



SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

February 19, 2009

VIA E-MAIL AND U.S. MAIL

Dr. Rebecca Chou
Groundwater Permitting Unit
Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Re: Submission of Technical Report for Drain Outlet Flow for Tunnel 26 and Request for Waiver from Waste Discharge Requirements

Dear Ms. Chou:

This letter is in response to the California Regional Water Quality Control Board's ("Regional Board") November 19, 2008 letter to the Southern California Regional Rail Authority ("Authority") requesting that the Authority submit a Form 200, Application/Report of Discharge and "supporting documents including but not limited to water quality data from sump water, volume of discharge, discharge area and route, regional and local hydrology and geology, depth to groundwater, and any potential adverse impacts on groundwater" for flows of water from drain pipes in Tunnel 26.

Enclosed is a technical report entitled "Evaluation of Drain Outlet Flow Report" ("Report") prepared by the Authority's consultant, Ninyo & Moore, which characterizes the flows of water from the eastern and western portals of Tunnel 26. Based on the results of the Report, the Authority requests that the Regional Board grant the Authority a waiver from the report of waste discharge requirement pursuant to Water Code Section 13269, subdivision (a). Section 13269, subdivision (a), authorizes the Regional Board to waive the report of waste discharge requirement set forth in Water Code Section 13260 as to a specific discharge if the Regional Board determines that the waiver is consistent with the regional water quality control plan and is in the public interest.

A waiver of the waste discharge requirement for flows of water from drain pipes in Tunnel 26 is appropriate because it is consistent with the Water Quality Control Plan for the Los Angeles Region ("Basin Plan"). The Basin Plan authorizes the Regional Board to waive discharge requirements if the discharge has a minimal adverse water quality impact.¹ As indicated in the Report, the flows of water from Tunnel 26 will have no adverse impact on water quality. The quality of the water as it exits the tunnel is of such high quality that it meets almost all drinking water standards. For the few constituents that are elevated

¹ Water Quality Control Plan Los Angeles Region, June 13, 1994, 4-17, 18.

above drinking water standards, the Report demonstrates that the natural filtration process which occurs as the water percolates into the ground through a wide range of soil particle sizes will cleanse the water and remove the few remaining constituents before it reaches any relevant groundwater resources.

In addition, a waiver of the report of discharge requirement is in the public interest. The Report demonstrates that the flows of water from Tunnel 26 do not pose a threat to water quality. Moreover, the flows are from a narrow transportation right-of-way used to provide an essential public transportation service, and any unnecessary activities in the railroad right-of-way could present a risk to public health and safety. Indeed, the drainage system for Tunnel 26 was specifically designed to improve railroad safety and track stability.

Because the Authority is a public entity with strained financial resources, a waiver is also in the public interest to conserve scarce taxpayer money. If a waiver is not granted, fees and compliance costs may be increased. These costs would be disproportionate in comparison to the benefit gained by the public if this waiver is not granted. Negative impacts to the public arising from the denial of a waiver include risks to passenger safety due to unnecessary activities in a very narrow and topologically unfavorable railroad right of way, slower train speeds to mitigate such safety risks, and potential reductions in rail service due to decreased budget and safety issues. It is in the public interest to avoid added safety risks and strain on public financial resources.

Based on the foregoing, the Authority requests that the Regional Board waive any requirement to submit a Report of Discharge requirement for the flows of water from Tunnel 26. Please do not hesitate to contact me if you have any questions or would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink that reads "Bryan Payne". The signature is written in a cursive, flowing style.

for
DARRELL MAXEY, P.E.
Director, Engineering & Construction

Encl.: Technical Report, Evaluation of Drain Outlet Flow

cc: Bryan Payne, Southern California Regional Rail Authority
Truc L. Moore, Esq., Deputy County Counsel
Gregory J. Newmark, Esq., Counsel