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## State Water Resources Control Board

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**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION  
ORDER NO. WQ 2024-0040-DWQ AND  
NOTICE OF APPLICABILITY FOR ENROLLMENT UNDER STATE WATER BOARD  
GENERAL ORDER FOR THE CORPS' NATIONWIDE PERMITS  
(ORDER NO. [WQ] 2020-0039-EXEC)**

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**Effective Date:** Upon Deputy Director's Signature

**Program Type:** Fill/Excavation

**Project Type:** Underground Utility

**Project:** Wet and Dry Utilities Crossing a Special Aquatic Site  
Regulatory Measure ID: 456230  
WDID: SB24025IN

**Applicant:** Avila Ranch Developers, Inc.  
**Applicant Contact:** Dan Garson  
Director of Land Development  
735 Tank Farm Road, Suite 100  
San Luis Obispo, CA 93401  
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Email: [DanG@wcpdev.com](mailto:DanG@wcpdev.com)

**State Water Board Staff:** Chris Monary  
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**State Water Board Contact Person:**

For further assistance, please call the State Water Resources Control Board (State Water Board) Staff listed above or (916) 322-7781 and ask to speak with the Wetlands Permitting and Enforcement II Unit Supervisor.

## **I. Summary**

This document serves as a Notice of Applicability for enrollment under the State Water Board General Order for the Nationwide Permits (Order No. [WQ] 2020-0039-EXEC; SWRCB ID SB20031GN; hereafter referred to as the General Order) at the request of Avila Ranch Developers, Inc. (Applicant). The General Order can be accessed at [the Clean Water Act Section 401 - Certification and Wetlands Program, General Orders webpage](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020) ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/generalorders.html#yr\\_2020](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020)). On February 23, 2024, the State Water Board received a complete Notice of Intent requesting authorization for the Applicant's Wet and Dry Utilities Crossing a Special Aquatic Site (Project). After reviewing the Notice of Intent, the State Water Board has determined that the Project meets General Order requirements for Nationwide Permit 12, 57 and 58: Oil or Natural Gas Pipeline Activities, Electric and Water Utilities Activities.

This order also serves as an individual certification of the Corps Nationwide Permit 12, 57 and 58 under the authority of Clean Water Act Section 401.

## **II. Project Description**

As described in the Project Notice of Intent and supplemental information (hereafter referred to as the Application), which is incorporated herein by reference, the purpose of the Project is to install three wet and two dry utilities lines. Wet utility lines consist of sewer, recycled water, and domestic water, and dry utilities consist of gas. Ground disturbance from site access and five trenches temporarily impact waters of the state.

## **III. Project Location**

The Project is located in San Luis Obispo city, San Luis Obispo County, California. The Project coordinates are 35.239629°N, 120.6662126°W.

## **IV. Receiving Waters Information**

The Project is located within the jurisdiction of the Central Coast Regional Water Quality Control Board. Receiving waters and groundwater potentially impacted by this Project are listed in Table 1. These waters are regulated in accordance with the applicable water quality control plan (Basin Plan) for the region and other plans and policies of the California Water Boards, which may be accessed online at [the State Water Boards' Plans and Policies webpage](http://www.waterboards.ca.gov/plans_policies/) ([http://www.waterboards.ca.gov/plans\\_policies/](http://www.waterboards.ca.gov/plans_policies/)).

**Table 1: Receiving Water Information**

Impact Site ID	Waterbody Name	Impacted Aquatic Resource Type	Water Board Hydrologic Units	Receiving Waters	Receiving Waters Beneficial Uses	303(d) Listing Pollutants
Site 1	Unnamed tributary to Tank Farm Creek and San Luis Obispo Creek	Special Aquatic Site Palustrine-farmed wetland	310.0	San Luis Obispo Creek,	MUN, AGR, GWR, REC1, REC2, WILD, COLD, WARM, MIGR, SPWN, FRSH, COMM	Chloride, Sodium, Benthic Community Effects, E-Coli, Dissolved Oxygen, Nitrate- Fecal coliform

#### V. Direct Impacts to Waters of the State

Total Project fill/excavation quantities for all impacts are summarized in Table 2.

**Table 2: Total Project Fill/Excavation Quantity to Wetlands**

Temporary Impact <sup>1</sup>	Permanent Impact - Physical Loss of Area	Permanent Impact - Degradation of Ecological Condition Only
0.019 acres 83 linear feet	0 acres 0 linear feet	0 acres 0 linear feet

#### VI. Description of Indirect Impacts to Waters of the State

The State Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. Potential indirect adverse effects include but are not limited to: increased sediment loading to streams from riparian and/or upland areas used for access or staging areas, possibility of introducing invasive species into the Project areas, and changing timing of runoff delivery to streams in the Project area. The Project, as designed, will not have significant indirect impacts to waters of the state.

