



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

June 9, 2016

Certified Mail – Return Receipt Requested

Article Number: 7011 0470 0002 8952 8141

Mr. Joseph Lee
Caltrans, District 12
3347 Michelson Drive, Suite 100
Irvine, CA 92612

In reply/refer to:
R9-2014-0127:810065:dbradford

Subject: Amendment No. 1 to Clean Water Act Section 401 Water Quality Certification No. R9-2014-0127 for the State Route 74 Safety Shoulder Widening Project

Mr. Lee:

Enclosed find Amendment No. 1 (Certification Amendment) to Clean Water Act Section 401 Water Quality Certification No. R9-2014-0127 (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 Caltrans, District 12 for the State Route 74 Safety Shoulder Widening (Project). The Certification Amendment shows changes in underline/strikeout format to indicate added and removed language. A complete copy of the Certification has also been enclosed for your reference.

Failure to comply with the Certification Amendment may subject Caltrans, District 12 to enforcement actions by the San Diego Water Board including administrative enforcement orders requiring Caltrans, District 12 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.

In the subject line of any response, please include reference number R9-2014-0127:810065:dbradford. For questions or comments, please contact Darren Bradford by telephone at (619) 521-3356 or by email at darren.bradford@waterboards.ca.gov.

Respectfully,

A handwritten signature in black ink, appearing to read "David W. Gibson".

DAVID W. GIBSON
Executive Officer

HENRY A BARBANEL, PH.D. | DAVID GIBSON, EXECUTIVE OFFICER

2375 Northside Drive, Suite 100, San Diego, CA 92108 | (619) 516-1990 | www.waterboards.ca.gov/sandiego



Mr. Joseph Lee
Amendment No. 1
Certification No. R9-2014-0127

June 9, 2016

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. R9-2014-0127 for the State Route 74 Safety Shoulder Widening Project

DWG:jgs:db:eb:dlb

CC:

U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
Ms. Susan Meyer
Susan.A.Meyer@usace.army.mil

California Department of Fish and Game
South Coast Region
Habitat Conservation Planning – South
Mr. Tim Dillingham
Tim.Dillingham@wildlife.ca.gov

U.S. EPA, OWOW, Region 9
R9-WTR8-Mailbox@epa.gov

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

Charles Baker
Caltrans, District 12
charles.baker@dot.ca.gov

| Tech Staff Info & Use | |
|-----------------------|--------------|
| Certification No. | R9-2014-0127 |
| Party ID | 7578 |
| WDID | 9000002775 |
| Regulatory ID | 398590 |
| Place ID | 810065 |
| Person ID | 548878 |

**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. R9-2014-0127**

**PROJECT: State Route 74 Safety Shoulder Widening
Certification Number R9-2014-0127**

**APPLICANT: Caltrans, District 12
3347 Michelson Drive, Suite 100
Irvine, CA 92612**

Reg. Meas. ID: 398590
Place ID: 810065
Party ID: 7578
Person ID: 548878
WDID: 9000002775

On November 23, 2015, Clean Water Act Section 401 Water Quality Certification No. R9-2014-0127 (Certification) was issued to Caltrans, District 12 (Applicant) for the State Route 74 Safety Shoulder Widening Project (Project).

By letter dated February 25, 2016, Caltrans, District 12, requested the Certification be amended to remove the requirement to conduct annual Benthic Macroinvertebrate Community Analysis because the analysis is expensive; the impacts are small (~1000 square feet); the shoulder widening is linear with many discharge points to side drains and culverts, which will distribute the additional runoff and will have minimal downstream effects; and bio-assessment data is already being collected in the stream corridor.

The project will impact 0.023 acres (94 linear feet) of riparian waters of the United States and/or State where existing culverts are either being extended and where flared-end sections or headwalls are being installed in order to widen 2.13-miles of State Route 74 (SR-74). Proposed mitigation for impacts to waters of the United States and/or State includes the removal of eight check dam structures in San Juan Creek. that would improve the natural drainage flow.

Bio-assessment has been done upstream and downstream of the project site at San Juan Creek by as part of the Southern California Stormwater Monitoring Coalition (SMC). The SMC has a Regional Plan to sample nutrients, toxicity, water column, habitat and many other parameters which help calculate the California Stream Condition Index (CSCI) at a given location. The SMC program is ongoing and involves the commitment of 15 local and state agencies. The Southern California Coastal Water Research Project (SCCWRP) also plans to take annual samples in this section of San Juan Creek. Upon examination of the CSCI Scores provided by SCCWRP, San Juan Creek has a < 0.62 (Very Likely Altered) Score downstream of the check dam mitigation site, and a 1.00 (Likely Intact) CSCI Score at Lion Canyon several miles upstream of the check dam mitigation site. Although the distance may be too long to show causality, there is definite potential that the check dams have altered the biotic and abiotic characteristics of the stream. There are no other known stressor locations or

anthropogenic influences between the upstream site and downstream of the mitigation site. If a macroinvertebrate survey is performed after the fact, it may be useful to find whether or not the condition of the stream has improved, however the surveys may potentially indicate a temporary negative impact due to sediment disturbance.

Cleveland National Forest implemented dam removals in Trabuco Creek (a similar setting as San Juan Creek) in 2015 and obtained a Functional Rating of Functional post-implementation. Dam removal and winter flows have allowed the channel to begin returning to a more natural bedload and sediment transport regime. The channel is moving towards a more natural gradient as sediment that was artificially stored behind the dams has been mobilized and redeposited in scoured out plunge pools that had formed below the dams. It is expected that similar results will be achieved in San Juan Creek.

Bio-assessments are already planned to occur in the area through at least 2019 depending on the permit cycles. The check dam removals will improve water quality, abiotic attributes of sediment, and biotic communities. Based on the Applicant's request, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is amending condition VI.F of the Certification that requires Caltrans, District 12 to conduct an annual Benthic Macroinvertebrate Community Analysis.

Except as modified or superseded by the Certification modifications set forth below, all of the findings, provisions and other requirements of Certification No. R9-2014-0127 remain in full force and effect. The following changes are made to Certification No. R9-2014-0127 and are shown in underline/strikeout format to indicate added and removed language:

Page 15, MONITORING AND REPORTING REQUIREMENT VI.F is modified as follows:

Benthic Macroinvertebrate Community Analysis. The Applicant shall conduct bioassessment monitoring, as described in this section, to assess the success of mitigation areas and the impact of construction activities, whenever applicable, using benthic macroinvertebrate community data. Bioassessment shall include: 1) the collection and reporting of benthic macroinvertebrate data; and 2) the collection and reporting of physical habitat data. Bioassessment using benthic macroinvertebrates shall be conducted in perennial wadeable streams during the index period. Perennial streams shall be defined as streams with surface water flow present during the appropriate index period¹. Wadeable streams shall be defined as streams that can be safely waded in order to be sampled for benthic invertebrates during the appropriate index period. If the appropriate sampling period lies outside the index period, please contact the San Diego Water Board.

