

Lahontan Regional Water Quality Control Board

March 1, 2013

WDID No. 6B361211002
401 WQC

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**ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY
CERTIFICATION, LAKE GREGORY SEDIMENT MANAGEMENT PROJECT,
SAN BERNARDINO COUNTY REGIONAL PARKS DEPARTMENT, SAN
BERNARDINO COUNTY, ORDER NO. R6V-2013-0019, WDID NO. 6B361211002**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received project information from San Bernardino County Regional Parks Department (Applicant) and an application filing fee to complete an application for Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) for the Lake Gregory Sediment Management Project (Project). This Order for WQC is based upon the information provided in the application and subsequent correspondence received in support of the application.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California Water Code (CWC), section 13320, and California Code of Regulations (CCR), title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the internet at http://www.waterboards.ca.gov/public_notices/petitions/water_quality, or will be provided upon request.

PROJECT DESCRIPTION

Project details, as presented in the application and subsequent correspondence, are summarized in the following table.

Table of Project Information:

WDID Number	6B361211002						
Applicant	San Bernardino County Regional Parks Department 777 E. Rialto Avenue San Bernardino, CA 92415-0763						
Agent	AJ Gerber, Environmental Planner						
Project Name	Lake Gregory Sediment Management Project						
Project Purpose and Description	Lake Gregory is an artificial lake that is fed by Houston Creek to the southwest, Albondigas Creek to the southeast, and various smaller tributary creeks and streams. Sediment accumulates at these points of discharge. The purpose of the Project is to remove excess sediment and restore portions of the shoreline and lake bottom to original topographic contours. Work will be limited to the 4.3 acre designated swim area in the general area where Houston Creek enters the Lake. The Project is necessary for public safety, recreational enjoyment, and continued overall health of the Lake's ecosystem. The Project will be implemented such that equipment tires will be restricted to areas above the ordinary high water level (elevation 4,517 feet above mean sea level [amsl]) and sediment will be removed using clean excavation techniques. The baseline conditions for restoration are the original 1938 topographic contours at the time the dam was constructed.						
Project Type	Maintenance						
Project Address or Other Locating Information	24171 Lake Drive, Crestline, San Bernardino County; the Lake Gregory swim area is located in the western portion of the lake, southeast of the intersection of Lake Gregory Drive and Lake Drive						
Location Latitude/Longitude	Latitude: 34.143204 Longitude: -117.162883 (center)						
Hydrologic Unit(s)	Mojave Hydrologic Unit 628.00; Upper Mojave Hydrologic Area 628.20						
Project Area	4.3 acres						
Receiving Water(s) Name	Lake Gregory, Houston Creek						
Water Body Type(s)	Lake, perennial stream						
Designated Beneficial Uses	MUN, AGR, GWR, NAV, REC-1, REC-2, COMM, COLD, WILD, SPWN						
Potential Water Quality Impacts to Waters of the United States (WOUS)	Short term increases in turbidity during excavation; potential for downstream erosion, sedimentation, and/or siltation at dewatering site(s).						
Project Impacts to WOUS	Waterbody Type	Permanent			Temporary		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>lake</i>	0	0	0	4.3	1,276	10,000 (dredge)

Federal Permit(s)	Lake Gregory is a water of the U.S. However, U.S. Army Corps of Engineers (USACOE) staff has determined that the Project does not warrant regulation under section 404 of the CWA based on the following: 1) limiting equipment tires to areas above the ordinary high water level (elevation 4,517 feet amsl); and 2) the removal of sediment using clean excavation techniques. Because the Project has the potential to violate water quality objectives established for Lake Gregory, the Water Board will regulate the Project under section 401 of the CWA.
Non-Compensatory Mitigation	During construction, the Applicant will follow Best Management Practices (BMPs) including construction stormwater controls designed to minimize the short-term degradation of water quality. The Applicant will use silt curtains around the dredge site and monitor turbidity levels both inside and outside the containment area(s) in accordance with the Swim Area Excavation Operations Water Quality Monitoring Plan dated January 11, 2013. The Applicant will use an effective combination of sediment and erosion control BMPs for dewatering and stockpile locations.
Compensatory Mitigation	None
Applicable Fees	\$ 2,444 (\$944 base fee + [\$0.15 per cubic yard x 10,000 cubic yards]); fees are calculated based volume of dredge
Fees Received	\$ 2,444

CEQA COMPLIANCE

The Water Board finds that the Project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CCR, title 14, section 15304, Minor Alterations to Land, for the maintenance dredging of the designated swim area. The baseline conditions used to establish restoration are the original topographic contours at the time the dam was constructed. The Water Board will file a Notice of Exemption with the State Clearinghouse concurrently with this Order.

