



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**Los Angeles Regional Water Quality Control Board**

Mr. Gary Brummett  
Lloyd Properties LP  
21600 Oxnard Street, Suite 1040  
Woodland Hills, CA 91367

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
No. 7009 2820 0001 6537 9744

**WATER QUALITY CERTIFICATION FOR PROPOSED LLOYD PROPERTIES LP PROJECT (Corps' Project No. 2009-118-AJS), ARUNDELL BARRANCA, LAKE CANYON DEBRIS BASIN, TRIBUTARY TO VENTURA KEYS MARINA, CITY OF VENTURA, VENTURA COUNTY (File No. 13-040)**

Dear Mr. Brummett,

Board staff has reviewed your request on behalf of Lloyd Properties LP (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on July 30, 2014.

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

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

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

  
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Samuel Unger, P.E.  
Executive Officer

Oct. 6, 2014  
Date

**ATTACHMENT A**

**Project Information  
File No. 13-040**

1. Applicant: Gary Brummett  
Lloyd Properties LP  
21600 Oxnard Street, Suite 1040  
Woodland Hills, CA 91367  
  
Phone: (818) 444-7177 Fax: (818) 444-7179

2. Applicant's Agent: Anna Huber  
RA Atmore and Sons Inc  
2977 Sexton Canyon Road  
Ventura, CA 93003  
  
Phone: (805) 644-6851 Fax: (805) 642-2127

3. Project Name: Lake Canyon Sump Protection

4. Project Location: Ventura, Ventura County

<u>Latitude</u>	<u>Longitude</u>
34.31502	119.217697
34.315486	119.218125
34.317161	119.217478
34.315483	119.217364

5. Type of Project: Basin enlargement for sump protection

6. Project Purpose: The proposed project (Project) will replace clean fill that has been scoured away, and develop an erosion control structure and protective cover to provide long-term protection from buried oilfield waste and materials.

7. Project Description: Development of the project site  
The project site is located south of an active oil production area (the Ventura Oilfield). During the 1940s or 1950s, a clean earthen buttress fill was constructed on the lower southern portion of the project site. The oilfield waste material was deposited in the canyon

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area behind this buttress (Sump). This practice was discontinued in the 1960s, and a cover comprised of approximately 20 to 30 feet of clean soil fill material was placed over the Sump material.

Stream flow in the canyon had originally been collected behind the buttress and routed back into the natural channel at the toe of the buttress by a drain pipe. After decades of exposure to erosion, this drain was eventually washed out, and stream flow has begun to erode into the clean cover material. Stream drainage has resulted in the creation of an incised channel into the overlying clean fill material.

#### Actions taken in 2006 and 2007

Padre Associates, Inc. (Padre) completed a preliminary environmental assessment of the sump area (2006) which provided the following information:

- Chemical analyses indicate that the Sump material is comprised primarily of heavy end hydrocarbons. Based on all of the analytical data (which includes analyses for the presence of metals, benzene, toluene, ethyl benzene, total xylenes, volatile organic compounds, semi-volatile compounds and polychlorinated diphenyls), the Sump material would be classified as a nonhazardous waste by the State of California.
- The clean soil cover placed over the sump material is typically seven- to 17-feet thick in the area outside of the incised erosion channel.
- Along the bottom of the incised erosion channel, sump material has been exposed in several locations.

In order to minimize the potential for additional erosion and possible downstream transportation of the exposed Sump material, temporary emergency erosion control measures were implemented in late 2006 through early 2007. These measures were performed according to conditions set forth in the U.S. Army Corps of Engineers' (USACE) Regional General Permit No. 63 (File No. 200602157-AJS) and a California Department of Fish and Game (CDFG) notification of emergency work letter (December 18, 2006). Those measures consisted of the following:

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- A historic road crossing was reconstructed across the incised erosion channel upstream of the area where Sump exposures were identified. The road crossing was constructed of native fill material, and contains two 36-inch-diameter, approximately 56-foot-long corrugated metal pipe (CMP) culverts.
- On the downstream side of the road crossing, the stream flow is discharged from the 36-inch diameter culverts and directed into a new open earthen channel excavated into the clean cover material. The new channel is approximately ten feet wide and three feet deep, and drains at a very gradual two percent slope for a total of 650 linear feet down to the buttress fill that defines the southern limits of the sump.
- At the outlet of the new channel, compacted earth berms have been constructed along the back of the buttress to create a small basin. Water collected in the basin drains through a 60-inch diameter CMP culvert pipe installed on the front of the buttress. The pipe is approximately 200 feet long, and discharges stream flow to the existing stream channel at the toe of the buttress, downstream of the entire project site.
- As part of the emergency work, Lloyd Properties constructed five earthen ditch plugs within the incised erosion channel downstream of the road crossing/diversion. Each ditch plug was constructed with a 12-inch diameter pipe with a downturned elbow to act as an oily water separator (if any oil sheen was present).

