# California Regional Water Quality Control Board
## Colorado River Basin Region

Matthew Rodriquez
*Secretary for*
*Environmental Protection*

73-720 Fred Waring Drive, Suite 100, Palm Desert, California 92260
(760) 346-7491 • Fax (760) 341-6820
http://www.waterboards.ca.gov/coloradoriver

Edmund G. Brown Jr.
*Governor*


October 26, 2011

Mr. Jim Salscheider
Lake Havasu Marine Association
1642 McCulloch Blvd. No. 173
Lake Havasu, AZ 86404

**RE: ORDER FOR TECHNICALLY-CONDITIONED CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS**

**PROJECT:** Lake Havasu Marine Association - Catfish Bay Maintenance Dredging Project, WDID No. 7B363026001

**APPLICANT:** Lake Havasu Marine Association

**ACTION:**

1. ☐ Order for Standard Certification
2. ☒ Order for Technically-Conditioned Certification
3. ☐ Order for Denial of Certification

**STANDARD CONDITIONS:**

The following standard conditions apply to <u>all</u> certification actions, except as noted above under Action 3 for denials.

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

4. 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 Clean Water Act (CWA) section 401(d), 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 Water Quality Certification (WQC).

a. In response to a suspected violation of any condition of this WQC, the Regional Water Quality Control Board (Regional Water 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 Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

b. In response to any violation of the conditions of this WQC, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

**ADDITIONAL CONDITIONS:**

The following additional conditions apply to this certification:

1. This WQC applies towards the proposed project (Project) as described in the 401 application received by the Regional Water Board on September 1, 2011.

   The Applicant shall provide the Regional Water Board and other interested agencies with written notification of any significant modifications made to the Project prior to implementation of the modifications.

2. This WQC does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

3. This WQC does not authorize the Applicant or any associated party to trespass on any land or property unless the applicant has obtained written authorization or acquired a special use authorization permit from the land or property owner.

4. A copy of this WQC shall be provided to the appropriate onsite Supervisor for the Project. All personnel performing work on the proposed Project shall be familiar with the content of this WQC. Copies of the WQC shall be readily available at the Project site at all times

during periods of active work and shall be presented to regulatory agency representatives upon request.

5. The Applicant shall grant Regional Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this WQC and/or to determine the impacts the Project may have on waters of the United States.

6. The proposed Project shall not be enlarged or extend beyond the proposed Project impact area. The Applicant shall delineate the Project boundaries and staging areas with stakes, flags and/or temporary construction fencing.

7. The area of vegetation and soil disturbance shall be restricted to the smallest extent possible.

8. The Project shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.

9. The Project shall not discharge waste classified as "hazardous" as defined in Title 23 California Code of Regulations (CCR) section 2521, California Health and Safety Code section 25140, and Title 22, CCR, section 66260.10 et seq.

10. No oil, petroleum products, or rubbish shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States.

11. No equipment maintenance will be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter waters of the United States.

12. Equipment refueling shall not occur within waters of the United States.

13. Any oil or grease leaks shall be immediately cleaned up.

14. The Applicant shall ensure that all contaminated material and/or contaminated soil removed or excavated from the Project site is properly loaded, transported, and disposed of in accordance with Federal, State, and local regulations.

15. Staging/storage areas for equipment and materials shall be located outside of waters of the United States.

16. The Applicant shall ensure that all disturbed and filled areas are adequately stabilized and protected from erosion and siltation by implementing appropriate soil stabilization, sedimentation and silt control measures.

17. Any flow diversion used during construction shall be designed in a manner to prevent pollution, minimize siltation, and shall provide flows to downstream reaches. Flows shall be maintained to support existing aquatic life and riparian wetlands and habitat that may be located upstream and downstream from any temporary diversion.

18. The Applicant shall restore drainages, to the greatest extent possible, to the original bank configuration, stream bottom width, and channel gradient.

19. All temporary facilities and impacts shall be removed and restored to the preexisting conditions and contours to the extent practicable.

20. Construction related materials and wastes shall be removed from the Project site upon completion of the Project.

21. The Applicant shall submit Notice to the Regional Water Board within 60-days of completion of the Project. The Notice shall include: 1) a detailed summary of the mitigation and restoration activities implemented during the Project and 2) provide photographic documentation that supports the information summarized in the Notice.

22. The Regional Water Board reserves the right to suspend, cancel, or modify and reissue this WQC, after providing notice to the Applicant and/or responsible Site-Supervisor, if the Regional Water Board determines that the Project fails to comply with any of the terms or conditions of this WQC.

23. The Applicant shall orally notify the Regional Water Board of any noncompliance that may impact the beneficial uses of waters of the United States, as soon as notification is possible and notification can be provided without substantially impeding measures necessary to address the noncompliance.

**REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:**

If you have any questions, please contact Jay Mirpour, Water Resources Control Engineer, at (760) 776-8981 or jmirpour@waterboards.ca.gov.

**WATER QUALITY CERTIFICATION:**

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.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' Project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).

