

Los Angeles Regional Water Quality Control Board

**ORDER NO. R4-2018-0059**  
**WASTE DISCHARGE REQUIREMENTS AND**  
**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION**

**Effective Date:** June 14, 2018

**Program Type:** Fill/Excavation

**Project Type:** Channel Construction and Maintenance<sup>1</sup>

**Project:** Maintenance Clearing of Engineered Earth-Bottom Channels for Flood Control (Project)

**Applicant:** Los Angeles County Flood Control District

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<sup>1</sup> Project type is selected from a preset list of project types to allow for calculation of statewide summary statistics. While this project is most appropriately categorized as “Channel Construction and Maintenance,” note that these waste discharge requirements (WDRs) and Clean Water Act section 401 water quality certification does not authorize any new channel construction.

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The California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) finds that:

## **I. Order**

This Order for Waste Discharge Requirements and Clean Water Act section 401 Certification (Order) is issued at the request of Los Angeles County Flood Control District (LACFCD) for the Project. This Order is for the purpose described in the application and supplemental information submitted by the LACFCD.

The application was received on March 21, 2018. On March 30, 2018, Los Angeles Water Board staff issued a notice of incomplete application and the LACFCD responded to the request for application information on April 10, 2018. The application was deemed complete on April 13, 2018.

## **II. Public Notice**

The Los Angeles Water Board has notified the LACFCD and other interested agencies and persons of its intent to prescribe waste discharge requirements (WDRs) and issue a Clean Water Act Section 401 Water Quality Certification for this discharge and has provided an opportunity to submit comments. The Los Angeles Water Board provided public notice of the draft order pursuant to California Code of Regulations, title 23, section 3858 and Water Code section 13167.5. A tentative order was released for public comment on April 18, 2018. Written comments were accepted until 5:00 p.m. on May 18, 2018. The Los Angeles Water Board, in a public meeting on June 14, 2018, heard and considered all comments pertaining to this Order.

## **III. Project Purpose**

The purpose of the Project is to maintain adequate capacity in engineered earth-bottom channels (also referred to as engineered soft-bottom channels), which are a critical part of the LACFCD's flood control facilities in order to reduce the risk of loss of life or property that could result from flooding during large storm events, while simultaneously protecting water quality and beneficial uses of these channels.

## **IV. Project Description and Background**

### **a. General Background**

1. LACFCD (Discharger) is responsible for providing flood control throughout Los Angeles County to enhance public safety. LACFCD is responsible for more than 2,700 square miles and approximately 2.1 million land parcels within 6 major watersheds. This includes flood control facilities consisting of 3,330 miles of underground storm drains; 172 debris basins; an estimated 82,000 catch basins; 14 major dams and reservoirs; and 483 miles of open channel including natural, earthen-bottom (i.e., concrete or riprap sides with a natural bottom that may support vegetation), and concrete channels.
2. In order to reduce the risk of loss of life or property that could result from flooding during large storm events, LACFCD conducts activities to maintain adequate capacity in flood control facilities. LACFCD is authorized to perform such maintenance pursuant to the Los Angeles County Flood Control Act (Water Code Appendix § 28-2).
3. Many of the channels, basins and reservoirs maintained by LACFCD as flood control facilities are Waters of the United States (U.S.) and Waters of the State of California.

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4. Maintaining the flood control system in Waters of the U.S. and Waters of the State of California requires discharge permits for these dredge and fill activities from the Army Corps of Engineers (ACOE), California Department of Fish and Wildlife (CDFW) and the Los Angeles Water Board. For dredge and fill activities such as channel clearing, the Clean Water Act (CWA) requires permitting from ACOE under CWA section 404 (404 permit) and Water Quality Certification by the State under CWA section 401 (401 Certification). In addition, under California Fish and Game Code section 1600, such activities are also regulated by a Streambed Alteration Agreement (SAA) issued by the CDFW.
5. WDRs and 401 Certifications issued by the Los Angeles Water Board to LACFCD for maintenance of its flood control facilities are designed to allow maintenance of established flood control function through removal of recent accumulated sediment or vegetation and routine minor structural repairs. The WDRs and 401 Certifications do not allow for any alteration of channel design. WDRs and 401 Certifications issued by the Los Angeles Water Board to LACFCD for maintenance of flood control facilities do not authorize additional hardscape, concrete, or rock in Waters of the U.S. and Waters of the State of California.
6. The Los Angeles Water Board regulates the following dredge and fill activities associated with LACFCD's maintenance of its flood control facilities: maintenance of 172 debris basins (File No. 02-144), maintenance of concrete channels (File No. 13-029), maintenance of earthen-bottom channels (this WDR and 401 Certification), and individual project Water Quality Certifications for major repairs or renovations to flood control facilities and emergency projects.
7. LACFCD maintains 100 earthen-bottom channels through this WDR and 401 Certification. The 100 channels include a total of 45 miles of waterways throughout Los Angeles County and approximately 947 acres of jurisdictional waters of the United States. The acreage authorized to be impacted by this Order is 48.2 acres.
8. Development of natural areas and redevelopment projects in Los Angeles County may alter or add to or subtract from the number of required flood control facilities and may alter the hydrology of waters. Plans and new goals for water use in Los Angeles County (as detailed in Findings 69-74) may contribute to changes in hydrology and the need for more or less flood control capacity and the need for altered or more or fewer flood control facilities. Through the requirements of WDRs and 401 Certifications issued by the Los Angeles Water Board to LACFCD for maintenance of its flood control facilities, the Los Angeles Water Board has taken into account changes of the nature described above, and will continue to do so where appropriate in its future permitting actions regarding LACFCD's maintenance of earthen-bottom channels.
9. LACFCD maintains flood control facilities to meet a number of different requirements, depending on when the flood control facility was built and which agency built it; in some cases, LACFCD must protect for a 500-year storm.
10. Many of the flood control channels maintained by LACFCD were built with federal funds and turned over to LACFCD for maintenance. As such, LACFCD is required to maintain the channel as designed and without debris and vegetative growth. In order to change a maintenance requirement, LACFCD must apply under section 14 of the Rivers and Harbors Act of 1899, codified at 33 U.S.C. section 408 (commonly referred to as "Section 408"), for modification of federally required maintenance requirements with the ACOE.

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11. Post-Hurricane Katrina, the ACOE instituted Risk and Uncertainty analysis requirements for changes to federal flood control facilities. Alteration of federally-required maintenance may trigger the need for a ACOE Risk and Uncertainty analysis. A Risk and Uncertainty analysis is a statistical analysis that takes into account the uncertainty of the hydrology and hydraulics and related consequences.
12. LACFCD maintains levees in accordance with the Federal Emergency Management Agency (FEMA). FEMA administers the National Flood Insurance Program (NFIP). In order to obtain FEMA accreditation for the levees, LACFCD is required to demonstrate that maintenance of the levees will ensure their stability, height, and overall integrity in order to continue providing protection to the adjacent residents.
13. While FEMA accredits levees as meeting requirements set forth by the NFIP, the ACOE addresses operation and maintenance, risk management, and risk reduction levee needs as part of its responsibilities under the ACOE's Levee Safety Program. The ACOE may inspect levees in Los Angeles County and require risk reduction improvements to the levees by LACFCD.
14. LACFCD maintains various stations throughout the County to monitor flow and water quality. These stations consist of temporary and/or permanent houses with attached gauges, conduits, pumps, sensors, and probes typically placed in the invert of the channel. The houses may be mounted on bridges and/or other structures along several watercourses in the County. In order to obtain accurate data, the flow adjacent to the gauges, conduits, pumps, sensors, and probes must be laminar (i.e., non-turbulent). Routine maintenance, inspection and calibration, including clearance of accumulated sediment and/or vegetation within three feet of the water quality monitoring equipment may need to be conducted during dry weather to ensure proper operation.
15. During the winter season, LACFCD personnel continually monitor flow conditions in channels and inspect facilities.
16. Urgent work conducted during and immediately after storm events is usually not routine maintenance, but instead, may be an emergency. Emergency is defined as, "a sudden, unexpected, occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movement, as well as such occurrences as riot, accident, or sabotage." Any project that is necessitated due to imminent threat to life or property is subject to ACOE Regional General Permit 63 (RGP 63) as certified by the State Water Resources Control Board (State Water Board) on November 25, 2013.
17. LACFCD has developed and complies with a Hazard Analysis and Critical Control Points (HACCP) for Malibu and Santa Monica Canyon watersheds to limit the spread of invasive New Zealand mudsnail and giant reed (*Arundo donax*), dated April 1, 2010.
18. LACFCD has developed and published watershed maps, which indicate areas of maintenance (impact acreages and types of vegetation impacted) and approximate schedules (including baseline biological surveys, post-surveys and maintenance activity descriptions). This information has been made publicly available on the LACFCD website since 2010. For each reach, the information includes: (a) the proposed schedule; (b) a description of the reach's existing condition; (c) the area of proposed impact; and (d) a description of any existing

