

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Christopher Stone
Los Angeles County Flood Control District
900 S. Fremont Ave.
Alhambra, CA 91803

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7009 2820 0001 6537 9751

WATER QUALITY CERTIFICATION FOR PROPOSED PALMER DIVERSION IMPROVEMENT PROJECT (Corps' Project No. 2012-00902-GS), PALMER CANYON, THOMPSON CREEK RESERVOIR AND/OR THOMPSON CREEK SPREADING GROUNDS, CITY OF CLAREMONT, LOS ANGELES (File No. 13-004)


Dear Mr. Christopher Stone:

Board staff has reviewed your request on behalf of Los Angeles County Flood Control District (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on May 7, 2013.


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.

Please read this entire document carefully. 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 Dana Cole, Section 401 Program, at (213) 576-5733.



Samuel Unger, P.E.
Executive Officer



Date

DISTRIBUTION LIST

Grace Yu
Los Angeles County Flood Control District
900 S. Fremont Ave.
Alhambra, CA 91803

Bill Orme (via electronic copy)
State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Sarah Rains (via electronic copy)
California Department of Fish and Wildlife
Streambed Alteration Team
3883 Ruffin Rd Suite A
San Diego, CA. 92123-4813

Gerry Salas
U.S. Army Corps of Engineers
Regulatory Branch, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

Paul Amato (via electronic copy)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Jim Bartel
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011

ATTACHMENT A

Project Information
File No. 13-004

1. Applicant: Mr. Christopher Stone
Los Angeles County Flood Control District
900 S. Fremont Ave.
Alhambra, CA 91803

Phone: (626) 458-6100 Fax: (626) 979-5436

2. Applicant's Agent: Grace Yu
Los Angeles County Flood Control District
900 S. Fremont Ave.
Alhambra, CA 91803

Phone: (626) 458-6139 Fax: (626) 979-5436

3. Project Name: Palmer Diversion Improvement Project

4. Project Location: City of Claremont, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
34.143216	-117.709345
34.143444	-117.708860
34.143550	-117.708885
34.143576	-117.708802
34.143489	-117.708763
34.143585	-117.708559
34.143467	-117.708425
34.142982	-117.709101

5. Type of Project: Creek gate diversion

6. Project Purpose: The proposed project (Project) will replace the existing earthen berm with a reinforced concrete spillway that will increase the spreading ground's intake capacity by preventing the berm from being washed out during heavy storms.

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7. Project Description:

The Palmer Diversion controls flows from Cobal Canyon and Palmer Canyon and diverts flows to either the Thompson Creek Reservoir or the Thompson Creek Spreading Grounds.

The Project will replace the existing earthen berm with a reinforced concrete spillway that will increase the spreading grounds' intake capacity by preventing the berm from being washed out during heavy storms. Approximately 52 cubic yards of native material from the existing earthen berm will be reused and re-compacted to accommodate the reinforced concrete spillway. Approximately seven cubic yards of concrete and 28 cubic yards of riprap will be needed to construct the spillway. Construction activities are anticipated to be completed within 60 days. Soil removal is not anticipated during the construction of the spillway.

The project boundary has been minimized to avoid sensitive habitat nearby. The project will not require high impact equipment and will be limited to the project boundary, minimizing impacts to wildlife and vegetation.

Access to the site is along an existing access road adjacent to the wash. Since the access road is already established, no additional environmental impacts are anticipated. The staging of equipment will occur along the existing dirt road adjacent to but outside of the wash.

8. Federal Agency/Permit:

U.S. Army Corps of Engineers
NWP No. 33 (Permit No. 2012-00902-GS)

9. Other Required
Regulatory Approvals:

California Department of Fish and Game
Streambed Alteration Agreement

10. California
Environmental Quality
Act Compliance:

The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 Replacement or Reconstruction. The Los Angeles County Flood District filed the Notice of Exemption with the Los Angeles County Clerk on December 12, 2012

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**Project Information
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11. Receiving Water: Thompson Creek, San Gabriel River Watershed (Hydrologic Unit No. 405.53)
12. Designated Beneficial Uses: MUN*, GWR, REC-1, REC-2, WARM, WILD, RARE
*Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (streambed): 0.023 temporary acres (39 linear feet)
14. Related Projects Implemented/to be Implemented by the Applicant: None
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Trees surrounding the project area will remain in place and undisturbed.
 - A qualified biologist will perform pre-construction surveys prior to project commencement.
 - Wildlife in the vicinity of the project area will be relocated as needed, by a qualified biologist. A biologist will be on-site during any vegetation removal and ground disturbance activities.
 - If construction takes place during the bird nesting season, a qualified biologist will inspect for nests and if present, shall develop appropriate minimization measures.
 - If work occurs during the storm season, a surface water diversion plan will be implemented to divert flows around the project area.
 - For temporary sediment control, BMPs will include the use of sand bagging, silt fencing, or fiber rolls.

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- Staging, storage, fueling, and maintenance of equipment and materials will be located outside of waters of the State,
- The project will be scheduled to avoid storm run-off events and work will be conducted when the channel is dry.
- A Surface Water Diversion Plan shall be implemented.
- Work activity will be scheduled outside of the bird nesting season. If work needs to be performed during the nesting bird season (March 15 through September 1), a qualified biologist will be present to conduct a nesting bird survey prior to start of work. If the result is negative, work may commence.
- Avoidance measures will be implemented as required by the qualified biologist.

16. Proposed
Compensatory
Mitigation:

The Applicant has proposed a one-time exotic species removal of 0.085 acres within the San Gabriel River watershed.

17. Required
Compensatory
Mitigation:

The Applicant shall provide 0.023 acres of mitigation for temporary impacts created to Thompson Creek in the San Gabriel River Watershed.

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

ATTACHMENT B

Conditions of Certification File No. 13-004

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 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.
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)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 15, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

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Conditions of Certification

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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 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 the Land Disposal Unit at the Regional Board for further information regarding the disposal of solid wastes.
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.
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. 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.

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14. 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.
15. 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 (ROWD)** 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.

16. All project and construction 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.
17. 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:
 - pH
 - temperature
 - dissolved oxygen
 - turbidity
 - total suspended solids (TSS)

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be measured at least once prior to diversion and

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then 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. 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%. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

18. The Applicant shall restore the proposed **0.023 acres** 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.
19. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporary loss of **0.023 acres** waters of the United States by restoring or enhancing riparian habitat of **0.085 acres**. The mitigation site shall be located within the San Gabriel River Watershed unless otherwise approved by this Regional Board. The Applicant shall submit a **Proposed Mitigation Report** which shall include:
 - (a) 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.
 - (b) The type(s) of mitigation shall be described (e.g., removal of exotics and/or replanting with native species, etc.)
 - (c) 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.

20. 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.

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21. The Applicant shall submit to this Regional Board **Annual 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 and project success and completion has been achieved and documented. The Annual Reports shall describe in detail all of the project or 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:
- (d) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (e) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (f) The **overall status** of project including a detailed schedule of whether or not work has begun on the Project;
 - (g) Copies of all permits revised as required in Additional Condition 1;
 - (h) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (i) A certified Statement of "no net loss" of wetlands associated with this project;
 - (j) Discussion of any monitoring activities and exotic plant control efforts; and
 - (k) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
22. 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.

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Conditions of Certification
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23. 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.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)"

24. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **13-004**. Submittals shall be sent to the attention of the 401 Certification Unit.
25. 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.
26. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. R4-2012-0175. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment.
27. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2009-009-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
28. 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.

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29. 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.
30. *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 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.
31. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application at least 90 days prior to termination of this Certification if renewal is requested.