SECTION 401 WATER QUALITY CERTIFICATION

Authority

CWA, section 401 (33 U.S.C., paragraph 1341), requires that any applicant for a CWA, section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to WOUS, shall provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and the fees required for WQC under section 401 of the CWA for the Project. The USACOE has determined that the Project does not warrant regulation under section 404 of the CWA based on the following: 1) limiting equipment tires to areas above the ordinary high water level (elevation 4,517 feet amsl); and 2) the removal of sediment using clean excavation techniques. Because the Project has the potential to violate water quality objectives established for Lake Gregory, the Water

Board will regulate the Project under section 401 of the CWA and require the mitigation measures necessary to protect water quality.

CCR, title 23, section 3831(e) grants the Water Board Executive Officer the authority to grant or deny WQC for projects in accordance with CWA section 401. The proposed Project qualifies for such water quality certification.

Standard Conditions

Pursuant to CCR, title 23, section 3860, the following standard conditions are requirements of this certification:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code (CWC), section 13330 and CCR, title 23, section 3867.
2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent certification application was filed pursuant to CCR, title 23, section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action must be conditioned upon total payment of the full fee required under CCR, title 23, section 3833, unless otherwise stated in writing by the certifying agency.
4. Neither Project construction activities nor operation of the Project may cause a violation of the Water Quality Control Plan for the Lahontan Region (Basin Plan), may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the CWC.
5. The Project must be constructed and operated in accordance with the Project described in the application for WQC that was submitted to the Water Board. Deviation from the Project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including Project operation, must be submitted to the Executive Officer for prior review and written approval.
6. This WQC is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this WQC and civil or criminal liability.

7. The Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (CWC) or section 303 of the CWA, or as appropriate to coordinate the operations of this Project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or to protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the Project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (CWC) or section 303 of the CWA.
8. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code, section 2050 et seq.) or the federal Endangered Species Act (16 USC, section 1531 et seq.). If a "take" will result from any act authorized under this certification, the Applicant must obtain authorization for the take prior to construction or operation of the Project. The Applicant is responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this certification.

Additional Conditions

Pursuant to CCR, title 23, section 3859, subdivision (a), the following additional conditions are required with this certification:

1. Prior to initiating any excavation or dredging, the Applicant must affirmatively document whether there are any subsurface utilities in the area of construction and submit such documentation to the Water Board. This can be accomplished by: (1) contacting all utilities (both public and private) that provide service in the area, documenting these contacts and submitting such documentation to the Water Board; (2) contacting Underground Service Alert, documenting this contact and submitting such documentation to the Water Board; or, (3) some other equivalent action to determine whether or not there are any subsurface utilities in the area of construction. The area of construction is defined as any area within the Project boundaries where there will be excavation, dredging, or subsurface soil disturbance. **If subsurface utilities are located in the construction area, the Applicant must provide a utility avoidance plan that will be followed during the Project.**
2. Turbidity curtains must be used during Project implementation to prevent sediments from migrating beyond the containment area. These structures must be designed to treat the required volume of dredging and to withstand anticipated wind, current or storm runoff that may impact the operation. These structures must remain in place until the threat of sediment and nutrient transport ceases to

exist and suspended materials have settled to approximate pre-dredging conditions.

3. The dredging operation must be halted if inclement weather or wind action threatens to damage the turbidity curtain or allows turbid water to escape from the containment area. The Applicant must take action to ensure that the performance of the turbidity curtain remains effective at all times, even in adverse conditions, such as high winds.
4. Lake Gregory is identified in the *Water Quality Control Plan for the Lahontan Region* (Basin Plan) as a waterbody within the Mojave Hydrologic Unit 628.00 and assigned the following beneficial uses: municipal supply (MUN); agricultural supply (AGR); groundwater recharge (GWR); navigation (NAV); contact and non-contact recreational uses (REC-1, REC-2); commercial and sport fishing (COMM); cold freshwater habitat (COLD); wildlife habitat (WLD) and spawning, reproduction, and development (SPWN). Water quality objectives and standards, both numerical and narrative, for these surface waters, are outlined in Chapter 3 of the Basin Plan. Implementation of the Project must comply with all applicable water quality standards and prohibitions, including provisions of the Basin Plan. Specifically, the Project must comply with the following water quality standards:
 - a. Chemical Constituents – Waters designated MUN shall not contain concentrations of chemical constituents in excess of the maximum contaminant level (MCL) or secondary MCL based upon current drinking water standards.
 - b. Oil and Grease – Waters shall not contain oils, greases, waxes or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect the water for beneficial uses.
 - c. pH – In fresh waters with designated beneficial uses of COLD, changes in normal ambient pH levels shall not exceed 0.5 pH units.
 - d. Sediment – The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect the water for beneficial uses.
 - e. Temperature – For waters designated COLD, the temperature shall not be altered.
 - f. Turbidity – All waters shall be free of changes in turbidity that cause nuisance or adversely affect the water for beneficial uses. Increases in turbidity shall not exceed background levels by more than 10 percent.
5. During the Project, the Applicant will implement the **Swim Area Excavation Operations Water Quality Monitoring Plan** dated January 11, 2013. The plan outlines the monitoring locations, monitoring methodology, frequency of testing, and reporting requirements for monitoring water quality in the Lake during the Project. The baseline water quality parameters of the lake will be established in accordance with the plan prior to initiating dredging operations. Specific water quality monitoring parameters include turbidity, pH, and temperature, and visual

observations for oil and grease. Should water quality monitoring indicate that water quality parameters exceed the water quality objectives, all work shall be suspended immediately until parameter levels fall below the established baseline threshold. Additionally, the Applicant must notify Water Board staff (either in writing or by telephone) within 24 hours of determination of any water quality objective exceedance.

