



# California Regional Water Quality Control Board Santa Ana Region



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**Matthew Rodriguez**  
*Secretary for  
Environmental Protection*

**Edmund G. Brown Jr.**  
*Governor*

February 21, 2012

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

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION  
FOR THE LAKE ELSINORE OUTLET CHANNEL MAINTENANCE PROJECT, COUNTY  
OF RIVERSIDE, CALIFORNIA (ACOE REFERENCE NO. SPL-2010-00836-RJV)  
(SARWQCB PROJECT NO. 332011-21)**

Dear Mr. Williams:

On October 21, 2011, we received an application for Clean Water Act (CWA) Section 401 Water Quality Standards Certification ("Certification") from Riverside County Flood Control District for its project to reintroduce routine maintenance activities within the Lake Elsinore Outlet, Temescal Creek, Third Street, and the Wasson Basin Channels. This application was submitted in conjunction with your application for the renewal of a CWA Section 404 Permit issued by the Army Corps of Engineers, which had expired in February 2006. 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:** Project activities include: clearing vegetation using a long reach excavator and mowing vegetation using a small tractor equipped with a mower head attachment. Sediment and debris, which have accumulated to a depth of up to 1-foot in channel inverts, will be removed using a long reach excavator, bobcat, and/or motor grader. Eroded bank slopes will be repaired using a long reach excavator, bobcat, and/or dozer. Repairs needed to restore the structural integrity of channels will be made, as necessary. The channels will also be restored to their original design and grade using the aforementioned equipment. The work will take place within Section 36 of Township 5 South, Range 5 West, of the U.S. Geological Survey *Lake Elsinore* quadrangle maps (33.681° N/ -117.331° W).

***California Environmental Protection Agency***

Receiving water: Lake Elsinore Outlet Channel, Wasson Canyon Basin/Channel, Third Street Channel, all tributary to Temescal Creek Reach 5

Fill area: Maintenance of the original 17.6 acres of permanent impact to streambed habitat (16,423 linear feet)

Dredge/Fill volume: N/A

Federal permit: ACOE File No. SPL-2010-0836-RJV (NWP 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:**

- Standard water quality related best management practices (BMPs) will be employed during construction activities.
- Appropriate erosion and sediment control BMPs will be implemented during the maintenance activity including, but not limited to, scheduling the work during dry season, gravel bag berm, sandbag barrier, stabilized construction entrance/exit, stabilized construction roadway, dust control, and spill prevention and control.
- Sustained maintenance and monitoring will be carried out on an approximately 20-acre site that was acquired in 1994 for original mitigation for impacts. This acreage was developed into willow woodland and riparian habitat. Maintenance and Monitoring will be done according to the project's original specifications as described and illustrated in the project's Operation, Maintenance, Repair, Replacement & Rehabilitation Manual (OMRRRM), August 1995. This site is located adjacent to the channel, near Riverside Avenue.

**Offsite Water Quality Standards Mitigation:**

- The permanent loss of freshwater marsh that was located within the area now occupied by the outlet channel was mitigated to a level of non-significance by the acquisition of 2.8 acres of existing freshwater marsh and the purchase and creation of an additional 4.0 acres of freshwater marsh adjacent to Baker Street and Riverside Drive. The 6.8 acre freshwater marsh mitigation site is preserved and protected from development in perpetuity under a Local Cooperation Agreement (LCA). No additional offsite mitigation is proposed.

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 California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR or Negative Declaration (ND) prepared by the lead agency in determining whether to approve a Section 401 Certification. 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 Riverside County Flood Control & Water Conservation District's mitigated ND (MND) filed on March 3, 1992, for the proposed project, particularly those sections of the MND that relate to water quality and beneficial uses, in approving this Certification. Based on information provided in the District's application, including mitigation proposed, and the conditions set forth in this Certification, Board staff concludes that the proposed project's impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. The Regional Board independently finds that changes or alterations have been required or incorporated into the project that 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-, USFWS-, 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 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, 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 of changes in turbidity that adversely affect beneficial uses. During the sediment removal 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, the vegetation removal operations shall be removed from the creek channel as soon as possible. The objective of this condition is to prevent this debris from being transported to the mitigation site at the channel outlet.

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, WQMP and/or the OMRRRM (as referenced above), and be available for inspection upon request by Regional Board staff.

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 Flood Control District – Senior Civil Engineer – Arturo Diaz  
U. S. Army Corps of Engineers, Los Angeles Office –Crystal Doyle  
Department of Fish and Game –Juan J. Lopez-Torres  
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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