



# California Regional Water Quality Control Board Santa Ana Region



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Arnold Schwarzenegger  
Governor

September 11, 2007

Jeff Pape  
Lee Lake Water District  
22646 Temescal Canyon Road  
Corona, CA 92883

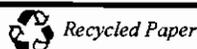
## **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE PROPOSED LEE LAKE WATER DISTRICT FLOOD PROTECTION PROJECT, RIVERSIDE COUNTY (ACOE REFERENCE NO. 2007 – 0467)**

Dear Mr. Pape:

On March 25, 2007, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by Dudek, for the proposed construction of a concrete block channel embankment along the south side of Temescal Wash at the Lee Lake Waste Water Treatment Plant (LLTP) in Riverside County. 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) and subsequent Basin Plan amendments:

**Project Description:** Construction of a 1,200-foot long, concrete block channel embankment along the south side of Temescal Wash to protect the LLTP, in Riverside County south of the City of Corona. The new embankment would be constructed at a 1.5:1 slope and be buried beneath a minimum of 12-inches of native soil. The toe of the slope will be excavated and the armoring extended to a depth of approximately 10-feet in order to prevent undermining of the slope by erosive channel flows. Shallow groundwater will likely require construction de-watering discharges as part of the excavation. The slope will be re-vegetated with native riparian plants. The existing LLTP discharge outfall is currently elevated substantially above the channel bottom and its discharge is causing local erosion. The outfall will be lowered as part of the project and rock energy dissipation will be installed. The project is located at 22646 Temescal Canyon Road, within Section 27 of Township 4 South, Range 6 West, of the U.S. Geological

***California Environmental Protection Agency***



Survey *Lake Mathews, California*, 7.5-minute topographic quadrangle map (33 deg. 47 min. 43 sec. N/ -117 deg. 29 min. 37 sec. W).

Receiving water: Temescal Wash

Fill area: 0.01 acres of wetlands; 0.01 acres of freshwater marsh 0.88 acres of temporary impact to an ephemeral wash (1,200 linear feet).

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit

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

**Onsite Water Quality Standards Mitigation Proposed:**

- The concrete block embankment will be covered with 12 to 24-inches of soil and vegetated with appropriate native plants.
- Best management practices (BMPs), such as hay bales, gravel bags, and silt curtains will be used to minimize erosion.
- Vegetated or hay-baled buffer zones will be established to capture sediment in discharges from the work area.
- Equipment staging, fueling, and maintenance will only occur outside of Temescal Wash.
- Additional BMPs will be employed as specified in the Certification application.

**Offsite Water Quality Standards Mitigation Proposed:**

- No offsite water quality standards 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 Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project is more than one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of

pollutants from the project site.

Construction de-watering discharges, including groundwater discharges and stream diversions, are regulated under Regional Board Order No. R8-2003-0061, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimis) Threat to Water Quality. For more information, please review Order No. R8-2003-0061 at [www.waterboards.ca.gov/santaana/pdf/03-61.pdf](http://www.waterboards.ca.gov/santaana/pdf/03-61.pdf).

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act (CEQA), the Lee Lake Water District adopted a Mitigated Negative Declaration for the flood protection project for the LLTP on February 20, 2007. The Executive Officer has considered the District's Mitigated Negative Declaration in the issuance of this Certification.

The proposed project is intended to protect the LLTP against bank erosion along Temescal Wash. On November 10, 1998, a Waiver of Waste Discharge Requirements and Certification Waiver was issued to Lee Lake Water District for a proposed earthen levee to protect the LLTP against further bank erosion that had occurred in February 1998. This project was not completed. In 2004 emergency work was done under the U.S. Army Corps of Engineers' Regional General Permit No. 63 to create an earthen berm along the toe of the banks of Temescal Wash. The creek's banks had assumed a vertical profile caused by winter storm flows.

During a site visit on July 26, 2007, Regional Board staff observed evidence of unauthorized grading in the bed of Temescal Wash. Unidentified persons had constructed an un-engineered earthen levee along the active channel of the Wash on adjacent private land owned by Corona Clay Co. The levee had constrained the active channel along the eastern side of the Wash, however, it had been breached a short distance upstream of the LLTP.

The earthen levee and the continued unauthorized excavation in Temescal Wash have the potential to accelerate downward cutting of the bed of the Wash and may direct stream flows against the proposed armored embankment of LLTP or lead to further bank instability. These impacts have the potential to cause or contribute to hydraulic conditions which may threaten the LLTP over time.

Regional Board staff discussed these concerns with Lee Lake Water District representatives during the July 26, 2007 site visit. The District's representatives agreed to attempt to pursue a cooperative approach with the adjacent landowner to correct the condition of the Wash and take steps to assure that further unauthorized streambed modifications do not occur. In an electronic message dated August 7, 2007, District

representatives reported that, after further investigation, they were unable to identify the persons responsible for the levee's construction.

After further discussions with you on August 8, 2007 regarding the presence of the unauthorized dike, Regional Board staff agreed that further work to remove the dike would not be necessary. This conclusion was based on the results of hydraulic analysis, provided with your application, which suggests that nominal storm flows would likely erode the dike and that regular monitoring, undertaken by the District for unauthorized grading in the creek, would reduce their occurrence.

The Lee Lake Water District is authorized to discharge treated wastewater from the LLTP subject to Regional Board Order No. R8-2005-0043, NPDES Permit No. CA8000100 (Order No. R8-2005-0043). Provision VI.A.2.j. of Order No. R8-2005-0043, requires that LLTP be "designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100-year return frequency." Compliance with this Provision does not authorize Lee Lake Water District, or any person acting on the District's behalf, to violate State or local law or regulations. Periodic monitoring of the condition of Temescal Wash, including monitoring for indications of streambed degradation, scour, and channel modifications in the local area, is a prudent compliance measure.

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

- 1) The installation of the bank armoring must include one or more permanent markers placed for the purpose of assisting Lee Lake Water District staff and representatives in monitoring changes in the elevation of the bed of Temescal Wash.

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.

Although we anticipate no further regulatory involvement, 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, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation 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.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

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. 200-0017-DWQ is available at [www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf](http://www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf)

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Stephanie Hall  
State Water Resources Control Board, OCC – Erik Spiess  
State Water Resources Control Board, DWQ-Water Quality Certification Unit –  
Bill Orme  
California Department of Fish and Game, Ontario Office – Jeff Brandt  
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini

APF:401/certifications/lee lake WD levee 332007-19