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aquatic resources (e.g., wetland/riparian vegetation based on readily available information and pre-clearing biological surveys).

19. Los Angeles County maintains a GIS Data Portal where LACFCD facilities information is available to the public in GIS (geographic information system) mapping format.

**b. Regulatory Authorities**

20. The Project is located within the jurisdiction of the Los Angeles Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water quality control plan (Basin Plan) for the region and other plans and policies which may be accessed online at: [http://www.waterboards.ca.gov/plans\\_policies/](http://www.waterboards.ca.gov/plans_policies/). The Basin Plan establishes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.
21. The State of California regulates most dredge and fill discharges through 401 Certifications and may also regulate such discharges through WDRs as authorized by the California Water Code (CWC). Pursuant to CWC section 13263, the Los Angeles Water Board is authorized to prescribe WDRs for any proposed or existing discharge unless WDRs are waived pursuant to Water Code section 13269.
22. The Los Angeles Water Board has determined to regulate the subject discharge of dredge and fill materials into waters of the State by issuance of WDRs in this Order pursuant to CWC section 13263. The Los Angeles Water Board considers WDRs necessary to adequately control potential impacts to beneficial uses of waters of the U.S. and waters of the State from these maintenance clearing activities to meet the objectives of the California Wetlands Conservation Policy (Executive Order W-59-93) and to accommodate and require appropriate changes over the life of the project.
23. The goals of the California Wetlands Conservation Policy (Executive Order W-59-93, signed August 23, 1993) include ensuring “no overall loss” and achieving a “...long-term net gain in the quantity, quality, and permanence of wetland acreage and values...” Senate Concurrent Resolution No. 28 states that “[i]t is the intent of the legislature to preserve, protect, restore, and enhance California’s wetlands and the multiple resources which depend on them for benefit of the people of the State.” Section 13142.5 of the CWC requires that the “[h]ighest priority shall be given to improving or eliminating discharges that adversely affect...wetlands, estuaries, and other biologically sensitive areas.”
24. CWC section 13263 authorizes the Los Angeles Water Board, after any necessary hearing, to prescribe requirements as to the nature of any proposed discharge with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements must implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of CWC section 13241. In accordance with subdivision (g) of section 13263, all discharges of waste into the waters of the State are privileges, not rights, and the WDRs in this Order shall not create a vested right to continue to discharge and are subject to rescission or modification.

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25. Pursuant to CWC section 13267, the Los Angeles Water Board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by Division 7 of the CWC, may investigate the quality of any waters of the state within its region. In conducting such an investigation, the Los Angeles Water Board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, shall furnish, under penalty of perjury, technical or monitoring program reports which the regional water board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. The WDRs contained in this Order incorporate requirements for water quality monitoring, and project reporting, which are necessary to ensure that the discharge of waste complies with WDRs and is protective of the environment.
26. The Los Angeles Water Board, on June 13, 1994, adopted, in accordance with section 13240 et seq. of the CWC, a revised Water Quality Control Plan for the Los Angeles Region (Basin Plan). This updated and consolidated revised Basin Plan was approved by the State Water Board and the Office of Administrative Law on November 17, 1994, and February 23, 1995, respectively. A summary of regulatory provisions is contained in California Code of Regulations, title 23, section 3930. The Basin Plan designates beneficial uses for surface and ground waters in Chapter 2, establishes water quality objectives that must be attained or maintained to protect the designated beneficial uses in Chapter 3, and sets forth implementation programs to attain the water quality objectives. The Basin Plan has been amended occasionally since 1994. This Order is in compliance with the Basin Plan, and amendments thereto.
27. The WDRs in this Order are adopted pursuant to CWC sections 13263 and 13267. It sets forth requirements, prohibitions, and other conditions to implement the Basin Plan, and LACFCD's responsibilities for monitoring and reporting. LACFCD is responsible for ensuring compliance with the WDRs.
28. It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.

**c. Regulatory History**

29. The Los Angeles County Flood Control Act (Act) was adopted by the California State Legislature in 1915. The Act established the Los Angeles County Flood Control District and empowers it to provide flood protection, water conservation, recreation and aesthetic enhancement within its boundaries. LACFCD is governed, as a separate entity, by the County of Los Angeles Board of Supervisors.
30. In 1997, LACFCD proposed complete clearing of 100 earthen-bottom channels in anticipation of the El Niño storm season, encompassing a total of 886 acres. Of this acreage, approximately 203 acres were vegetated.
31. LACFCD developed a Maintenance Plan for the Annual Clearing of Earth-Bottom Flood Control Channels in 1999 (1999 Maintenance Plan) in collaboration with the ACOE, CDFW (then California Department of Fish and Game (CDFG)) and the Los Angeles Water Board.

The 1999 Maintenance Plan has been published under later dates, but all versions of the Maintenance Plan define the scope of channel clearance by the 1997 pre-El Niño clearing levels.

32. The ACOE permitted LACFCD's vegetation and debris clearing maintenance activities under the CWA Section 404 Nationwide Permit 31 "Maintenance of Existing Flood Control Facilities" in 1998. The Los Angeles Water Board issued a CWA Section 401 Water Quality Certification for these activities in 1999 (File No. 99-011). Also in 1999, LACFCD and CDFW (then CDFG) entered into a Streambed Alteration Agreement, Memorandum of Understanding (MOU 5-076-99). When permitting these activities in 1998 and 1999, the ACOE and the Los Angeles Water Board developed the first programmatic permit and 401 Certification for the earth-bottom channel maintenance activities.
33. The ACOE and the Los Angeles Water Board utilized clearing limits developed for the 1997 pre-El Niño clearing. However, the Los Angeles Water Board recognized the need to ultimately develop a more comprehensive plan beyond direct use of the 1997 clearing limits that would allow vegetation and the associated habitat to be preserved within these earthen-bottom channels to the maximum extent feasible. At that time, the 404 permit and 401 Certification only authorized clearing activities in 48.2 acres of the approximately 203 vegetated acres.
34. To mitigate the 48.2 acres impacted by removal of vegetation, the Big Tujunga Wash Mitigation Area was established in accordance with the *Master Mitigation Plan for the Big Tujunga Wash Mitigation Bank* (Final Plan dated April 2000), which contains 62.7 acres (achieving a 1.3:1 mitigation ratio).
35. The success criteria for the Big Tujunga Wash Mitigation Area have been met. Field data collection for the functional analysis and success monitoring studies was conducted in August 2012 and reported in the 2012 Annual Report for the Big Tujunga Wash Mitigation Area.
36. LACFCD continues to maintain the Big Tujunga Wash Mitigation Area to ensure its long-term sustainability and that of the resident aquatic resources. The Big Tujunga Wash Mitigation Area's Long-Term Management Plan has been drafted but is not finalized. LACFCD is working with the CDFW to finalize the draft.
37. The ACOE, after evaluation of updated information, has reissued the 404 permit under Nationwide Permit 31 for these channel maintenance activities by the LACFCD every five years since 1998. The latest Nationwide Permit was issued in September 2014. As of the date of this Order, LACFCD and the ACOE were finalizing the 404 permit.
38. The number of earth-bottom channel reaches authorized for maintenance under the ACOE 404 permit has changed during each permit cycle due to channels being combined, or the addition of new channels. The ACOE divides channels into reaches that it considers to be sensitive and non-sensitive based on a Biological Opinion from the U.S. Fish and Wildlife Service. The ACOE normally incorporates special conditions such as avoidance of nesting seasons or hand clearing, for reaches it deems to be sensitive.
39. In 2003, the State Water Board issued 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 Water Quality Certifications.

