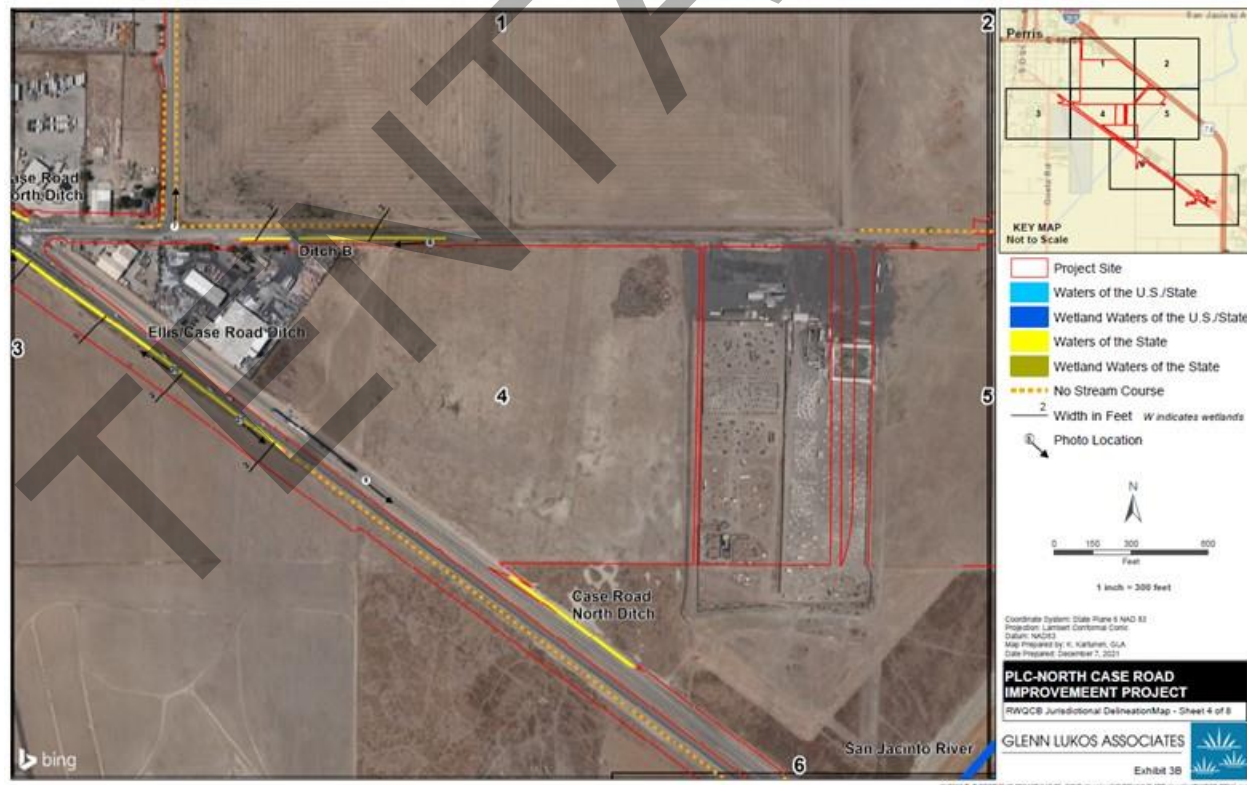
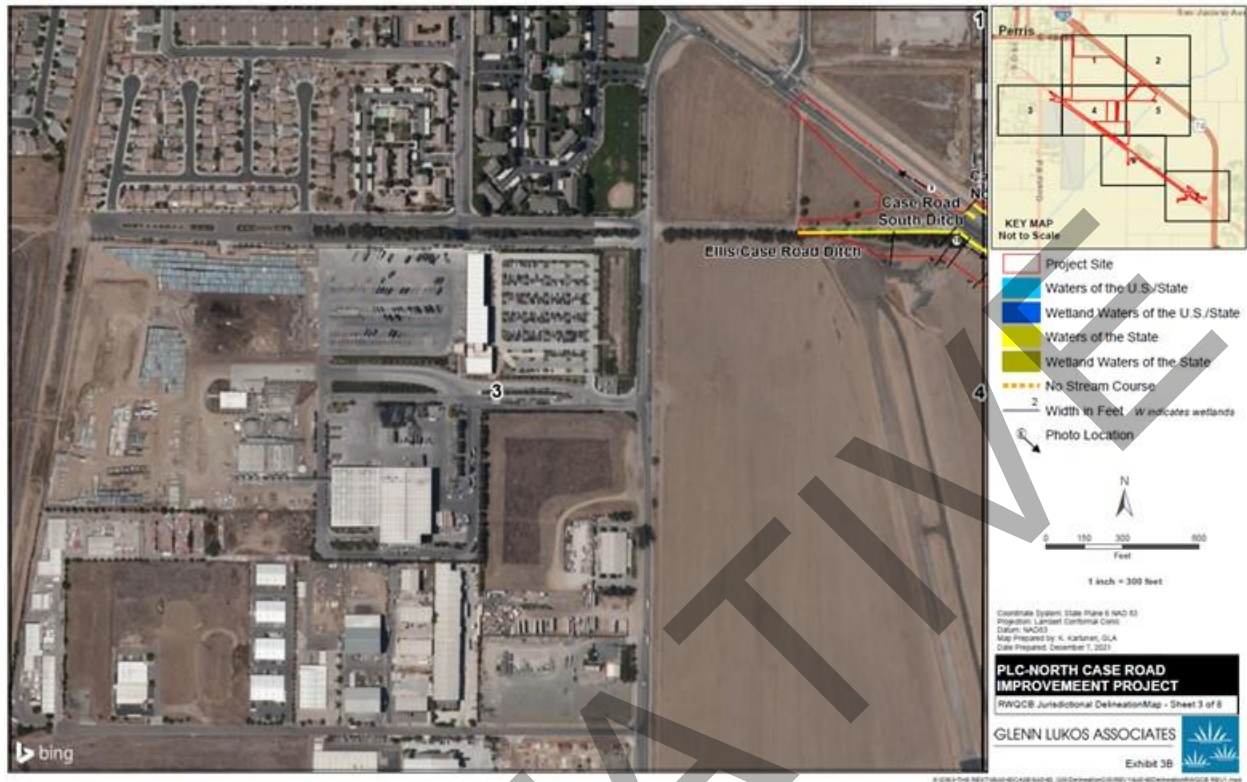
I, Jayne Joy, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on December 2, 2022.

