



# 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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Suzanne Goode  
California Department of Parks & Recreation  
1925 Las Virgenes Rd.  
Calabasas, CA 91302

### WATER QUALITY CERTIFICATION FOR PROPOSED MALIBU LAGOON RESTORATION PROJECT (Corps' Project No. 2007-01016-KW), MALIBU LAGOON, CITY OF MALIBU, LOS ANGELES (File No. 07-133)


Dear Ms. Goode:

Regional Board staff has reviewed your request on behalf of California Department of Parks & Recreation for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on January 30, 2009.

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

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

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

  
\_\_\_\_\_  
Tracy J. Egoscue  
Executive Officer

8/26/09  
\_\_\_\_\_  
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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Eric Raffini (by electronic copy)  
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Ken Berg  
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**Project Information**

**File No. 07-133**

1. Applicant: California Department of Parks & Recreation  
1925 Las Virgenes Rd.  
Calabasas, CA 91302  
  
Phone: (818) 880-0350 x 118
2. Applicant's Agent: Santa Monica Baykeeper/RCDSMM  
P.O. Box 10096  
Marina Del Rey, CA 90295  
  
Phone: (310) 305-9645 x.4 Fax: (310) 305-7985
3. Project Name: Malibu Lagoon Restoration and Enhancement
4. Project Location: Malibu Lagoon, Los Angeles County

Longitude

Latitude

-118° 68' 35.2"	34° 03' 42.7"
-118° 68' 15.1"	34° 03' 45.0"
-118° 68' 0.07"	34° 03' 42.8"
-118° 67' 8.94"	34° 03' 36.5"
-118° 67' 8.47"	34° 03' 27.7"
-118° 68' 0.29"	34° 03' 13.4"
-118° 68' 14.6"	34° 03' 13.8"
-118° 68' 45.1"	34° 03' 33.1"

5. Type of Project: Lagoon restoration
6. Project Purpose: The proposed project (Project) will restore the natural structure and function of the Lagoon ecosystem, which will enhance the water quality circulation, habitat, and biodiversity.

Specific project objectives include:

- Increase circulation of water during open and closed lagoon conditions.

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- Increase the wetland size by over 1.5 acres.
- Increase sediment grain size to reduce nutrient sequestering in the western arms.
- Increase dissolved oxygen levels through improved tidal flushing and mixing.
- Restore habitat by re-establishing suitable soil conditions and native plant species and removing non-native species.
- Evaluate, record, and analyze existing and changing ecological conditions of the lagoon using physical, chemical, and biological parameters to allow agencies, organizations, and stakeholders to monitor progress towards restoration goals.
- Provide improved visitor and educational amenities.

#### 7. Project Description:

The Malibu Lagoon is operated and managed by the California Department of Parks and Recreation (State Parks). The lagoon is bordered to the north by the Pacific Coast Highway (PCH), to the west by The Colony (a gated community), to the east by the Adamson House (a historical landmark), and by the Pacific Ocean (Santa Monica Bay) to the south.

The existing Lagoon configuration was created in the early 1980's as part of a restoration project that removed fill placed by the Department of Transportation and created the existing channels. The current lagoon configuration does not support the lagoon habitat regime that once naturally existed.

The project proposes to increase circulation and tidal flushing within the lagoon, thereby improving the quality of water and minimizing the effects of eutrophication. To enhance lagoon habitat, the project will change the lagoon configuration and improve slopes and drainages, replant native species, and remove non-native species. The project will increase wetland habitat by more than 1.5 acres which was formerly asphalt parking lot. The project will also incorporate public access and educational opportunities for visitors.

The primary components of the project are described below.

- **Main Channel:** The main channel will remain substantially as is. The western edge of the main lagoon at the interface with the western arms complex will be reconfigured in the form of a naturalized slope to provide a degree of separation between the

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main lagoon and west channel system.

- Eastern Channel: The existing boathouse channel will be deepened and recontoured by hand crews to enhance tidal influence on the eastern channel. Large woody debris (LWD) will be relocated and placed along the eastern boathouse channel and near the edge where the lagoon meanders easterly towards the Malibu pier. The LWD will help force bankfull flows towards the center of the main lagoon minimizing sedimentation of the channel. Whole trees (root balls and canopies) relocated from the site will be used to provide in-channel and avian roosting habitat. The LWD and recontoured channel along the bank of the Adamson House grounds will create additional mudflat habitat, in-channel habitat, avian roosting habitat and promote increased water circulation.
- West Lagoon: The bulk of the restoration activities will take place in the West Lagoon. This project will re-contour this portion of the lagoon to restore tidal complexity and improve hydraulic circulation and water quality.
- Public Education and Access: The project includes multiple interpretive nodes and areas for educational programs. The existing trail along the perimeter of the western arms complex will be improved for use as the primary beach access trail. Three primary interpretive nodes will be provided near the parking area.
- Habitat Restoration: After reconfiguration, habitat in the Lagoon will be restored and expanded. A preliminary plan for restoration of habitat types has been prepared and a final planting plan (Habitat Plan) will be submitted to the Regional Board and Coastal Commission. The Habitat Plan will address the initial enhancement and establishment of habitats within the restored lagoon system as well as the on-going maintenance and management activities required to ensure that restoration habitat objectives are achieved.

