



California Regional Water Quality Control Board

Santa Ana Region



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Arnold Schwarzenegger
Governor

September 24, 2008

Pat Kilroy
City of Lake Elsinore
130 South Main Street
Lake Elsinore, CA 92530

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE LAKE ELSINORE BOAT LAUNCH, CITY OF LAKE ELSINORE, RIVERSIDE COUNTY (ACOE REFERENCE NO. 2006-1202)

Dear Mr. Kilroy:

On February 25, 2008, we received a valid application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by HDR Engineering, Inc., for proposed modifications to the Lake Elsinore Boat Launch in the City of Lake Elsinore. 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 (Basin Plan):

Project Description: Demolition and removal of an existing boat launch facility and construction of a replacement facility capable of providing service within the planned operating range of the Lake levels (1,240 and 1,249). The new facility involves the construction of a 6-lane boat launch ramp (114-feet wide by 210 feet long), 260-space vehicle/trailer parking lot, 4-lane boat wash area, sewer-restrooms and fish-cleaning station(s), picnic area, a 425-foot floating breakwater/dock system with guide piles, and two 100-foot boarding floats. The project will involve filling the 100-year flood plain to an elevation of 1,255+ feet with 128,000 cubic yards (cy) of earthen fill and another 26,000 cy of pavement materials and rock slope protection for the parking area and launch. The earthen fill will be excavated from within the adjacent lakebed (2.2 acres below water), the Back Basin area just south of Tournament Channel, or a combination thereof. The project is on a 40-acre, city-owned property located at 32040 Riverside Drive within Section 3 of Township 6 South, Range 5 West, of the U.S. Geological Survey *Lake Elsinore, California*, 7.5-minute topographic quadrangle map (33 deg. 39 min. 00 sec. N/ -117 deg. 23 min. 00 sec. W).

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Receiving water: Lake Elsinore.

Fill area: 11.5 acres of permanent impact to ephemeral lakebed (950 linear feet of shoreline).

Dredge volume: 26,000 cubic yards

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 29

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:

- Nuisance flow and 'first-flush' discharges from the parking lot and picnic areas will be treated in hydrodynamic separators and a gravel infiltration trench, operated by the City of Lake Elsinore.
- Boat engine washing and boat washing with detergents will be prohibited and monitored by City staff.
- The fish-cleaning sink(s) will be connected to the sanitary sewer.
- Fill placed below the flood elevation of Lake Elsinore will be excavated from within the floodplain in order to maintain the flood capacity of the Lake and prevent further hydro-modification of downstream waters.
- Additional site-specific best management practices (BMPs) are specified in the site's Storm Water Pollution Prevention Plan (SWPPP) and Water Quality Management Plan (WQMP).

Offsite Water Quality Standards Mitigation Proposed:

- Excavation within the Back Basin area borrow site will include eradication of tamarisk, an exotic, invasive, woody, riparian plant species, over either 17.5 or 37.6 acres, depending on the landform desired by the City.

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 over 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 may be regulated under Regional Board Order No.

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R8-2003-0061, 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. R8-2003-0061 at: www.waterboards.ca.gov/santaana/pdf/03-61.pdf.

The proposed tamarisk eradication effort in the Back Basin is part of a larger plan by the City of Lake Elsinore to create wetlands, riparian areas, and a fish nursery at the site. The excavation and eradication work proposed as part of the boat launch project partly implements the City's plan. Further work to implement the City's plan may occur in the Back Basin as part of mitigation for environmental impacts from the proposed Watersedge Project, located on the opposite side of Tournament Channel from the proposed boat launch.

Regional Board staff has no objections to the City's mitigation plan in concept. However, the process of overlapping compensatory mitigation efforts of multiple projects on the same site complicates evaluations of the merits of the mitigation proposals. Regional Board staff does not believe that any mitigation site, if properly managed in good faith, can be improved indefinitely. Repeated mitigation work on the same site will logically result in diminishing increments of additional environmental improvement for subsequent projects.