¹ The appropriate index period can be found electronically at the following location:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/cgp_biomap.pdf

1. **Field Methods.** Bioassessment monitoring must be performed using the SWAMP field methods specified in *Standard Operating Procedures for Collecting Benthic Macroinvertebrate Samples and Associated Physical and Chemical Data for Ambient Bioassessments in California*² (SOP, Ode 2007) or any updates of these methods. The Applicant shall conduct, concurrently with all required benthic macroinvertebrate collections, the "Full" suite of physical habitat characterization measurements as specified in Table 1 of the SOP.
2. **Laboratory Methods.** Benthic macroinvertebrates shall be identified using the SWAMP laboratory methods specified in *Standard Operating Procedures for Laboratory Processing and Identification of Benthic Macroinvertebrates in California*³ (Laboratory SOP, Woodard et al. 2012) or any updates of these methods. Standard Taxonomic Effort (STE) Level II of the Southwestern Association of Freshwater Invertebrate Taxonomists (SAFIT) is required. Quality control samples are required for 10% of the samples each year and Quality Assurance samples must be analyzed by the Aquatic Bioassessment Laboratory of the California Department of Fish and Wildlife.
3. **Data Analysis.** Analysis of benthic macroinvertebrate data shall be conducted using scoring tools including but not limited to the *Southern California Index of Biotic Integrity*⁴ (Ode et. al. 2005) and the *California Stream Condition Index*⁵ (CSCI, Mazor et. al., currently in review) when the CSCI scoring tool is finalized.
4. **Data Storage.** Benthic macroinvertebrate data and physical habitat data shall be submitted to the California Environmental Data Exchange Network⁶ (CEDEN).
5. **Monitoring Sites.** All monitoring sites shall be approved by staff at the San Diego Water Board before sampling is initiated and must meet the following conditions:

² The SOP can be found electronically at the following location:

http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/phab_sopr6.pdf

³ The Laboratory SOP can be found electronically at the following location:

http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/bmi_lab_sop_final.pdf

⁴ The *Southern California Index of Biotic Integrity* can be found electronically at the following location:

http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/reports/coastalstreams.pdf

⁵ The *California Stream Condition Index* can be found electronically at the following location:

http://www.waterboards.ca.gov/plans_policies/docs/biological_objective/2_scoring%20tool.pdf

⁶ The California Environmental Data Exchange Network can be found electronically at the following location:

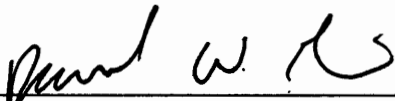
<http://www.ceden.org/>

- a. **Mitigation Sites.** ~~At a minimum, bioassessment monitoring for mitigation areas must be performed at three sites (assessment stations) in San Juan Creek in the Cleveland National Forest before Project initiation, and then in years three and five following start of Project construction, during the established "index period" for the San Juan watershed. The first assessment station is the reference station, which must be located upstream of the mitigation site(s) in a reference area; the second assessment station must be located within the mitigation site(s); and the third assessment station must be located downstream of the mitigation site(s). The reference station upstream of the mitigation site(s) must be located and sampled concurrently with the second and third assessment stations. Reference stations shall be defined as stations that show minimally disturbed conditions.~~ At a minimum, bioassessment monitoring for the mitigation areas must be performed at one site (assessment station) located downstream of the mitigation site(s) in San Juan Creek in the Cleveland National Forest, within one year following completion of the mitigation project. Bioassessment monitoring must be performed during the established "index period" for the San Juan watershed.

6. **Monitoring Reports.** An evaluation, interpretation and tabulation of the benthic macroinvertebrate community analysis must be submitted prior to **March 1** with the respective Annual Project Monitoring Report.

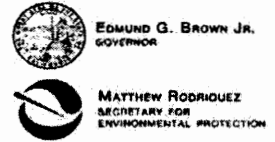
Notification: Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with the California Code of Regulations, title 23, sections 3867 and following. The State Water Board must receive 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 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. R9-2014-0127 issued on June 9, 2016.



DAVID W. GIBSON
Executive Officer
San Diego Water Board

9 June 2016
Date



San Diego Regional Water Quality Control Board

November 23, 2015

Certified Mail – Return Receipt Requested
Article Number: 7010 1060 0000 4953 0570

Mr. Joseph Lee
Caltrans, District 12
3347 Michelson Drive, Suite 100
Irvine, CA 92612

In reply/refer to:
R9-2014-0127:810065:dbradford

**Subject: Clean Water Act Section 401 Water Quality Certification
No. R9-2014-0127 for the State Route 74 Safety Shoulder Widening
Project**

Mr. Lee:

Enclosed find Clean Water Act Section 401 Water Quality Certification No. R9-2014-0127 (Certification) issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) in response to the application submitted by Caltrans, District 12 for the State Route 74 Safety Shoulder Widening Project (Project). A description of the Project and Project location can be found in the Certification and site maps which are included as attachments to the Certification.

Caltrans, District 12 is enrolled under State Water Resources Control Board Order No. 2003-017-DWQ as a condition of the Certification and is required to implement and comply with all terms and conditions of the Certification in order to ensure that water quality standards are met for the protection of wetlands and other aquatic resources. Failure to comply with this Certification may subject Caltrans, District 12 to enforcement actions by the San Diego Water Board including administrative enforcement orders requiring Caltrans, District 12 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, 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. 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 signatures will not be accepted. Electronic documents submitted to the San Diego

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

2375 Northside Drive, Suite 100, San Diego, California 92108-2700 | www.waterboards.ca.gov/sandiego

Mr. Joseph Lee
Caltrans, District 12
Certification No. R9-2014-0127


- 2 -

November 23, 2015

Water Board must include the following identification numbers in the header or subject line: Certification No. R9-2014-0127:810065:dbradford.

For questions or comments regarding the Certification, please contact Darren Bradford by telephone at (619) 521-3356 or by email at darren.bradford@waterboards.ca.gov.

Respectfully,

A handwritten signature in black ink, appearing to read "David W. Gibson", with a stylized flourish at the end.

DAVID W. GIBSON
Executive Officer

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. R9-2014-0127 for the State Route 74 Safety Shoulder Widening Project

DWG:jgs:eb:dib

Mr. Joseph Lee
Caltrans, District 12
Certification No. R9-2014-0127

- 3 -

November 23, 2015

cc:

Ms. Susan Meyer
U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
Susan.A.Meyer@usace.army.mil

Mr. Tim Dillingham
California Department of Fish and Game
South Coast Region
Habitat Conservation Planning – South
Tim.Dillingham@wildlife.ca.gov

U.S. EPA, OWOW, Region 9
R9-WTR8-Mailbox@epa.gov

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

Mr. Eric Becker
San Diego Water Board
Eric.Becker@waterboards.ca.gov

Mr. David Barker
San Diego Water Board
David.Barker@waterboards.ca.gov

Ms. Tania Asef
Caltrans, District 12
Tania.Asef@dot.ca.gov

| Tech Staff Information | |
|------------------------|--------------|
| Certification No. | R9-2014-0127 |
| Party ID | 7578 |
| Reg. Meas. ID | 398590 |
| Place ID | 810065 |
| Person ID | 548878 |
| WDID | 9000002775 |

