



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Arnold Schwarzenegger
Governor

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Ms. Diane Fradkin
Sage Community Group
3 Corporate Plaza, Suite 102
Newport Beach, California 92660

**WATER QUALITY CERTIFICATION FOR PROPOSED TRIANGLE RANCH (52419)
RESIDENTIAL DEVELOPMENT PROJECT (Corps' Project No. 2005-01592-KW),
MEDEA CREEK, CITY OF AGOURA HILLS, LOS ANGELES COUNTY
(File No. 08-020)**

Dear Ms. Fradkin:

Board staff has reviewed your request on behalf of Sage Community Group (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on November 2, 2007.

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, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

[Original Signed By]
Tracy J. Egoscue
Executive Officer

August 25, 2008
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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ATTACHMENT A

**Project Information
File No. 08-020**

1. Applicant: Diane Fradkin
Sage Community Group
3 Corporate Plaza, Suite 102
Newport Beach, California 92660

Phone: (949) 644-3514 Fax: (949) 644-3977
2. Applicant's Agent: Martin Rasnick
Glenn Lukos Associates
29 Orchard
Lake Forest, CA 92630

Phone: (949) 837-0404 ext.20 Fax: (949) 837-5834
3. Project Name: Triangle Ranch (Tract 52419) Residential Development
4. Project Location: Agoura Hills, Los Angeles County
- | <u>Longitude</u> | <u>Latitude</u> |
|------------------|-----------------|
| 118.756111 W | 34.140556 N |
| 118.771667 W | 34.134222 N |
| 118.741944 W | 34.130000 N |
| 118.754722 W | 34.139444 N |
| 118.766111 W | 34.137220 N |
| 118.757222 W | 34.132222 N |
| 118.745833 W | 34.135556 N |
| 118.767500 W | 34.132222 N |
5. Type of Project: Housing development
6. Project Purpose: The purpose of the proposed project is to construct a single-family residential development within the vicinity of the City of Agoura Hills. The project is located approximately 0.25 miles west of U.S. Highway 101 in the County of Los Angeles, adjacent to the City of Agoura Hills.

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7. Project Description: The proposed project will consist of two distinct sub-units of development divided by Kanan Road.

The proposed development east of Kanan Road within the northern portion of the project area will consist of a total of 21 developable lots. Ten of the homes located east of Cornell Road are proposed to be semi-custom or custom homes within a gated neighborhood. Lot sizes east of Kanan Road are proposed to range from approximately 10,000 to 79,700 square feet. The proposed lots located west of Cornell Road will range between 10,000 to 29,000 square feet, and lots located east of Cornell Road will range between 12,600 and 79,700 square feet.

Proposed development west of Kanan Road will consist of 40 single-family residential lots in a northern and southern enclave. The northern enclave will consist of 34 single-family residential lots and the southern enclave will consist of six single-family residential lots. Lot sizes in this area would range from approximately 10,000 to 29,000 square feet.

The proposed project lies within the greater Medea Creek watershed, comprised of four subdrainages (Medea Creek, Lindero, Palo Comado, and Cheeseboro Canyons) which originate on the northern slopes of the Simi Hills and converge in the vicinity of Malibu Junction, just to the north of the Project. Federal jurisdiction within the proposed project site totals approximately 4.54 acres of waters of which 2.11 acres (91,785 square feet) consist of jurisdictional wetlands.

This project site is comprised of a total of 320 acres. As part of the proposed project, a total of 50.61 acres of land will be impacted due to grading in order to develop approximately 27.39 acres. The additional 23.22 acres will be modified solely for fire safety requirements as fuel modification. Of the 23.22 acres of fuel modification required, approximately 21.90 acres of disturbance will occur on-site, thus modifying the total proposed project preservation from 287.77 to 265.87 acres of land. The remaining 265.87 acres of land is proposed as permanent open space, in which no maintenance will occur. Therefore, approximately 83% of the total project site will be preserved in perpetuity.

In order to develop the proposed project, impacts will occur within 0.21 acres, none of which consists of jurisdictional wetlands.

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Linear-foot impacts total 1,977 linear feet. The permanent impacts within 0.21 acres will occur due to grading for the housing development.

All drainages within the proposed Project footprint are tributary to Medea Creek. The Applicant has proposed a project designed to minimize impacts to Federal jurisdictional waters by avoiding, creating, and enhancing wetland/riparian habitat on-site. The proposed project will preserve approximately 98 % of jurisdictional waters on-site. The project has concentrated development within the least environmentally sensitive or previously disturbed portions of the property while preserving in perpetuity the more environmentally sensitive resources on the property.

