

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

February 3, 2023

STAFF REPORT

**ITEM:** \*7

**SUBJECT:** California Department of Water Resources, Perris Dam Emergency Release Facility (ERF) Project, Riverside County, Order No. R8-2023-0010

**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 waters of the United States (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 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 or 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).

On February 20, 2020, the USACE issued a Nationwide Permit Verification for the proposed Project under Nationwide Permit Number 13, Bank Stabilization, for a total of 0.35 acre of impacts to Perris Valley Channel considered WOTUS.

Additionally, authorizations for this Project were previously obtained in 2020 under Santa Ana Water Board's 401 Water Quality Certification WDID No. 332019-26 and

USACE Permit No. SPL-2019-00842, which will expire in March 2023. The Discharger is currently seeking federal 404 CWA permit from the U.S. Army Corps of Engineers (USACE) under Individual Permit (File No. SPL-2022-00560).

The Project would modify the current emergency release structure for Perris Dam and construct a water conveyance facility to reliably and safely control a reservoir release and convey emergency flows from Lake Perris to the Perris Valley Channel in the event of an emergency drawdown. The proposed activity would consist of levee construction, construction of a conveyance channel, bank stabilization, as well as appurtenant structures.

Maps showing the Project location are found in Attachment A of the tentative Order No. R8-2023-0010.

A total of eight (8) ephemeral drainages (Drainages 1-8) traverse the Project site, along Ramona Expressway. Drainages 1-5, 7 and 8 convey surface stormwater runoff downstream into Drainage 6 (Perris Valley Channel) or into uplands where runoff infiltrates into groundwater prior to reaching the Perris Valley Channel. Within the Project site, the Perris Valley Channel is a man-made storm drainage channel designed to provide stormwater protection, and it is a tributary to Canyon Lake. The on-site drainages 1, 2, 7 and 8 are considered WOTS only as each of these is hydrologically isolated. Implementation of the Project would result in a total of 2.35 acres (7,520 linear-feet) of permanent discharge of fill, as well as 0.03 acre (111 linear-feet) of temporary discharge of fill within non-wetland WOTS due to the levee construction and grading activities.

To offset the unavoidable permanent impacts from the Project to the onsite WOTS, the Discharger must provide compensatory mitigation through purchase of 2.80 acres of rehabilitation/re-establishment credits from an approved mitigation bank or through performing permittee responsible mitigation for 2.80 acres at a Santa Ana Water Board approved site located within San Jacinto River watershed. Meanwhile, the Project implementation would create a new streambed channel totaling 17.27 acres (4,995 linear feet). The Project activities would 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](mailto:hossein.shahrokhnia@waterboards.ca.gov).

**RECOMMENDATION:**

Adopt Order No. R8-2023-0010 as presented.

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

Order No. R8-2023-0010

Waste Discharge Requirements and Clean Water Act  
Section 401 Water Quality Certification  
for  
California Department of Water Resources  
Perris Dam Emergency Release Facility (ERF) Project  
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 Perris Dam Emergency Release Facility (ERF) Project (Project) of California Department of Water Resources (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, 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 waters of the state (WOTS).
4. This Order regulates the discharge of fill material to WOTS, including waters of the U.S. (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 an Individual Permit.
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. Authorizations for the Project were previously obtained in 2020 under Santa Ana Water Board's Certification WDID No. 332019-26 and USACE Nationwide Permit Number 13, Bank Stabilization (Permit No. SPL-2019-00842), which will expire in March 2023. The Discharger is currently seeking federal 404 CWA permit from the U.S. Army Corps of Engineers (USACE) under Individual Permit (File No. SPL-2022-00560).
7. On October 5, 2022, Environmental Science Associates (ESA), 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. 332022-27.
8. An application fee of \$2,417 was received on October 6, 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 \$48,858 based on total Project impacts was received on December 1, 2022.
9. The Application was considered complete on November 4, 2022.
10. The Project would modify the current emergency release structure for Perris Dam and construct a water conveyance facility to reliably and safely control a reservoir release and convey emergency flows from Lake Perris to the Perris Valley Channel in the event of an emergency drawdown. The proposed activity would consist of levee construction, construction of a conveyance channel, bank stabilization, as well as appurtenant structures.
11. The Project is composed of three distinct sections, including State Recreation Area (SRA) Segment, Fairgrounds Segment, and Western Segment.
12. During an emergency release, water would be directed from the emergency release structure to the Perris Valley Channel by a levee system across the open SRA land between the dam and Ramona Expressway (SRA Segment), a channel across the southern end of the Lake Perris Fairgrounds (Fairgrounds Segment), and finally a channel north of Ramona Expressway to the Perris Valley Channel (Western Segment). For the SRA Segment, two levees would be constructed as part of the emergency release conveyance facility. The Main Levee would be approximately 6,000 feet long, up to 10 feet high, and up to 87 feet wide at the bottom with 3:1 slope. The North Training Levee would be