The entire area of the Lagoon will be impacted by construction, but only 12 acres on the western side will be included in the grading operations. (One exception is a small excavation on the eastern side, but the eastern side construction will not require dewatering and will

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utilize hand crews and low tide windows to avoid dewatering requirements.)

In order for all grading to occur in dry conditions which will allow for construction inspection and avoid turbidity issues, the applicant will dewater the areas where grading will occur.

An earthen berm will be constructed to act as a temporary interior dike to isolate the western lagoon for dewatering. The temporary interior dike can be constructed when the lagoon is in a "closed" or "open" condition. The open condition is when the dunes between the lagoon and the ocean have been breached lowering the water level and allowing tidal influence from the Pacific Ocean. Both alternatives are examined in detail in the Malibu Lagoon Construction Dewatering Plan Version 6 of January 26, 2009.

The applicant prefers that the temporary interior dike be constructed when the lagoon is in an open lagoon condition. Construction during the open condition will allow material placement, geotextile placement, and turbidity fence installation to occur in a dry environment and will allow adequate inspection. In addition, some impacts to aquatic species may be avoided.

To construct the temporary interior dike in the open condition will require a one-time artificial breach of the barrier beach. Immediately following the breach, fish biologists will perform sweeps and rescue aquatic species left in stranded pools. Immediately following the sweeps, construction crews will install vertical fish netting and turbidity barriers in the "dry" to delineate the edge of the temporary interior dike footprint and this focused area will be cleared by fish biologists prior to dike construction. Geotextile material will be staked to the foundation material and dry fill material will be dumped from the shore until adequate material has been placed to allow equipment to advance further into the lagoon. Eventually, material placement will connect one shore to the other and the main lagoon will be isolated from the 12 acre construction site. Material will be placed in 6" lifts and compacted to minimize seepage for the duration of construction. Material will likely be added repeatedly as the dike settles and is compressed.

If the barrier beach is not breached and the lagoon stays in the closed condition, the temporary interior dike must be constructed in a wet

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environment. Construction methodology will be the same as for the open condition, but the entire lagoon will be aggressively pumped to lower and hold the water surface to elevation 3 in order to expose most of the temporary interior dike foundation material. Pumping rates will have to exceed the creek surface flow rates and the groundwater inflows. At this time these flows are expected to be approximately 6 cfs (3.5 cfs average creek flow + 2.5 cfs groundwater inflow). Fish biologists will conduct sweeps to clear the construction area of aquatic species prior to placement of geotextile or fill material. Again, material will be placed in 6" lifts and compacted to minimize seepage for the duration of construction. Material will likely be added repeatedly as the dike settles and is compressed. The aggressive pumping rate will need to continue until the temporary interior dike is completed. In addition, the construction area will require additional sweeps for aquatic species as the remaining 3 feet of water is pumped from the 12 acre construction area.

Both the open and closed alternatives will create temporary impacts to waters and habitat inside the lagoon. Unless a natural breach occurs precisely at the beginning of the construction window, construction of the temporary dike in the open condition will necessitate an artificial breaching of the lagoon. Therefore this alternative will have the additional impact of bringing bacteria-contaminated lagoon waters, onto a swimming beach. While this alternative will temporarily negatively impact the swimming beach, there are also significant benefits to this alternative. The benefits include a shorter construction time, smaller disturbance to the lagoon, itself and the need to pump, treat and return to surface waters much less water. Unless another permit or consideration prevents it, the applicant will construct the temporary dike after artificially breaching the lagoon.

Details for the dewatering in both the open or closed condition, including species protection and rewatering is included in the Malibu Lagoon Construction Dewatering Plan Version 6, of January 26, 2009.

The discharge of waters pumped during construction of the temporary dike or from behind the temporary dike, to surface water will require NPDES permitting whether via individual permit or General Permit. The dewatering will require a treatment process

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capable of capturing metals, reducing turbidity, reducing nutrients, treating bacteria, and accommodating the necessary dewatering flow rates before returning the water to the lagoon or directly to the Pacific Ocean. Pre-filtration will be accomplished with flow through over and under design weir tanks (e.g. "Baker" tanks). Secondary filtration may be achieved in a two step process with bag filtration followed by particulate filtration to remove all solids from the flow stream. The final treatment system prior to discharge of effluent may be achieved with carbon and resin vessels for collection of remaining contaminants.

