



# California Regional Water Quality Control Board Santa Ana Region

3737 Main Street, Suite 500, Riverside, California 92501-3348  
(951) 782-4130 • FAX (951) 781-6288  
<http://www.waterboards.ca.gov/santaana>



Matthew Rodriguez  
Secretary for  
Environmental Protection

Edmund G. Brown Jr.  
Governor

October 31, 2011

Pat Kilroy  
City of Lake Elsinore  
130 S. Amin Street  
Lake Elsinore, CA 92530

## **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE CITY OF LAKE ELSINORE'S PROPOSITION 40 GRANT WETLANDS ENHANCEMENT PROJECT, COUNTY OF RIVERSIDE, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 332011-13)**

Dear Mr. Kilroy:

On August 1, 2011, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the City of Lake Elsinore (City) for its project to reconfigure a portion of City-owned parcels known as the "Back Basin" wetlands area of Lake Elsinore, for the purpose of improving circulation and increasing aquatic habitat diversity. The project is funded with a Prop. 40 grant. The proposed vegetated channels and vegetated shallow water habitat are located within a man-made 356-acre mitigation area called the "Back-Basin" that was established as a condition of the Lake Elsinore Management Project (LEMP). The purpose of the Back-Basins is to provide high quality wetland habitat. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

**Project Description:**

The project consists of excavating two new channels and one small open-water pond on the existing Island-II. Excavated materials from the channel and pond portions of the project will be utilized to form shallow water islands in an existing large pond in the southeast part of the Back Basin. The newly reconstructed channels and shallow water islands will be planted with riparian and aquatic vegetation. The work will take place within Sections 17 of Township 6 South, Range 4 West, of the U.S. Geological Survey *Lake Elsinore* quadrangle maps (33° 38' 22.25" N/ 117° 18' 56.38" W).

**California Environmental Protection Agency**

Receiving water: Lake Elsinore Back Basin Wetland Area, San Jacinto River

Fill area: 11 acres of permanent impact to Lake Habitat (19,850 linear feet)

Dredge/Fill volume: 50,000 cubic yards of soil, from dry land excavation, to form 1,550 linear feet of channels.

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 27

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

**Onsite Water Quality Standards Mitigation Proposed:**

- Standard water quality related best management practices (BMPs) will be employed during construction activities.
- The applicant will continue to monitor water quality and dissolved oxygen levels within the Back-Basin and continue to take reasonably feasible steps to maintain water quality and dissolved oxygen levels in a sustainable manner. As such, this project proposes a management strategy that should produce enhanced biological and habitat function and benefit water quality.
- The vegetated channels and vegetated shallow water habitat will provide a natural water filtration and cleaning system that is not currently found within the Back Basin open water habitat. This project will serve as a functioning water quality BMP by providing ecosystem and water quality rehabilitation and enhancement.

**Offsite Water Quality Standards Mitigation Proposed:**

- None

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2010-0033 (NPDES Permit No. CAS618033), commonly known as the Riverside County Municipal Storm Water Permit, and subsequent iterations thereof. Order No. R8-2010-0033 requires that you substantially comply with the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, including the preparation of a SWPPP.

Pursuant to the California Environmental Quality Act ("CEQA"), the City of Lake Elsinore and the Regional Board have determined that the proposed project is categorically exempt from provisions of CEQA according to Guidelines Section 15304(d) for the minor alteration of land, water, and vegetation for the sole purpose of improving habitat and water quality.

**This 401 Certification is contingent upon the execution of the following conditions:**

- 1) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) The applicant shall implement the on-site water quality standards mitigation proposed, as summarized above.
- 3) All materials generated from construction activities associated with this project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified.
- 4) The project proponent shall utilize BMPs during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.

- 5) Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.
- 6) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.
- 7) This Water Quality Certification 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 the 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 Certification and civil or criminal liability.
- 8) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work as a denoted element of any project SWPPP or WQMP.
- 9) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 10) Construction de-watering discharges, including temporary stream diversions necessary for project construction may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at [www.waterboards.ca.gov/santaana/](http://www.waterboards.ca.gov/santaana/)

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process 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 certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of 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) of the Clean Water Act, and with other applicable requirements of State law.

Pat Kilroy  
City of Lake Elsinore

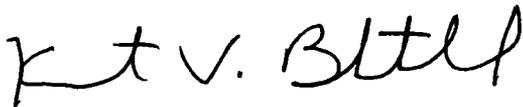
- 6 -

October 31, 2011

This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at: [www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo\\_2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf)

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold  
Executive Officer  
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office -Jason Lambert  
Department of Fish and Game -Kimberly Freeburn  
State Water Resources Control Board, Office of Chief Counsel-David Rice  
State Water Resources Control Board DWQ -Water Quality Certification Unit  
U.S. EPA -Supervisor of the Wetlands Regulatory Office WTR-8  
Tom Dodson & Associates - Shay Lawrey - [shay@tdaenv.com](mailto:shay@tdaenv.com)

x:\401\certifications\prop 40 grant\_wetlands\_enhancement\_332011-13\_31oct11.docx