In order to evaluate the marginal improvements to beneficial uses for subsequent mitigation activities at the Back Basin borrow site, Regional Board staff expects to employ functional assessments, such as the California Rapid Assessment Method (CRAM)¹, to evaluate subsequent mitigation proposals on the site, and to require compensatory mitigation for impacts to beneficial uses, accordingly. For purposes of evaluating the improvements to beneficial uses from subsequent mitigation activities, the City of Lake Elsinore is required to conduct functional assessments to establish baseline conditions for its own work in the mitigation site and for subsequent activities.

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 City of Lake Elsinore adopted a Mitigated Negative Declaration for the Boat Launch Facility Rehabilitation Project on March 11, 2008 (State Clearinghouse No. 2007081016). Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as described in the associated negative declaration prior to reaching a decision on the project. The Regional Board has considered the City's Mitigated Negative Declaration in the issuance of this Certification and finds that changes or alterations have been required, or incorporated into the proposed project, which avoid impacts to water quality or mitigate them to a less than significant level.

¹ Detailed information about CRAM can be found at <http://www.cramwetlands.org/>

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

1. This Certification is conditioned upon the construction of all storm water treatment facilities as proposed. All structural storm water treatment facilities must be constructed and operational prior to the authorized use of the site.
2. Dredge activities must not depress the dissolved oxygen content of any part of Lake Elsinore below 5 mg/L as a result of controllable water quality factors. When natural dissolved oxygen content is less than 5 mg/L, the discharger must not cause further depression.
3. Dredge activities must not raise the pH of any area of Lake Elsinore above 8.5 or lower pH below 6.5 as the result of controllable water quality factors.
4. Dredge activities shall not cause the background natural turbidity, as measured in Nephelometric Turbidity Units (NTUs), in any area of Lake Elsinore to be increased by values greater than the following Basin Plan objectives at a distance of 100 feet from the activity:
 - a. If natural turbidity is between 0 and 50 NTU, the maximum increase shall not exceed 20% of the measured natural turbidity.
 - b. If natural turbidity is 50 to 100 NTU, the increase shall not exceed 10 NTU.
 - c. If natural turbidity is greater than 100 NTU, the maximum increase shall not exceed 10% of the measured natural turbidity.
5. An effective monitoring plan must be developed and implemented to document compliance with conditions 2, 3, and 4 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 work.
6. Excavations within the adjacent lakebed must not result in depths or slopes that adversely affect recreation uses (i.e. fishing, swimming) of the Lake.
7. The City of Lake Elsinore must complete functional assessments of the Back Basin borrow site:
 - a. prior to the start of earthmoving activities in the Back Basin borrow site; and,
 - b. not later than 30-days from completion of earthmoving activities in the Back Basin borrow site.

The functional assessments must be completed by qualified persons and conducted in accordance with published and generally accepted methods (the California Rapid Assessment Method (CRAM) is preferred). The results of the functional assessments must be provided to the Executive Officer not later than 90-days from completion of earthmoving activities in the Back Basin borrow site.

8. Regional Board staff and other authorized representatives shall be allowed:
 - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification and applicable waste discharge requirements;
 - b. Access to copy any records that are kept under the requirements of this Certification and applicable waste discharge requirements;

- c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from the project site; and
 - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification and applicable waste discharge requirements.
9. This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP.
 10. The discharger must comply with the requirements of the U.S. Army Corp of Engineers' 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.

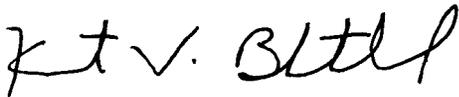
If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge 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. 200-0017-DWQ is available at:
www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/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,



for GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Mark Durham
State Water Resources Control Board, OCC – David Smith
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 and David Smith

APF:401/certifications/lake elsinore boat launch 332008-03