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The 2003 State Water Board Order included regulation of discharges from earthen-bottom channel maintenance.

40. The 401 Certification was renewed by the Los Angeles Water Board on October 17, 2003, conditionally authorizing maintenance of 99 earthen-bottom channels. The Los Angeles Water Board extended the October 17, 2003 Water Quality Certification by letter on September 10, 2007 until March 15, 2008, and extended it by letter again on August 29, 2008 until January 31, 2009.
41. On February 4, 2010, the Los Angeles Water Board issued WDRs (Order No. R4-2010-0021, 2010 WDRs) to the LACFCD. The 2010 WDRs included 10 new channel reaches authorized to be cleared in addition to the reaches included in the previous 401 Certification. The 2010 WDRs also acted as 401 Certification for those 10 reaches.
42. As an outgrowth of the original Maintenance Plan development and the incomplete effort in 2008 to further develop an understanding of the hydrology and biological functions for each reach in order to reform and improve the required channel clearing and to make the basis transparent to the Los Angeles Water Board and the public, the 2010 WDRs required “Feasibility Studies” for each watershed, stating “...LACFCD shall implement the Feasibility Study process with a schedule of one or more watersheds per year to be analyzed, with completion of all watersheds/studies within six (6) years. LACFCD shall solicit input from stakeholders during Work Plan development and prior to the finalizing the Technical Assessment Report and recommendations...”
43. The Feasibility Studies of the 2010 WDRs were to determine where a potential may exist for native vegetation to remain within the earth-bottom portion of the channel. The Feasibility Studies also required identification of any channels that could potentially provide restoration opportunities for riparian habitat.
44. The required analyses were split over multiple years to allow LACFCD flexibility in completing the required studies. The data and technical ability necessary to conduct the required analyses exists within LACFCD.
45. LACFCD completed three Feasibility Study Workplans, including the Los Angeles River watershed (July 2010), the San Gabriel River watershed (January 2013) and the Malibu and Dominguez Channel (April 2014) watersheds prior to the expiration of the 2010 WDRs in 2015.
46. LACFCD finalized the Los Angeles River Feasibility Study in August 2013 after public notice and a public meeting. Results of these analyses conducted during the Los Angeles River Feasibility Study were presented to stakeholders at a technical workshop on June 24, 2013.
47. On February 12, 2015, the Los Angeles Water Board renewed WDRs and 401 Certification for the discharges associated with channel clearing activities in Los Angeles County (2015 WDRs) by adopting Order No. R4-2015-0032. The term of the renewed 2015 WDRs was one year.
48. Los Angeles Water Board direction to Los Angeles Water Board staff, upon issuance of the renewed 2015 WDRs, included:

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- i.** Ensure transparency and clarity with regards to the use and results of LACFCD and ACOE hydraulic models to determine channel capacities and reaches where more vegetation can remain;
  - ii.** Facilitate greater involvement of interested non-governmental stakeholder groups in discussions and, where possible, crafting of recommendations, regarding channel clearing activities, particularly in the Los Angeles River in light of river restoration and revitalization efforts; and
  - iii.** Coordinate principles and discussions related to activities regulated under this WDR with other water resource management efforts such as efforts to increase stormwater retention, beneficial use protection and enhancement, and river restoration projects.
  
- 49.** Los Angeles Water Board staff and LACFCD staff initiated a series of in-depth discussions, referred to as “WDR Working Group Meetings,” with interested stakeholder groups including Friends of the Los Angeles River, Arroyo Seco Foundation, Heal the Bay, The Nature Conservancy, Mountains Restoration Conservation Authority, San Fernando Valley Audubon, and Santa Clara Organization for Planning the Environment, which also included participation by ACOE, CDFW, and California Coastal Commission. Nine meetings were held between April 2, 2015 and December 15, 2015. Agendas, presentations, meeting notes and sign-in sheets are available at <https://dpw.lacounty.gov/lacfcd/WDR/workgroup.aspx>.
  
- 50.** During these WDR Working Group Meetings, the group prioritized its discussions and pilot efforts on the lower reaches of the Los Angeles River and:
  - i.** Discussed and raised the level of understanding of hydraulic models used in Feasibility Studies;
  - ii.** Reviewed the channel maintenance obligations of the LACFCD, including ACOE requirements for ACOE-built channels, levee safety requirements, and FEMA requirements;
  - iii.** Reviewed concerns of environmental and conservation organizations, including Friends of the Los Angeles River and Heal the Bay, especially pertaining to the lower Los Angeles River and Compton Creek;
  - iv.** Discussed results of a new Risk and Uncertainty analysis required for ACOE-built channels, as applied to Reach 25 of the Los Angeles River As requested by stakeholders at the WDR Working Group Meetings, a reanalysis of the Los Angeles River was conducted by LACFCD. The results of this analysis and a discussion of the methodology used were provided at the WDR Working Group Meetings over several sessions. LACFCD also performed the ACOE’s new Risk and Uncertainty analysis on Los Angeles River Reach 25 and results were provided at the WDR Working Group Meetings; and
  - v.** Identified, and then reviewed, results of a pilot project employing an alternative clearing method of mowing instead of scraping to remove vegetation in the lower Los Angeles River (Reach 25) and Compton Creek.
  
- 51.** In addition to the analyses conducted for the Los Angeles River Feasibility Study, and as part of the WDR Working Group Meetings held throughout 2015, the LACFCD conducted additional analyses on the reaches of the Los Angeles River and presented the preliminary results of this additional analysis to Los Angeles Water Board staff and stakeholders participating in the WDR Working Group. Of the 25 reaches in the Los Angeles River Watershed, the Los Angeles River Feasibility Study Report identified eight reaches where additional native vegetation or the replacement of non-native vegetation with native vegetation could occur. No change in current maintenance vegetation clearance practices was

recommended for eleven reaches due to insufficient hydraulic capacity for additional vegetation. In six reaches, additional vegetation removal may be required.