approximately 685 feet long, up to 8 feet high and up to 60 feet wide at the bottom with 3:1 slope. The water would be conveyed from Fairgrounds Segment through a trapezoidal channel. The channel would be 25 feet deep on the east end to 11 feet deep on the west end. The Western Segment would be developed as an unlined, earthen, trapezoidal channel. The channel would be approximately 2,500 feet long, with a 120-foot top width and 80-foot bottom, and nine feet deep with 2:1 side slope. The side slopes would be stabilized rock slope protection.

13. The modification of the existing emergency release structure for the Perris Dam, would result in a total of 17.27 acres (4,995 linear feet) of new streambed channel through construction of the proposed water conveyance channel.
14. A long-term maintenance construction period of 20 years is proposed for the newly created channel which would result in temporary discharge of fill in up to approximately 17.27 acres of waters of the WOTUS/WOTS. The maintenance activities within the facility are expected to occur annually but may occur up to several times during a storm season, or several times during and following a single storm event, depending upon the amount or intensity of water flow, amount of sediment/debris produced by the watershed or event, and extent of damage observed.
15. The long-term maintenance activities for the newly created channel would include removal of vegetation, debris and obstructions, and sediment within the conveyance channel as needed to restore the channel to its design capacity and authorized maintenance baseline corresponding to USACE-approved, as-built drawings. It also includes removal of sediment from appurtenant drainage ditches, access roads, pipes and drop inlets. The repair activities for maintenance of the newly created channel would include erosion repairs by regrading and/or backfilling; fill animal burrows; regrade and/or restore displaced rock slope protection to design grade; repair or replace drop inlets, pipes, and flap gates that have deteriorated; repair and fill any rutting, depressions, cracks within access roads and ramps; repair surface deterioration cracks and exposed rebar; drain and grade large areas of ponding/standing water within the channel.
16. The Project is located in an unincorporated portion of western Riverside County approximately 15 miles south of the City of Riverside and partially within the City of Perris. The Project would be constructed partially within the Lake Perris SRA and the Lake Perris Fairgrounds and would connect to the Perris Valley Channel (33.8448083° N, -117.213083° W). Maps showing the Project location are found in Attachment A of this Order.