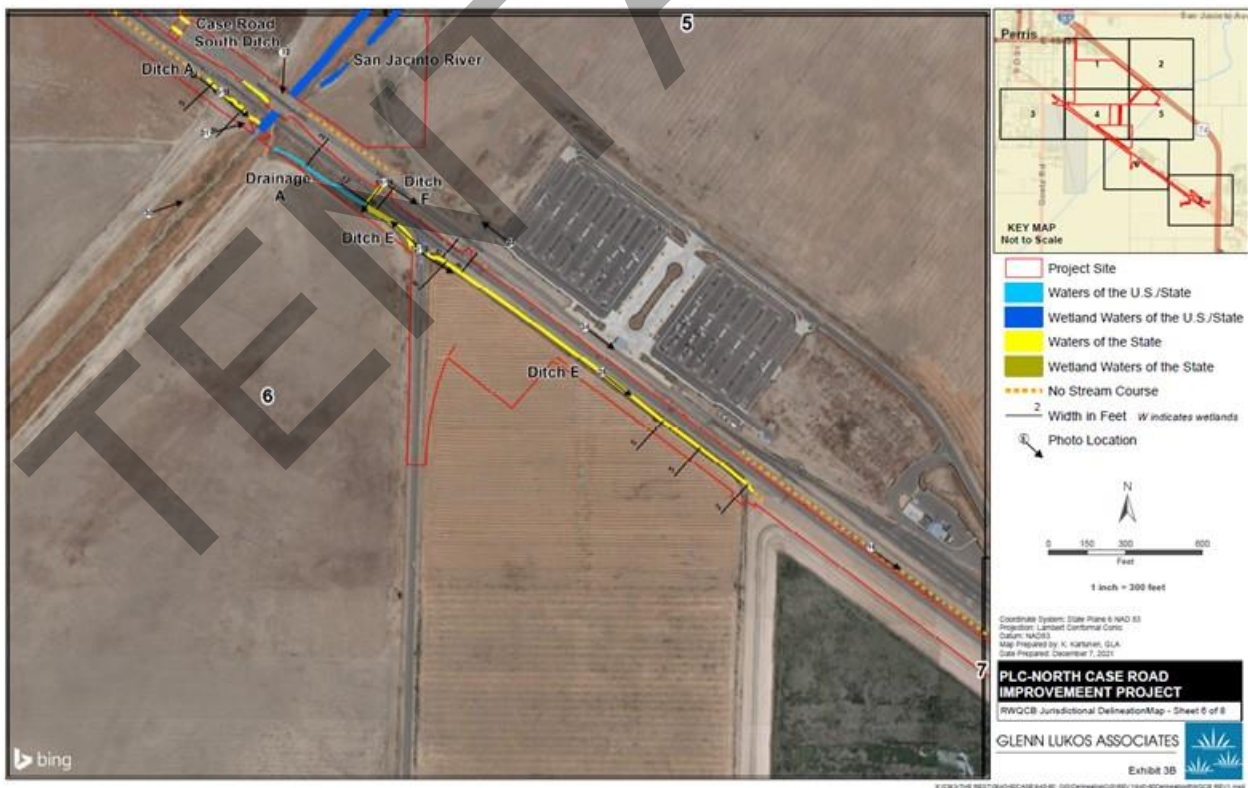
JAYNE JOY, P.E.
Executive Officer

TENTATIVE

Maps









Copies of this Form

In order to identify your Project, it is necessary to include a copy of the Project-specific Report and Notification Cover Sheet below with your report (see page 3). Please retain a copy for your records.

Report Submittal Instructions

- 1) Check the box on the *Report and Notification Cover Sheet* next to the report or notification you are submitting.
 - a) Part A (Annual Report): Submitted annually from the anniversary of the Project effective date until a Notice of Project Complete Letter is issued.
 - b) Part B (Project Status Notifications): Used to notify the Santa Ana Water Board of the status of the Project schedule that may affect Project billing.
- 2) Sign the *Report and Notification Cover Sheet* and attach all information requested for the Report Type.
- 3) Electronic Report Submittal Instructions:
 - a) Submit signed *Report and Notification Cover Sheet* and required information via email to: RB8-401Reporting@waterboards.ca.gov
 - b) Include in the subject line of the email: Order R8 2022-0069 and Report Type Name

Definition of Reporting Terms

- 1) **Active Discharge Period:** The active discharge period begins with the effective date of this Order and ends on the date that the Discharger receives a Notice of Completion of Discharges Letter or, if no post-construction monitoring is required, a Notice of Project Complete Letter. The Active Discharge Period includes all elements of the Project, including site construction and restoration, and any Discharger-responsible compensatory mitigation construction.
- 2) **Request for Notice of Completion of Discharges Letter:** This request by the Discharger to the Santa Ana Water Board staff pertains to projects that have post construction monitoring requirements (e.g., if site restoration were required to be monitored for five (5) years following construction). Santa Ana Water Board staff will review the request and send a Completion of Discharges Letter to the Discharger upon approval. This letter will initiate the post-discharge monitoring period and a change in fees from the annual active discharge fee to the annual post-discharge monitoring fee.

Definition of Reporting Terms

- 3) **Request for Notice of Project Complete Letter:** This request by the Discharger to the Santa Ana Water Board staff pertains to projects that either have completed post-construction monitoring and achieved performance standards, or have no post-construction monitoring requirements and no further Project activities are planned. Santa Ana Water Board staff will review the request and send a Project Complete Letter to the Discharger upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.

Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

1. **Map Format Information:**

Preferred map formats of at least 1:24000 (1" = 2000') detail (listed in order of preference):

- **GIS shapefiles:** The shapefiles shall depict the boundaries of all Project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and, if possible, provide map with a North American Datum of 1983 (NAD83) in the California Teale Albers projection in feet.
- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5-minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

2. **Photo-Documentation:** Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map

Map/Photo Documentation Information
indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post-construction conditions.