This project has been redesigned over time through the CEQA process. Originally, this project was reviewed by the Los Angeles County department of Regional Planning as an 81-lot development. In order to provide as much avoidance and minimization of project impacts and to preserve environmentally sensitive areas, the project was approved with 61 lots.

In order to mitigate for project impacts, the Applicant has proposed to dedicate 0.50 acre of southern willow woodland habitat through an in-lieu fee payment to the Santa Monica Mountains Conservancy.

- | | |
|--|--|
| 8. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP Nos. 29 and 33 (Permit No. 2005-01592-KW) |
| 9. Other Required
Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement |
| 10. California
Environmental Quality
Act Compliance: | The Los Angeles County Department of Regional Planning approved the Environmental Impact Report (SCH No. 1998111091) and a Notice of Determination was filed on October 2, 2007. |

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11. Receiving Water: Medea Creek (Hydrologic Unit No. 404.23)
12. Designated Beneficial Uses: MUN*, GWR, REC-1, REC-2, WARM, COLD, WILD, RARE, WET
- *Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (streambed): 0.10 permanent acres
Non-wetland waters (unvegetated streambed): 0.11 permanent acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Limited access routes during construction and stabilized access points;
 - Stabilizing denuded areas as soon as possible with seeding, mulching, or other effective methods;
 - Protecting adjacent properties with landscaped buffer strips, sediment barriers, or other effective methods;
 - Delineating clearing limits, easements, setbacks, sensitive areas, vegetation, and drainage courses by marking them in the field;
 - Stabilizing and preventing erosion from temporary conveyance channels and outlets;
 - Using sediment controls and filtration to remove sediment from water generated by dewatering during construction;
 - Scheduling grading for the dry season;
 - Designating specific areas of the site, away from streams or storm drain inlets, for storage, preparation, and disposal of building materials, chemical products, and wastes;
 - Storing stockpiled materials and wastes under a roof of plastic

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sheeting;

- Storing containers of paint, chemicals, solvents, and other hazardous materials in containers under cover;
- Berming around storage areas to prevent contact with runoff;
- Covering open dumpsters securely with plastic sheeting, a tarp, or other cover during rainy periods;
- Designating specific areas of the site, away from streams and storm drain inlets, for auto and equipment parking and for routine vehicle and equipment maintenance;
- Performing major maintenance, repair, and vehicle and equipment washing off site, or in designated and controlled areas on site;
- Sweeping up spilled dry materials (cement, mortar, fertilizers, etc.) immediately; barring use of water to wash them away;
- Cleaning up liquid spills on paved or impermeable surfaces using dry cleanup methods (e.g., absorbent materials, cat litter, rags) and dispose of cleanup materials properly;
- Clean up spills or dirt areas by digging up and properly disposing of the soil; and
- Keeping paint removal wastes, fresh concrete, cement mortars, cleared vegetation, and demolition wastes out of the gutter, streams, and storm drains by using proper containment and disposal.

17. Proposed
Compensatory
Mitigation:

The Applicant has proposed to dedicate 0.50 acres of southern willow scrub habitat via in-lieu funding to the Santa Monica Mountains Conservancy. In addition, approximately 265 acres within the project site will be dedicated as open space and preserved in perpetuity.

18. Required
Compensatory
Mitigation:

The Regional Board will require the Applicant to provide a minimum of a 3:1 mitigation ratio for permanent impacts associated with the proposed project; in addition to the 265 acres of preservation. This shall correspond to a in-lieu funding amount of 0.63 acres specifically for project impacts provided to the Santa Monica Mountains Conservancy.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

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STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and 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 Subsection 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. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. **16**, are incorporated as additional conditions herein.

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5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
15. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
16. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
17. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during vegetation clearing activities. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
18. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.

