



Los Angeles Regional Water Quality Control Board

Mr. Steve Wiseman
Pan Pacific Realty 1, LLC
15980 Meadowcrest Rd.,
Sherman Oaks, CA 91430

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7012 3460 0001 6366 0496

WATER QUALITY CERTIFICATION FOR PROPOSED PUERCO CANYON ACCESS DRIVEWAY IMPROVEMENT PROJECT (Corps' Project No. SPL-2013-356-AJS), PUERCO CANYON, CITY OF MALIBU, LOS ANGELES (File No. 13-066)

Dear Mr. Wiseman:

Board staff has reviewed your request on behalf of Pan Pacific Realty 1, LLC (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on July 17, 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 Valerie Carrillo Zara, P.G., Lead, Section 401 Program, at (213) 576-6759.

Handwritten signature of Samuel Unger, Chief Deputy E.O. for
Samuel Unger, P.E.
Executive Officer

9-17-13
Date

DISTRIBUTION LIST

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

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

Antal Szijj (via electronic copy)
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. 13-066

1. Applicant: Mr. Steve Wiseman
Pan Pacific Realty 1, LLC
15980 Meadowcrest Rd.,
Sherman Oaks, CA 91430

Phone: (310) 913-8089
2. Project Name: Puerco Canyon Access Driveway Improvement Project
3. Project Location: Malibu, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
34.05420	118.72450
34.05420	118.72300
34.045000	118.72300
34.04500	118.72450

4. Type of Project: Driveway improvement project
5. Project Purpose: The purpose of the proposed project is to improve an existing driveway, for a new single family residence, in accordance with Fire Department driveway requirements.
6. Project Description: The project site is located north of the City of Malibu in unincorporated Los Angeles County, California.

The driveway is generally adjacent to Puerco Canyon Creek in the bottom of Puerco Canyon. The proposed activity is to improve the existing dirt driveway into a paved residential driveway. The proposed driveway width will be 20 feet for an approximate length of 3,800 feet. The driveway has been aligned to the greatest extent feasible on the existing dirt road and to avoid encroaching into the creek and adjacent riparian canopy.

The project includes improvements at two existing drainage crossings, driveway reconstruction, replacement of a culvert with a pre-cast bridge, and slope protection. The driveway will support construction of a residence planned for APN No. 4457-004-059. Construction of the residence, associated water tanks, septic system,

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and other accessory features will occur outside of waters of the United States or waters of the State.

First existing crossing:

Currently, the southernmost crossing of the existing dirt road is a culvert through artificial fill that predates 1959. The proposed project will remove the culvert and replace it with a bridge by excavating a new channel designed to pass the design storm as required by Los Angeles County Department of Public Works.

The bridge will be a prefabricated, 20-foot wide, 45-foot span. The existing fill and culvert will be removed and a new channel excavated with the concrete bridge abutments buried outside the newly constructed stream banks. A minimum 6-foot clearance from creek bed to bottom of bridge will be provided creating a soft bottom streambed about 8-10 feet wide. A retaining wall will be located on both sides of the south bridge approach, starting at 0.5 feet high about 100-140 feet south of the bridge to 6-feet high at the bridge abutments.

Grading in-channel, approximately 125 feet upstream of the bridge and 110 feet downstream, will route flows to meet Los Angeles County Public Works Department design storm requirements. The stream banks will be lined with an erosion-control blanket (Enkamat A20 or similar) that will be dug in at the toe and top of slope. The mat is porous and allows for the growth of vegetation. This same mat will be used on the west side of the driveway throughout most of its length to prevent erosion during the design flood (not within the creek).

On the east side of the bridge, a drain will be installed connecting to an 18-inch diameter reinforced concrete pipe (RCP) that will discharge about 35 feet downstream of the bridge through a standard concrete drain outlet.

Second existing crossing:

The driveway crosses a side drainage flowing from the east, approximately 1,500 feet north of the bridge. At this point, the existing drainage culvert will be removed and a new concrete inlet and outlet structure built. The outlet structure will discharge to a 4-foot by 6.5-foot riprap mat within the main drainage. To avoid encroaching further into the creek and riparian canopy on the west

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side, the driveway will include a variable height (maximum of 6 feet high) retaining wall for a distance of about 400 feet south of this drainage. An under-driveway culvert will be constructed to route storm flows from the east side of the road, with the outlet discharging to the main Puerco Canyon creek within a 6-foot by 5-foot riprap mat.

