



California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

Arnold Schwarzenegger
Governor

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Debra Bruschaber
Mountains Restoration Trust
3815 Old Topanga Canyon Road
Calabasas, CA 91302

WATER QUALITY CERTIFICATION FOR PROPOSED (DRY CANYON CREEK RESTORATION PHASE ONE) PROPOSED PROJECT (Corps' Proposed project No. 2006-01215-JWM), DRY CANYON CREEK, CALABASAS, LOS ANGELES COUNTY (File No. 06-120)

Dear Ms. Bruschaber:

Regional Board staff has reviewed your request on behalf of Mountains Restoration Trust (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced proposed project. Your application was deemed complete on June 9, 2006.

I hereby issue an order certifying that any discharge from the referenced proposed project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

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

Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-5733.

[Original signed by] _____
Jonathan S. Bishop
Executive Officer

September 9, 2006
Date

California Environmental Protection Agency



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

DISTRIBUTION LIST

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6010 Hidden Valley Road
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ATTACHMENT A

**Proposed project Information
File No. 06-120**

1. Applicant: Mountains Restoration Trust
3815 Old Topanga Canyon Road
Calabasas, CA 91302

Phone: (818) 591-1701 EXT. 205 Fax: (818) 591-1709

2. Proposed project Name: Dry Canyon Creek Restoration Phase One

3. Proposed project Location: Calabasas, Los Angeles County

Longitude: -118.63010; Latitude: 34.13629
Longitude: -118.63159; Latitude: 34.13522
Longitude: -118.63051; Latitude: 34.13573
Longitude: -118.63131; Latitude: 34.13534
Longitude: -118.63105; Latitude: 34.13541
Longitude: -118.63091; Latitude: 34.13560
Longitude: -118.63036; Latitude: 34.13585
Longitude: -118.63012; Latitude: 34.13602

4. Type of Proposed project: Creek Restoration

5. Proposed project Purpose: The proposed project will remove two instream structures that restrict stormflow and replace them with clear span bridges, stabilize slopes to reduce erosion and restore natural stream functions in 650 feet of Dry Canyon Creek.

6. Proposed project Description: Dry Canyon Creek is situated on the north slope of the east-west trending Santa Monica Mountains, Los Angeles River watershed, in the City of Calabasas approximately 20 miles west-northwest of downtown Los Angeles.

Dry Canyon Creek was extensively modified in the late 1950s during the construction of Mulholland Highway. Upstream of the Mulholland Highway culvert where Mulholland Highway and Old Topanga Canyon Road diverge, Dry Canyon Creek is contained in

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open channels and ditches that convey flow to the natural channel at the location of the proposed project. Downstream from the proposed project Dry Canyon Creek is funneled into an enclosed rectangular concrete box owned by the Los Angeles County Flood Control District.

The proposed project is located in the Headwaters Corner property, an environmental and cultural interpretive center. Headwaters Corner is a public/private partnership of the City of Calabasas (City) and Mountains Restoration Trust (MRT). The City holds simple title to Headwaters Corner and MRT holds a Conservation Easement. A portion of the acquisition funds for the site were secured from the Land and Water Conservation Fund (LWCF) and the State Resources Agency which require the protection of natural lands/open space combined with passive recreational uses. The LWCF requires protection in perpetuity. Additionally, this proposed project is being funded by a grant from the Department of Water Resources Urban Stream Restoration Program and the Army Corp of Engineers' In-Lieu Fee Mitigation Program.

The proposed project is contained within a narrow band along a highly degraded riparian corridor of Dry Canyon Creek. The streambanks are armored with grouted and ungrouted concrete and asphalt rubble which supports only one tree depth of canopy and little to no under story.

Dry Canyon Creek is a 303(d) listed waterbody by the State of California Water Quality Control Board for selenium and coliform bacteria.

The stream functions of wetland and riparian habitat should assist in reducing the levels of pollutants found in the stream. Improving water quality will also provide benefits for native fish, amphibians, aquatic invertebrates, and terrestrial wildlife in Dry Canyon Creek.

The proposed project implements ecologically sound flood management improvements and stream-bank erosion control measures to improve natural stream function, increase flood protection, reduce excessive sediment transport, and restore riparian habitat along Dry Canyon Creek by:

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- Removing two man-made in-stream structures that are major storm flow restrictions and replacing with clear span bridges.
- Removing stream bed and bank armoring consisting of grouted and un-grouted concrete and asphalt rubble.
- Re-contouring steep stream banks to terraced slopes.
- Planting native wetland and riparian vegetation to stabilize stream banks and increase habitat.
- Removing invasive non-native species such as Vinca major (periwinkle) and stands of Arundo donax (giant reed).

