

3. Applicable Laws, Regulations, and Standards

3.1 Federal

Clean Water Act

The Clean Water Act (CWA) (33 U.S.C. Section 1251 et seq.), formerly the Federal Water Pollution Control Act of 1972, was enacted with the intent of restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States. The CWA requires states to set standards to protect, maintain, and restore water quality through the regulation of point source and certain non-point source discharges to surface water. Those discharges are regulated by the National Pollutant Discharge Elimination System (NPDES) permit process (CWA Section 402). In California, NPDES permitting authority is delegated to, and administered by, the nine RWQCBs. For the proposed Project, NPDES permits would be delegated to the Lahontan, Los Angeles, and Santa Ana RWQCBs. Projects that disturb one or more acres are required to obtain NPDES coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. The Construction General Permits require the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP describes Best Management Practices (BMPs) the discharger will use to protect stormwater runoff. The SWPPP must contain a visual monitoring program; a chemical monitoring program for “non-visible” pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment. (SWRCB, 2006)

Section 401 of the CWA requires that any activity, including river or stream crossing during road, pipeline, or transmission line construction, which may result in discharges into a State waterbody, must be certified by the RWQCB. This certification ensures that the proposed activity does not violate State and/or federal water quality standards. Proposed Project activities would adhere to State and federal water quality standards and would be in compliance with Section 401 of the CWA.

Section 404 of the CWA authorizes the U.S. Army Corps of Engineers (USACE) to regulate the discharge of dredge or fill material to the waters of the U.S. and adjacent wetlands. The limits of non-tidal waters extend to the Ordinary High Water (OHW) line, defined as the line on the shore established by the fluctuation of water and indicated by physical characteristics, such as natural line impressed on the bank, changes in the character of the soil, and presence of debris. The USACE may issue either individual, site-specific permits or general, nationwide permits for discharge into US waters. A Section 404 permit would be required for the proposed Project construction activities involving excavation or replacement of fill material into waters of the United States (i.e., road construction involving cut-and-fill in streams). A Water Quality Certification pursuant to Section 401 of the CWA is required for Section 404 permit actions. If applicable, construction would also require a request for Water Quality Certification (or waiver thereof) from the applicable RWQCB. Proposed Project activities would adhere to State and federal water quality standards and would be in compliance with Section 404 of the CWA.

Section 303(d) of the CWA (CWA, 33 USC 1250, et seq., at 1313(d)) requires states to identify “impaired” water bodies as those which do not meet water quality standards. States are required to compile this information in a list and submit the list to the US EPA for review and approval. This list is known as the Section 303(d) list of impaired waters. As part of this listing process, states are required to prioritize waters and watersheds for future development of TMDL requirements. The State Water

Resources Control Board (SWRCB) and RWQCBs have ongoing efforts to monitor and assess water quality, to prepare the Section 303(d) list, and to develop TMDL requirements (LARWQCB, 2004).

Both the USEPA and the California State Board are revising their NPDES construction guidelines and permits. The State Board is expected to adopt a revised Construction General Permit (CGP) in August 2009. The current CGP (Order No. 99-08-DWQ) expired in 2004. The State Board expects to adopt the new CGP in August 2009, and implementation of the permit will likely begin in the 2009/2010 rainy season. The new CGP is expected to include requirements beyond those in the current Construction Permit. Where the current CGP requires only a Storm Water Pollution Prevention Plan for compliance with the permit, the new CGP will require substantial additional documents and compliance steps. Examples of the increased compliance tasks include project risk evaluation, effluent monitoring, receiving water monitoring, electronic data submission of the SWPPP and all other permit registration documents, and a Rain Event Action Plan (REAP). The REAP is expected to weigh heavily in a site's permit compliance evaluation, and possibly be more important than the SWPPP. The proposed Project is likely to fall under the requirements of the new CGP.

In addition, the USEPA is mandated to promulgate Effluent Limitation Guidelines for construction activities by December 1, 2009; Draft Guidelines were issued in November 2008. If the State CGP is not adopted prior to December 1, 2009, the USEPA effluent limit guidelines must be included in the State CGP. The proposed TRTP would be subject to the State CGP and the increased regulatory requirements.

