



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Acting Secretary for
Environmental
Protection

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Edmund G. Brown
Governor

Mr. Frank Brommenschenkel
Santa Paula Creek Fish Ladder Authority
134 Davis Street
Santa Paula, CA 93060

**WATER QUALITY CERTIFICATION FOR PROPOSED SANTA PAULA CREEK
GEOTECHNICAL INVESTIGATION PROJECT (Corps' Project No. 2010-01173-AJS),
CITY OF SANTA PAULA, VENTURA COUNTY (File No. 10-147)**

Dear Mr. Brommenschenkel:

Board staff has reviewed your request on behalf of Santa Paula Creek Fish Ladder Authority (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on February 4, 2011.

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 Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

Samuel Unger
Samuel Unger, P.E.
Executive Officer

April 1, 2011
Date

California Environmental Protection Agency



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April 1, 2011
Date

Executive Director
Regional Office

ATTACHMENT A

Project Information File No. 10-147

1. Applicant: Santa Paula Creek Fish Ladder Authority
Mr. Frank Brommenschenkel
134 Davis Street
Santa Paula, California 93060
Phone: (805) 525-4200 Fax: (805) 525-7284
2. Applicant's Agent: RBF Consulting
Ms. Lauren See
14725 Alton Parkway
Irvine, California 92618
Phone: (949) 330-4115 Fax: (949) 837-4122
3. Project Name: Santa Paula Creek Geotechnical Investigation
4. Project Location: Santa Paula Creek, Ventura County

	<u>Latitude</u>	<u>Longitude</u>
	34.2538	119.0528
	34.2526	119.0508
	34.2505	119.0501
	34.2444	119.0455
	34.2419	119.0449
	34.2342	119.0432
	34.2312	119.0413
	34.2243	119.0347

5. Type of Project: Geotechnical assessment within Santa Paula Creek
6. Project Purpose: The purpose of the proposed project is to perform geotechnical/geological mapping of the creek bottom area to evaluate site conditions, and provide recommendations to aid in the design of the proposed infiltration system and grade control structures.

ATTACHMENT A

Project Information

File No. 10-147

Ultimately, the Applicant will propose a project consisting of modifications to the Harvey Diversion Passage Barrier along Santa Paula Creek to aid in steelhead trout passage and the restoration of habitat.

7. Project Description:

The Santa Paula Creek Fish Ladder Authority is planning for modifications to the Harvey Diversion Passage Barrier along Santa Paula Creek. For this project, geotechnical/geological mapping of the creek bottom area will be performed to evaluate site conditions, and provide recommendations to aid in the design of the proposed infiltration system and grade control structures. Field exploration will include drill holes, test pits, and, other geophysical methods. The intent of the field exploration upstream of Harvey to Steckel Park is to tag the top of bedrock below overlying alluvium in several locations. Equipment access roads will be approximately 10 feet wide to access the geotechnical exploration sites.

Three (3) exploration sites upstream of the Harvey Dam have been identified as accessible for drilling equipment.

The project consists of a total of 10 test locations; with a possible variance of up to 5. Drill holes will be extended through alluvial materials, as the technique allows (i.e., refusal may limit exploration depths) to a few feet into underlying Pico Formation bedrock. Upon completion, drill holes will be backfilled with drill cuttings. Minimal grading of the creek bank at Exploration Site 2 will likely be required to ensure safe access for the drill rig. Due to access constraints, drill holes at Exploration Site 2 will likely be located in the active creek channel. Drill holes at Exploration Sites 1 and 3 will likely be located adjacent to the active channel.

Test pits will be excavated at three to four locations along Exploration Site 4, extending from Harvey Diversion to about 1,200 feet downstream of Bridge Road. Test pit locations will be accessed by mobilizing equipment upstream from Fair Weather Crossing Road. A bulldozer will likely be required to relocate large boulders along the route. Upon completion, test pits will be backfilled with excavated materials. Each exploration site will be approximately 270 square feet.