**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/>

**Clean Water Act Section 401 Water Quality Certification
and Waste Discharge Requirements
for Discharge of Dredged and/or Fill Materials**

**PROJECT: State Route 74 Safety Shoulder Widening Project
Certification Number R9-2014-0127
WDID: 9000002775**

Reg. Meas. ID: 398590
Place ID: 810065
Party ID: 7578
Person ID: 548878

**APPLICANT: Caltrans, District 12
3347 Michelson Drive, Suite 100
Irvine, CA 92612**

ACTION:

| | |
|---|---|
| <input type="checkbox"/> Order for Low Impact Certification | <input type="checkbox"/> Order for Denial of Certification |
| <input checked="" type="checkbox"/> Order for Technically-conditioned Certification | <input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004-DWQ |
| <input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017-DWQ | |

PROJECT DESCRIPTION

An application dated October 17, 2014 was submitted by Caltrans, District 12 (hereinafter Applicant), for Water Quality Certification pursuant to section 401 of the Clean Water Act (United States Code (USC) Title 33, section 1341) for the proposed State Route 74 (SR-74) Safety Shoulder Widening Project from east of Antonio Parkway/La Pata Avenue to west of Cristianitos Road (Project). The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) deemed the application to be complete on October 8, 2015. The Applicant proposes to discharge dredged or fill material to waters of the United States and/or State associated with construction activity at the Project site. The Applicant has also applied for a Clean Water Act section 404 permit from the United States Army Corps of Engineers for the Project (USACE File No. SPL-2014-00666-SAG).

The Project is located in unincorporated Orange County, California east of Antonia Parkway/La Pata Avenue to west of Cristianitos Road. The Project center reading is located at latitude 33.522009 and longitude -117.612822. The Applicant has paid all required application fees for this Certification in the amount of \$22,235.00. On an annual basis, the Applicant shall also pay all active discharge fees and post discharge monitoring fees, as appropriate¹. On October 31,

¹ The Applicant shall pay an annual active discharge fee each fiscal year or portion of a fiscal year during which discharges occur until the regional board or the State Board issues a Notice of Completion of Discharges Letter to the discharger. Dischargers shall pay an annual post-discharge monitoring fee each fiscal year or portion of a fiscal year commencing with the first fiscal year following the fiscal year in which the regional board or State Board issued a Notice of Completion of Discharges Letter to the discharger, but continued water quality monitoring or compensatory mitigation monitoring is required. Dischargers
(footnote continued on next page)

2014, the San Diego Water Board provided public notice of the Project application pursuant to California Code of Regulations, title 23, section 3858 by posting information describing the Project on the San Diego Water Board's web site and providing a period of twenty-one days for public review and comment. No comments were received.

The Applicant proposes to widen the existing two-foot-wide shoulder along approximately 2.13-miles of SR-74 to the standard four-foot-wide shoulder in both directions ; install centerline rumble strips; construct twelve-foot-wide turn-out lanes on the eastbound direction and fifteen-foot-wide turn-out lanes on the westbound direction; replace and install metal beam guard rails at various locations; excavate at the toe of slope and shave the adjacent slope in cut areas; replace and modify existing culverts; and construct retaining walls and anchor walls in fill areas. Existing culverts are either being extended or will have flared-end sections or headwalls installed.

The Project will convert approximately 2.1 acres of pervious ground cover to impervious surfaces. Runoff leaving the developed Project area would be significantly greater in volume, velocity, peak flow rate, and duration than pre-development runoff from the same area without mitigation. Post-construction best management practices (BMPs) to manage and control the effects of these runoff increases will consist of biofiltration swales. These BMPs will be designed, constructed, and maintained to meet Orange County's Low Impact Development (LID) Capture Volume and hydromodification treatment requirements.

The Project application includes a description of the design objective, operation, and degree of treatment expected to be attained from equipment, facilities, or activities (including construction and post-construction BMPs) to treat waste and reduce runoff or other effluents which may be discharged. Compliance with the Certification conditions will help ensure that construction and post-construction discharges from the Project will not cause on-site or off-site downstream erosion, damage to downstream properties, or otherwise damage stream habitats in violation of water quality standards in the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan).

Project construction will permanently impact 0.023 acre (94 linear feet) of riparian waters of the United States and/or State. The Applicant reports that the Project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impacts to aquatic resources considering all potential practicable alternatives, such as the potential for alternate available locations, designs, reductions in size, configuration or density.

The Applicant reports that compensatory mitigation for the permanent loss of 0.023 acre (94 linear feet) of jurisdictional waters will be achieved through the re-establishment of 0.070 acres (515 linear feet) of waters of the United States and/or State. All waters of the United States and/or State receiving temporary discharges of fill material will be restored upon removal of the fill. Mitigation for discharges of fill material to waters of the United States and/or State will be completed by the Applicant within the same watershed at the Cleveland National Forest

(footnote continued from previous page)

shall pay the annual post-discharge monitoring fee each fiscal year until the regional board or the State Board issues a Notice of Project Complete Letter to the discharger. Additional information regarding fees can be found electronically at the following location: http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/dredgefillcalculator.xlsx

located in the Upper San Juan hydrologic sub-area (HSA 901.25) at a minimum compensation ratio of 3:1 (area mitigated:area impacted).

Detailed written specifications and work descriptions for the compensatory mitigation project including, but not limited to, the geographic boundaries of the project, timing, sequence, monitoring, maintenance, ecological success performance standards and provisions for long-term management and protection of the mitigation areas are described in the *Habitat Mitigation and Monitoring Plan State Route 74 Safety Shoulder Widening Project, East of Antonio Parkway/La Pata Avenue to West of Conrock Plant Entrance (Mitigation Plan)*, dated September 2015. San Diego Water Board acceptance of the Mitigation Plan applies only to the Project described in this Certification and must not be construed as approval for other current or future projects that are planning to use additional acreage at the site for mitigation. The Mitigation Plan is incorporated in this Certification by reference as if set forth herein. The Mitigation Plan provides for implementation of compensatory mitigation which offsets adverse water quality impacts attributed to the Project in a manner that protects and restores the abundance, types and conditions of aquatic resources and supports their beneficial uses. Implementation of the Mitigation Plan will reduce significant environmental impacts to resources within the San Diego Water Board's purview to a less than significant level. Based on all of these considerations, the Mitigation Plan will adequately compensate for the loss of beneficial uses and habitat within waters of the United States and/or State attributable to the Project.

Additional Project details are provided in Attachments 1 through 5 of this Certification.