Report and Notification Cover Sheet
Project: PLC North On and Off Site Commercial Development Project
Discharger: IDI Logistics, LLC
Order No.: R8-2022-0069
Order Effective Date: December 2, 2022

Report Type Submitted
<input type="checkbox"/> Report Type 1: Annual Report
<input type="checkbox"/> Report Type 2: Commencement of Construction Report
<input type="checkbox"/> Report Type 3: Request for Notice of Completion Discharges Letter
<input type="checkbox"/> Report Type 4: Request for Notice of Project Complete Letter
<input type="checkbox"/> Report Type 5: Transfer of Property Ownership Report

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)

I hereby authorize _____ to act in my behalf as my representative in the submittal of this report, and to furnish upon request supplemental information in support of this submittal.



UNCLASSIFIED

Report Type 1	Annual Report
Purpose:	Notify the Santa Ana Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
When to Submit:	Annual reports shall be submitted each year by the effective date. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Discharger.
Report Contents:	<p>Part A:</p> <ol style="list-style-type: none">1. Project progress and schedule, including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water BMPs. If construction has not started, provide estimated start date and reasons for delay. <p>Part B:</p> <ol style="list-style-type: none">1. Planned date of initiation of compensatory mitigation site installation.2. If installation is in progress, a map of what has been completed to date.3. If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.4. Mitigation Bank or In-Lieu Fee (ILF)5. Status or proof of purchase of credit types and quantities.6. Include the name of bank/ILF Program and contact information.

Report Type 2	Commencement of Construction
Purpose:	Notify the Santa Ana Water Board staff prior to the start of construction.
When to Submit:	Must be received at least seven (7) days to start of initial ground disturbance activities.
Report Contents:	<ol style="list-style-type: none">1. Date of commencement of construction.2. Anticipated date when discharges to waters of the State will occur.3. Project schedule milestones, including a schedule for onsite compensatory mitigation, if applicable.

Report Type 3	Request for Notice of Completion of Discharger Letter
Purpose:	Notify Santa Ana Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and Discharger-responsible compensatory mitigation, is complete.
When to Submit:	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project activities.
Report Contents:	<ol style="list-style-type: none">1. Status of storm water Notice of Termination(s), if applicable.2. Status of post-construction storm water BMP installation.3. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.4. Summary of Deviation discharge quantities compared to initial authorized impacts to waters of the State, if applicable.5. An updated monitoring schedule for mitigation for temporary impacts to waters of the State and Discharger-responsible compensatory mitigation during the post-discharge monitoring period, if applicable.

IDI Logistics, LLC

PLC North On and Off Site Commercial Development Project

Attachment B

Report Type 4	Request for Notice of Project Complete Letter
Purpose:	Notify Santa Ana Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
When to Submit:	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project activities.
Report Contents:	<p>Part A: Mitigation for Temporary Impacts (if applicable)</p> <ol style="list-style-type: none">1. A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance that could result in a discharge to waters of the State.2. A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the State. Pre- and post-photo documentation of all restoration sites. <p>Part B: Discharger-Responsible Compensatory Mitigation (if applicable)</p> <ol style="list-style-type: none">1. A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.2. Status on the implementation of the long-term maintenance and management plan and funding of endowment.3. Pre- and post-photo documentation of all compensatory mitigation sites.4. Final maps of all compensatory mitigation areas (including buffers).

Report Type 5	Transfer of Property Ownership
Purpose:	Notify Santa Ana Water staff of change in ownership of the Project or Discharger-responsible mitigation area.
When to Submit:	At least ten (10) working days prior to the transfer of ownership.
Report Contents:	<ol style="list-style-type: none">1. A statement that the Discharger has provided the purchaser with a copy of this Order and that the purchaser understands and accepts:<ul style="list-style-type: none">• the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and• responsibility for compliance with any long-term BMP maintenance plan requirements in this Order.2. A statement that the Discharger has informed the purchaser to submit a written request to the Santa Ana Water Board to be named as the Discharger in a revised order.

