

UNITED STATES OF AMERICA 131 FERC ¶ 62,175
FEDERAL ENERGY REGULATORY COMMISSION

United Water Conservation District

Project No. 2153-022

ORDER APPROVING SPOIL MANAGEMENT, EROSION, AND SEDIMENT
CONTROL PLAN PURSUANT TO ARTICLE 401

(Issued May 26, 2010)

1. United Water Conservation District (licensee) filed on September 30, 2009, as supplemented on November 25, 2009, and January 15, 2010, a final Spoil Management, Erosion, and Sediment Control Plan for the Santa Felicia Project No. 2153, pursuant to Article 401 of the license.¹ The project is located on Piru Creek, a tributary of the Santa Clara River, in Ventura County, California. The project occupies 174.5 acres of federal lands, administered by the U.S. Department of Agriculture, Forest Service (Forest Service).

REQUIREMENT

2. Article 401 of the license requires the licensee to file within one year of the license issuance, for Commission approval, a Spoil Management, Erosion, and Sediment Control Plan, which was Condition No. 15 of the final section 4(e) conditions required by the Forest Service. Article 401 requires the licensee to submit to the Commission documentation of its consultation, copies of comments and recommendations made in connection with any plan, and a description of how the plan accommodates the comments and recommendations. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

3. Section 4(e) Condition No. 15 in Appendix A of license Order, requires the licensee within one year of license issuance, to prepare a plan to address sediment management activities affecting Forest Service lands. At a minimum the plan shall include the location of the proposed or existing disposal sites on Forest Service lands; the potential erosion and/or stabilization measures, including Best Management Practices (BMPs) and the use of certified weed free straw; revegetation measures; noxious weed

¹ *United Water Conservation District*, 124 FERC ¶ 62,193 (2008).

management; and foreign material treatment, including removal of visible non-native materials.

4. Forest Service approval will be required before implementation of any sediment removal operation that affects Forest Service lands or resources. Documentation of correspondence with the Forest Service shall also be filed with the Commission prior to implementation of any sediment removal activity. For any non-emergency remedial or removal action the licensee shall submit a site specific plan for the Forest Services' approval which includes:

- Description of the material to be removed;
- Reason for the removal;
- Approximate quantities of material;
- Selected method of removal along with alternatives considered;
- Schedule of removal or remedial activities;
- Water quality monitoring including adherences to Forest Service, Region 5, BMPs;
- Consideration of visual quality;
- Utilization of material; and
- Mitigation measures and disposal site stabilization plans for material placed on Forest Service lands.

5. In addition, the licensee shall consult with the California Department of Fish and Game (California Fish and Game), California State Water Resources Control Board (California SWRCB), U.S. Fish and Wildlife Service (FWS), and U.S. Army Corps of Engineers and obtain any necessary approvals before proceeding.

6. During the Annual Consultation Meeting required by Section 4(e) Condition 2, the Forest Service will review any monitoring results and discuss any needed changes to the Plan.

LICENSEE'S PLAN

7. Currently, the sediment management activities performed by the licensee are conducted on property owned by the licensee and do not affect Forest Service lands. However, if in the future, proposed sediment management activities associated with the Santa Felicia Project have the potential to affect the Forest Service lands or resources, the licensee will submit a site specific plan for approval by the Forest Service and the Commission prior to implementation. The site specific plan will include the following:

- A description of the material to be removed;
- The reason for removal;
- The approximate quantities of material;
- The selected method of removal along with alternatives considered;
- The schedule of removal or remedial activities;
- Water quality monitoring including adherence to Forest Service, Region 5, BMPs;
- A description of BMPs that will be implemented to minimize potential erosion in accordance with the Water Quality Management for National Forest System Lands in California- Best Management Practices dated September 2000 (or more recent version if applicable at the time) prepared by the Forest Service Pacific Southwest Region;
- Consideration of visual quality;
- Utilization of material;
- Revegetation and noxious weed management measures in accordance with the Vegetation and Noxious Weed Management Plan required in Article 405 of the license;
- Foreign material treatment, including removal of visible non-native materials; and
- Mitigation measures and disposal site stabilization plans for material placed on Forest Service lands.

8. In addition, the licensee will consult with the California Fish and Game, California SWRCB, FWS, and U.S. Army Corps of Engineers and obtain any necessary approvals prior to proceeding.

AGENCY CONSULTATION

9. On August 28, 2009, the licensee sent the Spoil Management, Erosion and Sediment Control Plan via email to the FWS, California Fish and Game, Forest Service, and National Marine Fisheries Service (NMFS). On September 24, 2009, the California Fish and Game sent comments on the draft plan. The August 28, 2009 email requesting comments from the resource agencies and the California Fish and Game's comments were included in the licensee's November 25, 2009 supplemental filing.

10. The California Fish and Game recommended that clear best management practices should be listed as avoidance measures in the Spoil Management, Erosion, and Sediment Control Plan for activities that are likely to be performed. Additionally, the Plan references the California Fish and Game Streambed Alteration Agreement, and the California Fish and Game recommended that the mitigation measures outlined in the agreement are reiterated in the Plan to provide all agencies with the understanding of the required mitigation measures.

11. The licensee inadvertently excluded the California SWRCB from the recipients of the Spoil Management, Erosion and Sediment Control Plan distributed to the resource agencies in August 2009. The licensee transmitted a copy of the Plan for the California SWRCB on November 24, 2009, for review, and allowed for a 30 day comment period. On January 15, 2010, the licensee filed the comments it had received from the California SWRCB. The California SWRCB did not have any substantive comments but clarified that they adopted a new National Pollutant Discharge Elimination System general permit for storm water discharges resulting from construction activities, which becomes effective later in 2010, and should be followed in the future.

12. On May 13, 2010, the Forest Service filed comments on the Plan. The Forest Service stated that the current sediment management activities performed by the licensee do not affect Forest Service lands. Additionally, the Forest Service concurs that if in the future sediment management activities have the potential to affect Forest Service lands, the licensee will submit, for approval, a site specific plan to the Forest Service prior to implementation. The Forest Service states it will request a meeting with the licensee to discuss the development of an "emergency spoil material management" plan to account for emergency situations in advance. Furthermore, the Forest Service suggests the licensee add NMFS to the list of agencies to consult with in the event a site specific plan is developed regarding any potential effects to Forest Service lands and resources.

DISCUSSION

13. The Spoil Management, Erosion, and Sediment Control Plan filed on September 30, 2009, as supplemented on November 25, 2009, and January 15, 2010, fulfills all requirements of Article 401 of the license and 4(e) Condition No. 15. The licensee's current sediment management activities do not affect Forest Service lands but the plan

establishes a set of procedures if in the event future activities have the potential to affect Forest Service lands. Ordering paragraph (B) modifies the Plan to state the licensee shall add the National Marine Fisheries Service to the list of agencies to consult in the event a site specific plan is developed regarding any potential effects to Forest Service lands and resources.

The Director orders:

(A) The final Spoil Management, Erosion, and Sediment Control Plan for the Santa Felicia Project filed on September 30, 2009, as supplemented on November 25, 2009, and January 15, 2010, pursuant to Article 401 of the license, as modified, is approved.

(B) The licensee shall add the National Marine Fisheries Service to the list of agencies to consult with in the event a site specific plan is developed regarding any potential effects to Forest Service lands and resources.

(C) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of this order, pursuant to 18 C.F.R. § 385.713.

William Guey-Lee
Chief, Engineering and Jurisdiction Branch
Division of Hydropower Administration
and Compliance

Document Content(s)

P-2153-022.DOC.....1-5