17. A total of eight (8) ephemeral drainages (Drainages 1-8) traverse the Project site, along Ramona Expressway. Drainages 3, 4 and 5 convey surface stormwater runoff downstream into Drainage 6 (Perris Valley Channel). Within the Project site, the Perris Valley Channel is a man-made storm drainage channel designed to provide stormwater protection, and it is a tributary to Canyon Lake. Drainages 1, 2, 7 and 8 are considered non-federal WOTS only as each of these features lacks any downstream connectivity to waters and are considered isolated, as they dissipate into uplands areas outside of waters.
18. Implementation of the Project would result in a total of 2.35 acres (7,520 linear feet) of permanent discharge of fill material due to the levee construction, bank stabilization and grading activities. The permanent impacts to each drainage feature would include 0.03 acre of Drainage 2, 1.46 acres of Drainage 3, 0.42 acre of Drainage 4, 0.08 acre of Drainage 5, 0.35 acre of Drainage 6 and 0.01 acre of Drainage 7. Additionally, the Project would result in 0.03 acre (111 linear feet) of temporary discharge of fill material within non-wetland WOTS to Drainage 2.
19. Perris Valley Channel has the following designated beneficial uses: intermittent Water Contact Recreation (REC1), Non-contact Water Recreation (REC2), intermittent Warm Freshwater Habitat (WARM), Wildlife habitat (WILD), Rare, Threatened, or Endangered Species (RARE).
20. To offset the unavoidable permanent impacts from the Project to the onsite WOTS, the Discharger would provide compensatory mitigation through purchase of 2.80 acres of rehabilitation/re-establishment credits from an approved mitigation bank or through performing permittee-responsible mitigation for 2.80 acres at a Santa Ana Water Board-approved site located within San Jacinto River watershed. Meanwhile, the Project implementation would create a new streambed channel totaling 17.27 acres (4,995 linear feet).
21. 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.
22. 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.

23. 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 incorporates 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.
24. On May 3, 2018, the Discharger, 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. 2013091027). The lead agency filed a Notice of Determination (NOD) with the State Clearinghouse and Clerk of Board Supervisors, Riverside County on May 3, 2018. Subsequently, on September 23, 2020 the Discharger approved an Addendum to the EIR and filed a NOD on September 25, 2020 with the State Clearinghouse and Clerk of Board Supervisors, Riverside County.
25. 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 Discharger as well as the Addendum and later CEQA analyses approved by the Discharger 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 of the EIR and 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.
26. 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 and Fill Procedures and the United States Environmental Protection Agency's Clean Water Act section 404(b)(1) Guidelines.

27. 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).
28. 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.
29. 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.
30. 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.
31. 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).)

32. 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 18.
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 WOS, 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. Prior to discharging fill material, the Discharger shall submit to the Santa Ana Water Board the receipt of the purchase of 2.80 acres of rehabilitation and/or re-establishment credits from an approved mitigation bank.
2. The Discharger shall retain responsibility for providing compensatory mitigation until the Santa Ana Water Board has received documentation of the credit purchase.
3. In lieu of purchasing mitigation bank credits, the Discharger may mitigate impacts to WOTS through permittee-responsible mitigation. Prior to discharging fill material to WOTS, the Discharger shall receive written approval by the Santa Ana Water Board of a final compensatory habitat mitigation and monitoring plan (HMMP). The final HMMP shall include all plan elements as outlined in the Dredge and Fill Procedures, Subpart J – Compensatory Mitigation for Losses of Aquatic Resources, including but not limited to the following: a schedule; plans for grading; planting palette; seed collection location; ecological performance standards; monitoring, and maintenance requirements (e.g. watering, weeding, and replanting), and long-term protection.
4. If the Discharger implements permittee-responsible mitigation, the Discharger is responsible for the compensatory mitigation in perpetuity. However, the Discharger may transfer the compensatory mitigation requirements associated with long-term management when the following conditions have been met:
  - a. Performance standards are met.
  - b. A transfer agreement to a third party has been approved by Santa Ana Water Board staff.
    - i. A transfer agreement shall be submitted from an authorized representative of the third party (transferee) for acceptance by Santa Ana Water Board staff. This agreement shall demonstrate acceptance and understanding of the responsibility to comply with and fully satisfy the required compensatory mitigation and long-term management conditions. Failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the Santa Ana Water Board under Water Code section 13385, subdivision (a).

- ii. Notification of transfer of responsibilities meeting the above condition must be provided to the Santa Ana Water Board staff. A draft transfer agreement is due to Water Board staff no less than thirty (30) days prior to the transfer of the mitigation responsibility. A final transfer agreement is due to Water Board staff within 30 days of the completion of the transfer.
  - c. An endowment fund has been provided by the Discharger to a third party for management in perpetuity of the mitigation site.
  - d. A conservation easement, deed restriction, or other appropriate restrictive covenant for the mitigation site has been recorded and approved by Santa Ana Water Board staff.
5. The Discharger shall restore all areas of temporary impacts to waters of the state.

