



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## San Diego Regional Water Quality Control Board

October 7, 2015

**Certified Mail – Return Receipt Requested**  
Article Number: 7011 0470 0002 8952 7403

Mr. Mechling  
Mechling Construction  
17005 Dos Amigos Way  
Poway, CA 92064

**In reply/refer to:**  
08C-016:714527:ngergans

**Subject: Amendment No. 1 to Clean Water Act Section 401 Water Quality Certification No. 08C-016 for the Mechling Subdivision Project**

Mr. Mechling:

Enclosed find Amendment No. 1 (Certification Amendment) to Clean Water Act Section 401 Water Quality Certification No. 08C-016 (Certification) issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board ) in response to an amendment request submitted by Don Mechling for the Mechling Subdivision Project (Project). The Certification Amendment shows changes in underline/strikeout format to indicate added and removed language. A complete copy of the Certification is located on the San Diego Water Board Website at:

[http://www.waterboards.ca.gov/rwqcb9/water\\_issues/programs/401\\_certification/docs/projects/08C/08C-016.pdf](http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/401_certification/docs/projects/08C/08C-016.pdf)

Failure to comply with the Certification Amendment may subject Don Mechling to enforcement actions by the San Diego Water Board including administrative enforcement orders requiring Don Mechling to cease and desist from violations or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and/or referral to the District Attorney for criminal prosecution.

Please submit all reports and information required under this Certification in electronic format via e-mail to [SanDiego@waterboards.ca.gov](mailto:SanDiego@waterboards.ca.gov). Documents over 50 megabytes will not be accepted via e-mail and must be placed on a disc and delivered to the San Diego Water Board, 2375 Northside Drive, San Diego, CA 92108. Each electronic document must be submitted as a single file, in Portable Document Format (PDF), and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must include scanned copies of all signature pages; electronic

HENRY ABARBANEL, PH.D, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

2375 Northside Drive, Suite 100, San Diego, California 92108-2700 | [www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: Certification No. 09C-016:714527:ngergans

For questions or comments, please contact Nicole Gergans by telephone at (619) 521-3969 or by email at [nicole.gergans@waterboards.ca.gov](mailto:nicole.gergans@waterboards.ca.gov).

Respectfully,



DAVID W. GIBSON  
Executive Officer

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. 08C-016 for the Mechling Subdivision Project

DWG:jgs:esb:ng

cc:

U.S. Army Corps of Engineers, Regulatory Branch  
San Diego Field Office  
Peggy Bartel  
[Peggy.J.Bartels@usace.army.mil](mailto:Peggy.J.Bartels@usace.army.mil)

California Department of Fish and Game  
South Coast Region  
Habitat Conservation Planning – South  
Kelly Fisher  
[Kelly.Fisher.wildlife.ca.gov](mailto:Kelly.Fisher.wildlife.ca.gov)

U.S. Department of the Interior  
Fish and Wildlife Service  
2177 Salk Ave Suite 2050  
Carlsbad, CA 92011

U.S. EPA, OWOW, Region 9  
[R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov)

Tech Staff Info & Use	
Certification No.	08C-016
Party ID	273412
File No.	08C-016
WDID	9000001756
Regulatory ID	342102
Place ID	714527
Person ID	273413

Mr. Don Mechling  
Amendment No. 1  
Certification No. 08C-016

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October 7, 2015

State Water Resources Control Board  
Division of Water Quality  
Water Quality Certification and Wetlands Unit  
Stateboard401@waterboards.ca.gov



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

2375 Northside Drive, Suite.100, San Diego, CA 92108  
Phone (619) 516-1990 • Fax (619) 516-1994  
<http://www.waterboards.ca.gov/sandiego/>

**Amendment No. 1 to Clean Water Act Section 401  
Water Quality Certification No. 08C-016**

**PROJECT: Mechling Subdivision  
Certification Number 08C-016**

**APPLICANT: Don Mechling  
17005 Dos Amigos Way  
Poway, CA 92064**

Reg. Meas. ID: 342102  
Place ID: 714527  
Party ID: 273412  
Person ID: 273413  
WDID: 9000001756

On April 15, 2009, Clean Water Act Section 401 Water Quality Certification No. 08C-016 (Certification) was issued to Don Mechling (Applicant) for the Mechling Subdivision Project (Project).

By letter dated September 25, 2015, Christina Schaefer, on behalf of the Applicant, requested the Certification be amended to increase the area of impact and to purchase mitigation bank credits rather than perform on site mitigation. The area of impact has increased from 0.02 acre (170 linear feet) to 0.0231 acre (313 linear feet) due to changes in the culvert design necessitated by the presence of bedrock. The original onsite mitigation area is on a steep slope and as designed would cause erosion to the creek. The Applicant proposes to purchase 0.08 acre of "Re-established River, Wetland Waters of the U.S" credits at the San Luis Rey Mitigation Bank instead of creating 0.037 acre (270 linear feet) of on-site ephemeral stream.