SIGNATORY REQUIREMENTS

All Documents Submitted In Compliance With This Order Shall Meet The Following Signatory Requirements

1. All applications, reports, or information submitted to the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) shall be signed and certified as follows:
 - a. For a corporation, by a responsible corporate officer of at least the level of vice-president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a State, federal, or other public agency, by either a principal executive officer or ranking elected official.
 2. A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
 - a. The authorization is made in writing by a person described in items 1.a through 1.c above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the Santa Ana Water Board staff contact prior to submitting any documents listed in item 1 above.
 3. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”
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Compliance with 40 Code of Federal Regulations section 121.7(d)

The purpose of Attachment D is to comply with 40 Code of Federal Regulations (CFR) section 121.7(d)(1), which requires an explanation of why a condition is necessary to assure that the authorized discharge will comply with water quality requirements and a citation to federal, state, or tribal law that authorizes the condition.

Attachment D includes citations to some sources of authority that are applicable to all conditions. These sources are specifically identified where they are most relevant but are also generally applicable to the conditions below. These conditions are generally required to comply with the California's Statement of Policy with respect to Maintaining High Quality of Waters in California ("Antidegradation Policy," State Water Resources Control Board [State Water Board] Resolution No. 68-16), which requires that for any "activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the State will be maintained." All Water Quality Control Plans adopted by the nine Regional Water Quality Control Boards and State Water Board (Water Boards) incorporate California's Antidegradation Policy by reference. The State Antidegradation Policy incorporates the federal Antidegradation Policy (40 CFR § 131.12), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected." According to the U.S. Environmental Protection Agency (U.S. EPA), dischargers of dredged or fill material comply with the federal Antidegradation Policy by complying with U.S. EPA's section 404(b)(1) Guidelines. The State Water Board adopted a modified version of U.S. EPA's section 404(b)(1) Guidelines, also referred to as the "State Supplemental Guidelines," in the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures).

The State Water Board adopted the Dredged or Fill Procedures on April 2, 2019, which became effective on May 28, 2020. The Dredged or Fill Procedures were adopted pursuant to the State Water Board's authority under Water Code section 13140 (State policy for water quality control) and section 13170 (water quality control plan), and accordingly have regulatory effect. Consistent with Government Code, section 11353, a clear and concise summary of the Dredged or Fill Procedures is available in California Code of Regulations, section 3013. Per the Dredged or Fill Procedures, the permitting authority may only approve a project if the demonstrations set forth in section IV.B.1 have been made. The information required by section IV.A is necessary to ensure compliance with section IV.B.1. Additionally, California Code of Regulations, title 23, chapter 28 also sets forth regulations pertaining to water quality certifications. Section 3856 sets forth

information that must be included in water quality certification requests and includes a description of steps that have or will be taken to avoid, minimize, and compensate for impacts to waters of the state/United States.

In addition, the conditions within the Order are generally required pursuant to the Santa Ana Regional Water Quality Control Board's (Santa Ana Water Board) Water Quality Control Plan for the Santa Ana River Basin (Basin Plan), and where applicable, statewide water quality control plans and policies including but not limited to the following, which were adopted and are periodically revised pursuant to Water Code section 13240: California Ocean Plan; California Thermal Plan; Enclosed Bays and Estuaries Plan; Inland Surface Waters, Enclosed Bays, and Estuaries (ISWEBE) Plan; Plan for California's Nonpoint Source Pollution Control Program; Statement of Policy with Respect to Maintaining High Quality of Waters in California; Cannabis Cultivation Policy; Water Quality Control Policy for the Enclosed Bays and Estuaries of California; Water Quality Control Policy for Addressing Impaired Waters; Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List; Municipal Solid Waste Policy; Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program; Recycled Water Policy; Supplemental Environmental Projects Policy (SEP); State of California Executive Order W-59-93 (Wetlands "No Net Loss" Policy); and Water Reclamation Policy. The Basin Plan and applicable Statewide plans and policies include water quality standards, which consist of existing and potential beneficial uses of waters of the State, water quality objectives to protect those uses, and the State and federal antidegradation policies. For instance, the Basin Plan, to ensure protection of beneficial uses, includes water quality objectives for oil and grease, pH, dissolved oxygen, temperature, toxic substances, solid, suspended, or settleable materials, floating material, turbidity, color, and taste and odor.