<sup>1</sup> Includes only temporary direct impacts to waters of the state and does not include upland areas of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

## **VII. Conditions**

### **A. Scope of Authorization**

The Project may proceed only as described in the Application submitted to the State Water Board by the Applicant and in accordance with the conditions in State Water Board General Order No. [WQ] 2020-0039-EXEC and this Notice of Applicability. This Certification and coverage under the General Order is no longer valid if the Project (as described) is modified. A copy of the General Order and its attachments can be found on the State Water Resources Control Board's [General Order Website](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020) ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/generalorders.html#yr\\_2020](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020)).

This condition is necessary to assure that any discharge under this Order will comply with water quality requirements as described in the General Order. Water Code section 13264 prohibits any discharge that is not specifically authorized in an order. The conditions set forth in State Water Board Water Quality General Order No. [WQ] 2020-0039-EXEC are further justified in Attachment C of that General Order.

### **B. Standard Conditions** (These conditions are also set forth in State Water Board General Order No. [WQ] 2020-0039-EXEC, in Section VI.A.1-A.3.)

- i. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- ii. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission license or an amendment to a Federal Energy Regulatory Commission license unless the pertinent certification application was filed pursuant to Subsection 3855(b) of this Chapter and that application specifically identified that a Federal Energy Regulatory Commission license or amendment to a Federal Energy Regulatory Commission license for a hydroelectric facility was being sought.
- iii. Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Each standard condition in Section VII.B is necessary to assure that any discharge authorized under the general license or permit 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, which sets forth conditions that must be included in all water quality certifications.

### **C. Avoidance and Minimization**

In order to avoid and minimize impacts to waters of the state and their designated beneficial uses, the Applicant will follow the avoidance and minimization measures as proposed in their Application. Each avoidance and minimization measure demonstrates that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for loss of or significant adverse impacts to beneficial uses of waters of the state that cannot be practicably avoided or minimized.

The Water Board may approve a project only if the applicant has demonstrated that a sequence of actions has been taken to first avoid, then minimize, and, lastly, compensate for loss of or significant adverse impacts to beneficial uses of waters of the state. (Dredge or Fill Procedures, section IV.B.1.a.)

### **D. Mitigation for Temporary Impacts**

All temporarily affected areas will be restored to pre-construction contours and conditions upon completion of construction activities in compliance with the General Order and according to the restoration plan submitted by the Applicant in the Application.

Mitigation is required to ensure compliance with Executive Order W-59-93 that requires no net loss of the structure or function of California's wetland resources.

## **VIII. California Environmental Quality Act**

The State Water Board has determined that the Project is exempt from review under the California Environmental Quality Act pursuant to California Code of Regulations, title 14, section 15303. Additionally, the State Water Board finds that no exceptions to the exemptions apply to the activities approved by this Notice of Applicability.

## **IX. Certification Fees**

A fee payment of \$2,985 was received by the State Water Board on February 23, 2024. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category E - Low Impact Discharges (fee code 87).

## **X. Public Notice**

The State Water Board provided public notice of the Application pursuant to California Code of Regulations, title 23, section 3858 from February 27, 2024 to March 19, 2024. The State Water Board did not receive any comments during the comment period.

## **XI. Reporting and Notification Requirements**

The Applicant shall submit an Annual Report each year on January 15 until a Notice of Project Complete Letter is issued to the Applicant. Notices and reporting shall be provided to the State Water Board according to section VI.E, "Application for Coverage and Termination," of the General Order.

The Applicant shall submit Report Types 2 and 3, as described in Attachment B, "Report and Notification Requirements," of the General Order. The Applicant must also submit Report Types 4 through 9 if the Project encounters the conditions described in these Report Types. The Applicant must submit all reports and information required under this Certification according to the Report Submittal Instructions found in Attachment B, "Report and Notification Requirements," of the General Order.

These reporting and notification requirements are necessary to confirm that the requirements set by this certification are satisfied, and that the requirements are sufficient to protect beneficial uses and water quality objectives. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

## **XII. Water Quality Certification**

I hereby issue this Notice of Applicability for the Wet and Dry Utilities Crossing a Special Aquatic Site, certifying that as long as all of the conditions listed in the General Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 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 a water quality certification and enrollment under State Water Board General Order No. [WQ] 2020-0039-EXEC, this Certification and Notice of Applicability serve as waste discharge requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.). State Water Board Order No. [WQ] 2020-0039-EXEC serves as waste discharge requirements in accordance with State Water Board Water Quality General Order No. 2003-0017-DWQ. The State Water Board will file a Notice of Exemption (NOE) at the State Clearinghouse within five (5) working days of issuance of this Notice of Applicability.

Except insofar as may be modified by any preceding conditions, all Notice of Applicability actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of the General Order and the attachments to the General Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans, and the Regional Water Boards' Water Quality Control Plans.

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Date

Phillip Crader

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Phillip Crader, Acting Deputy Director  
Division of Water Quality