A monitoring plan will be implemented to evaluate, record, and analyze existing and changing ecological conditions of the lagoon using physical, chemical, and biological parameters. The records will allow the proposing agencies and other agencies and stakeholders to assess the progress toward restoration goals, and to adaptively manage lagoon function and health.

The Project is expected to continue for a period of three to six months.

- |  |   |
|--|---|
| 8. Federal Agency/Permit:                            | U.S. Army Corps of Engineers<br>Individual Permit (Permit No. 2007-01016-KW)  |
| 9. Other Required Regulatory Approvals:              | California Department of Fish and Game<br>Streambed Alteration Agreement<br><br>California Coastal Commission<br>Coastal Development Permit   |
| 10. California Environmental Quality Act Compliance: | A Final Environmental Impact Report (State Clearing House No. 2005101123) was prepared pursuant to the provisions of CEQA in March 2006 by the California Department of Parks and Recreation. A notice of determination was filed on April 4, 2006. |
| 11. Receiving Water:                                 | Malibu Lagoon, Malibu Creek (Hydrologic Unit No. 404.21)  |
| 12. Designated                                       | NAV, REC-1, REC-2, EST, MAR, WILD, RARE, MIGR, SPWN,  |



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- Beneficial Uses: WET
13. Impacted Waters of the United States: Federal jurisdictional wetlands: 2.55 temporary acres.  
Non-wetland waters (unvegetated streambed): 5.81 temporary acres.
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has identified the following related project carried out in the last 5 years and planned for implementation in the next 5 years.  
  
The proposed project consists of the second phase of the Malibu Lagoon Restoration and Enhancement Project. The first phase of the project included demolition of the existing parking lot that serves the park and reconfiguration and reconstruction of a new parking lot to allow more area for lagoon restoration.  
  
Three vegetated detention and infiltration basins will be constructed to retain stormwater runoff from the parking lot and allow sediment to settle out. The basins will be vegetated to promote biological uptake of pollutants in runoff. The ADS Storm-Pure Catch Basin system or approved equal will be installed as a secondary best management practice to collect and convey the remaining storm volume flows that exceed the available storage of the detention and infiltration basins during a 100-year storm.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several best management practices, including, but not limited to, the following:
- Water Diversion plan will be submitted to the RWQCCB prior to permit issuance.
  - Standard requirements for a Storm Water Pollution Prevention Plan (SWPPP) will provide for avoidance and minimization of the discharge of construction-related pollutants to the Malibu Lagoon and the Pacific Ocean.
  - A Stormwater Pollution Prevention Plan (SWPPP) and standard

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Urban Stormwater Mitigation Plan (SUSMP) have been prepared for the parking lot.

- During construction, the project footprint will be bermed off from the main lagoon channel to prevent sediment from discharging to the lagoon and Pacific Ocean.
- Seepage will be pumped into stilling basins to allow sediment to settle out before being transported into the main channel.
- Work will occur outside of the rainy season to avoid potential impacts associated with erosion and sedimentation during grading.
- Consultation with the U.S. Fish and Wildlife Service will be conducted if changes to the project schedule is required to avoid impacts to the federally listed tidewater goby, which spawns in the lagoon during the summer months.

17. Proposed  
Compensatory  
Mitigation:

None, as this project is restoration. Following the completion of grading and re-contouring, all areas subject to temporary disturbance within the Malibu Lagoon will be restored with native vegetation.

18. Required  
Compensatory  
Mitigation:

None. See *Attachment B Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

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#### STANDARD CONDITIONS

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

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

#### ADDITIONAL CONDITIONS

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

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

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

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State. If rain is predicted, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
15. 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.
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 existing groundwater level. If construction or groundwater dewatering is proposed or

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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 project construction or maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
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 measured once before diversion and then monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation

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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 all areas of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. Restored areas shall be monitored and maintained with native species as necessary for five years. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
23. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** by **January 1<sup>st</sup>** 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 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-project and mitigation site conditions;
  - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
  - (c) The overall status of project including a detailed schedule of work;
  - (d) Copies of all permits revised as required in Additional Condition 1;
  - (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
  - (f) A certified Statement of "no net loss" of wetlands associated with this project;
  - (g) Discussion of any monitoring activities and exotic plant control efforts; and
  - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
24. Prior to any subsequent maintenance activities within the subject basin, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the basin's existing condition; (c) the area of

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proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.

- 25. All applications, reports, or information submitted to the Regional Board shall be signed:
  - (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
  - (b) For a partnership, by a general partner.
  - (c) For a sole proprietorship, by the proprietor.
  - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official or other duly authorized employee.

- 26. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
(Signature)  
(Title)”

- 27. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **07-133**. Submittals shall be sent to the attention of the 401 Certification Unit.
- 28. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.



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29. The project shall 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.
30. 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.
31. A copy of this Certification shall be kept at the project site during any period while project activities are being conducted, and shall be available upon request to any staff from this Regional Board.
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 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

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### Conditions of Certification File No. 07-133

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.