52. The lower reaches of the Los Angeles River were a priority for the WDR Working Group, however, because the engineered aspects of the lower reaches of the Los Angeles River were constructed by the ACOE, there are additional federal requirements that must be met before changing the characteristics of the channel, and therefore, the level of flood protection. LACFCD hired WEST Consultants to perform an evaluation of the lower reach of Los Angeles River (Reach 25) using the Army Corps of Engineers' Risk and Uncertainty analysis. A Risk and Uncertainty analysis is a statistical analysis that takes into account the uncertainty of the hydrology, hydraulics, and consequences. The preliminary results of this analysis show there is an 80% probability that the 133-year flood's water surface elevation would be below the as-constructed top of levee elevation in Los Angeles River Reach 25. The 133-year flood is the federal standard for this reach.
53. As the ACOE continues to define the relatively new Risk and Uncertainty analysis requirements, LACFCD will look for opportunities to work with the ACOE and will be able to consider applying to the ACOE to modify channel clearing activities in this reach.
54. On December 10, 2015, Los Angeles Water Board staff, joined by staff from the LACFCD, ACOE, Friends of the Los Angeles River, Heal the Bay and Santa Clara Organization for Planning and the Environment, presented an information item to the Los Angeles Water Board to report on the progress of the WDR Working Group Meetings.
55. LACFCD finalized the San Gabriel River Feasibility Study in January 2016 after public notice. The San Gabriel River Feasibility Study was discussed at a WDR Working Group Meeting on February 12, 2016. All of the San Gabriel River maintained reaches are federally-built reaches and must be maintained to meet federal design standards. As such, the study concluded there was no opportunity to alter requirements without ACOE participation and likely the need for a Risk and Uncertainty analysis. Therefore, the consensus of the WDR Working Group was that further discussions at an additional public meeting was unnecessary.
56. On February 11, 2016, the Los Angeles Water Board amended the 2015 WDRs, Order No. R4-2015-0032 (Order No. R4-2015-0032-A1) for discharges associated with channel clearing activities in Los Angeles County (2016 WDRs). The amendment extended the WDRs for approximately two and a half years and continued the requirements for Feasibility Studies and WDR Working Group meetings. The term of the 2016 WDRs expired on July 20, 2018.
57. LACFCD and the Los Angeles Water Board staff continued the WDR Working Group meetings with interested stakeholder groups including Friends of the Los Angeles River, Arroyo Seco Foundation, Heal the Bay, and The Nature Conservancy, along with participation by CDFW. Nine more meetings were held between February 18, 2016 and July 20, 2017. Agendas, presentations, meeting notes and sign-in sheets are available at <https://dpw.lacounty.gov/lacfd/WDR/workgroup.aspx>.
58. During these continued WDR Working Group Meetings, the group has:
  - i. Discussed the Feasibility Studies and reviewed reaches where there was potential for additional vegetation (where there was additional flood capacity) based on LACFCD recommendations for those reaches;
  - ii. Reviewed the maps LACFCD has made available to the public, including GIS layers of LACFCD facilities;

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- iii. Discussed water quality sampling required in the WDR relative to other monitoring in these channels;
- iv. Further discussed results of a pilot project employing an alternative clearing method of mowing instead of scraping to remove vegetation in the lower Los Angeles River (Reach 25) and Compton Creek;
- v. Reviewed pilot projects in Bull Creek and Pickens Canyon to let more native vegetation remain during clearing activities; and
- vi. On September 15, 2016, held a field meeting adjacent to Compton Creek to observe clearing activities, equipment used, and Best Management Practices implemented to minimize impact during the maintenance activities. Questions by staff from Friends of the Los Angeles River and Heal the Bay regarding habitat and water quality monitoring during these activities were addressed.

59. LACFCD finalized the Malibu Creek and Dominguez Channel Feasibility Study in September 2016 after public notice and a public meeting on May 25, 2016.

60. LACFCD finalized the Santa Clara River and Antelope Valley Feasibility Study in August 2017 after public notice and a public meeting on February 1, 2018.

61. As of the finalization of the Santa Clara River and Antelope Valley Feasibility Study, all Feasibility Studies requirements are complete. A summary of all revisions for every reach is in Attachment B to this Order, Summary of Revisions to Maintenance Manual. Appropriate modifications to maintenance activities have been incorporated into the 2018 Maintenance Manual included as Attachment A of this Order.

62. On March 21, 2018, the Los Angeles Water Board received the LACFCD's Report of Waste Discharge (ROWD), which served as application for reissuance of WDRs and 401 Certification for its maintenance clearing activities in earthen-bottom channels. The ROWD included a revised draft Maintenance Plan containing maps and the scope of work for each reach in one place. This Maintenance Plan incorporates revised scopes of work for previously authorized reaches, sensitive or non-sensitive status (per the U.S. Fish and Wildlife Service's Biological Opinion) and an updated list of reach numbers.

**d. Earth-bottom Channel Watersheds and Stormwater Plans**

63. The reaches for which maintenance clearing activities are covered by this Order are located in the Los Angeles River watershed, San Gabriel River watershed, Santa Clara River watershed, Malibu Creek watershed, and Dominguez Channel watershed. Maps and latitude/longitude coordinates of all included reaches are in the 2018 Maintenance Manual included as Attachment A of this Order.

64. The Los Angeles River flows 51 miles from the western end of the San Fernando Valley to the Pacific Ocean at Long Beach and includes several major tributaries including Tujunga Wash, Burbank Western Channel, Arroyo Seco, Rio Hondo, and Compton Creek. The Los Angeles River watershed comprises an area of about 834 square miles. Of this area, the incorporated cities and unincorporated portion of Los Angeles County comprise 599 square miles. The remaining watershed consists of the Angeles National Forest.

65. The San Gabriel River watershed comprises a 682 square mile area of eastern Los Angeles County and has a main channel length of approximately 58 miles. It originates in the San Gabriel Mountains and flows through heavily developed areas before emptying into the Pacific

Ocean in Long Beach. The main tributaries of the river are Walnut Creek, San Jose Creek, and Coyote Creek. In the middle of the watershed are large spreading grounds used for groundwater recharge. The watershed is hydraulically connected to the Los Angeles River through the Whittier Narrows Reservoir (occurring mostly during high storm flows).

66. The Santa Clara River is approximately 100 miles long and the watershed comprises approximately 1,200 square miles. The river originates on the northern slope of the San Gabriel Mountains in Los Angeles County, traverses Ventura County, and flows into the Pacific Ocean halfway between the cities of San Buenaventura and Oxnard. Large tributaries include Sespe, Piru and Santa Paula Creeks and a lagoon exists at the mouth of the river. Land use is predominately open space with concentrations of residential, agriculture, and some industrial uses along the mainstem of the river. The Santa Clara River is the largest river system in southern California that remains in a relatively natural state; this is a high quality natural resource for much of its length.
67. The Malibu Creek watershed comprises 109 square miles. The watershed extends from the Santa Monica Mountains and adjacent Simi Hills to the Pacific Coast at Santa Monica Bay. Several creeks and lakes occur in the upper portions of the watershed, and these ultimately drain into Malibu Creek at the downstream end of the watershed. Malibu Creek drains into Malibu Lagoon, a 13-acre tidal lagoon.
68. The Dominguez Channel watershed is 133 square miles. This watershed includes the Los Angeles and Long Beach Harbors. The Dominguez Channel is 15 miles long. The watershed also includes Wilmington Drain, which empties into Machado Lake and other drainages, which drain directly or indirectly to the Los Angeles and Long Beach Harbors. Ninety-one percent of land in the watershed is developed.
69. There are a number of important Stormwater Management Plans and river plans that will shape the future of stormwater management in Los Angeles County. These Stormwater Management Plans, as implemented, may affect the volumes of stormwater that reach rivers and streams.
70. Two potentially significant drivers in terms of shaping the future of stormwater management are the 2006 Greater Los Angeles County Region, Integrated Regional Water Management Plan (GLAC IRWMP), which was updated in 2014, and the Watershed Management Programs (WMPs) and Enhanced Watershed Management Programs (EWMPs) developed under the Los Angeles County and City of Long Beach Municipal Separate Storm Sewer System (MS4) permits. The GLAC IRWMP is significant because it is very comprehensive and includes broad targets although it does not commit to specific projects. The EWMPs and WMPs are significant because they include specific projects with timelines or plans to develop specific projects with timelines. Considered as a group, the EWMPs and WMPs are comprehensive. The EWMPs and WMPs have generally been coordinated with the IRWMP.
71. The “*Los Angeles Basin Study - The Future of Stormwater Conservation*,” Bureau of Reclamation, November 2016 (Basin Study) may become a significant driver of change to stormwater management depending on its implementation.
72. The Lower LA River Revitalization Plan, per California State Assembly Bill 530 (2015), has identified specific project opportunities, a Community Stabilization Toolkit for river-adjacent communities, and a Watershed Education Program focused on the lower Los Angeles River.