#### 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 February 3, 2023.

**JAYNE JOY, P.E.**  
Executive Officer

[illegible]

2018-241 Lake Perris ERF





SOURCE: Nearmap Imagery 5/7/2020; DWR, ESA.

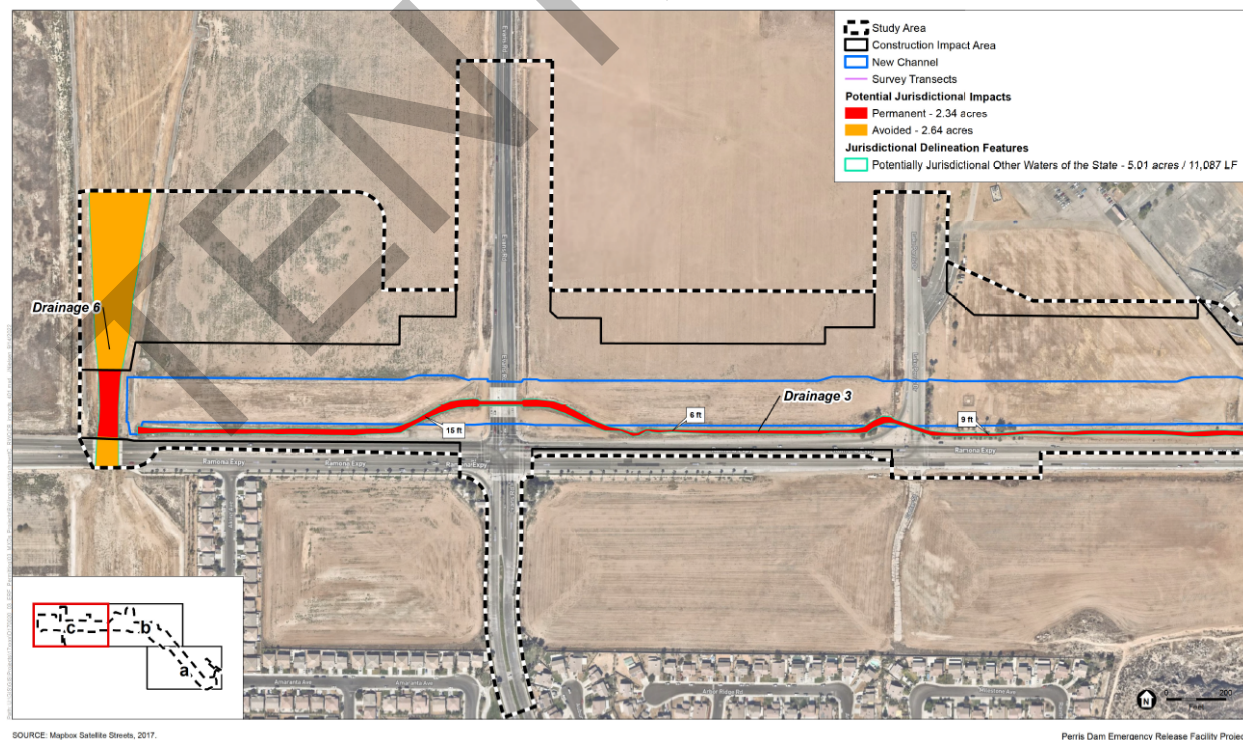
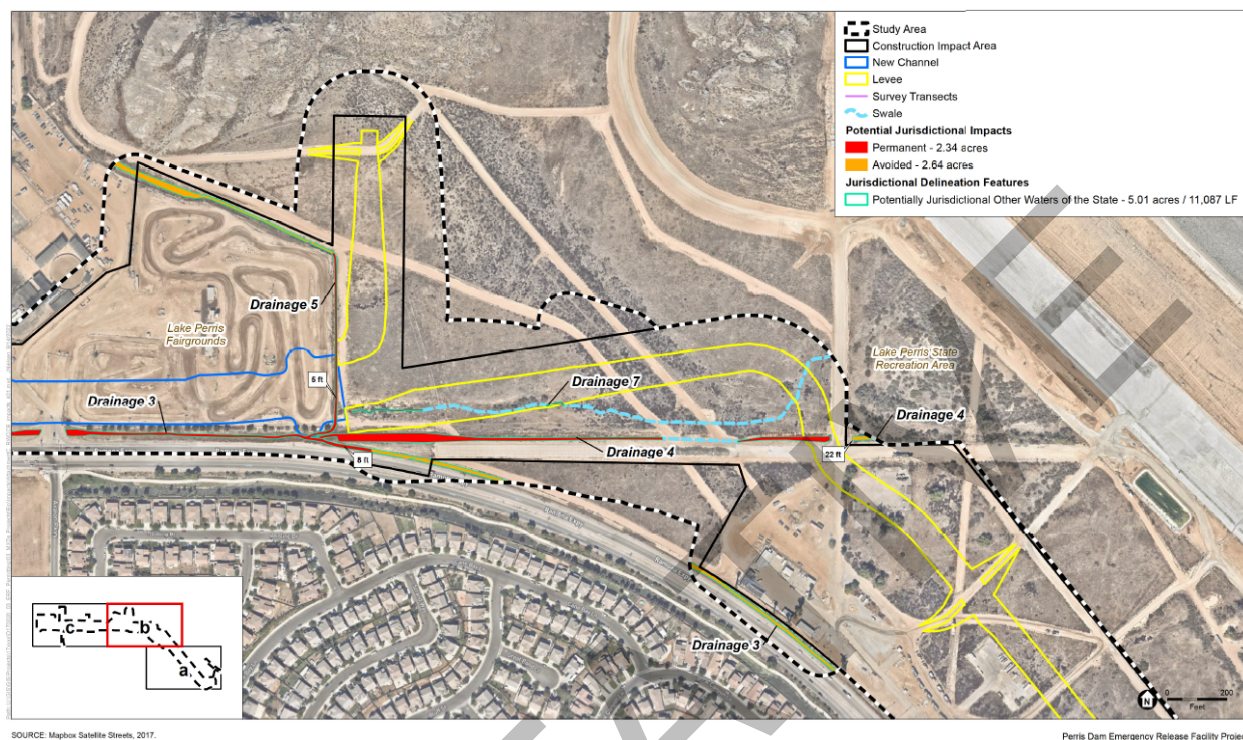
Perris Dam Emergency Release Facility, Addendum No. 1