Wild and Scenic Rivers Act

In accordance with the Wild and Scenic Rivers Act (Public Law 90-542), certain selected rivers in the United States are to be protected and preserved in free-flowing condition because of their "outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values..." Every wild, scenic, or recreational river in a free-flowing condition, or upon restoration of this condition, is eligible for inclusion in the National Wild and Scenic Rivers System. If determined to be eligible, a suitability analysis is conducted for the river's current level of development, accounting for water resource projects, shoreline development, and accessibility. A recommendation is also made that the eligible river be placed in one or more of three classes: wild, scenic, and/or recreational. Prior to official designation, eligible rivers are afforded federal protection against activities or actions that could potentially interfere with the "outstandingly remarkable values" (ORVs) of the river that make it eligible for the recommended classification/s within the National Wild and Scenic Rivers System. In the Angeles National Forest, the West Fork of the San Gabriel River is currently eligible to be included in the National Wild and Scenic River System (USDA, 2005b) as a recreational river.

USDA Forest Service Land Management Plan

The USDA Forest Service Land Management Plan for the ANF provides management direction for the ANF (USDA, 2005b). The 2005 Land Management Plan was approved on September 20, 2005, and became effective on October 31, 2005. Part 2, Appendix B, of the 2005 Land Management Plan includes a description of "Program Strategies and Tactics" that the ANF may choose to emphasize to progress toward achieving the desired conditions and goals of the Plan. The following is a list of the program strategies related to Hydrology and Water Quality that are applicable to the proposed Project:

- Watershed Function – Protect, maintain and restore natural watershed functions including slope processes, surface water and groundwater flow and retention, and riparian area sustainability.

- Water Management – Manage groundwater and surface water to maintain or improve water quantity and quality in ways that minimize adverse effects.
- Hazardous Materials – Manage known hazardous materials risks.

3.2 State

Streambed Alteration Agreement

Section 1602 of the California Fish and Game Code protects the natural flow, bed, channel, and bank of any river, stream, or lake designated by the California Department of Fish and Game (CDFG) in which there is, at any time, any existing fish or wildlife resources, or benefit for the resources. Section 1602 requires an agreement between the CDFG and a public agency proposing a project that would:

- Divert, obstruct, or change a streambed;
- Use material from the streambed; or
- Result in the disposal, or deposition of debris, waste, or other material containing crumbed, flaked, or ground pavement where it can flow into a stream.

As described in the following impact analysis, it is not expected that the proposed Project would cause or facilitate the actions listed above. During final engineering and design of the proposed Project, if it is determined that any Project-related actions would have the potential to necessitate a Streambed Alteration Agreement, then such an agreement would be prepared and implemented prior to construction of the proposed Project, thus maintaining compliance with Section 1602 of the California Fish and Game Code.

Porter Cologne Water Quality Control Act

The Porter Cologne Water Quality Control Act of 1967, Water Code Section 13000 et seq., requires the SWRCB and the nine RWQCBs to adopt water quality criteria to protect State waters. These criteria include the identification of beneficial uses, narrative and numerical water quality standards, and implementation procedures.

California Water Code §13260

California Water Code §13260 requires that any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the State, other than into a community sewer system, must submit a report of waste discharge to the applicable RWQCB. Any actions related to the proposed Project that would be applicable to California Water Code §13260 would be reported to the applicable RWQCB (Lahontan, Los Angeles, or Santa Ana).

3.3 Local

Within Kern County, surface water and groundwater quality and use are regulated by the County of Kern Engineering and Survey Service (KCESS). Water quality in Kern County is also under the jurisdiction of the Lahontan RWQCB (LRWQCB). Within Los Angeles County, surface water and groundwater quality and use are regulated by the Los Angeles County Department of Public Works (LACDPW). The LACDPW has Master Plans for many of its large flood control facilities including the Los Angeles River. Water quality in Los Angeles County is also under the jurisdiction of the Los Angeles RWQCB (LARWQCB). Water quality in the eastern part of Los Angeles County is also under the jurisdiction of the Santa Ana RWQCB (SARWQCB). Within San Bernardino County, surface water and groundwater quality and use are regulated by the San Bernardino County Department of Public Works (SBCDPW) in addition to the SARWQCB (SCE, 2007).

Local water quality control plans applicable to the proposed Project include the Lahontan RWQCB Basin Plan, the Los Angeles RWQCB Basin Plan, and the Santa Ana RWQCB Basin Plan. Each of these plans defines water quality objectives for their jurisdiction. These Regional Boards regulate the sources of water quality problems which could result in the impairment of beneficial uses or degradation of water quality, including both point sources of pollution and non-point sources of pollution. These pollution sources are regulated through the issuance of NPDES permits (SCE, 2007).

SCE has also developed site-specific Storm Water Management Plans (SWMPs) for each of its attended substations and service centers. These SWMPs address operational water quality and storm water issues. The existing SWMP for Vincent Substation would be updated to reflect the planned changes. There is currently no SWMP for Antelope Substation because it is not an attended facility. Whirlwind Substation is not proposed to be an attended facility, and therefore a SWMP would not be developed for this substation (SCE, 2007).