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- 73. LACFCD and Los Angeles County Public Works have initiated an effort to update the 1996 Los Angeles River Master Plan. The Los Angeles River Master Plan efforts will be led by the Los Angeles County Public Works and will include architect/design firms OLIN and Gehry Partners, and the nonprofit River LA. River LA will lead the community engagement and outreach.
- 74. The Stormwater Management Plans and the river plans are the drivers of change in Los Angeles County. The WDRs in this Order will respond to and reflect changes due to the implemented Stormwater Management Plans, as necessary.

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**V. Description of Direct Impacts to Waters of the State**

Total Project fill/excavation quantities for all impacts are summarized in Table 1, below. Permanent impacts are categorized as those resulting in a physical loss in area and also those degrading ecological condition only.

Table 1: Total Project Fill/Excavation Quantity									
Aquatic Resource Type	Temporary Impact <sup>2</sup>			Permanent Impact					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	CY <sup>3</sup>	miles	Acres	CY	LF	Acres	CY	LF
Stream Channel							48.2		

**VI. Avoidance and Minimization**

LACFCD conducted Feasibility Studies for the Los Angeles River, San Gabriel River, Malibu Creek, Dominguez Channel, and Santa Clara River between 2013 and 2018 including every reach covered in this Order. The Feasibility Studies addressed capacity requirements for flood control; design criteria and anticipated limitations; and included an analysis of potential areas where vegetation could remain; areas with the potential for restoration of native vegetation; and/or where justification existed to clear additional vegetated area.

The Feasibility Studies also include an assessment of the biological functions and values for each reach and an assessment of water quality and consideration of whether the vegetation in the channel is native or an exotic and/or invasive species.

Based on these analyses, LACFCD was able to minimize impacts while achieving the required flood control. A summary of all revisions for every reach is in Attachment B to this Order, Summary of Revisions to Maintenance Manual.

**VII. California Environmental Quality Act (CEQA)**

The Los Angeles Water Board finds that the Project is exempt from CEQA pursuant to California Code of Regulations, title 14, section 15061(b)(2). Specifically, the issuance of this Order and the activities described herein meet the exemption criteria under California Code of Regulations, title 14,

<sup>2</sup> Includes only temporary direct impacts to waters of the state and does not include upland areas of temporary disturbance which could result in a discharge to waters of the state.

<sup>3</sup> Cubic Yards (CY); Linear Feet (LF)

section 15301 (Existing Facilities). Additionally, the Los Angeles Water Board concludes that no exceptions to the CEQA exemption apply to the activities approved by this Order.

### VIII. Petition for Reconsideration and/or Review to the State Water Board

Any person aggrieved by the 401 Certification in this Order may petition the State Water Board to reconsider the 401 Certification in accordance with California Code of Regulations, title 23, section 3867. Any person aggrieved by the WDRs in this Order may petition the State Water Board to review the WDRs in accordance with California Water Code section 13320 and California Code of Regulations, Title 23, sections 2050 and following. A petition for reconsideration and/or review must be submitted in writing. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found at [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

### IX. Fees Received

An application fee of \$1,500 was received on April 13, 2018. An additional fee of \$128,500 based on total Project impacts was received on *DATE*. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3), and was calculated as category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

**IT IS HEREBY ORDERED** that the Los Angeles County Flood Control District, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following requirements, pursuant to authority under California Water Code sections 13263 and 13267.

### X. Permitted Activities

#### a. Vegetation and Sediment Clearing

1. Conduct maintenance of 100 earthen-bottom channel reaches in accordance with the 2018 Maintenance Plan. The 2018 Maintenance Plan is consistent with the Preliminary Jurisdictional Delineation Report prepared by LACFCD dated September 4, 2014. The 2018 Maintenance Plan includes the hydrologic code, beneficial uses, length, acreage, maps and maintenance methods for each reach.<sup>4</sup>
2. Conduct annual sediment and vegetation removal as authorized per the 2018 Maintenance Manual and per the schedule the LACFCD issues (Section XII, b. Reporting and Notification Requirements). Unless approved by the Los Angeles Water Board and other appropriate regulatory agencies including the ACOE and CDFW, channel clearing shall not exceed the boundaries included for each reach in the 2018 Maintenance Plan.

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<sup>4</sup> While included in the 2018 Maintenance Plan, channel reaches identified as County Reach numbers 112–121 are not regulated by this Order. Any required maintenance in these channels will be permitted or certified by the Los Angeles Water Board separately.

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3. Conduct routine maintenance, inspection and calibration, including clearance of accumulated sediment and/or vegetation within three feet of the water quality monitoring equipment during dry weather as needed to ensure proper operation. Conduct periodic sediment and vegetation removal as authorized on an as-needed basis to provide continuous flow for water quality monitoring equipment.
4. Conduct periodic sediment and vegetation removal as authorized, on an as-needed basis, to ensure proper drainage to address vector issues.
5. In areas where there are sensitive species and native vegetation, clearing shall take place by hand as specified in the 2018 Maintenance Plan in order to selectively avoid protected resources. In other areas, clearing may be conducted with heavy equipment, including trucks, bulldozers, dump trucks, and front-end loaders, along with other specialized equipment. Equipment shall access the channels by existing access roads.

**b. Maintenance of Existing Invert Access Ramps**

1. Conduct authorized maintenance activities for invert access ramps, which are critical structures for access to earthen-bottom channel reaches whether constructed with dirt, lined with concrete, or armored with riprap on the sides. Authorized maintenance activities include inspection, minor maintenance repairs, and storm damage repair and rehabilitation. Storm damage repair and rehabilitation includes restoring ramps that are damaged or washed out during a storm, back to pre-storm conditions.

**c. Outlets, minor repairs and equipment maintenance**

1. Notching and limited vegetation removal from drain channel outlets is authorized on reaches where mechanical removal of sediment and vegetation is allowed and it is consistent with the original channel designs. In stream reaches where mowing or hand removal of vegetation is required, work on installing notches at 45 degrees and clearing drain channel outlets is authorized to be conducted by hand and/or hand tools, and shall be consistent with all terms of the 2018 Maintenance Plan.
2. Conduct non-emergency minor repairs during the winter season, which may include the following: regrading inverts to repair minor erosion and to remove ponded water; repair of minor storm damage; and in-kind structural repairs. These repairs may include, but are not limited to, minor in-kind riprap replacement, flap gate repair and/or replacement, invert and slope repairs, and erosion control structures.
3. Conduct urgent work that is small in scope and conducted during and immediately after storm events.
4. Conduct maintenance of monitoring equipment. In order to obtain accurate flow readings from all monitoring equipment mounted on bridges and/or other structures and prevent equipment damage, vegetation within monitored channels may be cleared to bank-full capacity upstream and downstream of the gauges, conduits, pumps, sensors, and probes or bridge. In addition, maintenance may include performing repair and in-kind replacement of existing monitoring equipment if inspections determine that such activities are required. Stream gauge maintenance shall occur between September 1 and March 1. Routine maintenance, inspection

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and calibration, including clearance of accumulated sediment and/or vegetation within three feet of the water quality monitoring equipment may be conducted, if needed, during dry weather to ensure proper operation.

## **XI. Prohibitions**

- a. 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 LACFCD 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.
- b. 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.
- c. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species beyond the permitted vegetation removal; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, or cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

## **XII. Conditions**

The Los Angeles Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watersheds of the Project. In accordance with this Order, LACFCD may proceed with the Project under the following conditions and requirements:

### **a. Authorization**

Impacts to waters of the State shall not exceed quantities shown in Section V. Table 1. Impacts to individual reaches shall not exceed the limits specified in Attachment A to this Order, 2018 Maintenance Plan.

