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## Central Coast Regional Water Quality Control Board

July 1, 2015

Andrew Barnsdale  
California Public Utilities Commission  
c/o Environmental Science Associates  
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San Francisco, CA 94108  
Email: [mpwsp-eir@esassoc.com](mailto:mpwsp-eir@esassoc.com)

**SENT VIA ELECTRONIC MAIL**

Dear Mr. Barnsdale:

### **COMMENTS ON MONTEREY PENINSULA WATER SUPPLY PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT**

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the above-referenced project. The Central Coast Regional Water Quality Control Board (Central Coast Water Board) is a responsible agency under the California Environmental Quality Act (CEQA). This project has the potential to impact water quality and beneficial uses of waters of the State. Therefore Central Coast Water Board staff offers the following comments.

#### **Comments on section 3.5.4 Pipeline Construction**

1. The Project Description section describes creating a 50- to 100-foot corridor width for constructing a six-foot-wide trench to install the various pipelines. Central Coast Water Board staff finds the corridor width excessive. Central Coast Water Board staff suggests considering placing truck turnarounds at the ends of the corridor and a corridor on one side of the trench only. Central Coast Water Board staff understands that two-way traffic may be necessary, but corridor width should be minimized to the greatest extent feasible to minimize impacts to waters.

When Central Coast Water Board staff considers issuance of permitting for discharges of dredge and fill to waters of the state for this proposed project, staff will require the applicant to describe the steps taken to avoid impacts to riparian woodland, riparian scrub and wetlands, and to demonstrate additional riparian woodland, riparian scrub and wetland impacts cannot be avoided. The applicant may be required to include information such as the size of the widest vehicle that will be used in construction, the function of that vehicle, and where the vehicle will travel within the corridor.

**Comments on Table 4.3-2 Designated Beneficial Uses of Surface Water Bodies in the Project Vicinity**

2. Many of the waterbodies that the proposed project will potentially impact are identified in Table 4.3-2, but some are not identified. Please list any other waterbodies that will potentially be impacted, such as Laguna Grande/Robert's Lake, the waterbody at Locke-Paddon Park and other waterbodies listed in section 4.6.1.6. Wetlands and Other Waters. Include the waterbodies respective designated beneficial uses. For any surface waterbody not listed in the Water Quality Control Plan for the Central Coastal Region (Basin Plan) and for which beneficial uses are not designated, please identify the two following beneficial uses that are assigned to all waterbodies within the Central Coast Water Board Region: a) Municipal and Domestic Water Supply, and b) Protection of both recreation and aquatic life.

**Comments on Section 4.3.2.2, Subheadings: RWQCB Dewatering Requirements, NPDES General Permit for Discharges with Low Threat to Water Quality**

3. This section does not identify all potentially required Central Coast Water Board permits related to dewatering of surface waters. If the proposed project requires dewatering or a diversion of surface waters, constructing a dam and placing other dewatering or diversion materials within a waterbody are considered discharges of fill. Please add the following text to the RWQCB Dewatering Requirements section.

*The Central Coast Water Board issues Section 401 Water Quality Certifications for projects that discharge dredge or fill material to waterbodies that are under the jurisdiction of the Army Corps of Engineers (ACOE), pursuant to the Clean Water Act. The Central Coast Water Board may issue other waste discharge requirements for discharges of dredge or fill material, or other waste, to waterbodies not under the jurisdiction of the ACOE.*

**Comments on Section 4.6.2.2 State Regulations, State Regulation of Waters Including Wetlands**

4. Within the State Regulation of Waters Including Wetlands section, the DEIR should include a brief explanation of the state's California Wetlands Conservation Policy since the proposed project has the potential to impact wetlands. Please add the following italicized text:

*The State issued the California Wetlands Conservation Policy (Executive Order W-59-93), commonly referred to as the "No Net Loss Policy" for wetlands. The Order aims to ensure no overall net loss, and long-term net gain in the quality, quantity, and performance of wetlands in California.*

**Comments on Impact 4.6-2 Result in Substantial Adverse Effects On Riparian Habitat, Critical Habitat, or Other Sensitive Natural Communities During Construction. (Less than Significant with Mitigation)**

5. The discussions regarding Sensitive Natural Communities in the Desalinated Water Pipeline and Monterey Pipeline impact sections, the Central Coast Water Board is not included with the agencies identified as having regulatory authority over riparian woodland and scrub. Since impacts to riparian areas affect the quality and beneficial uses of waters, please identify the riparian woodland and scrub as occurring with the jurisdiction of the Central Coast Water Board.

**Comments on Mitigation Measure 4.6-1c: General Avoidance and Minimization Measures.**

6. Central Coast Water Board staff finds this mitigation measure inadequate for protecting water quality and waters of the state. This measure is titled "...avoidance and minimization measures," yet none of measures a) through u) require avoiding impacts to waters.