SOURCE: Mapbox Satellite Streets, 2017.

Perris Dam Emergency Release Facility Project





### 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](mailto:RB8-401Reporting@waterboards.ca.gov)
  - b) Include in the subject line of the email: Order R8 2023-0010 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



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

<b>Report and Notification Cover Sheet</b>
<b>Project: Perris Dam Emergency Release Facility (ERF) Project</b>
<b>Discharger: California Department of Water Resources</b>
<b>Order No.: R8-2023-0010</b>
<b>Order Effective Date: February 3, 2022</b>

<b>Report Type Submitted</b>
<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."

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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.



Report Type 1	Annual Report
<b>Purpose:</b>	Notify the Santa Ana Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
<b>When to Submit:</b>	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.
<b>Report Contents:</b>	<p><b>Part A:</b></p> <ol style="list-style-type: none"><li>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.</li></ol> <p><b>Part B:</b></p> <ol style="list-style-type: none"><li>1. Planned date of initiation of compensatory mitigation site installation.</li><li>2. If installation is in progress, a map of what has been completed to date.</li><li>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.</li><li>4. Mitigation Bank or In-Lieu Fee (ILF)</li><li>5. Status or proof of purchase of credit types and quantities.</li><li>6. Include the name of bank/ILF Program and contact information.</li></ol>