Robert L Perdue

ROBERT PERDUE, Executive Officer
Colorado River Basin Regional Water Quality Control Board

JJM/

cc: William Miller , U.S. Army Corps of Engineers, Arizona Branch, Regulatory Division
Bill Orme, SWRCB, Division of Water Quality, Water Quality Certification Unit
Elizabeth Goldmann, U.S. Environmental Protection Agency, Region 9
Thomas A. Vandenberg, Office of Chief Counsel, SWRCB

File: Lake Havasu Marine Association - Catfish Bay Maintenance Dredging Project, WDID No. 7B363026001

**Mailing List:**

William Miller
Senior Project Manager
Arizona Branch, Regulatory Division
Los Angeles District
U.S. Army Corps of Engineers
3636 N. Central Avenue, Suite 900
Phoenix, Arizona 85012-1936

Bill Orme (*)
Water Quality Certification Unit
Division of Water Quality
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Elizabeth Goldmann
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Thomas A. Vandenberg (*)
Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Note: (*) will e-mail electronic copy

## PROJECT INFORMATION

| | |
|---|---|
| **Application Date:** | The application was received on September 1, 2011 |
| **Applicant:** | Lake Havasu Marine Association<br>Contact: Jim Salscheider, (928) 208-2442 |
| **Applicant Representative:** | Himes Consulting, LLC<br>Jill Himes, (480) 899-5708 |
| **Project Name:** | Lake Havasu Marine Association - Catfish Bay Maintenance Dredging Project, WDID No. 7B363026001 |
| **Project Start and Completion:** | It is estimated to take up to 2 weeks to complete the dredging which is proposed to be conducted in December 2011 and again in the fall of 2014 (if necessary). |
| **Project Description (purpose/goal):** | The Lake Havasu Marine Association proposes to conduct maintenance dredging to remove sediment and material deposited at the mouth of Lake Havasu. The purpose of the project is to restore navigation and public health and safety, as this area has become a navigational hazard and a safety issue for the Tribe and for the Lake Havasu boating community. |
| **Project Location:** | Lake Havasu, County: San Bernardino<br>Longitude/Latitude: 34.524974°/-114.387252°, Township/Range: T5N, R25 E, Section 17 |
| **Receiving Water(s):** | Colorado River (Lake Havasu) |
| **Fill/Excavation Area (acres):** | 3 acres (2600 linear feet) temporary. |
| **Dredge Volume (cy):** | 16,500 cubic yards |
| **Mitigation:** | For a complete description of mitigation requirements, please refer to the Department of the Army Environmental Assessment and Statement of Finding, Application number SPL-2011-00481-WHM. |

**Best Management Practices:**

- No toxic and/or hazardous materials shall be stored near or within wash/drainage areas. To extent possible, these materials will be offsite and/or placed in appropriate secondary containment.

- Work will be performed under "no flow" conditions to preclude potential impacts to water quality.

- Work and staging areas and temporary access routes will be sized, located and flagged so as to limit potential impacts to natural areas. Previous disturbed areas will be used to the extent feasible.

- No fueling or maintenance of equipment and/or vehicles shall occur adjacent or within the wash/drainage areas.

- Spoil sites shall not be located where spoil could be washed back into the river, or where spoil will cover aquatic or riparian vegetation. Any materials placed in seasonally dry portions of the canal/ drainage areas that could be washed downstream or could be harmful to aquatic life shall be removed from the streambed prior to inundation by high flows.

- After completing the activities, the disturbed area will be restored to pre-existing contours and conditions to the extent feasible.

**Federal Permit(s):** This Project was determined to fall under the U.S. Army Corps of Engineers' Individual Permit No. SPL-2011-00481-WHM.

**Status of CEQA:** The Regional Water Board determined that the proposed project is categorically exempt from CEQA per CEQA Guidelines § 15304(g) - Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies. In accordance with CEQA Guidelines Section 15062, the Regional Water Board shall file a Notice of Exemption with the Office of Planning and Research upon approval of the CWA Section 401 WQC.

**File:** Lake Havasu Marine Association - Catfish Bay Maintenance Dredging Project, WDID No. 7B363026001

# NOTICE OF EXEMPTION

**To:**
Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

**From:**
California Regional Water Quality Control Board
Colorado River Basin Region (Region 7)
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

**Project Title**:
Lake Havasu Marine Association - Catfish Bay Maintenance Dredging Project

**Project Description:**
The Lake Havasu Marine Association proposes to conduct maintenance dredging to remove sediment and material deposited at the mouth of Lake Havasu. The purpose of the project is to restore navigation and public health and safety, as this area has become a navigational hazard and a safety issue for the Tribe and for the Lake Havasu boating community.

**Project Location (City and County)**:
Lake Havasu, County: San Bernardino
Longitude/Latitude: 34.524974°/-114.387252°, Township/Range: T5N, R25 E, Section 17

**Name of Public Agency Approving Project**:
California Regional Water Quality Control Board, Colorado River Basin Region

**Name of Agency Carrying Out Project:**
Lake Havasu Marine Association

**Exempt Status (CEQA Guidelines Section and Class)**:
The Regional Water Board determined that the proposed project is categorically exempt from CEQA per CEQA Guidelines § 15304(g) - Minor trenching and backfilling where the surface is restored.

**Reasons Why Project is Exempt:**
The proposed project, as described above is categorically exempt from the California Environmental Quality Act in accordance with CEQA Guidelines §15304(g) – Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies, because this activity will not have a significant impact on the quality of the human environment.

**Contact Person - lead agency**:
John Carmona, Senior WRCE **Phone**: (760) 340-4521

10/26/11 **Senior Water Resources Control Engineer**
***Signature*** ***Date*** ***Title***

**Date received for filing at OPR**: _____

File: Lake Havasu Marine Association - Catfish Bay Maintenance Dredging Project, WDID No. 7B363026001

(Rev. 07/19/06)