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19. The Project shall implement appropriate means to maintain the preserved populations of Lyon's Pentachaeta. Following the initial endowment, future homeowners or controlling entities shall contribute to a specific-purpose fund, which will be available to implement the management plan for Lyon's Pentachaeta.
20. The project Applicant shall develop, implement and maintain a Master Landscape Plan to be reviewed by SEATAC (Sensitive Ecological Area Technical Advisory Committee) in order to prevent the introduction of exotic plants into undeveloped open space areas. The Master Landscape Plan shall be compatible with the Fuel Modification Plan and shall address the design, implementation and maintenance of all landscaping, common areas, undeveloped building pads pending sale, and private grounds. The Master Landscape Plan shall include a plant palette of acceptable native species to be used and shall be reviewed by a qualified biologist.
21. The project applicant shall develop and implement a Fuel Modification Plan approved by the Los Angeles County Fire Department (LACFD) that incorporates the following measures:
 - 1) Preservation and avoidance of sensitive plant populations, especially Lyon's Pentachaeta.
 - 2) Development of fuel modification zones for all hazard areas.
 - 3) Preservation of native plants with low fuel volume.
 - 4) Use of non-invasive, LACFD-approved native plants, and avoidance of listed invasive plants.
 - 5) Listing of fire abatement measures, including removal of deadwood, irrigation, mowing and maintenance of oak trees for each hazard area. Any areas in which oak understory or deadwood removal take place shall be mitigated for as part of the oak woodland revegetation plan.
 - 6) The final Fuel Modification Plan shall be reviewed and approved by SEATAC and the DRP Biologist prior to issuance of the grading permit.
22. The project applicant shall dedicate 271.7 acres (including landscape lots) as open space under the long-term management of the homeowners' association or other future owner of the open space. Of this total, approximately 265 acres will remain natural and undisturbed by fuel modification. Open space shall be subject to the following restrictions:
 - 1) No off-road vehicle (ORV) use, including ATVs, SUVs or bicycles;
 - 2) No hunting;

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- 3) No weapons, including firearms, airguns, BB guns, slingshots, paintball guns, crossbows, bows or any other device that shoots a projectile used to hunt or maim animals or people;
 - 4) No camping, fires or trailer parking; and
 - 5) No ancillary structures such as corrals, sheds, gazebos, decks, pools or treehouses.
23. In order to minimize impacts on sensitive plant and wildlife species, the project applicant and future homeowners shall:
- 1) Prohibit introduction of chemical pesticides into natural areas during project construction or operations;
 - 2) Restrict chemical pesticide use to developed lots and avoid use within 200 feet of stream courses or drainages;
 - 3) Prohibit use of poison to control rodents in common areas and open space; and
 - 4) Inform homeowners of their responsibilities with regard to proper pesticide use prior to purchase of property.
24. The project Applicant shall relocate impacted San Diego Horned Lizard and the Coastal Western Whiptail species to new locations with suitable habitat onsite or other appropriate areas. The translocation program shall be reviewed and approved by the Department of Regional Planning Biologist.
25. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
26. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:

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- pH
- temperature
- dissolved oxygen
- turbidity
- total suspended solids(TSS)
- Downstream TSS shall be maintained at ambient levels
- Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

27. The Applicant shall restore **all areas** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. Restored areas shall be monitored and maintained with native species as necessary for five years. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
28. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.21 acres** of vegetation within waters of the United States by creating or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum 3:1 area replacement ratio (**0.63 acres**). In addition, the Applicant will preserve 265 acres as open space within the project boundaries. The mitigation site shall be located within the Medea Creek Watershed unless otherwise approved by this Regional Board. The boundary of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

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29. The Applicant proposes funding to the Santa Monica Mountains Conservancy a third-party organization for the creation or restoration of a total of **0.63 acres** of vegetated streambed riparian habitat within waters of the United States. Funding shall apply to mitigation acreage only, exclusive of administrative costs. The mitigation site shall be located within the Medea Creek Watershed unless otherwise approved by this Regional Board. The Applicant shall submit a **Proposed Mitigation Report** which shall include:
- (a) Documentation from the third party indicating that funds have been used for mitigation acreage only, which do not include administrative costs.
 - (b) The boundary of the mitigation site shall be clearly identified on a map of suitable resolution and quality and shall also be defined by latitude and longitude.
 - (c) The type(s) of mitigation shall be described (e.g., removal of exotics and/or replanting with native species, etc.)
 - (d) Success criteria shall be established.
- This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States** and shall include copies of all agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.
30. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
31. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until mitigation success has been achieved. The Annual Reports shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. The Annual Reports shall describe the status of other agreements (e.g., mitigation banking) or any delays in the mitigation process. At a minimum the Annual Reports shall include the following documentation and answered appropriately whether or not mitigation has been performed:
- (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;

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- (e) Water quality monitoring results (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
32. Prior to any subsequent maintenance activities within the project area, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the existing conditions; (c) the area of proposed temporary impact within waters of the State; (d) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (e) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
33. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
34. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:
- “I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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**Conditions of Certification
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Executed on the _____ day of _____ at _____.

(Signature)
(Title)"

- 35. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **08-020**. Submittals shall be sent to the attention of the 401 Certification Unit.
- 36. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
- 37. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
- 38. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- 39. *Enforcement:*
 - (a) 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.
 - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification

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to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
40. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.