TABLE OF CONTENTS

| | | |
|--------------|--|-----------|
| I. | STANDARD CONDITIONS..... | 5 |
| II. | GENERAL CONDITIONS | 5 |
| III. | CONSTRUCTION BEST MANAGEMENT PRACTICES | 8 |
| IV. | POST-CONSTRUCTION BEST MANAGEMENT PRACTICES | 10 |
| V. | PROJECT IMPACTS AND COMPENSATORY MITIGATION | 11 |
| VI. | MONITORING AND REPORTING REQUIREMENTS | 14 |
| VII. | NOTIFICATION REQUIREMENTS | 21 |
| VIII. | CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE | 22 |
| IX. | SAN DIEGO WATER BOARD CONTACT PERSON | 23 |
| X. | WATER QUALITY CERTIFICATION | 23 |

Attachments:

- 1. Definitions**
- 2. Project Location Maps**
- 3. Project Site Plans**
- 4. Mitigation Figures**
- 5. CEQA Mitigation Monitoring and Reporting Program**

I. STANDARD CONDITIONS

Pursuant to section 3860 of title 23 of the California Code of Regulations, the following three standard conditions apply to all water quality certification actions:

- A. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the Water Code and chapter 28, article 6 (commencing with title 23, section 3867), of the California Code of Regulations.
- B. This Certification action is not intended and shall not be construed to apply to any discharge from 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 California Code of Regulations title 23, section 3855 subdivision (b), and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. This Certification action is conditioned upon total payment of any fee required under title 23, chapter 28 (commencing with section 3830) of California Code of Regulations and owed by the applicant.

II. GENERAL CONDITIONS

- A. **Term of Certification.** Water Quality Certification No. R9-2014-0127 (Certification) shall expire upon a) the expiration or retraction of the Clean Water Act section 404 (33 USC Title 33, section 1344) permit issued by the U.S. Army Corps of Engineers for this Project, or b) five (5) years from the date of issuance of this Certification, whichever occurs first.
- B. **Duty to Comply.** The Applicant must comply with all conditions and requirements of this Certification. Any Certification noncompliance constitutes a violation of the Water Code and is grounds for enforcement action or Certification termination, revocation and reissuance, or modification.
- C. **General Waste Discharge Requirements.** The requirements of this Certification are enforceable through Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material that have Received State Water Quality Certification* (Water Quality Order No. 2003-0017-DWQ). This provision shall apply irrespective of whether a) the federal permit for which the Certification was obtained is subsequently retracted or is expired, or b) the Certification is expired. Water Quality Order No. 2003-0017-DWQ is accessible at:

http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/gowdr401regulated_projects.pdf.
- D. **Project Conformance with Application.** All water quality protection measures and BMPs described in the application and supplemental information for water quality

certification are incorporated by reference into this Certification as if fully stated herein. Notwithstanding any more specific conditions in this Certification, the Applicant shall construct, implement and comply with all water quality protection measures and BMPs described in the application and supplemental information. The conditions within this Certification shall supersede conflicting provisions within the application and supplemental information submitted as part of this Certification action.

- E. Project Conformance with Water Quality Control Plans or Policies.** Notwithstanding any more specific conditions in this Certification, the Project shall be constructed in a manner consistent with the Basin Plan and any other applicable water quality control plans or policies adopted or approved pursuant to the Porter Cologne Water Quality Act (Division 7, commencing with Water Code Section 13000) or section 303 of the Clean Water Act (33 USC section 1313). The Basin Plan is accessible at:

http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/index.shtml

- F. Project Modification.** The Applicant must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of this Certification, to the San Diego Water Board for prior review and written approval. If the San Diego Water Board is not notified of a significant change to the Project, it will be considered a violation of this Certification.
- G. Certification Distribution Posting.** During Project construction, the Applicant must maintain a copy of this Certification at the Project site. This Certification must be available at all times to site personnel and agencies. A copy of this Certification shall also be provided to any contractor or subcontractor performing construction work, and the copy shall remain in their possession at the Project site.
- H. Inspection and Entry.** The Applicant must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents as may be required under law, to:
1. Enter upon the Project or Compensatory Mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Certification;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Certification;
 3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Certification; and
 4. Sample or monitor, at reasonable times, for the purposes of assuring Certification compliance, or as otherwise authorized by the Clean Water Act or Water Code, any substances or parameters at any location.

- I. **Enforcement Notification.** 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.
- J. **Certification Actions.** This Certification may be modified, revoked and reissued, or terminated for cause including but not limited to the following:
1. Violation of any term or condition of this Certification;
 2. Monitoring results indicate that continued Project activities could violate water quality objectives or impair the beneficial uses of San Juan Creek or its tributaries;
 3. Obtaining this Certification by misrepresentation or failure to disclose fully all relevant facts;
 4. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and
 5. Incorporation of any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

The filing of a request by the Applicant for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Certification condition.

- K. **Duty to Provide Information.** The Applicant shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Certification or to determine compliance with this Certification.
- L. **Property Rights.** This Certification does not convey any property rights of any sort, or any exclusive privilege.
- M. **Petitions.** 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. 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 or will be provided upon request.

III. CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. **Approvals to Commence Construction.** The Applicant shall not commence Project construction until all necessary federal, State, and local approvals are obtained.
- B. **Personnel Education.** Prior to the start of the Project, and annually thereafter, the Applicant must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response measures, and BMP implementation and maintenance measures.
- C. **Spill Containment Materials.** The Applicant must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.
- D. **General Construction Storm Water Permit.** Prior to start of Project construction, the Applicant must, as applicable, obtain coverage under, and comply with, the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity*, (General Construction Storm Water Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Storm Water Permit, the Applicant must develop and implement a runoff management plan (or equivalent construction BMP plan) to prevent the discharge of sediment and other pollutants during construction activities.
- E. **Waste Management.** The Applicant must properly manage, store, treat, and dispose of wastes in accordance with applicable federal, state, and local laws and regulations. Waste management shall be implemented to avoid or minimize exposure of wastes to precipitation or storm water runoff. The storage, handling, treatment, or disposal of waste shall not create conditions of pollution, contamination or nuisance as defined in Water Code section 13050. Upon Project completion, all Project generated debris, building materials, excess material, waste, and trash shall be removed from the Project site(s) for disposal at an authorized landfill or other disposal site in compliance with federal, state and local laws and regulations.
- F. **Waste Management.** Except for a discharge permitted under this Certification, the dumping, deposition, or discharge of trash, rubbish, unset cement or asphalt, concrete, grout, damaged concrete or asphalt, concrete or asphalt spoils, wash water, organic or earthen material, steel, sawdust or other construction debris waste from Project activities directly into waters of the United States and or State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited.
- G. **Downstream Erosion.** Discharges of concentrated flow during construction or after Project completion must not cause downstream erosion or damage to properties or stream habitat.

- H. **Construction Equipment.** All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. All equipment used in direct contact with surface water shall be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment.
- I. **Process Water.** Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or State or placed in locations that may be subjected to storm water runoff flows. Pollutants discharged to areas within a stream diversion must be removed at the end of each work day or sooner if rain is predicted.
- J. **Surface Water Diversion.** All surface waters, including ponded waters, must be diverted away from areas of active grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of the receiving water quality objectives. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
- K. **Re-vegetation and Stabilization.** All areas that have 14 or more days of inactivity must be stabilized within 14 days of the last activity. The Applicant shall implement and maintain BMPs to prevent erosion of the rough graded areas. After completion of grading, all areas must be re-vegetated with native species appropriate for the area. The re-vegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be accessed at <http://www.cal-ipc.org/ip/inventory/>.
- L. **Hazardous Materials.** Except as authorized by this Certification, substances hazardous to aquatic life including, but not limited to, petroleum products, unused cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.
- M. **Vegetation Removal.** Removal of vegetation must occur by hand, mechanically, or through application of United States Environmental Protection Agency (USEPA) approved herbicides deployed using applicable BMPs to minimize adverse effects to beneficial uses of waters of the United States and/or State. Discharges related to the application of aquatic pesticides within waters of the United States must be done in compliance with State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, the *Statewide General National Pollution Discharge Elimination System Permit for the Discharge of Aquatic Weed Control in Waters of the United States*, and any subsequent reissuance as applicable.

