



State Water Resources Control Board

June 28, 2022

Mr. Tom Duffy
Hydro Manager
Merced Irrigation District
744 W. 20th Street
Merced, California 95340
Email: tduffy@mercedid.org
Sent via email

NOTICE OF APPLICABILITY, CLEAN WATER ACT SECTION 401 GENERAL WATER QUALITY CERTIFICATION FOR MERCED IRRIGATION DISTRICT'S NEW EXCHEQUER SPILLWAY GEOTECHNICAL INVESTIGATIONS PROJECT, MARIPOSA COUNTY, CALIFORNIA

Dear Mr. Duffy:

On April 6, 2022, the State Water Resources Control Board (State Water Board) received Merced Irrigation District's (MID) Notice of Intent (NOI) to enroll the New Exchequer Spillway Geotechnical Investigations Project (Project) under the *General Order for Clean Water Act Section 401 Water Quality Certification Action, Order No. WQ-2021-0048-DWQ (General Order WQ-2021-0048-DWQ)*¹ for State Water Board Certification and Denial of the Corps' Nationwide Permits. On June 1, 2022, MID submitted additional drilling location information to support the NOI. MID's NOI requests coverage for the Project under United States Army Corps of Engineers' Nationwide Permit (NWP) No. 6 – Survey Activities (NWP No. 6).

State Water Board staff has reviewed MID's NOI and supplemental information and finds the Project meets the requirements of, and is hereby enrolled under, General Order WQ 2021-0048-DWQ (General Order). MID may proceed with the Project in accordance with the requirements contained in this Notice of Applicability and the General Order following United States Army Corps of Engineers notification of coverage under NWP No. 6.

For your convenience, please find enclosed a copy of the General Order. Please familiarize yourself with the requirements of the General Order. MID is responsible for complying with all applicable General Order requirements. Failure to comply with the

¹ https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/certification-denial-corps-nationwide-permit-project-general-order-10122021.pdf

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

General Order constitutes a violation of the California Water Code and may result in enforcement action or termination of enrollment under the General Order.

PROJECT DESCRIPTION

The purpose of the Project is to conduct subsurface geotechnical investigations to inform design alternatives for future improvements in and around the New Exchequer Spillway. These improvements are anticipated to occur in the next couple of years. The Project's subsurface geotechnical investigations are intended to evaluate and document foundation material characteristics. New Exchequer Spillway is associated with New Exchequer Dam and Lake McClure, facilities licensed by the Federal Energy Regulatory Commission (FERC) as part of MID's Merced River Hydroelectric Project (FERC Project No. 2179). The spillway and surrounding lands are owned by MID.

The Project proposes 18 borings at the downstream end of the spillway apron, within the spillway channel, and at the spillway margins. More specifically, the 18 proposed geotechnical borings will occur within the lined spillway, the upper portion of the unlined spillway, and the annual grassland habitats within 150 feet of these human-made features. Borings will not exceed 50 feet below the ground surface and will have a maximum six-inch diameter. The borings will remove a maximum of 10 cubic yards of material and be backfilled with an equal volume of a cement-bentonite grout. Generated waste will include soil and rock cuttings, drilling fluid, and cement-bentonite grout waste, and will be placed in drums and hauled off site for proper disposal by the drilling contractor. Four temporary gravel pads will be needed to support equipment access to four of the drilling locations. The temporary pads will be constructed using 53 cubic yards of gravel and will cover approximately 0.03 acres. No impacts to instream pools or other wetted aquatic resources are expected. Additionally, no vegetation removal will be required.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The certification of projects under NWP No. 6 is exempt from the California Environmental Quality Act (CEQA). The proposed Project activities are not expected to have a significant effect on the environment and the State Water Board has determined that the Project qualifies for CEQA exemption under California Code of Regulations, title 14, sections 15301 (Existing Facilities), 15304 (Minor Alterations to Land), and 15306 (Information Collection). Additionally, the State Water Board finds that no exceptions to these exemptions apply to the Project activities approved by this Notice of Applicability.

The State Water Board will file a Notice of Exemption with the Office of Planning and Research within five days of issuance of this Notice of Applicability. (Cal. Code Regs., title 14, § 15062.)

APPLICATION FEE RECEIVED

An application fee of \$2,417 was received electronically on April 1, 2022. Annual fees may apply if implementation of the Project, including any required monitoring or reporting, exceeds 12 months from this Notice of Applicability.

AUTHORIZED IMPACTS

Excavation and fill activities authorized by this Notice of Applicability are limited to 0.033 acres/63 cubic yards of temporary impacts to the streambed.

PROJECT SPECIFIC AVOIDANCE AND MINIMIZATION MEASURES

MID shall implement the Avoidance and Minimization Measures listed in Section 6 of the Continuation Pages submitted with the NOI.

REQUIREMENTS

MID shall comply will all applicable conditions of General Order, including but not limited to the following:

1. Pursuant to section VI.D.4 of the General Order, MID shall implement the Project in conformance with the information provided in the April 6, 2022 NOI and subsequent amendments thereto. Any proposed changes to the Project design described in the NOI must be submitted to the Deputy Director for the Division of Water Rights (Deputy Director). Approval from the Deputy Director must be obtained before changes are implemented.
2. Pursuant to section VI.E.3.a of the General Order, MID shall submit a Commencement of Construction notification to the Deputy Director at least seven days prior to start of initial ground disturbance activities.
3. Pursuant to section VI.E.3.b of the General Order, MID shall submit a Request for Notice of Project Complete letter to the Deputy Director within 30 days following completion of all Project activities. Upon approval of the request, the Deputy Director will issue a Notice of Project Complete Letter to MID. Annual fees will be terminated concurrent with the date of the Notice of Project Complete Letter issued by the Deputy Director.

If you have questions about this Notice of Applicability, please contact Oscar Biondi at Oscar.Biondi@waterboards.ca.gov.

Sincerely,



Eileen Sobeck
Executive Director

Enclosure: General Order for Clean Water Act Section 401 Water Quality Certification Action, Order No. WQ 2021-0048-DWQ

ec: U.S. Environmental Protection Agency
Region 9, Water Division
Email: R9cwa401@EPA.gov

Patrick Pulupa, Executive Officer
Central Valley Regional Water Quality Control Board
Email: Patrick.Pulupa@waterboards.ca.gov

Leslie Parker, PWS
HDR Engineering, Inc.
Email: leslie.parker@hdrinc.com

Mary Pakenham-Walsh
United States Army Corps of Engineers
Email: Mary.R.Pakenham-Walsh@usace.army.mil

CWA Section 401 WQC Program
State Water Resources Control Board
Email: Stateboard401@waterboards.ca.gov