Furthermore, California Code of Regulations, title 23, chapter 28 also sets forth regulations pertaining to water quality certifications. Section 3856 sets forth information that must be included in water quality certification requests and includes a description of

steps that have or will be taken to avoid, minimize, and compensate for impacts to waters of the State.

Conditions

Authorization

Authorization under this Order is granted based on the Clean Water Act Section 401 Water Quality Certification Application (application) information submitted. Water Code section 13264 prohibits any discharge that is not specifically authorized in this Order.

Reporting and Notification Requirements

The reports confirm that the best management practices (BMPs) required under this Order are sufficient to protect beneficial uses and water quality objectives. Monitoring and reporting conditions are authorized because the Water Boards have the authority to investigate the quality of any waters of the State within its region under Water Code sections 13383 and 13267. The burden of preparing these reports, including costs, bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

Authorization under this Order is granted based on the application information submitted, including the legally responsible party. Conditions regarding transfers are necessary to confirm whether the new owner wishes to assume legal responsibility for compliance with this Order. If not, the original Permittee remains responsible for compliance with this Order. Confirmation is also necessary to determine whether liability for long-term BMP maintenance is accepted by another entity. If not, the original Permittee remains responsible for compliance with this Order. Water Code section 13264 prohibits any discharge that is not specifically authorized in this Order.

Mitigation Monitoring

Mitigation measures required to lessen the significance of impacts to water quality identified pursuant to California Environmental Quality Act review are implemented and enforceable. Pursuant to California Code of Regulations, title 14, section 15097, subdivision (a), a public agency shall adopt a program for monitoring and reporting on mitigation measures imposed to mitigate or avoid significant environmental effects to ensure implementation.

General Compliance

“Permitted actions shall not cause a violation of any applicable water quality standards ...” Permitted actions may not cause a violation of applicable water quality standards. This condition related to compliance with water quality objectives and

designated beneficial uses is required pursuant to the Santa Ana Water Board's Basin Plan and/or other applicable Statewide plans and policies. The Basin Plan's water quality standards consist of existing and potential beneficial uses of waters of the State, water quality objectives to protect those uses, and the State and federal antidegradation policies. The Antidegradation Policy requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the State, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the State will be maintained.

Applicable beneficial uses (Basin Plan, Chapter 3, Tables 3-1 and 3-2) and water quality objectives (Basin Plan, Chapter 4, Table 4-1) to protect those uses include the designated beneficial uses and water quality objectives for color (Basin Plan, pages 4-3, 4-14, and 4-23), floating materials (Basin Plan, pages 4-3 and 4-10), oil and grease (Basin Plan, pages 4-3, 4-14, and 4-24), dissolved oxygen (Basin Plan, pages 4-4 and 4-14), pH (Basin Plan, pages 4-4, 4-18, and 4-24), solid, suspended, and settleable material (Basin Plan, pages 4-5 and 4-19), taste and odor (Basin Plan, pages 4-4, 4-19, and 4-25), temperature (Basin Plan, pages 4-6 and 4-20), toxic substances (Basin Plan, pages 4-6, 4-20, and 4-26), and turbidity (Basin Plan, pages 4-6 and 4-20).

Administrative

“Signatory requirements for all document submittals...”

Conditions related to signatory requirements are also authorized by Water Code sections 13383 and 13267, which requires any person discharging waste that could affect the quality of waters to provide to the Water Boards, under penalty of perjury, any technical or monitoring program reports as required by the Water Boards. The signatory requirements are consistent with Title 40 CFR, section 122.22.

“The Permittee shall grant Santa Ana Water Board staff ...”

Conditions related to site access requirements are authorized pursuant to the Water Boards' authority to investigate the quality of any waters of the State within its region under Water Code sections 13383 and 13267. Water Code section 13267(c) provides that “the regional board may inspect the facilities of any person to ascertain whether the

purposes of this division are being met and waste discharge requirements are being complied with.”

“A copy of this Order shall be provided to any consultants, contractors, and subcontractors ...”