- N. Limits of Disturbance.** The Applicant shall clearly define the limits of Project disturbance to waters of the United States and/or State using highly visible markers such as flag markers, construction fencing, or silt barriers prior to commencement of Project construction activities within those areas.
- O. On-site Qualified Biologist.** The Applicant shall designate an on-site qualified biologist to monitor Project construction activities within or adjacent to waters of the United States and/or State to ensure compliance with the Certification requirements. The biologist shall be given the authority to stop all work on-site if a violation of this Certification occurs or has the potential to occur. Records and field notes of the biologist's activities shall be kept on-site and made available for review upon request by the San Diego Water Board.
- P. Beneficial Use Protection.** The Applicant must take all necessary measures to protect the beneficial uses of waters of San Juan Creek or its tributaries. This Certification requires compliance with all applicable requirements of the Basin Plan. If at any time, an unauthorized discharge to surface waters (including rivers or streams) occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities shall cease immediately and the San Diego Water Board shall be notified in accordance with Notification Requirement VII.A of this Certification. Associated Project activities may not resume without approval from the San Diego Water Board.
- Q. Groundwater Dewatering.** If groundwater dewatering is required for the Project, the Applicant shall enroll in and comply with the requirements of San Diego Water Board Order No. R9-2008-0002 NPDES No. CAG919002, *General Waste Discharge Requirements For Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region Except for San Diego Bay* or its successor permit.

IV. POST-CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. Post-Construction Discharges.** The Applicant shall not allow post-construction discharges from the Project site to cause or contribute to on-site or off-site erosion or damage to properties or stream habitats.
- B. Storm Drain Inlets.** All storm drain inlet structures within the Project boundaries must be stamped or stenciled (or equivalent) with appropriate language prohibiting non-storm water discharges.
- C. Post-Construction BMP Design.** The Project must be designed to comply with the most current Standard Storm Water Mitigation and Hydromodification Plans for Orange County. Post-construction BMPs are described in the *Caltrans Long Form - Storm Water Data Report (SWDR)*.
- D. Post-Construction BMP Implementation.** All post-construction BMPs must be constructed, functional, and implemented prior to completion of Project construction, occupancy, and/or planned use, and maintained in perpetuity. The post construction

BMPs must include those described in the SWDR, dated March 19, 2015, prepared by the Applicant; or any subsequent version of the SWDR that meets the requirements of the State Water Resources Control Board Water Quality Order No. 2012-0011-DWQ, NPDES No. CAS000003, *Statewide Storm Water Permit and waste Discharge Requirements for State of California Department of Transportation..*

- E. Post-Construction BMP Maintenance.** The post construction BMPs must be designed, constructed, and maintained in accordance with the most recent California Storm Water Quality Association (CASQA)² guidance. The Applicant shall:
1. No less than two times per year, assess the performance of the BMPs to ensure protection of the receiving waters and identify any necessary corrective measures;
 2. Perform inspections of BMPs, at the beginning of the wet season no later than October 1 and the end of the wet season no later than April 1, for standing water, slope stability, sediment accumulation, trash and debris, and presence of burrows;
 3. Regularly perform preventative maintenance of BMPs, including removal of accumulated trash and debris, as needed to ensure proper functioning of the BMPs;
 4. Identify and promptly repair damage to BMPs; and
 5. Maintain a log documenting all BMP inspections and maintenance activities. The log shall be made available to the San Diego Water Board upon request.
- F. Bridge, Crossing, and Culvert Design.** Bridges, culverts, dip crossings, or other stream crossing structures shall be designed and installed so they will not cause scouring of the stream bed and/or erosion of the banks in the vicinity of the Project. Storm drain lines/culverts and other stream crossing structures shall be designed and maintained to accommodate at least a 100-year, 24-hour storm event, including associated bedload and debris, with a similar average velocity as upstream and downstream sections. Bottoms of temporary culverts shall be placed at stream channel grade and bottoms of permanent culverts shall be open bottom or embedded and backfilled below the grade of the stream greater than or equal to a depth of 1 foot.
- V. PROJECT IMPACTS AND COMPENSATORY MITIGATION**
- A. Project Impact Avoidance and Minimization.** The Project must avoid and minimize adverse impacts to waters of the United States and/or State to the maximum extent practicable.

² California Storm Water Quality Association (*California Storm Water BMP Handbook, New Development and Redevelopment 2003*), available on-line at: <http://www.cabmphandbooks.org/> [Accessed on January 15, 2012]

B. Project Impacts and Compensatory Mitigation. Unavoidable Project impacts to San Juan Creek and its tributaries within the San Juan Watershed must not exceed the type and magnitude of impacts described in the table below. At a minimum, compensatory mitigation required to offset unavoidable temporary and permanent Project impacts to waters of the United States and/or State must be achieved as described in the table below:

| | Impacts (acres) | Impacts (linear ft.) | Mitigation for Impacts (acres) | Mitigation Ratio (area mitigated :area impacted) | Mitigation for Impacts (linear ft.) | Mitigation Ratio (linear feet mitigated :linear feet impacted) |
|--------------------------------------|-----------------|----------------------|-------------------------------------|--|-------------------------------------|--|
| Permanent Impacts | | | | | | |
| Riparian Zone | 0.023 | 94 | 0.070 Re-establishment ¹ | 3:1 | 515 Re-establishment | 5.48:1 |
| | | | | | | |
| Temporary Impacts² | | | | | | |
| Streambed and Riparian Wetland | 0.064 | 1553 | N/A | N/A | N/A | N/A |

1. Riparian re-establishment at the Cleveland National Forest. Restoration activities include the removal of 8 rock and mortar dams within San Juan Creek in the Cleveland National Forest. Four of the eight structures are a barrier to juvenile fish and arroyo chub.
2. All areas of temporary impacts must be restored to pre-project contours and re-vegetated with native species.

C. Compensatory Mitigation Plan Implementation. The Applicant must fully and completely implement the Mitigation Plan; any deviations from, or revisions to, the Mitigation Plan must be pre-approved by the San Diego Water Board.

D. Performance Standards. Compensatory mitigation required under this Certification shall be considered achieved once it has met the ecological success performance standards contained in the Mitigation Plan (Section 6, page 24) to the satisfaction of the San Diego Water Board.

E. Compensatory Mitigation Site Design. The compensatory mitigation site(s) shall be designed to be self-sustaining once performance standards have been achieved. This includes minimization of active engineering features (e.g., pumps) and appropriate siting to ensure that natural hydrology and landscape context support long-term sustainability in conformance with the following conditions:

1. Most of the channels through the mitigation sites shall be characterized by equilibrium conditions, with no evidence of severe aggradation or degradation;
2. As viewed along cross-sections, the channel and buffer area(s) shall have a variety of slopes, or elevations, that are characterized by different moisture gradients. Each sub-slope shall contain physical patch types or features that contribute to irregularity in height, edges, or surface and to complex topography overall; and
3. The mitigation sites shall have a well-developed plant community characterized by a high degree of horizontal and vertical interspersions among plant zones and layers.

