



Los Angeles Regional Water Quality Control Board

Mr. Tim Burkhardt
Six Flags Magic Mountain
26101 Magic Mountain Pkwy
Valencia, CA 91355

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7009 2820 0001 6537 7436

TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED SIX FLAG MAGIC MOUNTAIN PARKING LOT BANK STABILIZATION PROJECT (Corps' Project No. 2010-00019-TS), Santa Clara River, CITY OF VALENCIA LOS ANGELES COUNTY (File No. 14-074)

Dear Mr. Burkhardt:

Board staff has reviewed your request on behalf of Six Flags Magic Mountain (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete June 30, 2015.

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

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

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

Samuel Unger
Samuel Unger, P.E.
Executive Officer

8-20-15
Date

DISTRIBUTION LIST

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**Project Information
File No. 14-074**

1. Applicant: Mr. Tim Burkhart
Six Flags Magic Mountain
26101 Magic Mountain Pkwy
Valencia, CA 91355

Phone: (661) 255-4710 Fax: (661) 255-4149
2. Applicant's Agent: Dr. Brad Blood
Psomas
3 Hutton Centre Drive, Suite 200
Santa Ana CA 92707

Phone: (714) 751-7373 Fax: (714) 545-8883
3. Project Name: Six Flag Magic Mountain Parking Lot Bank Stabilization
4. Project Location: Valencia, Los Angeles County

<u>Latitude</u> (Decimal Degrees)	<u>Longitude</u> (Decimal Degrees)
34.43169389	-118.59558667
34.43106583	-118.59396194
34.42994722	-118.59347611
34.42895278	-118.59273750
34.42909889	-118.59368778
34.42969667	-118.59533000
34.43016778	-118.59624111
34.43143917	-118.59601917

5. Type of Project: Bank stabilization
6. Project Purpose: Heavy storm events in winter 2004-2005 caused the Santa Clara River to erode away approximately five acres of the overflow parking area, effectively moving the riverbank southeastward to within 30 feet of Feedmill Road. If the riverbanks erode ten more feet, Feedmill Road would no longer be safe to carry vehicular

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traffic. Such a closure would remove the only emergency access to Six Flags Magic Mountain which would constitute a significant impact to the safety of the park's employees and visitors.

The Six Flags Bank Stabilization Project (Project) will stabilize the banks of the Santa Clara River in order to protect the overflow parking area owned and operated by Six Flags and located between the Santa Clara River and Feedmill Road.

This project was identified in the Natural Rivers Management Plan for the Santa Clara River.

7. Project Description:

The proposed project (Project) will stabilize an overflow parking area owned by Six Flags Magic Mountain. The parking lot lies roughly between Feedmill Road to the southeast and the Santa Clara River to the northwest.

The Project will also protect Feedmill Road, which is the only employee and service access to Six Flags Magic Mountain, and provides the primary access route to the amusement park for fire and other emergency service providers. Feedmill Road is also a secondary emergency egress from the park for visitors. Six Flags Magic Mountain intends to protect the remaining portion of its overflow parking area and Feedmill Road by constructing a soil cement bank protection structure along the existing south bank of the Santa Clara River.

The elements of the Project will include:

- Soil cement bank protection; and
- Launching stone riprap

Access Road Construction

An access road for construction equipment will be constructed at both ends of the work site to allow travel of equipment during construction. The access road will be cut into the existing bank with a bulldozer or similar piece of equipment, only made of compacted earth, and will be eliminated when the soil cement wall is built. The access road is within the soil cement construction footprint.

Construction Staging, Material Loading, Unloading, and Access Areas

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Staging for construction materials, equipment, trailers, and worker parking will be located in the remaining portion of the overflow parking area adjacent to Feedmill Road. All construction materials will be loaded, unloaded, and stored in a designated area of the overflow parking lot. Access to the work area will also be through the overflow parking lot, which is accessed via Feedmill Road.

Bank Protection

Soil cement provides a stable riverbank protection material, in terms of both surface erosion and structural stability. Preliminary geotechnical analysis indicates that locally available native soils are considered acceptable for use with soil cement.

Soil cement bank protection is constructed as a monolithic and homogenous structure consisting of approximately 90% native soils and 10% cement. The typical section consists of eight-foot wide and six- to twelve-inch thick layers of soil cement. Each layer of soil cement is set back from the edge of the previous layer, at a 1.5:1 (Horizontal: Vertical) slope. The entire section varies in total height, from 22 to 44 feet, based on varying water surface elevations along the length of the river, and horizontal location of eroded embankment relative to Feedmill Road. In areas where the existing embankment is within approximately 50-feet of Feedmill Road, the soil cement will extend vertically to the elevation of the road, which is significantly higher than the 100-year flood, or at a minimum in all other areas, the top of the soil cement will be constructed to match the 100-year flood stage.