When Central Coast Water Board staff considers issuance of a permit for discharges of dredge or fill material into waters of the state, staff requires the applicant to describe how impacts to state waters were avoided, and to demonstrate why the remaining proposed impacts cannot be avoided. For impacts that the applicant cannot avoid, the applicant is required to demonstrate minimization of impacts to the greatest extent feasible.

Central Coast Water Board staff finds that avoiding impacts includes a decreasing the size of a project or project components, or moving the project or project components during the design stage to prevent direct impacts to waters. Most of the avoidance proposed in the DEIR impact sections only takes place after the design phase and focuses on implementing management practices during construction to minimize unplanned impacts. The DEIR should include an assessment of alternative designs that avoid or minimize direct impacts to waters.

7. Central Coast Water Board staff finds measure e) inadequate for protecting waters of the state. Please delete, "All detected erosion shall be remedied within two days of discovery," and add the following italic text:

*All detected erosion shall be remedied immediately.*

**Comments on Mitigation Measure 4.6-1n: Habitat Mitigation and Monitoring Plan**

8. Central Coast Water Board staff finds this mitigation measure inadequate for protecting waters of the state and reducing impacts to less than significant levels. Please add the following italic text to the list of elements that shall be included in a Habitat Mitigation and Monitoring Plan:

- a. *Name and contact information for the property owner of the land on which the mitigation will take place,*
- b. *Identification of the water source for supplemental irrigation,*
- c. *Identification of depth to groundwater,*
- d. *All success criteria in tabular form, and*
- e. *Identification of the mechanism that will preserve the mitigation site in perpetuity, if necessary.*

**Comments on Mitigation Measure 4.6-2b: Avoid, Minimize, and Compensate for Construction Impacts to Sensitive Communities**

9. Central Coast Water Board staff finds this mitigation measure inadequate for protecting waters of the state and reducing impacts to less than significant levels. Suggesting that permanent losses of sensitive communities, including riparian woodland and scrub, could be replaced starting at a mitigation ratio of 1:1 (replacement to loss) is insufficient. Central Coast Water Board staff finds that a higher ratio is typically necessary for complete loss, such as the removal of entire trees or other riparian plants. A higher ratio may also be required for temporary impacts.

If impacts are permanent, a higher mitigation ratio is typically necessary to mitigate impacts because:

- a. There is a temporal loss of function and value while the mitigation area grows to achieve functions and values provided by the impacted site pre-project;
- b. Re-established or rehabilitated habitat may fail to provide the same functions as the impacted habitat; and
- c. The additional re-established habitat that is the result of a higher mitigation ratio, may serve to offset the loss of functions in the impacted habitat.

Mitigation at a ratio of at least 2:1 replacement to loss is typically necessary to mitigate permanent impacts. A larger replacement ratio is necessary if:

- a. There is a lag between the time of impact and time of replacement;
- b. The mitigation site is not at or near the impact site or in a different watershed;
- c. The replacement habitat will be of lesser quality than the impact habitat considering characteristics such as species diversity and abundance, and physical and chemical characteristics;
- d. The replacement habitat will provide less ecological function than the impact habitat; and
- e. Other differences between the two habitats that may lead to a replacement habitat of lesser value than the impact habitat.

Temporary impacts should be mitigated at a 1:1 replacement to loss ratio, or greater, taking into consideration the reasons for increasing the permanent impact ratio.

Please modify this mitigation measure and Mitigation Measure 4.6-3: Avoid, Minimize, and or Mitigate Impacts to Wetlands to reflect the above comment.

Central Coast Water Board staff also finds this mitigation measure is remiss because it does not list the Central Coast Water Board as one of the permitting agencies who may specify mitigation requirements for impacts. Please add the Central Coast Water Board to the listed regulatory agencies in measure e).

### **Comments on Mitigation Measure 4.6-3: Avoid, Minimize, and or Mitigate Impacts to Wetlands**

10. Central Coast Water Board staff finds this mitigation measure does not adequately protect waters of the state, including wetlands. The contents of the Wetland Mitigation and Monitoring Plan do not include several criteria that Central Coast Water Board staff concludes are necessary to help the applicant achieve success in implementing compensatory mitigation habitat. Please add the following italic text to the list of elements that shall be included in a Wetland Mitigation and Monitoring Plan.

- a. *Name and contact information for the property owner of the land on which the mitigation will take place.*
- b. *Identification of the water source for supplemental irrigation.*
- c. *Identification of depth to groundwater.*
- d. *All success criteria in tabular form.*
- e. *Final success criteria that includes:*
  - i. *Conducting a wetland delineation for wetlands constructed to compensate for the loss of Federal wetlands.*
  - ii. *Ensuring that all wetlands constructed as Federal wetlands meet the criteria of a federal wetland.*
- f. *Identification of the mechanism that will preserve the mitigation site in perpetuity, if necessary.*

If you have questions please contact **Kim Sanders** at (805) 542-4771 or via e-mail at [Kim.Sanders@waterboards.ca.gov](mailto:Kim.Sanders@waterboards.ca.gov) , or Phil Hammer at (805) 549-3882.

Sincerely,

Kenneth A. Harris Jr.  
Executive Officer