



# California Regional Water Quality Control Board

## Santa Ana Region



Linda S. Adams  
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Arnold Schwarzenegger  
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May 10, 2007

Victoria Mata  
Trumark Companies  
9911 Irvine Center Drive, Suite 150  
Irvine, CA 92618

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR TRACT 34249, CITY OF LAKE ELSINORE (ACOE REFERENCE NO. 200602039 – CLM)**

Dear Ms. Mata:

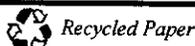
On November 13, 2006, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by PCR Services, Inc., for residential Tract 34249 (a.k.a. Canyon Hills Estates Specific Plan) in an unincorporated area of Riverside County adjacent to the City of Lake Elsinore. On February 28, 2007, we received a revised Habitat Mitigation and Monitoring Plan (HMMP). On April 23, 2007, we received a written response to Regional Board staff comments on the HMMP.

The development of Tract 34249 involves the discharge of fill to 0.03 acres (1,133 linear feet) of three un-named ephemeral drainages that are isolated and, consequently, not within the jurisdiction of the U.S. Army Corps of Engineers (Corps). The isolated drainages are waters of the State and the proposed discharge of fill will require authorization pursuant to the Porter-Cologne Water Quality Control Act under separate waste discharge requirements. Due to the extent of the proposed fill, the discharge cannot be authorized under State Water Quality Control Board Order No. 2004-0004-DWQ, "Statewide General Waste Discharge Requirements for Dredge and Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction" (Order No. 2004-0004-DWQ). Individual waste discharge requirements will be issued in a separate action by the Regional Board at a later time.

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:** Tract 34249 consists of the construction of 302 single-family residential homes, a 5-acre public park along Cottonwood Creek, two water tank reservoirs, and 126.2-acres of natural open space on a 246.4 acre site. Two pedestrian bridges over Cottonwood Creek are proposed as part of the public park.

*California Environmental Protection Agency*



The project includes 6.1 acres of off-site road improvements from the project site along Navajo Springs Road to Lost Road and from Lost Road to the northerly Canyon Hills Specific Plan<sup>1</sup>. The project site is expected to be annexed into the City of Lake Elsinore. The project is generally bound by Pine Avenue, Crab Hollow Circle, Crooked Arrow, and Hemlock Street, within Section 13 of Township 6 North, Range 4 West, of the U.S. Geological Survey *Romoland and Lake Elsinore, California*, 7.5-minute topographic quadrangle maps (33.6521 degrees N/ -117.2454 degrees W).

Receiving water: Un-named ephemeral drainages tributary to Cottonwood Creek.

Fill area: See Table 1 below.

Table 1: Fill Areas

	Waters affected by discharges of fill acres (linear feet)	
	Permanent Fill	Temporary Fill
Wetlands	0.19 (1,608)	0.02 (151)
Riparian	0.27 (6,520)	0.16 (1,240)
Streambed	0.03 (1,133)	0.01 (134)
Total	0.49 (7,671)	0.19 (1,472)

Dredge/Fill volume: N/A

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

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 developed portions of the site will be treated in six extended detention basins. Two of these basins may be combined into one basin overlying a sewer line contingent upon approval from the City of Lake Elsinore as part of their review and approval of the project Water Quality Management Plan (WQMP) pursuant to Regional Board Order No. R8-2002-0011, commonly known as the Riverside County Urban Storm Water Runoff Permit. The

<sup>1</sup> Phases 2 through 8 of the Canyon Hills Specific Plan were previously issued Certification on March 25, 2003. Phase 1 was waived from Certification in 1992 and is nearly complete.

- extended detention basins will be operated and maintained by a homeowner's association.
- An in-line detention basin, identified as "Basin #3" in the City of Lake Elsinore's Environmental Impact Report, will be constructed in order to address hydraulic deficiencies in downstream facilities on the Canyon Hills Specific Plan site. Basin #3 had been previously proposed to also treat pollutants in discharges from the developed portions of the site. Two extended detention basins (possibly combined into one basin) were added to treat discharges from the developed portions of the site. The additional basins prevent the commingling of flows from developed and undeveloped areas, allow Basin #3 to continue to be waters of the U.S., and minimize impacts to Basin #3's beneficial uses.
  - The on-site portion of Cottonwood Creek will be excavated to create 20-foot wide engineered flood plain terraces along each side. The terraces will be at an elevation that is approximately 0.5-feet above the thalweg of the Creek. The new banks will be laid back to a 4:1 slope and the Creek will be re-vegetated. The effort is expected to result in the creation of 2.3 acres of adjacent riparian areas and enhance the riparian hydrologic functions of the Creek.
  - Approximately 0.55 acres of the bisecting drainage (Drainage A) will be enhanced through the eradication of non-native shrubs and forbs. Outfalls from the adjacent extended detention basins at the north side of the site will discharge as far upstream of Drainage A as feasible in order to allow those flows to support the proposed enhancement effort. The northernmost reach of Drainage A, consisting of 0.49 acres of waters of the State and adjacent uplands is not included but is proposed as mitigation for the fill of isolated waters and will be addressed in waste discharge requirements as indicated above.
  - Additional site-specific best management practices (BMPs) will be specified in the WQMP and in the site Storm Water Pollution Prevention Plan (SWPPP).