#### Long-Term Erosion Prevention

The intent of the proposed project is to build a new structure to provide a long-term erosion resolution by controlling the storm flows across the Sump, preventing future erosion of the existing clean fill cover, and reestablishing the clean cover within the erosion channel that has been scoured away. To accomplish this, the proposed project will:

- Maintain the road crossing that was reestablished during implementation of the temporary protection measures.
- Eliminate the temporary earthen channel and small detention basin in favor of a single large detention area. This new, larger

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basin will be drained by the existing 60-inch CMP culvert pipe, as well as two additional 94-inch CMP culvert pipes. Energy will be dissipated at the pipe outlets by a baffled concrete apron edged with gabion walls and a grouted riprap pad.

- Ditch plugs will be removed from the incised channel, and the channel (including the original buttress) will be filled with native soil sourced from the site to approximately the same level as the adjacent grade to protect the sump materials from any further potential for erosion.

The basin's designed slope at the bottom is two percent with three feet of compacted fill material over the sump materials. In a 100 year event of 899 cubic feet of flow per second, the velocities in the bottom of the basin are 2.5 feet per second, which is considered a non-erosive velocity for earth material.

In order to protect existing Sump material from any further potential for erosion, the existing incised channel will be filled with native soil generated on site. Approximately 10,000 cubic yards of native fill will be used to complete the project, which will be sourced from upland slopes surrounding the project site. No soils will be imported or exported from the site during construction.

In addition, the following materials will be used in the construction of the new erosion control structure:

- 62 cubic yards of concrete; and
- 60 cubic yards grouted rip rap

Ventura County Watershed Protection District requires that the structure be designed to withstand a 100-year flood event. Therefore, the Project will maintain the road crossing that was reestablished during implementation of the temporary protection measures, and eliminate the temporary earthen channel and the small detention basin in favor of a single large detention area.

The channel and banks within the project site support Mulefat Scrub habitat. Impacts to habitat areas under the jurisdiction of the California Department of Fish and Wildlife (CDFW) include the following: 1.318 acres of permanent impacts, and 0.169 acres of temporary impacts.

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Permanently impacted waters of the U.S. (0.117 acre) will have permanent concrete, crushed rock, and rock rip rap structures and an earthen detention basin built in their place. Temporarily impacted waters of the U.S. (0.008 acre) will be impacted during project activities, but will be restored post construction as part of compensatory mitigation. These areas are located just downstream of the permanently impacted areas.

Mitigation for temporary and permanent impacts to native habitat in jurisdictional areas will be implemented through the planting of mulefat (*Baccharis salicifolia*) cuttings and blue elderberry (*Sambucus nigra* ssp. *caerula*) container stock, and installation of salt grass (*Distichlis spicata*) plugs. The cuttings and container stock will be planted on the interior banks of the new detention basin. The salt grass plugs will be planted on the floor of the new basin. The new basin enables stream flow to bypass the incised channel. As such, native plant species are being installed within the basin to recreate habitat that will be lost due to construction. Hydroseeding of a native seed mix will occur in non-jurisdictional upland areas disturbed as a result of the construction.

Work will take place from approximately September 1, 2014 through November 30, 2014, taking approximately 90 days to complete.

