



Los Angeles Regional Water Quality Control Board

Mr. Jerry Hignite
Malibou Lake Mountain Club, Ltd.
29033 Lake Vista Drive
Agoura, CA 91301

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7009 2820 0001 6537 7078

TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED MALIBOU LAKE MAINTENANCE DREDGING PROJECT (Corps' Project No. 2014-00241-BEM), MALIBOU LAKE, CITY OF AGOURA, LOS ANGELES COUNTY (File No. 14-039)

Dear Mr. Hignite:

Board staff has reviewed your request on behalf of Malibou Lake Mountain Club, Ltd. (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on August 4, 2014.

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

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

Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-6759.

Samuel Unger
Samuel Unger, P.E.
Executive Officer

Oct. 16, 2014
Date

DISTRIBUTION LIST

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U.S. Environmental Protection Agency, Region 9
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U.S. Fish and Wildlife Service
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ATTACHMENT A

**Project Information
File No. 14-039**

1. Applicant: Malibou Lake Mountain Club, Ltd.
29033 Lake Vista Drive
Agoura, CA 91301
Phone: (818) 889-1211 Fax: (818) 889-8214
2. Applicant's Agent: ARCADIS-US
101 Creekside Ridge Court, Suite 200
Roseville, CA 95678
Phone: (916) 865-3129 Fax: (916) 786-0366
3. Project Name: Malibou Lake Maintenance Dredging
4. Project Location: Agoura, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
34.10558889	118.7646000
34.10759444	118.7566528
34.10556389	118.7509444
34.10727222	118.7553028
34.10699444	118.7626056
34.11012500	118.7548278
34.10487778	118.7513472
34.10655000	118.7616028

5. Type of Project: Lake Maintenance Dredging
6. Project Purpose: The proposed project (Project) will prevent Malibou Lake from filling up with accumulated sediments from upstream locations in the Medea and Triunfo Creek watersheds.
7. Project Description: The Applicant proposes to perform maintenance dredging within Malibou Lake, including the inlet areas where two tributaries, Triunfo Canyon Creek and Medea Creek, enter the lake.

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Maintenance dredging operations at Malibou Lake are intended to prevent the gradual filling of the lake by sand, gravel, and sedimentation deposited from Medea and Triunfo Creeks.

Malibou Lake is located in Agoura, California. Malibou Lake covers approximately 40 acres and is located west of US Highway 101 at the confluence of Triunfo and Medea Creeks in the Santa Monica Mountains, Los Angeles County, California. Dredging is intended to increase the depth of the lake thereby reducing emergent vegetation and lowering water temperatures to levels suitable for trout and providing conditions that support safe boating and other public recreation activities.

Maintenance dredging is expected to be needed indefinitely, pursuant to all state and federal laws to address sediment and material deposited by the two creeks. All dredged sediment and material is temporarily placed in existing upland basins, while the decanted and filtered water from the dredge spoils is returned to Malibou Lake. The project addresses annual maintenance dredging (typically 5,000 to 10,000 cubic yards per year with a maximum of 14,000 cubic yards per year) during the five year period of the permit for a total maximum volume of 70,000 cubic yards.

As a component of the dredging, some sediment materials near the tributary entry points may be removed using an excavator bucket located on the banks. After drying, the dredged solids will be placed in previously-used stockpile locations adjoining the detention basins. Dried sediment materials will likely be used for beneficial reuse; they will be exported offsite and ultimately reused as construction fill material or as landfill daily cover. The water component of the dredged material will be decanted in the detention basins which ultimately re-enters Malibou Lake. No removal of riparian vegetation will be required.

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| 8. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 16, 26 (Permit No. 2014-00241-BEM) |
| 9. Other Required
Regulatory Approvals: | California Department of Fish and Wildlife
Streambed Alteration Agreement |

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10. California Environmental Quality Act Compliance: The County of Los Angeles filed Notice of Determination with the Los Angeles County Clerk's Office on March 28, 1996. A Negative Declaration was prepared for this Project.
11. Receiving Water: Malibou Lake (Hydrologic Unit Code: 18070101040104)
12. Designated Beneficial Uses: MUN*, NAV, REC-1, REC-2, WARM, WILD, RARE, WET
*Conditional beneficial use
13. Impacted Waters of the United States: Lake/Reservoir: 40 temporary acres
14. Dredge Volume: Up to 14,000 cubic yards per year, 70,000 yards total.
15. Related Projects Implemented/to be Implemented by the Applicant: A previous Certification for the same project in the same area was issued under file number **05-218** on January 13, 2009. Maintenance dredging is expected to continue indefinitely to maintain the safe navigation and operation of the lake.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:

The basins are contained in upland areas with a filtered decanting system for return water. The return water piping system utilizes perforated upright pipes covered in geotextile fabric to allow filtered water above a certain level to return to the lake. Water below that level is allowed to percolate back into the ground. Additional best practices include:
- 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.