### **b. Reporting and Notification Requirements**

#### **1. All Reports and Notifications**

- i. Requirements for the content of these reporting and notification types are detailed in Attachment C, Reporting Requirements, including specifications for photo and map documentation during the Project. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment C, which must be signed by LACFCD or an authorized representative as indicated in subpart iii., below.
- ii. Each and any report submitted in accordance with this Order shall contain the following completed declaration;

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“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)”

- iii. All applications, reports, or information submitted to the Los Angeles Water Board shall be signed by either a principal executive officer, ranking elected official, or other duly authorized employee. A duly authorized representative may sign documents if:
  - A. The authorization is made in writing by an authorized person;
  - B. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity; and
  - C. The written authorization is submitted to the Los Angeles Water Board Staff Contact prior to submitting any documents.
- iv. All communications regarding this project and submitted to the Los Angeles Water Board shall identify the Project File Number 99-011 2018 WDR. Submittals shall be sent to the Executive Officer where identified and to the 401 Certification Unit, Attention: Valerie Carrillo Zara.

## 2. Project Reporting

- i. **Annual Workplan and Thresholds for Additional Review.** Pursuant to California Water Code section 13267, LACFCD shall submit an Annual Workplan with a schedule of the upcoming reaches proposed for maintenance clearing. The Annual Workplan shall include, at a minimum, the following information: (a) proposed schedule; (b) acreage of areas to be impacted (vegetated and non-vegetated); (c) a description of any existing aquatic resources; (d) site-specific best management practices (BMPs) to be implemented; and (e) proposed application of pesticides. LACFCD shall send the Annual Workplan not later than July 15 of each year to the Los Angeles Water Board Executive Officer and 401 Certification Unit staff, and send notices of additional routine maintenance work as the needs are discovered in the field. The Executive Officer may require additional time to review or add additional requirements or require separate permitting for certain activities proposed upon review of the Annual Workplan or notice of additional routine maintenance work; however, if the Executive Officer does not provide any comments, additional requirements or a request for additional time within 60 days for the Annual Workplan, or 15 days for the notice of additional routine maintenance work, LACFCD is authorized to proceed pursuant to the Annual Workplan or notice of additional routine maintenance work as proposed.
  - A. Routine maintenance may require additional review if the work exceeds certain thresholds of impact. For projects that exceed the following thresholds, LACFCD shall provide information similar to a pre-construction notification for a 401 Water

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Quality Certification for 60-day review.

**B. Project Exceeds Original Footprint**

For any work resulting in temporary or permanent impacts within the ordinary high water mark outside the original project boundaries, LACFCD shall submit a new proposed scope of work to the Los Angeles Water Board Executive Officer with all pertinent information for consideration to support either confirmation that the project area(s) is within the scope of this Order or a determination that LACFCD must apply for supplemental WDRs or a separate CWA Section 401 Water Quality Certification for the work.

**C. Project Deviates from the Pre-Approved Surface Water Diversion Plan**

If a water diversion is planned to occur in a manner which deviates from the Pre-Approved Water Diversion Plan, LACFCD shall submit the new plan to the Los Angeles Water Board Executive Officer for review and approval. The Executive Officer is authorized to approve changes to the Surface Water Diversion Plan provided that it is consistent with this Order.

- ii. Schedules.** Prior to any maintenance activities within the subject reaches, LACFCD shall publish approximate schedules (including baseline biological surveys and maintenance activity descriptions). This information shall be made publicly available on the LACFCD website and via email notification or other direct notification to watershed councils and other interested persons prior to any routine maintenance activities. For each reach, the information shall include: (a) the proposed schedule; (b) a description of the reach's existing condition; (c) the area of proposed impact; and (d) a description of any existing aquatic resources (e.g., wetland/riparian vegetation based on readily available information and pre-clearing biological surveys).
- iii. Annual Reports.** To demonstrate compliance with this Order, pursuant to CWC section 13267, LACFCD shall submit to the Los Angeles Water Board Executive Officer an Annual Project and Mitigation Monitoring Report (Annual Report) by May 1<sup>st</sup> of each year for each year this Order is in effect. Any revisions to the previous Annual Reporting outline and/or technical or field checklists shall be submitted to the Executive Officer for approval within 60 days of the issuance of this Order.

After submission to the Los Angeles Water Board Executive Officer, LACFCD will post the Annual Report to the LACFCD website.

The Annual Report shall describe in detail all of the project/maintenance activities performed during the previous year and all restoration and mitigation efforts. At a minimum, the Annual Reports shall include the following documentation, as set forth in the Annual Report Outline dated April 5, 2010:

- A.** Annual Report Summary
- B.** List of attached documentation
- C.** Description of all project/maintenance activities performed during the previous year
- D.** Discussion of all restoration efforts and continued maintenance of the Big Tujunga mitigation site
- E.** Status of other agreements (e.g., ACOE permits or CDFW SAAs)
- F.** Summary of compliance with all requirements of this Order

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- G. A certified statement (Declaration) from LACFCD that all information reported in the annual report is complete and accurate
- H. Documentation/Attachments
- I. Color photo documentation (pre-, during, and post-project site conditions)
- J. Narrative and photo documentation of any BMP installations during and post-project maintenance activities
- K. Evaluation of the effectiveness of BMPs utilized based on field observations and water quality monitoring data required
- L. Photo documentation of any vegetation left within maintenance areas immediately following maintenance clearing (including acreage)
- M. Documentation of estimates of volumes of vegetation removed from the project areas including an analysis of inter-annual trends in vegetation loads
- N. Documentation of estimates of volumes of trash removed from the project areas including an analysis of inter-annual trends in trash loads
- O. Documentation of estimates of volumes of sediment removed from the project areas including an analysis of inter-annual trends in sediment loads
- P. Biological information including baseline biological surveys and post-project surveys
- Q. Geographical positioning system (GPS) coordinates in decimal-degrees format outlining the boundary of actual project
- R. The overall status of the project including a detailed schedule of work
- S. Copies of all revised permits related to this project
- T. Water quality monitoring results for each reach in a tabular format containing results of each parameter for each channel reach
- U. A certified statement of "No Net Loss" of Wetlands Associated with this project
- V. Discussion of any monitoring activities and exotic plant control efforts
- W. Description of all outreach activities in the previous year

**iv. Conditional Notifications and Reports for Accidental Discharges of Hazardous Materials<sup>5</sup>:** The following notifications and reports are required for Accidental Discharges of Hazardous Materials:

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Wat. Code, § 13271):

- A. As soon as (a) LACFCD has knowledge of the discharge or noncompliance, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures then LACFCD shall:
  - 1) first call – 911 (to notify local response agency)
  - 2) then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
  - 3) Lastly follow the required OES procedures as set forth in:

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<sup>5</sup> "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)

[http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill\\_Booklet\\_Feb2014\\_FINAL\\_BW\\_Acc.pdf](http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf)

- B. Following notification to OES, LACFCD shall notify the Los Angeles Water Board, as soon as practicable (within 24 hours if feasible). Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
  - C. Within five (5) working days of notification to the Los Angeles Water Board, LACFCD must submit an Accidental Discharge of Hazardous Material Report to the Los Angeles Water Board.
- v. **Violation of Compliance with Water Quality Standards:** LACFCD shall notify the Los Angeles Water Board within 24 hours of any event causing noncompliance with water quality standards. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
- A. Examples of noncompliance events include: lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the State, and water contact with uncured concrete.
  - B. This notification must be followed within three (3) working days by submission of a written report to the Los Angeles Water Board describing the noncompliance and actions taken to correct the condition.
- vi. **Modifications to Project.** Project modifications may require an amendment to this Order. LACFCD shall give advance notice to Los Angeles Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a Modifications to Project Report. LACFCD shall inform Los Angeles Water Board staff of any Project modifications that will interfere with LACFCD's compliance with this Order.