8. Federal Agency/Permit: U.S. Army Corps of Engineers  
NWP No. 43 (Permit No. 2009-00118 -AJS)
9. Other Required Regulatory Approvals: An "Operation of Law letter" in lieu of a Streambed Alteration Agreement was issued for the project by the California Department of Fish and Wildlife on June 3, 2013.
10. Receiving Water: Lake Canyon, Arundell Barranca, Ventura Marina, Ventura County Coastal Streams (Hydrologic Unit Code 180701010203)
11. Designated Beneficial Uses: NAV, COMM, WARM, MAR, WILD

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12. Impacted Waters of the United States: Non-wetland waters (streambed): CMP linear feet)
13. Dredge Volume: None
14. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- The site will be secured with straw wattles and silt fencing to prevent movement of silt and sediment prior to any precipitation while the Project is active.
  - No work will occur during precipitation events.
  - Should significant precipitation occur while construction is in progress the Site will be allowed to dry out prior to reinitiating work.
  - No living, native vegetation will be removed from the channel, bed, or banks of the stream, except as otherwise provided for in a public agency agreement.
  - Any oaks, California black walnuts and sycamores which are damaged or removed during construction operations will be replaced in kind at a 10:1 ratio. Valley oaks will be replaced in kind at a 15:1 ratio. Elderberry, cottonwood, and willows will be replaced at 5:1.
  - No native vegetation with a diameter at breast height in excess of three inches will be removed or damaged.
  - In areas where native trees and shrubs with diameter at breast height of three inches or less that must be removed will be cut to ground level with hand operated power tools rather than by grading.

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- Vegetation removed from the stream will not be stockpiled in the stream bed or on its bank.
- Where possible and beneficial, brush piles will be left outside the channel in upland areas to provide wildlife habitat.
- No equipment will be operated or parked within the dripline of oaks. Protective fencing will be placed outside the dripline of oaks to prevent compaction of the root zone.
- Staging and storage areas for equipment and materials will be located outside of the stream or lake.
- The Applicant will only use un-concreted rock rip-rap.
- The bottoms of temporary culverts will be placed at or below stream channel grade.
- Bottoms of permanent culverts will be placed below stream channel grade deep enough so that sediments accumulate at the bottom to mimic a natural bottom.
- If any structure is cast in place, the area poured will be completely bermed and isolated to contain all and any wet cement.
- Storm drains lines and culverts will be adequately sized to carry peak storm flows for the drainage to one outfall structure.
- The storm drain lines and culverts and the outfall structure will be properly aligned within the stream and otherwise built and maintained to assure resistance to washout and erosion of the stream bed and banks.
- Water velocity will be dissipated at the outfall, to reduce erosion.
- This system will function as designed and will be maintained on a regular basis by the landowner(s).
- Structures and associated materials not designed to withstand high water flows will be moved to areas above high water before

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such flows occur during construction.

- Areas of disturbed soils with slopes toward a stream or lake will be stabilized to reduce erosion potential.
- Where suitable vegetation cannot reasonably be expected to become established, non-erodible materials, such as coconut fiber matting, will be used for stabilization.
- No debris, construction waste, concrete washings, petroleum products, or foreign materials will be allowed to enter into or placed where it may be washed by rainfall into waters of the State.
- If vacuum trucks or pumps will be placed in a three- to four-square foot area, protected on all side by exclusionary fencing to lower velocities and to prevent the uptake of any aquatic life.
- When operations are completed, any excess materials or debris will be removed from the work area.
- No rubbish will be deposited within 150 feet of the high water mark of any stream or lake.
- No concrete material will be poured for any structure if rain is forecasted within 15 days.
- The Applicant will designate all storm drains with warnings that dumping is illegal and that all storm drains drain to creeks, rivers and ocean.
- Any equipment or vehicles driven and operated within or adjacent to the stream and lake will be checked and maintained daily to prevent leaks of hazardous materials.
- Stationary power equipment such as motors, pumps, and generators if adjacent to the stream or lake will be positioned over drip pans.
- No equipment maintenance will be done within or near any stream channel or lake margin.

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- Equipment will not be operated in wetted areas.
- Turbidity will not be discharged into the stream, and will be settled, filtered, or treated prior to discharge.
- Pre-construction planning will include turbidity prevention.
- Water will not be pumped from the channel and used for dust control or any other use in the project.
- Prior to construction or site preparation activities, the Applicant will have a qualified biologist survey all breeding and nesting habitat within the project site and adjacent to the project site for the presence of nesting birds. If listed species are present, surveys will begin no later than June 1. Surveys will be conducted every 7 days for 8 consecutive weeks until at least July 1.
- If no breeding/nesting birds are observed, site preparation and construction activities may begin.
- If breeding activities or an active bird nest is located the breeding habitat or nest site will be fenced a minimum of 300 feet (500 feet for raptors) in all directions, and this area will not be disturbed until the nest becomes inactive, the young have fledged and have left the area. Otherwise the Applicant will not conduct any project activities on the project site from March 1 to September 15 to avoid impacts to breeding and nesting birds.
- If threatened or endangered species are observed in the area, no work will occur during the breeding season (March 1 through September 15) to avoid direct or indirect (noise) take of listed species and State and/or Federal threatened or endangered species permits may be required prior to commencing project activities.
- The Applicant will not destroy or disturb any active bird nest or any raptor nest at any time of the year.
- The Operator's activities within the stream course will be limited to the dry period of the year from May 1 to December 1 and when the stream is not actively flowing and no measurable rain