F. Temporary Project Impact Areas. The Applicant must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge of pollutants to waters of the United States and/or State. Restoration must include grading of disturbed areas to pre-project contours and re-vegetation with native species. The Applicant must implement all necessary BMPs to control erosion and runoff from areas associated with the Project.

G. Long-Term Management and Maintenance. The compensatory mitigation site(s) must be managed, protected, and maintained, in perpetuity, in conformance with the long-term management plan and the final ecological success performance standards identified in the Mitigation Plan. The aquatic habitats, riparian areas, buffers and uplands that comprise the mitigation site(s) must be protected in perpetuity from land-use and maintenance activities that may threaten water quality or beneficial uses within the mitigation area(s) in a manner consistent with the following requirements:

1. Any maintenance activities on the mitigation site(s) that do not contribute to the success of the mitigation site(s) and enhancement of beneficial uses and ecological functions and services are prohibited;
2. Maintenance activities must be 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 compensatory mitigation project;
3. The Mitigation site(s) must be maintained, in perpetuity, 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 mitigation site(s); and
4. If at any time a catastrophic natural event (e.g., fire, flood) causes damage(s) to the mitigation site(s) or other deficiencies in the compensatory mitigation project, the Applicant must take prompt and appropriate action to repair the damage(s) including replanting the affected area(s) and address any other deficiencies. The San Diego Water Board may require additional monitoring by the Applicant to assess how the compensatory mitigation site(s) or project is responding to a catastrophic natural event.

- H. **Timing of Mitigation Site Construction.** The construction of proposed mitigation must be concurrent with project grading and completed no later than 9 months following the start of Project construction. 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.
- I. **Mitigation Site(s) Preservation Mechanism.** Within 90 days from the issuance of this Certification, the Applicant must provide the San Diego Water Board with 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 start of Project construction, the Applicant must submit proof of a completed final preservation mechanism that will protect all mitigation areas and their buffers in perpetuity. The conservation easement, deed restriction, or other legal limitation on the mitigation properties must be adequate to demonstrate that the sites will be maintained without future development or encroachment on the sites which could otherwise reduce the functions and values of the sites for the variety of beneficial uses of waters of the United States and/ or State 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 sites. 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.

VI. MONITORING AND REPORTING REQUIREMENTS

- A. **Representative Monitoring.** Samples and measurements taken for the purpose of monitoring under this Certification shall be representative of the monitored activity.
- B. **Monitoring Reports.** Monitoring results shall be reported to the San Diego Water Board at the intervals specified in section VI of this Certification.
- C. **Monitoring and Reporting Revisions.** The San Diego Water Board may make revisions to the monitoring program at any time during the term of this Certification and may reduce or increase the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.
- D. **Records of Monitoring Information.** Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) analyses were performed;
 4. The individual(s) who performed the analyses;

5. The analytical techniques or methods used; and

6. The results of such analyses.

E. California Rapid Assessment Method. California Rapid Assessment Method (CRAM)³ monitoring must be performed to assess the current and potential ecological conditions (ecological integrity) of the impact site and proposed compensatory mitigation site(s). These conditions reflect the overall level of ecological function of an aquatic resource. Prior to initiating Project construction, the Applicant shall develop a monitoring plan to implement California Rapid Assessment Method (CRAM) monitoring. The Applicant must conduct a quantitative function-based assessment of the health of streambed habitat to establish pre-project baseline conditions, set CRAM success criteria, and assess the mitigation site(s) progress towards meeting the success criteria. CRAM monitoring must be conducted prior to the start of Project construction authorized under this Certification and annually following construction completion for a period of 5 years. The annual CRAM monitoring results shall be submitted with the Annual Project Progress Report. An evaluation, interpretation, and tabulation of all CRAM assessment data shall be submitted with the Final Project Completion Report.

F. Benthic Macroinvertebrate Community Analysis. The Applicant shall conduct bioassessment monitoring, as described in this section, to assess the success of mitigation areas and the impact of construction activities, whenever applicable, using benthic macroinvertebrate community data. Bioassessment shall include: 1) the collection and reporting of benthic macroinvertebrate data; and 2) the collection and reporting of physical habitat data. Bioassessment using benthic macroinvertebrates shall be conducted in perennial wadeable streams during the index period. Perennial streams shall be defined as streams with surface water flow present during the appropriate index period⁴. Wadeable streams shall be defined as streams that can be safely waded in order to be sampled for benthic invertebrates during the appropriate index period. If the appropriate sampling period lies outside the index period, please contact the San Diego Water Board.

1. **Field Methods.** Bioassessment monitoring must be performed using the SWAMP field methods specified in *Standard Operating Procedures for Collecting Benthic Macroinvertebrate Samples and Associated Physical and Chemical Data for Ambient Bioassessments in California*⁵ (SOP, Ode 2007) or any updates of these methods. The Applicant shall conduct, concurrently with all required benthic macroinvertebrate collections, the "Full" suite of physical habitat characterization measurements as specified in Table 1 of the SOP.

³ The most recent versions of the California Rapid Assessment Method (CRAM) for Wetlands and additional information regarding CRAM can be accessed at <http://www.cramwetlands.org/>

⁴ The appropriate index period can be found electronically at the following location: http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/cgp_biomap.pdf

⁵ The SOP can be found electronically at the following location: http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/phab_sopr6.pdf

2. **Laboratory Methods.** Benthic macroinvertebrates shall be identified using the SWAMP laboratory methods specified in *Standard Operating Procedures for Laboratory Processing and Identification of Benthic Macroinvertebrates in California*⁶ (Laboratory SOP, Woodard et al. 2012) or any updates of these methods. Standard Taxonomic Effort (STE) Level II of the Southwestern Association of Freshwater Invertebrate Taxonomists (SAFIT) is required. Quality control samples are required for 10% of the samples each year and Quality Assurance samples must be analyzed by the Aquatic Bioassessment Laboratory of the California Department of Fish and Wildlife.
3. **Data Analysis.** Analysis of benthic macroinvertebrate data shall be conducted using scoring tools including but not limited to the *Southern California Index of Biotic Integrity*⁷ (Ode et. al. 2005) and the *California Stream Condition Index*⁸ (CSCI, Mazor et. al., currently in review) when the CSCI scoring tool is finalized.
4. **Data Storage.** Benthic macroinvertebrate data and physical habitat data shall be submitted to the California Environmental Data Exchange Network⁹ (CEDEN).
5. **Monitoring Sites.** All monitoring sites shall be approved by staff at the San Diego Water Board before sampling is initiated and must meet the following conditions:
 - a. **Mitigation Sites.** At a minimum, bioassessment monitoring for mitigation areas must be performed at three sites (assessment stations) in San Juan Creek in the Cleveland National Forest before Project initiation, and then in years three and five following start of Project construction, during the established "index period" for the San Juan watershed. The first assessment station is the reference station, which must be located upstream of the mitigation site(s) in a reference area; the second assessment station must be located within the mitigation site(s); and the third assessment station must be located downstream of the mitigation site(s). The reference station upstream of the mitigation site(s) must be located and sampled concurrently with the second and third assessment stations. Reference stations shall be defined as stations that show minimally disturbed conditions.
6. **Monitoring Reports.** An evaluation, interpretation and tabulation of the benthic macroinvertebrate community analysis must be submitted prior to **March 1** with the respective Annual Project Monitoring Report.