**c. Pilot Projects**

1. Continuing LACFCD's efforts begun in 2015, LACFCD may identify pilot projects to investigate alternative vegetation management methods that may be more protective of beneficial uses, especially wildlife and habitat uses. Examples of pilot projects may include but are not limited to: mowing as opposed to scraping for vegetation clearing; clearing just one bank of a particular reach each year; replacing an invasive plant species such as *Arundo donax* with slower-growing native species; exploring different combinations of plant species in a given reach; or study and review of land use in the vicinity of a reach to determine if a level of infrequent flooding could be tolerated.
2. LACFCD shall explore pilot projects to investigate alternative vegetation management methods after consultation with the Los Angeles Water Board Executive Officer, ACOE, and stakeholders.
3. LACFCD shall include any pilot projects in the Annual Workplan.
4. For any pilot project conducted, LACFCD shall evaluate the project in terms of: a) ecological impact, impact to beneficial uses, and impact to local communities; b) positive or

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negative effects on downstream water quality; c) identification of conditions or requirements in permits or other requirements that would need to be modified for the pilot project to be required as routine maintenance; and d) impacts to LACFCD operations in terms of costs, schedule, resources, etc. LACFCD shall provide a technical report evaluating the pilot project within six months of completion of the pilot project with interim recommendations or, when possible, final recommendations.

5. With Los Angeles Water Board Executive Officer approval, and subject to approval by other agencies including ACOE and CDFW, as necessary, LACFCD shall implement new channel maintenance practices based on the outcomes of the pilot projects during term of this Order, as feasible.

**d. Continued Avoidance and Minimization**

1. LACFCD shall continue to assess and review, as appropriate, the hydraulic capacity and existing conditions of all reaches covered by this Order to identify any channels which may potentially provide restoration opportunities for riparian habitat/vegetation growth and support modifications to channel clearing activities to achieve greater levels of avoidance and minimization.
2. For the reaches identified by the Feasibility Studies as not meeting required flood capacity requirements where additional vegetation may be removed (reaches 28, 67, 69, 70, 75, 90, 100, and 110), LACFCD shall review hydraulic analyses or conduct new hydraulic analyses to identify methods to minimize additional potential impacts in those reaches and report results to the Los Angeles Water Board by December 14, 2018. The Maintenance Manual may be updated with reductions to allowed impact.
3. LACFCD shall submit any identified channel clearing or restoration opportunity recommendations to the Los Angeles Water Board Executive Officer. Recommendations shall also include suggested schedules of vegetation removal frequency in order to ensure the maximum habitat preservation is achieved, consistent with necessary flood control. For recommendations approved by the Executive Officer and by other appropriate regulatory agencies including the ACOE and CDFW, LACFCD shall make the necessary changes to the 2018 Maintenance Plan, including proposals for additional BMPs as may be appropriate.
4. LACFCD shall conduct Risk and Uncertainty analyses or other appropriate analyses, working with the ACOE, as warranted, in order to identify those reaches with federally required maintenance requirements that may be candidates for revised maintenance procedures that would allow more vegetation to remain in the channel, or that would allow alternative channel clearing approaches/methods potentially more protective of beneficial uses. LACFCD may apply under section 14 of the Rivers and Harbors Act of 1899, codified at 33 U.S.C. section 408 (commonly referred to as “Section 408”), or may pursue alternative approaches as determined by the ACOE for modification of federally required maintenance requirements with the ACOE, if appropriate.

**e. Continued Outreach to stakeholders**

LACFCD shall continue the meaningful dialogue with interested stakeholders started under the WDR Working Group through long-term planning efforts, such as Lower Los Angeles River Revitalization Plan and Los Angeles River Master Plan Update. LACFCD will host stakeholder

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meetings on an as-needed basis when there are topics/issues related to the earth-bottom channels' maintenance.

**f. Water Quality Monitoring**

1. Water quality shall be monitored in compliance with the *Water Quality Monitoring Guide for Maintenance and Repair Projects Involving Water Diversion*, April 2016 (Water Quality Guide) in Attachment D.

The Water Quality Guide requires upstream and downstream monitoring when surface flows are present for the following constituents:

- pH
- temperature
- dissolved oxygen
- turbidity
- total suspended solids (TSS)

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

LACFCD shall submit results of the analyses as part of the Annual Report to the Los Angeles Water Board in a tabular format containing results of each parameter for each channel reach. 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.

2. LACFCD shall visually inspect the reaches after maintenance during the rainy season to ensure excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If water quality pollution is occurring, LACFCD shall contact the Los Angeles Water Board staff within three (3) working days. The Los Angeles Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.

**g. Standard**

1. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, title 23, sections 2050-2068 and sections 3867-3869, inclusive. Additionally, the Los Angeles Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to LACFCD, if the Los Angeles Water Board determines that: the Project fails to comply with any of the requirements or conditions of this Order; or, when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. § 1313). For purposes of Clean Water Act section 401(d), the condition constitutes a

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limitation necessary to assure compliance with water quality standards and appropriate requirements of state law.

2. This Order is not intended and shall not be construed to apply to 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 subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by LACFCD.
4. In the event of any violation or threatened violation of the requirements or conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, 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 Order.

#### **h. General Compliance and Enforcement**

1. Failure to comply with any requirement or condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. LACFCD may then be subject to administrative and/or civil liability pursuant to Water Code sections 13268, 13350, or 13385.
2. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses, for receiving waters as adopted by the Los Angeles Water Board or State Water Board (collectively Water Boards) in any applicable water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
3. In response to a suspected violation of any requirement or condition of this Order, the Los Angeles Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provide that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.
4. LACFCD or their agents shall report any noncompliance with this Order. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time LACFCD becomes aware of the circumstances. A written submission shall also be provided within three days of the time LACFCD 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

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an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

5. In response to any violation of the requirements or conditions of this Order, the State Water Board or Los Angeles Water Board may add to or modify the requirements or conditions of this Order as appropriate to ensure compliance.
6. After notice and opportunity for a hearing, this Order may be modified, revoked and reissued, or terminated or modified for cause, including, but not limited to:
  - i. Failure to comply with any term or condition contained in this Order;
  - ii. Obtaining this Order by misrepresentation, or failure to disclose fully all relevant facts;
  - iii. A change in any condition or acquisition of newly-obtained information that would have justified the application of different terms or conditions if known at the time of Order adoption;
  - iv. Endangerment to human health or the environment resulting from the permitted activity.
7. LACFCD must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order and all subsequent submittals required as part of this Order. However, the requirements and conditions within this Order and Attachments supersede any conflicting provisions within LACFCD submittals.
8. This Order and all of its conditions and requirements contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law.

**i. Administrative**

1. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Game Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). If a “take” will result from any act authorized under this Order held by LACFCD, LACFCD must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. LACFCD is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
2. LACFCD shall grant Los Angeles Water Board and State Water Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
  - i. Enter the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
  - ii. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
  - iii. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
  - iv. Sample or monitor for the purposes of assuring Order compliance.

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3. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall be available at the Project sites during clearing activities. LACFCD shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
4. A copy of this Order must be available at the Project site(s) during maintenance activities for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its location at the Project site.
5. LACFCD shall submit copies of any other final permits and agreements required for this project, including, but not limited to, the ACOE CWA Section 404 permit and the CDFW's Streambed Alteration Agreement to the Los Angeles Water Board 401 Certification Unit. These documents shall be submitted prior to any discharge to waters of the State.

**j. Mitigation for Temporary Impacts**

1. LACFCD shall restore all areas of temporary impacts to waters of the State and all other areas of temporary disturbance outside of areas of maintenance, which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include returning areas to pre-project contours and planting with native vegetation, if feasible.

**k. Compensatory Mitigation for Permanent Impacts<sup>6</sup>**

1. To mitigate the 48.2 acres impacted by removal of vegetation, LACFCD established the Big Tujunga Wash Mitigation Area in accordance with the *Master Mitigation Plan for the Big Tujunga Wash Mitigation Bank* (Final Plan dated April 2000), which contains 62.7 acres (achieving a 1.3:1 mitigation ratio) (Table 2).

