



# California Regional Water Quality Control Board

## Santa Ana Region



**Matthew Rodriguez**  
Secretary for  
Environmental Protection

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**Edmund G. Brown Jr.**  
Governor

January 4, 2012

Warren D. Williams  
Riverside County Flood Control and  
Water Conservation District  
1995 Market Street  
Riverside, CA 92501

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE ARROYO DEL TORO CHANNEL PROJECT, ELSINORE  
AREA OF RIVERSIDE COUNTY, CALIFORNIA (ACOE REFERENCE NO. NOT  
AVAILABLE) (SARWQCB PROJECT NO. 332011-18)**

Dear Mr. Williams:

On August 29, 2011, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the Riverside County Flood Control and Water Conservation District for a project to provide flood protection for the area between I-15, Collier Ave. and State Highway 74, Lake Elsinore, including Elsinore Valley Cemetery. 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 is to replace an existing earthen drainage channel with a flood control facility. This facility will include concrete rectangular channel segments and reinforced concrete box culvert segments (approximately 3,075 feet), and an earthen trapezoidal channel segment with two rock-lined energy dissipation structures (approximately 700 feet), which leads into Collier Marsh. Reinforced concrete box culverts will be constructed at the Collier Avenue and SR-74 crossings. Construction staging of equipment and material will be adjacent to the channel alignment. The completed system's length will total 3,775 lineal feet. The project includes operation and maintenance of the constructed system. The project will take place within Section 36 of Township 5 South, Range 5 West, of the U.S. Geological Survey *Lake Elsinore* quadrangle maps (33.693° N/ - 117.343° W).

**California Environmental Protection Agency**



Receiving water: Collier Marsh

Fill area: 0.37 acre of permanent impact to streambed habitat; 0.41 acre of temporary impact to wetland habitat

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 39 & 43

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 by the applicant:

- 0.41 acre of marsh habitat restoration will occur within the portion of the channel that occurs within Collier Marsh.
- An additional 0.82 acre of wetland enhancement will occur adjacent to the channel within Collier Marsh.
- 0.56 acre of streambed (channel) will be created from an upland area between Riverside Drive and Collier Marsh
- Installation of endemic plant materials following the completion of the flood channel
- 5-year mitigation maintenance and monitoring program to begin following completion of habitat installation
- Standard water quality- related best management practices (BMPs) will be employed during construction and maintenance activities.

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.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an Environmental Impact Report (EIR) or Negative Declaration (ND) prepared by the lead agency in determining whether to approve a project. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board has considered the applicant's November 8, 2011, Mitigated Negative Declaration (MND) for the proposed project in approving this Certification. More specifically, the Regional Board has considered those sections of the MND relating to water quality. Based on the mitigation proposed in the MND, and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. Thus, the Regional Board finds that changes or alterations have been required in, or incorporated into the project, which avoid or mitigate impacts to water quality to a less than significant level.

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

1. All mitigation identified above will be completed in a timely manner.
2. Submit copies of CDFG and/or ACOE-required mitigation and monitoring plans and associated progress reports to Regional Board staff, on the same submittal schedule specified by those agencies.

3. Sediment removal and other maintenance activities shall not cause dissolved oxygen (D.O.) in downstream receiving waters to be depressed below 5.0 mg/l, or if the background D.O. level is below 5 mg/l, the discharge shall not cause a further depression as a result of controllable factors. Monitoring for dissolved oxygen shall be conducted at least once daily during sediment removal activities. Monitoring shall be conducted on representative water samples, or instantaneously. Monitoring shall occur immediately upstream and downstream of the project's sediment removal area. D.O. test results shall be submitted to Regional Board staff in a timely manner.

4. Waters of the Region shall be free from changes in turbidity that adversely affect beneficial uses. During sediment removal and other maintenance activities, the turbidity upstream of the project and at the downstream end of the project in which sediment removal activities are occurring shall be compared on a daily basis. There shall not be an increase in turbidity resulting from controllable factors at the downstream monitoring point when compared with turbidity monitored at the upstream (background) monitoring point that exceeds the following:

- a. If background turbidity is 0-50 NTU, not to increase more than 20%
- b. If background turbidity is 50-100 NTU, not increase more than 10 NTU
- c. If background turbidity is > 100 NTU, not to increase more than 10%

Turbidity test results shall be submitted to Regional Board staff in a timely manner.

5. Vegetative debris, including mulched material, leaves, and twigs/branches, and other trash which results from or is uncovered by vegetation removal operations, shall be removed from the channel as soon as possible. The objective of this condition is to prevent this debris from being transported to Collier Marsh by channel flows. The County shall timely remove debris resulting from the construction, maintenance or operation of this facility that reaches Collier Marsh.

6. The project proponent shall utilize Best Management Practices during project construction to minimize the dispersion of silt and debris to drainage systems or other waters of the state and of the United States.

7. An effective monitoring plan must be developed and implemented to document compliance with conditions 3, 4 and 6 above. Any suspected violation of these conditions must be reported to Regional Board staff in writing within 24-hours of discovery. The monitoring plan and records of monitoring activities must be maintained on site for the duration of the proposed discharge and be available for inspection by Regional Board staff.

8. 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, and debris from metal welding or metal cutting operations, shall not be discharged to soils or waters of the state.

9. 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.

10. Adherence to the requirements of this certification does not relieve the proponents of this project from compliance with requirements of local, county, other state, and federal agencies.

11. Discharges of construction dewatering wastes at the project site shall be permitted under and in compliance with appropriate waste discharge requirements, such as 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."

12. 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 of 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 appropriate enforcement action.

13. This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP, and be available for inspection upon request by Regional Board staff.

14. The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.

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.

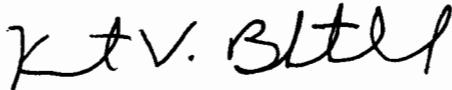
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean 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.

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/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.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):

Riverside County Flood Control and Water Conservation District – Senior Civil Engineer – Kris Flannigan

U. S. Army Corps of Engineers, Los Angeles Office -Jason Lambert Department of Fish and Game -Michael Flores 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

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