⁶ The Laboratory SOP can be found electronically at the following location:
http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/bmi_lab_sop_final.pdf

⁷ The *Southern California Index of Biotic Integrity* can be found electronically at the following location:
http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/reports/coastalstreams.pdf

⁸ The *California Stream Condition Index* can be found electronically at the following location:
http://www.waterboards.ca.gov/plans_policies/docs/biological_objective/2_scoring%20tool.pdf

⁹ The California Environmental Data Exchange Network can be found electronically at the following location:
<http://www.ceden.org/>

- G. Discharge Commencement Notification.** The Applicant must notify the San Diego Water Board in writing **at least 5 days prior to the start of Project construction.**
- H. Geographic Information System Data.** The Applicant must submit Geographic Information System (GIS) shape files of the Project impact sites within 30 days of the start of project construction and GIS shape files of the Project mitigation sites within 30 days of mitigation installation. All impact and mitigation site shape files 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.
- I. Annual Project Progress Reports.** The Applicant must submit annual Project progress reports describing status of BMP implementation, compensatory mitigation, and compliance with all requirements of this Certification to the San Diego Water Board prior to **March 1** of each year following the issuance of this Certification, until the Project has reached completion. The Annual Project Progress Reports must contain compensatory mitigation monitoring information sufficient to demonstrate how the compensatory mitigation project is progressing towards accomplishing its objectives and meeting its performance standards. Annual Project Progress Reports must be submitted even if Project construction has not begun. The monitoring period for each Annual Project Progress Report shall be January 1st through December 31st of each year. Annual Project Progress Reports must include, at a minimum, the following:
- 1. Project Status and Compliance Reporting.** The Annual Project Progress Report must include the following Project status and compliance information:
 - a. The names, qualifications, and affiliations of the persons contributing to the report;
 - b. The status, progress, and anticipated schedule for completion of Project construction activities including the installation and operational status of best management practices project features for erosion and storm water quality treatment;
 - c. A description of Project construction delays encountered or anticipated that may affect the schedule for construction completion; and
 - d. A description of each incident of noncompliance during the annual monitoring period and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - 2. Compensatory Mitigation Monitoring Reporting.** Mitigation monitoring information must be submitted as part of the Annual Project Progress Report for a period of not less than five years, sufficient to demonstrate that the compensatory mitigation project has accomplished its objectives and met ecological success performance standards contained in the Mitigation Plan. Following Project implementation the San Diego Water Board may reduce or waive compensatory

mitigation monitoring requirements upon a determination that performance standards have been achieved. Conversely the San Diego Water Board may extend the monitoring period beyond five years upon a determination that the performance standards have not been met or the compensatory mitigation project is not on track to meet them. The Annual Project Progress Report must include the following compensatory mitigation monitoring information:

- a. Names, qualifications, and affiliations of the persons contributing to the report;
- b. An evaluation, interpretation, and tabulation of the parameters being monitored, including the results of the Mitigation Plan monitoring program, and all quantitative and qualitative data collected in the field;
- c. A description of the following mitigation site(s) characteristics:
 - i. Detritus cover;
 - ii. General topographic complexity;
 - iii. General upstream and downstream habitat and hydrologic connectivity; and
 - iv. Source of hydrology
- d. Monitoring data interpretations and conclusions as to how the compensatory mitigation project(s) is progressing towards meeting performance standards and whether the performance standards have been met;
- e. A description of the progress toward implementing a plan to manage the compensatory mitigation project after performance standards have been achieved to ensure the long term sustainability of the resource in perpetuity, including a discussion of long term financing mechanisms, the party responsible for long term management, and a timetable for future steps;
- f. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;
- g. Stream photo documentation, including all areas of permanent and temporary impact, prior to and after mitigation site construction. Photo documentation must be conducted in accordance with guidelines posted at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced;
- h. A qualitative comparison to adjacent preserved streambed areas;
- i. The results of the California Rapid Assessment Method (CRAM) monitoring required under section VI.E of this Certification;
- j. The results of the Benthic Macroinvertebrate Community Analysis monitoring required under section VI.F of this Certification;

- k. As-built drawings of the compensatory mitigation project site(s), no bigger than 11"X17"; and
 - l. A survey report documenting boundaries of the compensatory mitigation site(s).
- J. Final Project Completion Report.** The Applicant must submit a Final Project Completion Report to the San Diego Water Board **within 30 days of completion of the Project.** The final report must include the following information:
- 1. Date of construction initiation;
 - 2. Date of construction completion;
 - 3. BMP installation and operational status for the Project;
 - 4. As-built drawings of the Project, no bigger than 11"X17";
 - 5. Photo documentation of implemented post-construction BMPs and all areas of permanent and temporary impacts, prior to and after project construction. Photo documentation must be conducted in accordance with guidelines posted at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/StreamPhotoDocSOP.pdf. In addition, photo documentation must include Global Positioning System (GPS) coordinates for each of the photo points referenced; and
 - 6. An evaluation, interpretation, and tabulation of all California Rapid Assessment Method (CRAM) and benthic macroinvertebrate community assessment data collected throughout the term of Project construction in accordance with section VI.E and VI.F of this Certification.
- K. Reporting Authority.** The submittal of information required under this Certification, or in response to a suspected violation of any condition of this Certification, is required pursuant to Water Code section 13267 and 13383. Civil liability may be administratively imposed by the San Diego Water Board for failure to submit information pursuant to Water Code sections 13268 or 13385.
- L. Electronic Document Submittal.** The Applicant must submit all reports and information required under this Certification in electronic format via e-mail to 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:

California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification No. R9-2014-0127: 810065:dbradford
2375 Northside Drive, Suite 100
San Diego, California 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 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. R9-2014-0127: 810065:dbradford.

M. Document Signatory Requirements. All applications, reports, or information submitted to the San Diego Water Board must be signed as follows:

1. For a corporation, by a responsible corporate officer of at least the level of vice president.
2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
4. A duly authorized representative may sign applications, reports, or information if:
 - a. The authorization is made in writing by a person described above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the San Diego Water Board Executive Officer.

If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.