<b>Table 2: Required Project Compensatory Mitigation Quantity</b>		
<b>Aquatic Resource Type</b>	<b>Comp Mit. Type<sup>7</sup></b>	<b>Rehabilitation<sup>8</sup></b>
Stream Channel	Permittee Responsible	62.7 acres

2. LACFCD shall continue to maintain the 62.7-acre Big Tujunga Wash Mitigation Area to ensure its long-term sustainability and that of the resident aquatic resources.

**l. Best Management Practices**

1. All appropriate Best Management Practices (BMPs) shall be implemented in order to avoid any impacts to water quality. LACFCD shall follow the “BMP Manual for Soft Bottom Clearing” developed by LACFCD in 2003 and all other necessary BMPs. The maintenance clearing activities shall not result in indirect impacts to water quality or beneficial uses of downstream waterbodies. The maintenance clearing activities shall not result in changes in the quantity or quality of water in downstream waterbodies as a result of maintenance activity, or

<sup>6</sup> Compensatory Mitigation is for permanent physical loss and permanent ecological degradation of a water of the state.

<sup>7</sup> Compensatory mitigation type may be: In-Lieu-Fee (ILF); Mitigation Bank (MB); Permittee-Responsible (PR)

<sup>8</sup> Methods: establishment, reestablishment, rehabilitation, enhancement, preservation.

during operation subsequent to the maintenance activities. The maintenance clearing activities shall not result in changes in water quality in the channel that would cause or contribute to water quality exceedances during periods between maintenance activities, or upon their annual completion.

2. LACFCD shall comply with the specifications of its 2018 Maintenance Plan, or any subsequently approved plans that follow.
3. LACFCD shall implement the Plan for Hazard Analysis and Critical Control Points dated April 1, 2010 (HACCP) or any subsequently Executive Officer-approved HACCP to limit the spread of invasive species.
4. LACFCD shall comply with all water quality objectives, prohibitions, and policies set forth in the Basin Plan, as amended.
5. LACFCD shall implement all Best Management Practices as outlined in the 2018 Maintenance Plan.
6. Prior to start of any annual maintenance clearing, qualified biologists shall perform pre-clearing biological resource surveys and photo documentation including sensitive/endangered species focused surveys on specific reaches. No work shall commence without confirmation of findings or no findings of sensitive/endangered species from the biologists. These surveys are also meant to minimize impact on any resources that may potentially use or benefit from the channel.
7. During construction, biologists shall be available for consultation for any issues that may arise.
8. If maintenance activities on monitoring equipment are necessary during the nesting season, appropriate nesting bird surveys will be conducted prior to starting work.
9. 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.
10. 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 WDRs have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact the Land Disposal Unit, at (213) 620-6600 for further information.
11. LACFCD 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 CWA. This Order does not authorize the discharge by LACFCD for any other activity than specifically described in the current CWA Section 404 permit for this project.
12. 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. Pesticide utilization shall be in accordance with State Water Board pesticide permits including: Water Quality Order Nos. 2011-0003-DWQ, for Aquatic Animal

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Invasive Species Control; 2011-0004-DWQ, for Spray Applications; 2011-0002-DWQ, for Vector Control; and 2013-0002-DWQ, for Weed Control.

13. LACFCD shall not conduct any routine maintenance activities within waters of the State during a rainfall event. LACFCD shall maintain a one-day (1-day) clear weather forecast before conducting any operations within waters of the State. If rain is predicted within 12 hours after operations have begun, activities shall cease temporarily, protective measures to prevent siltation/erosion shall be implemented and maintained and all material and equipment will be removed from the earth-bottom reach.
14. LACFCD shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities where clearing involves areas to be partially cleared (i.e., some vegetation is to remain in the same reach or in an adjacent reach). The biologist shall be available if necessary during maintenance 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 the Los Angeles Water Board for consultation within 24 hours of request of consultation.
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, LACFCD shall file a Report of Waste Discharge with the Los Angeles Water Board and obtain any necessary NPDES permits/WDRs 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, LACFCD shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to the Los Angeles Water Board, and obtain any necessary permits prior to discharging waste.
16. All maintenance activities not included in this Order, and which may require a permit, must be reported to the Los Angeles Water 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 WDR action.
17. Maintenance activities in the Santa Clara River area shall comply with the provisions of the Natural Rivers Management Plan (NRMP). The following provisions apply to earth-bottom channel reaches that are within the jurisdiction of the approved NRMP: a) Periodic clearing of vegetation immediately upstream and downstream of certain existing bridges, which were not designed in accordance with the NRMP; b) Periodic removal of woody vegetation from riprap to protect its structural integrity; c) Periodic clearing of storm drain outlets to ensure proper drainage; d) Periodic removal of ponded water that causes odor problems; e) As-needed repairs of bridges; f) As-needed repairs of bank protection; and g) As-needed clearing of vegetation from water quality filters and treatment basins.
18. 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.
19. LACFCD shall follow the 2016 Water Diversion Manual, Attachment E or, for circumstances which require a deviation from the Surface Water Diversion Plan, may submit to the Los

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Angeles Water Board an individual plan for the surface water diversion prior to the surface water diversion.

20. 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.
21. If ongoing maintenance activities on a new channel reach were covered by previous certifications with mitigation, additional mitigation will not be required. Prior to clearing of the new reaches, or where additional clearing has been authorized by the Los Angeles Water Board, LACFCD will document and provide to the Los Angeles Water Board the amount of riparian vegetation to be removed for maintenance in these reaches.
22. All mitigation areas shall be preserved and maintained as habitat in perpetuity.
23. Any modifications of the proposed project may require submittal of a new CWA Section 401 Water Quality Certification application or Report of Waste Discharge and appropriate filing fee.

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### **XIII. Water Quality Certification**

The Los Angeles Water Board hereby issues this Order for the Maintenance Clearing of Engineered Earth-Bottom Channels for Flood Control, 4WQC40199011, certifying that as long as all of the conditions and requirements listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act 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).

Except insofar as may be modified by any preceding conditions or requirements, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions and requirements of this Order and the attachments to this Order; and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies and the Los Angeles Water Boards' Water Quality Control Plan and Policies.

### **XIV. Effective Date and Term**

- a. This Order takes effect upon its issuance by the Los Angeles Water Board.
- b. Term: This Order expires on July 20, 2023 or upon such time it is replaced coincident with a renewed ACOE CWA Section 404 permit, whichever is earlier. If an ACOE CWA Section 404 permit is renewed, LACFCD must file a Report of Waste Discharge with the Los Angeles Water Board no later than 120 days before of the expected date of the renewed ACOE CWA Section 404 permit for consideration of issuance of new or revised requirements. If no such ACOE CWA Section 404 permit is renewed and LACFCD wishes to continue maintenance activities after this Order expires, LACFCD must file a Report of Waste Discharge with the Los Angeles Water Board no later than 120 days before the expiration date of this Order for consideration of issuance of new or revised requirements. Any discharge of waste after the expiration date of this Order is a violation of Water Code section 13264. The Los Angeles Water Board is authorized to take

appropriate enforcement action for any noncompliance with this provision including assessment of penalties.

- c. Los Angeles Water Board Order No. R4-2015-0032, adopted by the Board on February 12, 2015 and amended on February 11, 2016, is hereby terminated, except for enforcement purposes.

**CERTIFICATION**

I, Deborah J. Smith, do hereby certify that the foregoing is a full, true, and correct copy of Waste Discharge Requirements and Clean Water Act section 401 Water Quality Certification for the Maintenance Clearing of Engineered Earthen-Bottom Channels for Flood Control, 4WQC40199011, issued on June 14, 2018.

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Deborah J. Smith  
Executive Officer  
Los Angeles Water Quality Control Board

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