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- Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.
- All excavation, construction, or maintenance activities shall minimize impacts to water quality and beneficial uses.
- Any dust control activities shall be conducted in such a manner that will not produce downstream runoff.
- The hydraulic dredge shall be kept in good working order and checked for signs of leaks before and during operation.
- The dredge must be refueled at the launch ramp only.
- A spill containment kit shall be kept on board the dredge at all times.
- No construction material, materials, 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 construction activity and materials confined within the marked areas.
- 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.
- The discharge will not degrade surface water communities and populations including vertebrate, invertebrate, and plant species
- The discharge will not promote the breeding of mosquitoes, gnats, black flies, midges, or other pests;
- The discharge will not alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable

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discoloration of the receiving waters;

- The discharge will not cause formation of sludge deposits.
- The discharge will not adversely affect any designated beneficial uses.
- The Applicant will 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.

17. Proposed Compensatory Mitigation:

The Applicant proposes to provide compensatory mitigation for the proposed impacts to lakebed by continuing to restore 1.5 acres of native coastal and valley wetland and freshwater marsh undertaken in compliance with Water Quality Certification 05-218 and other regulatory permits.

18. Required Compensatory Mitigation:

For dredging impacts to 40 acres of lakebed, the Applicant shall provide 1.5 acres of mitigation. 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. 14-039

STANDARD CONDITIONS

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

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

ADDITIONAL CONDITIONS

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

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

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6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. 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.

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14. 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.
15. All project and 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.
16. Lake water quality monitoring shall be performed by the Applicant. A Water Quality Monitoring Plan shall be submitted prior to any project construction activities. Baseline sampling may be conducted at one location within the project boundary for each phase. All other sampling shall include a minimum of two locations. Monitoring for the following shall be included:
 - pH
 - temperature
 - dissolved oxygen
 - turbidity
 - total suspended solids (TSS)
 - visual assessment for floating particulates (oil and grease shall not be visible)

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be measured at least once prior to project commencement (baseline sampling) and then monitored on a daily basis during the first week of construction, and then on a weekly basis, thereafter, until the work is complete. Monitoring shall ensure compliance with all water quality objectives specified in the 2005 Ocean Plan.

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. Construction activities shall not result in the degradation of beneficial uses or non-compliance of any water quality objectives. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

17. The Applicant shall restore **all 40 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.
18. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporary loss by restoration of riparian habitat of a minimum **1.50 acres** in accordance

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with the “Malibou Lake Mountain Club, Habitat Restoration Plan, Malibou Lake” (Habitat Restoration Plan) dated September 2011.

Any proposed changes to the Habitat Restoration Plan or new agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts shall be submitted to this Regional Board for approval.

19. The Applicant shall submit to this Regional Board **Annual 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 or project success or completion has been achieved and documented. The Annual Reports shall describe in detail all of the project and construction activities performed during the previous year and all restoration and mitigation 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. Photographs shall be labeled with location and date;
 - (b) Status of the mitigation site per the success criteria identified in the Habitat Restoration Plan;
 - (c) The overall status of project including a detailed schedule;
 - (d) Copies of any revised permits.;
 - (e) Water quality monitoring results compiled in a spreadsheet format;
 - (f) For each lake basin dredged, volume dredged for the year;
 - (g) All dredge disposal sites used during the year;
 - (h) A certified Statement of “no net loss” of wetlands associated with this project;
 - (i) Discussion of any monitoring activities and exotic plant control efforts; and
 - (j) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
20. All applications, reports, or information submitted to the Regional Board shall be signed:

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- (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.
21. 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)”

- 22. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **14-039**. Submittals shall be sent to the attention of the 401 Certification Unit.
- 23. 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.
- 24. 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. 2012-0011-DWQ.
- 25. 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.

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26. 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.
27. *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.
28. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application at least 90 days prior to termination of this Certification if renewal is requested.