The pits will be approximately 18" wide, with lengths of 6 to 8 feet, and have anticipated maximum depths of 10 feet, so volume of material will be up to 4.5 cubic yards per test pit. A spider rig will be used and will "step over" the boulders rather than having a bull dozer grade an access

ATTACHMENT A

Project Information File No. 10-147

road in the area downstream of the Harvey Diversion. To minimize any impact on the active low-flow channel, drilling will occur along the bank above. Access to the bank at Site 2 will not require grading, but will require clearing of boulders and, possibly, vegetation.

Drill holes at Exploration sites 1 and 3 will be located outside of the active channel. Temporary impacts from the proposed geotechnical activities have been limited to 0.86-acres.

The segments of stream to be explored are located within the Pico Formation. The drill holes will not penetrate far into the Pico bedrock, approximately 5 to 10 feet, which will be just enough to determine that they have encountered the formation. The drill holes will not remain open long after they penetrate into the formation. The drill holes will then be backfilled with cuttings. There have been tar seeps identified upstream where Sespe Creek turns west as it passes onto the Monterey formation (north of Sulfur Mountain). There have not been any mapped tar seeps near or south of Steckel Park, mainly due to the outcropping bedrock unit within the Pico formation. The chances of encountering any tar seeps within the project limits are extremely low.

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| 8. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP Nos. 6 & 33 (Permit No. 2010-01173-AJS) |
| 9. Other Required Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement |
| 10. California Environmental Quality Act Compliance: | A Notice of Exemption has been filed by the Santa Paula Creek Fish Ladder Authority (September 30, 2010). |
| 11. Receiving Water: | Santa Paula Creek (Hydrologic Unit No. 403.55) |
| 12. Designated Beneficial Uses: | MUN*, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, COLD, WILD, RARE, MIGR, SPWN

*Conditional beneficial use |
| 13. Impacted Waters of the United States: | Non-wetland waters (streambed): 0.86 temporary acres |

ATTACHMENT A

Project Information File No. 10-147

14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Excavated spoils will be placed out of the water way and, if possible, upstream of the excavation;
 - During excavation, boulders will set aside for placement on top of the backfill to provide some temporary stabilization;
 - Regular maintenance of equipment including hydraulic hoses, etc.;
 - Placement of visqueen under the rig and work area; and
 - Each rig is equipped with spill kits to contain/ absorb and drum up any leaks.
17. Proposed Compensatory Mitigation: The Applicant has proposed to restore all temporarily impacted areas (0.86 acres) within the geotechnical assessment areas and access routes.
18. Required Compensatory Mitigation: The Regional Board will require the Applicant to restore all temporarily impacted areas.
See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

ATTACHMENT B

Conditions of Certification File No. 10-147

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 policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

ATTACHMENT B

Conditions of Certification

File No. 10-147

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 the Land Disposal Unit at the Regional Board 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.
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

ATTACHMENT B

Conditions of Certification

File No. 10-147

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.
15. If rain is predicted after operations have begun, 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. 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.
17. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during any vegetation clearing activities. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.

No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge (ROWD)** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste.

18. 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.
19. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.

ATTACHMENT B

Conditions of Certification

File No. 10-147

20. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:

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

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

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Downstream TSS shall be maintained at ambient levels. Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

21. The Applicant shall restore the proposed **0.86 acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. Restored areas shall be monitored and maintained with native species as necessary for five years. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
22. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until mitigation/restoration has been achieved and documented. The Annual Reports shall describe in detail all of the project/construction

ATTACHMENT B

Conditions of Certification File No. 10-147

- activities performed during the previous year and all restoration efforts; including percent survival by plant species and percent cover. The Annual Reports shall describe the status of other agreements (e.g., mitigation banking) or any delays in the mitigation process. At a minimum the Annual Reports shall include the following documentation:
- (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.
23. 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.
24. 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

ATTACHMENT B

Conditions of Certification File No. 10-147

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)

25. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **10-147**. Submittals shall be sent to the attention of the 401 Certification Unit.
26. 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.
27. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. R4-2010-0108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2009-009-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
28. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
29. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an

ATTACHMENT B

Conditions of Certification File No. 10-147

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

30. *Enforcement:*

- (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
- (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

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