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

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

Report Type 4	Request for Notice of Project Complete Letter
<b>Purpose:</b>	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.
<b>When to Submit:</b>	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project activities.
<b>Report Contents:</b>	<p><b>Part A: Mitigation for Temporary Impacts</b> (if applicable)</p> <ol style="list-style-type: none"><li>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.</li><li>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.</li></ol> <p><b>Part B: Discharger-Responsible Compensatory Mitigation</b> (if applicable)</p> <ol style="list-style-type: none"><li>1. A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.</li><li>2. Status on the implementation of the long-term maintenance and management plan and funding of endowment.</li><li>3. Pre- and post-photo documentation of all compensatory mitigation sites.</li><li>4. Final maps of all compensatory mitigation areas (including buffers).</li></ol>

Report Type 5	Transfer of Property Ownership
<b>Purpose:</b>	Notify Santa Ana Water staff of change in ownership of the Project or Discharger-responsible mitigation area.
<b>When to Submit:</b>	At least ten (10) working days prior to the transfer of ownership.
<b>Report Contents:</b>	<ol style="list-style-type: none"><li data-bbox="586 579 1406 884">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"><li data-bbox="634 684 1349 800">• 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</li><li data-bbox="634 810 1349 884">• responsibility for compliance with any long-term BMP maintenance plan requirements in this Order.</li></ul></li><li data-bbox="586 926 1406 1062">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.</li></ol>

## **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 ("State 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 State 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 in the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (also referred to as State Supplemental Guidelines or the Dredged 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, title 23, section 3013. Under 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 sets forth regulations pertaining to water quality certifications. Section 3856 of title 23 identifies information that must be included in water quality certification

requests, including a description of steps that have or must be taken to avoid, minimize, and compensate for impacts to waters of the state.

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; State Antidegradation Policy; 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.

## **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. The reports related to accidental discharges also ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges are taken as soon as possible. These monitoring and reporting conditions are authorized because the Santa Ana Water Board has 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. The anticipated costs are



minimal as the reporting obligations require only visual monitoring, in-field measurements, and notification reporting.

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

## **Water Quality Monitoring**

### **General**

This monitoring condition is authorized because the Santa Ana Water Board has 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 monitoring, including costs, bears a reasonable relationship to the need for the monitoring and the benefits to be obtained from the monitoring. The anticipated costs are minimal as only visual monitoring and in-field measurements are required.

### **Accidental Discharges/Noncompliance**

See explanation for the *Reporting and Notification Requirements* Section.

### **In-Water Work or Diversions**

Consistent with the Dredged or Fill Procedures, section IV.A.2.c, water quality monitoring plans are required for any in-water work, including temporary dewatering or diversions. 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. A water quality monitoring plan is necessary to conform to water quality standards for oil and grease, dissolved oxygen, pH, turbidity, and temperature. The Santa Ana Water Board's Basin Plan and/or applicable statewide plans and policies contains provisions related to all these constituents.

These 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 and benefits of the reports. The anticipated costs are minimal as the sampling requirements are either visual or only require a grab sample on a daily and/or weekly basis.

### **Post-Construction**

The reports confirm that the BMPs required under this Order are sufficient to protect beneficial uses and water quality objectives. The reports related to accidental discharges ensure that any

necessary corrective actions are taken as soon as possible to minimize the impact or clean up such discharges. These 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 and benefits of the reports. The anticipated costs are minimal as the reporting obligations require only visual monitoring, in-field measurements, and notification reporting.

### **Standard Conditions**

**“This Order is subject to modification or revocation ...”**

**“This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility ...”**

**“This Order is conditioned upon total payment of any fee ...”**

These conditions are necessary to assure that any discharge authorized will comply with water quality requirements. Water quality requirements include state regulatory requirements for point source discharges into waters of the United States. California Code of Regulations, title 23, chapter 28 sets forth regulations pertaining to water quality certifications for point source discharges to waters of the United States. These conditions were included to comply with section 3860 of title 23, which sets forth conditions that must be included in all water quality certifications.

### **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 State 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 State 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).

**“The Permittee shall, at all times, fully comply with engineering plans, specifications, and technical reports...”**

Authorization under this Order is granted based on the application information submitted, including engineering plans, specifications, and technical reports. Water Code section 13264 prohibits any discharge that is not specifically authorized in the Order.