N. Document Certification Requirements. All applications, reports, or information submitted to the San Diego Water Board must be certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

VII. NOTIFICATION REQUIREMENTS

- A. **Twenty Four Hour Non-Compliance Reporting.** The Applicant shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the San Diego Water Board 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 San Diego Water Board, 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.
- B. **Hazardous Substance Discharge.** Except for a discharge which is in compliance with this Certification, any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the State, shall as soon as (a) that person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the County of Orange, in accordance with California Health and Safety Code section 5411.5 and the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State toxic disaster contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.17), and immediately notify the State Water Board or the San Diego Water Board of the discharge. This provision does not require reporting of any discharge of less than a reportable quantity as provided for under subdivisions (f) and (g) of section 13271 of the Water Code unless the Applicant is in violation of a Basin Plan prohibition.
- C. **Oil or Petroleum Product Discharge.** Except for a discharge which is in compliance with this Certification, any person who without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, shall, as soon as (a) such person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State oil spill contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.1). This requirement does not require reporting of any discharge of less than 42 gallons unless the discharge is also required to be reported pursuant to Clean Water Act section 311, or the discharge is in violation of a Basin Plan prohibition.
- D. **Anticipated Noncompliance.** The Applicant shall give advance notice to the San Diego Water Board of any planned changes in the Project or the Compensatory Mitigation project which may result in noncompliance with Certification conditions or requirements.

E. **Transfers.** This Certification is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board in accordance with the following terms:

1. **Transfer of Property Ownership:** The Applicant must notify the San Diego Water Board of any change in ownership of the Project area. Notification of change in ownership must include, but not be limited to, a statement that the Applicant has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the San Diego Water Board **within 10 days of the transfer of ownership.**
2. **Transfer of Mitigation Responsibility:** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in this Certification must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board **within 10 days of the transfer date.**
3. **Transfer of Post-Construction BMP Maintenance Responsibility:** The Applicant assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred the Applicant must submit to the San Diego Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Applicant must provide such notification to the San Diego Water Board **within 10 days of the transfer of BMP maintenance responsibility.**

Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the Applicant will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the Applicant of responsibility for compliance with this Certification in the event that a transferee fails to comply.

VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

- A. The California Department of Transportation is the Lead Agency under the California Environmental Quality Act (CEQA) (Public Resources Code section 21000, et seq.) section 21067, and CEQA Guidelines (California Code of Regulations, title 14, section 15000 et seq.) section 15367, and has filed a Notice of Determination dated September 26, 2013 for the Mitigated Negative Declaration (MND) titled *State Route 74 Shoulder Widening Project Initial Study with Mitigated Negative Declaration/Categorical Exclusion*

(State Clearing House Number 2013031073). The Lead Agency has determined the Project will have a significant effect on the environment and mitigation measures were made a condition of the Project.

- B. The San Diego Water Board is a Responsible Agency under CEQA (Public Resources Code section 21069; CEQA Guidelines section 15381). The San Diego Water Board has considered the Lead Agency's MND and finds that the Project as proposed will have a significant effect on resources within the San Diego Water Board's purview.
- C. The San Diego Water Board has required mitigation measures as a condition of this Certification to avoid or reduce the environmental effects of the Project to resources within the Board's purview to a less than significant level.
- D. The Lead Agency has adopted a mitigation monitoring and reporting program pursuant to Public Resources Code section 21081.6 and CEQA Guidelines section 15097 to ensure that mitigation measures and revisions to the Project identified in the MND are implemented. The Mitigation Monitoring and Reporting Program (MMRP) is included and incorporated by reference in Attachment 5 to this Certification. The Applicant shall implement the Lead Agency's MMRP described in the MND, as it pertains to resources within the San Diego Water Board's purview. The San Diego Water Board has imposed additional MMRP requirements as specified in sections V and VI of this Certification.
- E. As a Responsible Agency under CEQA, the San Diego Water Board will file a Notice of Determination in accordance with CEQA Guidelines section 15096 subdivision (i).

IX. SAN DIEGO WATER BOARD CONTACT PERSON

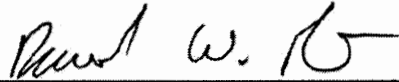
Darren Bradford, Environmental Scientist
Telephone: (619) 521-3356
Email: darren.bradford@waterboards.ca.gov

X. WATER QUALITY CERTIFICATION

I hereby certify that the proposed discharge from the **State Route 74 Safety Shoulder Widening Project from east of Antonio Parkway/La Pata Avenue to west of Cristianitos Road** (Certification No. R9-2014-0127) 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. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)*," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue individual waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited to, and all proposed mitigation being completed in strict compliance with, the applicants' Project description and/or the description in this Certification, and (b) compliance with all applicable requirements of the Basin Plan.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Certification No. R9-2014-0127 issued on November 23, 2015.



DAVID W. GIBSON
Executive Officer
San Diego Water Board

23 Nov. 2015

Date

ATTACHMENT 1

DEFINITIONS

Activity - when used in reference to a permit means any action, undertaking, or project including, but not limited to, construction, operation, maintenance, repair, modification, and restoration which may result in any discharge to waters of the state.

Buffer - means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.

California Rapid Assessment Method (CRAM) - is a wetland assessment method intended to provide a rapid, scientifically-defensible and repeatable assessment methodology to monitor status and trends in the conditions of wetlands for applications throughout the state. It can also be used to assess the performance of compensatory mitigation projects and restoration projects. CRAM provides an assessment of overall ecological condition in terms of four attributes: landscape context and buffer, hydrology, physical structure and biotic structure. CRAM also includes an assessment of key stressors that may be affecting wetland condition and a "field to PC" data management tool (eCRAM) to ensure consistency and quality of data produced with the method.

Compensatory Mitigation Project - means compensatory mitigation implemented by the Applicant as a requirement of this Certification (i.e., applicant -responsible mitigation), or by a mitigation bank or an in-lieu fee program.

Discharge of dredged material – means any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States and/or State.

Discharge of fill material – means the addition of fill material into waters of the United States and/or State.

Dredged material – means material that is excavated or dredged from waters of the United States and/or State.

Ecological Success Performance Standards – means observable or measurable physical (including hydrological), chemical, and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.

Enhancement – means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment – means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist. Creation results in a gain in aquatic resource area.

Fill material – means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body.

Isolated wetland – means a wetland with no surface water connection to other aquatic resources.

Mitigation Bank – means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing mitigation for impacts authorized by this Certification.

Preservation - means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/ historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/ historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Start of Project Construction - For the purpose of this Certification, "start of Project construction" means to engage in a program of on-site construction, including site clearing, grading, dredging, landfilling, changing equipment, substituting equipment, or even moving the location of equipment specifically designed for a stationary source in preparation for the fabrication, erection or installation of the building components of the stationary source within waters of the United States and/or State.

Uplands - means non-wetland areas that lack any field-based indicators of wetlands or other aquatic conditions. Uplands are generally well-drained and occur above (i.e., up-slope) from nearby aquatic areas. Wetlands can, however, be entirely surrounded by uplands. For example, some natural seeps and constructed stock ponds lack aboveground hydrological connection to other aquatic areas. In the watershed context, uplands comprise the landscape matrix in which aquatic areas form. They are the primary sources of sediment, surface runoff, and associated chemicals that are deposited in aquatic areas or transported through them.

Water quality objectives and other appropriate requirements of state law – means the water quality objectives and beneficial uses as specified in the appropriate water quality control plan(s); the applicable provisions of sections 301, 302, 303, 306, and 307 of the Clean Water Act; and any other appropriate requirement of state law.