“A copy of this Order shall be available at the Project site(s) during construction...” These conditions require site personnel and agencies to be familiar with the content of the Order and mandate availability of the document at the Project site. This condition is required to assure that any authorized discharge will comply with the terms and conditions of the Order.

Best Management Practices (BMPs)

All the conditions related to BMPs are consistent with the Water Boards’ authority to establish, “[w]ater quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area” pursuant to Water Code section 13241(c). The activities authorized under this Order have the potential to result in a discharge that exceeds water quality objectives and work in waters of the State must not cause an exceedance of water quality objectives. As required by Water Code section 13369, all Water Quality Control Plans incentivize the use of BMPs to prevent prohibited discharges into waters of the State.

Dewatering

These conditions are required to assure that: 1) the discharge shall not adversely affect the beneficial uses of the receiving water or cause a condition of nuisance; 2) the discharge shall comply with all applicable water quality objectives; and 3) treatment and control of the discharge shall be implemented to assure that pollution and nuisance will not occur and the highest water quality is maintained. Accordingly, these conditions require implementation of best practicable treatments and controls to prevent pollution and nuisance and to maintain water quality. If surface waters or ponded waters were not to be diverted appropriately from areas undergoing grading, construction, excavation, and/or vegetation removal, the waters could be susceptible to erosion and increased sediment loads, contamination and pollution from construction equipment, temperature fluctuations, etc. Dewatered areas must also be stabilized prior to a rainfall event to assure that the discharge from the proposed Project will comply with water quality objectives established for surface waters.

Site Management

These conditions are necessary to prevent violation of State discharge prohibitions that protect water quality objectives. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to waters of the State in violation of water quality standards, including the floating material and toxic

substances. Water Code section 13264 prohibits any discharge that is not specifically authorized in this Order.

Hazardous Materials

These conditions are required pursuant to the Basin Plan (toxic substances objective, pages 4-6, 4-20, and 4-26) and the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP), which prohibit the discharge of substances in concentrations toxic to human, plant, animal, or aquatic life. Toxic compounds can impair the beneficial uses of cold freshwater habitat, estuarine habitat, marine habitat, preservation of rare and endangered species, fish migration, fish spawning, warm freshwater habitat, and wildlife habitat. Conditions related to toxic and hazardous materials are necessary to assure that discharges comply with any water quality objectives adopted or approved under sections 13170 or 13245 of the Water Code. Conditions related to concrete/cement are required, pursuant to the Basin Plan, to ensure that discharges to waters do not adversely raise or lower pH levels.

Stormwater

Conditions related to stormwater management are required to comply with the Basin Plan. Post-rain erosion and sedimentation problems can contribute to significant degradation of the waters of the State; therefore, it is necessary to take corrective action to eliminate such discharges to avoid or minimize such degradation. Implementation of control measures and BMPs described in the condition will assure compliance with water quality objectives, including floating material, temperature, suspended and settleable material, and turbidity.

Compensatory Mitigation for Permanent Impacts

Conditions related to mitigation requirements are required by the Dredged or Fill Procedures, section IV.A.2.b. In addition, section IV.B.1.a of the Procedures requires that the Water Boards approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts that cannot be practicably avoided or minimized (see also State Supplemental Guidelines, section 230.10, restrictions on discharge and California Code of Regulations, section 3856(h), which requires submittal of proposed mitigation and description of steps taken to avoid, minimize, or compensate). Accordingly, compensatory mitigation may be required for projects that would result in permanent impacts. Conditions regarding compensatory mitigation are necessary to ensure compliance with State and federal antidegradation policies. Compensatory mitigation conditions are consistent with Executive Order W-59-93, commonly referred to as California's "no net loss" policy for wetlands. Compensatory mitigation requirements are also authorized by Water Code, section 13263, which imposes requirements that implement water quality control plans

and takes into consideration the beneficial uses to be protected and the need to prevent nuisance.

The condition related to financial securities is necessary to ensure that the Permittee has sufficient funds to fulfill the compensatory mitigation required (Dredged or Fill Procedures, section IV.B.5.f).

TENTATIVE