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is forecasted within 72 hours. If measurable rain is predicted within 72 hours during construction, all activities will cease, and protective measures to prevent siltation/erosion will be implemented/maintained as appropriate.

- The Operator will provide a copy of these conditions, to all contractors, subcontractors, and the Operator's project supervisors. Copies of this Agreement and all required permits and supporting documents, will be readily available at work sites at all times during periods of active work and must be presented to any personnel from any public agency upon demand. All contractors will read and become familiar with the contents of this Agreement.
- Areas of temporary disturbance or bare soil will be hydro-seeded with a native seed mix and flexible growing medium in order to reestablish vegetative cover and to prevent any potential erosion.
- A pre-construction meeting will be held involving all contractors and subcontractors concerning the conditions in this Agreement.

16. Proposed  
Compensatory  
Mitigation:

The Applicant has proposed a total of 0.125 acres of mitigation for impacts to 0.125 acres within waters of the State and U.S.

17. Required  
Compensatory  
Mitigation:

The Applicant shall provide 0.359 acres of mitigation for temporary and permanent impacts to waters of the State and U.S. See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

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#### STANDARD CONDITIONS

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

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

#### ADDITIONAL CONDITIONS

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

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit. **This document shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this Certification, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. **15**, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

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

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Resources Control Board Water Quality Order Nos. 2011-0002-DWQ and 2004-0009-DWQ.

14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
15. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
16. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
17. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during any vegetation clearing activities. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
18. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge (ROWD)** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste.
19. All project and construction activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
20. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates.

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The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:

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

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

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

21. The Applicant shall restore the proposed **0.008 acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. Restored areas shall be monitored and maintained with native species as necessary for five years. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
22. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporary loss of **0.008 acres** waters of the United States by creating or restoring riparian habitat at a minimum **1:1** area replacement ratio (**0.008 acres**). The Applicant shall also provide compensatory mitigation for the proposed permanent impacts to **0.117 acres** of vegetation within waters of the United States by creating or restoring riparian habitat at a minimum **3:1** area replacement ratio (**0.351 acres**). If the Applicant proposes funding in total or in combination to a third-party organization for the creation or restoration of vegetated streambed riparian habitat within waters of the United States/Federal jurisdictional wetlands, then funding shall apply to mitigation acreage only, exclusive of administrative costs. The mitigation site shall be located within Watersheds of Ventura County coastal streams unless otherwise approved by this Regional Board. The Applicant shall submit a Proposed Mitigation Report which shall include:

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### Conditions of Certification File No. 13-040

- (a) Documentation from the third party indicating that funds have been used for mitigation acreage only, which do not include administrative costs.
- (b) The boundary of the mitigation site shall be clearly identified on a map of suitable resolution and quality and shall also be defined by latitude and longitude.
- (c) The type(s) of mitigation shall be described (e.g., removal of exotics and/or replanting with native species, etc.)
- (d) Success criteria shall be established.

**This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States** and shall include copies of all agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

23. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** (Annual Reports) by **January 1<sup>st</sup>** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until mitigation project and success and completion has been achieved and documented. The Annual Reports shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. The Annual Reports shall describe the status of other agreements (e.g., mitigation banking) or any delays in the mitigation process. At a minimum the Annual Reports shall include the following documentation:
- (e) Color photo documentation of the pre- and post-project and mitigation site conditions;
  - (f) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
  - (g) The overall status of project including whether or not work has begun on the Project and a detailed schedule;
  - (h) Copies of all permits revised as required in Additional Condition 1;
  - (i) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
  - (j) A certified Statement of “no net loss” of wetlands associated with this project;
  - (k) Discussion of any monitoring activities and exotic plant control efforts; and
  - (l) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.



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the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2009-009-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.

29. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
30. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
31. *Enforcement:*
  - (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
  - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

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