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 BMPs 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 or subsequent renewals, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of pollutants from the project site. BMPs identified as part of the development of the SWPPP and the WQMP, including those described above, are expected to mitigate the water quality impacts of the project.

As part of your proposed HMMP, Regional Board staff requested that you provide a hydraulic rationale for the proposed channel configuration for Cottonwood Creek. In that analysis, provided in a memorandum dated April 23, 2007, the analysts for Trumark Companies concluded that flow velocities, under a 100-year storm flow and at a four foot flow depth in the Creek, would not be erosive "in a sufficiently vegetated channel". In addition, Regional Board staff evaluated the boundary sheer stress condition under those same conditions and has also concluded that an appropriately vegetated channel will be important to assuring the long-term stability of the Creek. This Certification includes a condition in order to assure that the proposed re-vegetation of the modified Creek is implemented in a manner that is considerate of the assumptions of the hydraulic rationale.

Groundwater has been documented at depths as shallow as 7.3 feet below ground surface at the northern portions of the site such that grading activities are likely to require dewatering. Construction de-watering discharges from the proposed project may be 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 City of Lake Elsinore certified an Environmental Impact Report (EIR) for the Canyon Hills Estates Specific Plan on January 23, 2007. The Executive Officer has considered the City's EIR in the issuance of this Certification.

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

1. This Certification is conditioned upon the construction of all proposed storm water treatment facilities as proposed. Structural storm water treatment facilities shall be constructed and operational prior to the occupancy of any residence in their respective tributary area.
2. Trumark Companies shall operate and maintain the extended detention basins until such time that the homeowner's association accepts this responsibility.
3. The proposed re-vegetation of Cottonwood Creek shall proceed according to generally accepted bioengineering methods. All methods and calculations shall be documented as part of the final HMMP.
4. Initial excavation of Cottonwood Creek, as part of implementation of the HMMP, shall proceed concurrent with grading for Tract 34249. However, should the timing coincide with the start of the rain season, initial excavation shall occur not later than May 1<sup>st</sup> thereafter.

5. The access road to the proposed water towers shall be surfaced with materials that are resistant to erosion. The water tower site, any overflow discharge pipes, the access road, and related constructed slopes shall incorporate adequate permanent drainage controls to prevent site erosion and the discharge of sediment.
6. The final HMMP shall be provided to Regional Board staff and shall be maintained on site until a Notice of Termination has been accepted by the State Water Resources Control Board in accordance with State Board Order 99-08 DWQ or subsequent renewals.
7. 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;
  - b. Access to copy any records that are kept under the requirements of this Certification;
  - 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.
8. This Certification and any subsequent amendments shall be maintained on site as a denoted element of any project SWPPP or WQMP.
9. Trumark Companies shall provide geographic information system shape files in a portable digital format to Regional Board staff not later than June 10, 2007. The shape files shall include the project boundaries, polygons for the detention basins, and the mitigation site boundaries. The shape file attributes shall include the Regional Board File Number (332006-65), the project name, and the discharger name. For information regarding the required projection and other technical data specifications, please contact Heather Boyd at (951) 320-2006.
10. This Certification is transferable only upon written notice to the Executive Officer. The notice shall include written acknowledgement of this Certification by the transferee's authorized representative.

**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.

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- (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)

May 10, 2007

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 – Crystal Marquez  
State Water Resources Control Board, OCC – Erik Spiess  
State Water Resources Control Board, DWQ-Water Quality Certification Unit –  
Nancy Dagle  
California Department of Fish and Game, Ontario Office – Jeff Brandt  
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Tim Vendlinski

APF:401/certifications/TM 34249 (Cyn Hills Est) 332006-65