### **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 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.

**“Lake or Streambed Alteration Agreement”**

This condition is required pursuant to California Code of Regulations, title 23, section 3856(e), which requires that copies be provided to the Water Boards of “any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included.”

### **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.

### **Fugitive Dust**

This dust abatement condition is required to assure that the discharge from the proposed Project will comply with water quality objectives established for surface waters. Chemicals used in dust abatement activities can result in a discharge of chemical additives and treated waters to surface waters of the state. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state. The Santa Ana Water Board's Basin Plan (toxic substances objective, pages 4-6, 4-20, and 4-26) prohibits the discharge of toxic substances at levels that will bioaccumulate in aquatic resources to levels that are harmful to human health. In addition, the health and life history characteristics of aquatic organisms in waters affected by controllable water quality factors should not differ significantly from areas unaffected by controllable water quality factors, such as toxicity. This condition will ensure that the discharge will not adversely affect beneficial uses of the receiving water or cause a condition of nuisance (Dredged or Fill Procedures section IV. A.2(c)).

### **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 the 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.

### **Invasive Species and Soil Borne Pathogens**

Soil borne pathogens cause disease and death to native plants, agricultural crops, and ornamental plants. Non-native invasive plant species can alter ecosystem processes, such as nutrient cycling, hydrological cycles, and frequencies of wildfires, erosion, and sediment deposition. These invasive plants interfere in ecosystem functions by outcompeting and displacing native plants and animals, by providing refuge for non-native animals, and by hybridizing with native species. Invasive species and soil borne pathogens adversely affect beneficial uses designated in the Basin Plan, such as RARE (rare, threatened, or endangered species), WILD (wildlife habitat), and BIOL (preservation of biological habitats of special significance).

Practices that control invasive species and soil borne pathogens prevent their uncontrolled spread to waters of the state and are necessary to assure that the discharge from the proposed Project will comply with water quality objectives established for surface waters. The spread of soil borne pathogens devastates host species populations in riparian ecosystems. An example is the pathogen, *Phytophthora lateralis*, causing the root disease in the Port Orford cedar and threatening the stability of native and commercial cedar populations worldwide. Invasive weeds degrade physical and chemical water quality characteristics, and overgrown vegetation reduces habitat for special species and reduces capacity for aquatic resources.

Further, in State Water Board Resolution No. 2017-0012, the State Water Board resolved that the state should update plans, permits, and policies to improve “ecosystem resilience to the impacts of climate change, including but not limited to actions that protect headwaters, facilitate restoration, enhance carbon sequestration, build and enhance healthy soils, and reduce vulnerability to and impacts from fires.”

### **In-Water Work**

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.

### **Sediment Control and Stabilization/Erosion Control**

Conditions related to erosion and sediment control design requirements are required to sustain fluvial geomorphic equilibrium. Improperly designed and installed BMPs result in excess

sediment, which impairs surface waters, adversely affects beneficial uses, and results in exceedance of water quality objectives in the Water Quality Control Plans in California.

Conditions on projects that result in a hydromodification to a water of the state are necessary to assure that the discharge from the project will comply with water quality objectives established for surface waters. Hydromodification is a general term that encompasses effects of projects on the natural hydrologic, geochemical, and physical functions of streams and wetlands that maintain or enhance water quality. Improper project design and installation of any project that result in a hydromodification to a water of the state may trigger bank failure and channel incision, which result in excess sediment impacts to downstream beneficial uses.

### **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.

### **Onsite Mitigation for Temporary Impacts**

Conditions related to restoration and/or mitigation of temporary impacts are required by the Dredged or Fill Procedures, which requires "in all cases where temporary impacts are proposed, a draft restoration plan that outlines design, implementation, assessment, and maintenance for restoring areas of temporary impacts to pre-project conditions" (Dredged or Fill Procedures section IV. A.2(d) & B.4).

### **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 Dredged or Fill 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, § 230.10 [restrictions on discharge]; Cal. Code Regs., tit. 23, § 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 the 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