Based on the Applicant's request, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is amending the Certification to allow for 0.0231 acre (313 linear feet) of impacts to an ephemeral drainage to be mitigated by the purchase of 0.08 acre of Re-established River, Wetland Waters of the U.S. credits from the San Luis Rey Mitigation Bank. Except as modified or superseded by the Certification modifications set forth below, all of the findings, provisions and other requirements of Certification No. 08C-016 remain in full force and effect. The following changes are made to Certification No. 08C-016 and are shown in underline/strikeout format to indicate added and removed language:

**Page 7, MITIGATION D.1 is modified as follows:**

Permanent impacts must not exceed ~~0.02-acre (123-linear feet)~~ 0.0231 acre (313 linear feet) of unvegetated Waters of the U.S and State. Impacts are limited to grading and the placement of the ephemeral streams in culverts.

**Page 7, MITIGATION D.2 is modified as follows:**

~~Proposed mitigation consists of the onsite creation of three ephemeral streams totaling 270 linear feet and 0.037 acre and is described within the Mitigation Plan for Ephemeral Drainage for Mechling Subdivision RWQCB 08C-016, prepared by RC Biological Consulting, Inc., no date, received on December 12, 2008. The Mitigation Plan for Ephemeral Drainage for Mechling Subdivision RWQCB 08C-016, prepared by RC Biological Consulting, Inc., no date, received on December 12, 2008, must be implemented as proposed. Proposed mitigation consists of 0.08 acre of Re-established River: Wetland Waters of the U.S. purchased from the San Luis Rey Mitigation Bank for Compensatory Mitigation. Proof of purchase shall be submitted 30 days after issuance of this amended Certification.~~

**Page 7, MITIGATION D.3 is modified as follows:**

~~Don Mechling must notify the Regional Board in writing at least 5 days prior to the actual commencement of mitigation installation, and 5 days after completion of mitigation installation.~~

**Page 7, MITIGATION D.4 is modified as follows:**

~~Mitigation Site Preparation: Don Mechling must salvage leaf litter, coarse woody debris, and upper soil horizons from impacted jurisdictional water sites that are free of invasive exotic species for use in on-site mitigation areas.~~

**Page 7, MITIGATION D.5 is modified as follows:**

~~Don Mechling must also salvage large cuttings from appropriate, native tree species if they exist at the impact site and use them as live pole plantings at the mitigation site.~~

**Page 8, MITIGATION D.6 is modified as follows:**

~~Within 90 days of the issuance of this Certification, Don Mechling must provide the Regional Board a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. Within one year of the issuance of this Certification, Don Mechling must submit proof of a completed preservation mechanism that will protect all mitigation areas and their buffers in perpetuity. Construction of the site must not be initiated until a completed preservation mechanism is received. The conservation easement, deed restriction, or other legal limitation on the mitigation property must be adequate to demonstrate that the site will be maintained without future development or encroachment on the site which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the U.S. that it supports. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation~~



~~development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the site. The preservation mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.~~

**Page 8, MITIGATION D.7 is modified as follows:**

~~Don Mechling must submit a report (including topography maps and planting locations) to the Regional Board within **90 days** of completion of mitigation site preparation and planting, describing as built status of the mitigation project.~~

**Page 8, MITIGATION D.8 is modified as follows:**

~~The construction of proposed mitigation must be concurrent with project grading and completed no later than **9 months** following the initial discharge of dredge or fill material into on-site waters. Delays in implementing mitigation must be compensated for by an increased mitigation implementation of 10% of the cumulative compensatory mitigation for each month of delay.~~

**Page 8, MITIGATION D.9 is modified as follows:**

~~The mitigation site shall be designed and constructed to meet the following conditions:~~

- ~~a. Most of the channel through the mitigation site is characterized by equilibrium conditions, with no evidence of severe aggradation or degradation.~~
- ~~b. As viewed along cross-sections, the channel and buffer have a variety of slopes, or elevations, that are characterized by different moisture gradients. Each sub-slope contains physical patch types or features that contribute to irregularity in height, edges, or surface and to complex topography overall.~~
- ~~c. The mitigation site has a well-developed plant community characterized by a high degree of horizontal and vertical interspersions among plant zones and layers.~~

**Page 9, MITIGATION D.10 is modified as follows:**

~~Throughout the mitigation monitoring program mitigation areas must be maintained free of perennial exotic plant species including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the onsite or offsite mitigation areas.~~

**Page 9, MITIGATION D.11 is modified as follows:**

~~Regional Board acceptance of the final mitigation plan applies only to the site and plan that mitigates for Mechling Subdivision project and must not be construed as approval of the mitigation site or plan for use by other current or future projects.~~

**Page 9, MITIGATION D.12 is modified as follows:**

~~Any monitoring and maintenance activities that do not contribute to the success of the mitigation site and enhancement of beneficial uses and ecological functions and services are prohibited. Maintenance activities are limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species and remedial measures deemed necessary for the success of the restoration program.~~