The anticipated temporary impacts to wetland and riparian vegetation and fish and wildlife resources will be minimized. The timing of the streambank restoration and enhancement will occur after the nesting bird and Pacific tree frog in-stream cycles are complete.

The anticipated permanent impacts are improved stream functions and habitats for Headwaters Corner. Benefits will extend beyond the Proposed project into upland habitats for wildlife that require mixed habitats to complete their life cycle.

7. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 27 (Permit No. 2006-01215-JWM)
8. Other Required Regulatory Approvals: California Department of Fish and Game
Streambed Alteration Agreement
9. California Environmental Quality Act Compliance: The City of Calabasas determined the proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15333 (Small Habitat Restoration Proposed projects).
10. Receiving Water: Dry Canyon Creek (Hydrologic Unit No. 405.21), tributary to

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Arroyo Calabasas to the Los Angeles River.

11. Designated Beneficial Uses: MUN*, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, WILD
- *Conditional beneficial use
12. Impacted Waters of the United States: Jurisdictional Wetland: 0.48 permanent acres (846.21 linear feet)
Streambed (Vegetated): 1.02 permanent acres (846.21 linear feet)
Streamed (Unvegetated): 0.07 temporary acres (110 linear feet)
13. Dredge Volume: None
14. Related Proposed projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years, nor any proposed projects for the future.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- All in-stream work will be performed under dry creek conditions.
 - Temporary water diversions will be constructed upstream of the proposed project site.
 - Summer low flows will be redirected into the downstream channels so that no loss of water to downstream reaches occurs.
 - Extensive erosion control features are designed for the proposed project.
 - Extensive use of bioengineering techniques such as pole plantings, native riparian vegetation and erosion control methods such as brush mattresses, wattles, and coir soil wraps will be

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incorporated.

16. Proposed
Compensatory
Mitigation:

None

17. Required
Compensatory
Mitigation:

The proposed project involves wetland, vegetated streambed, and unvegetated streambed restoration, and will not require additional mitigation.

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. 06-120

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 proposed 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 proposed project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 15, are incorporated as additional conditions herein.

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

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State. The Applicant shall not conduct any maintenance activities within waters of the State during a rainfall event, or at any period when site conditions would lead to excessive erosion. If any maintenance activities are to be held within five (5) days of a predicted rainfall event, the Applicant shall stage materials necessary to prevent water degradation on site, and shall ensure that all stabilization procedures are completed prior to the rainfall event.
15. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
16. Sediment removal at each phase shall not go beyond the extent as defined in the application packet.
17. 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.
18. The Applicant 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 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.
19. 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

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existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.

20. All proposed project and/or construction activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
21. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:
 - pH
 - temperature
 - dissolved oxygen
 - turbidity
 - total suspended solids(TSS)
 - Downstream TSS shall be maintained at ambient levels
 - Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

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

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points

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shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

22. The Applicant shall restore the proposed **0.07 acres** (110 linear feet) 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-proposed project contours and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this proposed project.
23. For the proposed permanent restoration impacts to **0.48 acres** (846 linear feet) within waters of the United States/Federal jurisdictional wetlands and for the proposed permanent impacts to **1.02 acres** (846 linear feet) of vegetated streambed, the Applicant shall not have to provide additional mitigation.
24. The Applicant shall submit to this Regional Board **Annual Restoration Monitoring Reports** by **January 1st** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report shall describe in detail all of the proposed project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
 - (a) Color photo documentation of the pre- and post-proposed project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the proposed project and mitigation areas;
 - (c) The overall status of proposed project including a detailed schedule of work;
 - (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 proposed project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and

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28. All communications regarding this proposed project and submitted to this Regional Board shall identify the Proposed project File Number **06-120**. Submittals shall be sent to the attention of the 401 Certification Unit.
29. Any modifications of the proposed proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
30. The proposed 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. 01-182. 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 proposed 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. 99-08-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.
31. 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.
32. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
33. *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

Comment [DC1]: http://www.waterboards.ca.gov/losangeles/html/programs/stormwater/la_ms4_final/FinalPermit.pdf

There is also a permit for Long Beach
<http://www.waterboards.ca.gov/losangeles/html/programs/stormwater/LBpermitfinal.pdf>

and for Caltrans
<http://www.waterboards.ca.gov/losangeles/html/programs/stormwater/docs/caltranspmt.pdf>

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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.
34. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.