7. Federal Agency/Permit: U.S. Army Corps of Engineers
Permit No. 2013-356-AJS
8. Other Required Regulatory Approvals: California Department of Fish and Wildlife
Streambed Alteration Agreement
9. California Environmental Quality Act Compliance: The County of Los Angeles - Department of Regional Planning (lead agency) issued a Negative Declaration (Project No. 04-070-(3)) for the project in January 2005.
10. Receiving Water: Puerco Canyon Creek (Hydrologic Unit No. 404.31)
11. Designated Beneficial Uses: MUN*, WARM, WILD
*Conditional beneficial use
12. Impacted Waters of the United States: Non-wetland waters (streambed): 0.033 temporary and 0.0353 permanent acres
13. Dredge Volume: None
14. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years. Future planned development in the next 5 years includes a single family residence proposed for 2400 Puerco Canyon Road. This development would not affect Puerco Canyon Creek.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Where drains are planned and rip-rap or other rock material will be installed, a temporary 5-foot buffer around the extent of the drain output feature has been assumed as necessary for construction.
 - Slope protection features proposed for the project will be

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comprised of erosion control mats that will allow for back-planting and native vegetation re-establishment following installation.

- Surface and subsurface flows are not anticipated to be present during construction activities.
- Grading operations and other construction activities will not occur within waters of the State during a rainfall event, and a clear weather forecast will be confirmed before such operations occur.
- All disturbed project areas will be stabilized as necessary to prevent impacts to water quality and minimize erosion and runoff from the site.
- Construction fencing and appropriate BMPs (e.g. gravel and/or sand bags, wattles, silt fence) will be installed at the outer limits of grading prior to the beginning of any construction and will be maintained throughout the construction period to protect adjacent sensitive environmental resources.

16. Proposed Compensatory Mitigation:

Compensatory mitigation for permanent and temporary impacts to jurisdictional waters will include the creation of riparian creek and transitional habitats in the southern portion of the canyon. This mitigation effort includes the removal of material in an approximately 0.5 acre area (including slopes) adjacent to and contiguous with the east side of Puerco Creek.

The mitigation site was selected due to its natural affinity for water drainage and accumulation. During precipitation events in the fall and winter months, the more level elevation would allow storm water to flow into this area and thereby provide sufficient hydrology to allow the establishment of riparian vegetation. The water level is expected to fluctuate throughout the year and is anticipated to dry completely during the hotter summer months. Riparian and wetland vegetation (willows, sycamores, walnuts, etc.) will be planted in the bottom of the additional created streambed, which will be a minimum of 0.15 acres, and transitional riparian species (mulefat, mugwort, elderberry, etc.) will be planted along the sloped banks.

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Removal of the existing southern culvert will restore 0.01 acre of waters of the U.S., and along with the 0.15 acre of created streambed, approximately 0.16 acres of waters of the U.S. will be created as mitigation (a ratio of greater than 4.5:1 for permanent impacts).

Additionally, compensatory mitigation will include the restoration of temporary impact areas within the creek with native riparian species, as appropriate. Furthermore, permeable erosion control mats located within the project site will be revegetated with native riparian species. The project Revegetation and Mitigation Plan dated April 2013 was enclosed with the application package.

17. Required
Compensatory
Mitigation:

The Regional Board will require compensatory mitigation as proposed above.

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

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Conditions of Certification File No. 13-066

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 Wildlife's (CDFW) 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 CDFW'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)*, 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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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.
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. 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

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by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2011-0002-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. 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.
16. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during any 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.
17. 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.
18. 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.
19. 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

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- 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 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.

20. 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.

The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporary loss of **0.033** acres waters of the United States by creating or restoring riparian habitat at a minimum **1:1** area replacement ratio (**0.033 acres**). The Applicant shall also provide compensatory mitigation for the proposed permanent impacts to **0.0353 acres** of vegetation within waters of the United States/Federal jurisdictional wetlands by creating or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum **4.5:1** area replacement ratio (**0.16 acres**). The mitigation site shall be located within the project vicinity unless otherwise approved by this Regional Board. The Applicant has submitted the *Revegetation and Mitigation Plan for the Puerco Canyon Access Driveway Improvement Project* dated April 2013 which included:

- (a) The boundary of the mitigation site clearly identified on a map of suitable resolution and quality
- (b) The types of mitigation described (e.g., removal of exotics and/or replanting with native species, etc.)

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- (c) Success criteria
21. 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 and documented. 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. At a minimum the Annual Reports shall include the following documentation:
- (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 whether or not work has begun on the Project;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (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.
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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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 **13-066**. 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. 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.
27. 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.
28. 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

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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.

29. *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.

30. 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.