6. The Applicant must prepare and implement an **Erosion Control Plan** for the dewatering location as well as for the offsite stockpile location. The plan shall specifically identify the placement and types of BMPs to be used to manage sediment and filter runoff. The plan will include a detailed description for each BMP type including proper installation techniques. A copy of the plan shall be provided to Water Board staff for review a minimum of 5 working days prior to initiating dredging operations.
7. To document the completion of the Project, the Applicant must submit a **Project Completion Report** to the Water Board by **July 30, 2013**. The Project Completion Report should include the following, at minimum: a summary of the dredge and dewatering activities, including the date(s) those activities were performed, and the total volume of material dredged; a summary of the activities related to turbidity monitoring, including dates, methods used, and a summary of water quality data; photo documentation of the completed Project; and a summary of any activities that deviated from those described in the original Application and supporting documents.
8. No debris, cement, concrete (or wash water there from), oil, or petroleum products must be allowed to enter into or be placed where it may be washed from the Project site by rainfall or runoff into surface waters. When operations are completed, any excess material and/or soil must be removed from the Project work area and any areas adjacent to the work area where such material may be transported into surface waters.
9. All open flow temporary diversion channels must be lined with filter fabric or plastic to prevent erosion and sediment transport.
10. An emergency spill kit must be at the Project site at all times during Project construction.
11. Construction vehicles and equipment must be monitored for leaks and proper BMPs must be implemented should leaks be detected or the vehicles/equipment must be removed from service, if necessary, to protect water quality.
12. The Applicant must permit Water Board staff or their authorized representative(s) upon presentation of credentials:

- a. Entry onto Project premises, including all areas on which fill, excavation or mitigation is located or in which records are kept;
 - b. Access to copy any record required to be kept under the terms and conditions of this WQC;
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this WQC; and
 - d. Sampling of any discharge or surface water covered by this WQC.
13. The Applicant must maintain at the Project site a copy of this Order and a copy of the complete WQC application provided to the Water Board so as to be available at all times to site operating personnel and agencies.
14. The Applicant is responsible for informing any contractors of the specific conditions contained in this WQC Order.

Enforcement

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation will be subject to any remedies, penalties, processes or sanctions, as provided for under state law. For purposes of CWA, section 401(d), the applicability of any state law authorizing remedies, penalties, processes or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this WQC.
2. In response to a suspected violation of any condition of this certification, the State Water Board or the Water Board may require the holder of any permit or license subject to this WQC to furnish, under penalty of perjury, any technical or monitoring report that the State Water Board or Water Board deems appropriate, provided that the burden, including costs, of the reports must be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
3. In response to any violation of the conditions of this certification, the Water Board may add to or modify the conditions of this certification, as appropriate, to ensure compliance.

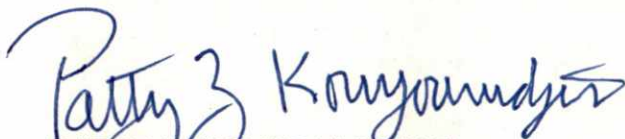
Section 401 Water Quality Certification Requirements Granted

I hereby issue an Order certifying that any discharge from the referenced Project will comply with the applicable provisions of CWA, sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307

(Toxic and Pretreatment Effluent Standards), and with other applicable requirements of state law. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this WQC. A copy of State Water Board Order No. 2003-0017-DWQ is enclosed for your reference.

Except insofar as may be modified by any preceding conditions, all WQC actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's Project description and the terms specified in this WQC order, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Jan Zimmerman, Engineering Geologist, at (760) 241-7376 (jzimmerman@waterboards.ca.gov), or Patrice Copeland, Senior Engineering Geologist, at (760) 241-7404 (pcopeland@waterboards.ca.gov). Please use the WDID referenced in the subject line of this WQC for future correspondence regarding this Project.



PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

Enclosure: SWRCB Order No. 2003-0017-DWQ

cc: Gerardo Salas, U.S. Army Corps of Engineers
(via email, Gerardo.Salas@usace.army.mil)

cc w/o encl: Juan Torres, California Department of Fish & Game, Inland Deserts
(via email, jtorres@wildlife.ca.gov)
Paul Amato, Wetlands Regulatory Office (WTR-8), USEPA, Region 9
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