**Page 9, MITIGATION D.13 is modified as follows:**

~~If at any time during the implementation and establishment of the mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, Don Mechling is responsible for repair and replanting of the damaged area(s).~~

**Page 9, MITIGATION D.14 is modified as follows:**

~~Mitigation monitoring reports must be submitted annually until mitigation has been deemed successful by the Regional Board. Annual monitoring reports must be submitted prior to **December 1** of each year. Monitoring reports must include, but not be limited to, the following:~~

- ~~a) Names, qualifications, and affiliations of the persons contributing to the report.~~
- ~~b) Tables presenting the raw data collected in the field as well as analyses of the physical and biological data, including at a minimum.~~
- ~~c) Topographic complexity characteristics at each mitigation site.~~
- ~~d) Upstream and downstream habitat and hydrologic connectivity.~~
- ~~e) Source of hydrology.~~
- ~~f) Width of native vegetation buffer around the entire mitigation site.~~



- ~~g) Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results.~~
- ~~h) Photodocumentation from established reference points.~~
- ~~i) A Survey report documenting boundaries of mitigation area.~~
- ~~j) Other items specified in the Conceptual Wetland Mitigation Plan, Don Mechling, Storm Water Conveyance System Maintenance Project (Merkel & Associates, September 16, 2008).~~

**Page 10, MITIGATION D.15 is modified as follows:**

~~Responsible Party Updates: Don Mechling must provide the name and contact information of any third party accepting responsibility for implementing the mitigation requirements of this Certification. The notification must be submitted to the Regional Board within **30 days** of the transfer of responsibility. The notification must include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification.~~

**Page 10, MITIGATION D.16 is modified as follows:**

~~For the purpose of determining mitigation credit for the removal of exotic/invasive plant species, only the actual area occupied by exotic/invasive plant species must be quantified to comply with mitigation requirements.~~

**Page 10, MITIGATION D.17 is modified as follows:**

~~For the purposes of this Certification:~~

- ~~(a) Establishment is defined as the creation of vegetated or unvegetated waters of the U.S./State where the resource has never previously existed (e.g. conversion of nonnative grassland to a freshwater marsh).~~
- ~~(b) Restoration is divided into two activities, re-establishment and rehabilitation.
  - ~~(1) Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the U.S./State previously existed (e.g., removal of fill material to restore a drainage).~~
  - ~~(2) Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated or unvegetated waters of the U.S./State (e.g., removal of a heavy infestation or monoculture of~~~~



~~exotic plant species from jurisdictional areas and replacing with native species).~~

- ~~(c) Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the U.S./State (e.g., removal of small patches of exotic plant species from an area containing predominantly natural plant species).~~
- ~~(d) Preservation is defined as the acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the U.S./State (e.g., conservation easement).~~

**Page 10, GEOGRAPHIC INFORMATION SYSTEM REPORTING Condition F is modified as follows:**

Don Mechling must submit Geographic Information System (GIS) shape files of the impact and mitigation areas within **30 days** of project impacts and the mitigation area within **30 days** of mitigation installation. All impact and mitigation areas shapefiles must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.

**Page 13, REPORTING Condition G.7 is modified as follows:**

Required Reports: The following list summarizes the reports, including spill notifications and emergency situations, required per the conditions of this Certification to be submitted to the Regional Board.

Report Topic	Certification Condition	Due Date(s)
Unauthorized Discharges	A.5. Report within 24 hours.	Within 24 hours.
Impacts to Waters	B.3. Notify before impacting Waters of U.S. and State.	5 Days prior to impacts.
BMPs	C.6. Submit evidence of performance bond.	5 Days prior to construction.
Mitigation	D.2 & 3. Notify prior to mitigation commencement and completion. Proof of purchase of mitigation credits	<del>5 Days prior to installation &amp; 5 days after completion.</del> <u>30 days after issuance of this amended Certification.</u>
Mitigation	D.6. Provide draft and final preservation	Within 90 days and one year of issuance

	<del>mechanisms.</del>	<del>of Certification.</del>
Mitigation	<del>D.7. Provide mitigation as-built mitigation report.</del>	<del>Within 90 days of completion of mitigation site installation.</del>
Mitigation	<del>D.14. Provide annual mitigation monitoring reports.</del>	<del>Prior to December 1 of each year after installation of mitigation site.</del>
Mitigation	<del>D.15. Provide contact information for third party implementation of mitigation requirements.</del>	<del>Within 30 days of transfer of responsibility.</del>
Photo Documentation	E. Provide photo documentation of project areas.	Within 30 days of project completion at each site.
GIS shapefiles	F. Submit GIS shapefiles of impacts and mitigation areas.	30 Days after impacts. and 30 days after mitigation installation.

**Notification:** Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with the California Code of Regulations, title 23, sections 3867 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Certification Amendment. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Amendment No. 1 to Certification No. 08C-016 issued on October 7, 2015.

  
 \_\_\_\_\_  
 DAVID W. GIBSON  
 Executive Officer  
 San Diego Water Board

7 Oct. 2015  
 \_\_\_\_\_  
 Date