Due to high groundwater conditions present at the site location, launching stone (rip-rap) will be used to provide protection against potential scouring of the river bed due to erosive flows. Soil cement will only be placed above the ground water, and launching stone will be placed adjacent to the soil cement bank. The size of rock to be used for the launch stone was determined using the LADPW Hydraulic Design Manual. The size of individual stones will vary from a diameter of approximately 27 inches for ½-ton stones, 34 inches for 1-ton stones, and 43 inches for 2-ton stones. The launching stone will be placed through mechanized means, such as crane and skip loader, dragline, or bucket.

The launching stone will span the length of the soil cement wall (approximately 1,200 feet). The width of launching stone in each

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section will vary based on soil cement bank height, varying flow velocities observed and anticipated along the length of the river, and safety factors for slope stability. The width of each section along the length of the soil cement wall will vary between approximately 35 and 68 feet, with an average section width of 38 feet (extending out from the toe of the slope).

A typical section of launching stone will have a minimum height of six feet, set approximately two feet below excavation grade and four feet above excavation grade. The top of the launching stone will have a five-percent gradient to allow for drainage and eliminate areas of ponding. The stones will be piled to a pre-determined depth depending on the location to protect the base of the soil cement wall from scouring flows of the river during high storm events.

Construction and Excavation Limits

The width of the excavation area varies along the length of the soil cement wall Project area. Within the dry portion of the channel, the excavation limit follows the toe of the soil cement wall, extending between 30 feet and 50 feet into the dry portion of the channel in the center section of the soil cement wall, and a maximum distance of 60 feet into the dry portion of the channel in the upstream and downstream transition areas.

Project plans include a 20-foot buffer between the excavation limit and the construction limit in most areas of the soil cement wall. The construction limit will be offset a minimum of 30 feet from the water line in most areas. There is a short reach (approx. 300 feet) where the construction limit is within 10 feet of the water line. However, no construction work or equipment will be allowed in the Santa Clara River, and the Biological Monitor will be onsite during all construction activities in the dry portion of the channel bed to ensure that all avoidance and minimization measures are implemented and that aquatic and biological resources are protected.

The horizontal alignment for the soil cement bank protection will follow the existing earthen embankment alignment created by the scouring caused during the 2004-05 and subsequent storm events. The soil cement bank protection terminates with a tie-back at both ends of the bank protection reach.

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The bank protection, both launching stone and soil cement will be buried (i.e. backfilled) with native soil following installation. The native soil will vary in depth from 4 feet to over 20 feet depending on the existing elevations and underlying bank protection structure.

The Project will temporarily impact 0.03 acre of riverbed subject to the Clean Water Act and 0.97 acres of riverbed subject to California Department of Fish and Wildlife (CDFW) jurisdiction, and will permanently impact 0.003 acres of riverbed subject to the Clean Water Act and 1.11 acres of riverbed subject to CDFW jurisdiction.

Temporary impact areas will result from the clearing of vegetation to allow construction workers and equipment access to the base of the slope to build the soil cement wall and lay the launch stone. Permanent impact areas will result from the installation of soil cement and launch stone rip-rap.

Heavy equipment excavators, scrapers, bully dump trucks, blade scrapers, double steel drum rollers, loaders, and a Pug Mill mixing plant are expected to be used on this Project. The estimated schedule for completion of construction of the Project is approximately 13 weeks, consisting of the length of activities as follows:

- Mobilization and demobilization will take approximately two weeks each.
- Cutting the entry road will take approximately one week.
- Clearing vegetation, removing soil to pre-soil cement wall grade will take approximately two weeks.
- Trenching and building the soil cement wall will take approximately six weeks.
- Finishing the wall and setting up the terminal rip-rap will take approximately two weeks.

Mitigation activities are described in the Six Flags Habitat Mitigation and Monitoring Plan (HMMP) and are summarized below. Mitigation proposed for this Project will provide concurrent mitigation for impacts to both areas subject to the Clean Water Act and CDFW impacts (i.e. the 0.039 acre of Clean Water Act mitigation is included in the larger 5.23 acre of CDFW mitigation).

For impacts to Waters of the United States

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Six Flags will restore and enhance 0.039 acre of habitat as mitigation for temporary and permanent impacts associated with implementation of the Project. Permanent impacts to riparian habitat subject to the Clean Water Act will be mitigated through the restoration and enhancement of 0.009 acre of riparian habitat. Temporary impacts to riparian habitat subject to the Clean Water Act will be mitigated through the restoration and enhancement of 0.03 acre of riparian habitat. Restoration will entail planting of native vegetation, and enhancement will entail removal of invasive plants.

For impacts to riparian areas

Six Flags will restore and enhance 5.23 acres of habitat as mitigation for temporary and permanent impacts to CDFW jurisdictional areas associated with implementation of the Project. Restoration will entail planting of native vegetation, and enhancement will entail removal of non-native, invasive plants.

To mitigate for permanent impacts to habitat under the jurisdiction of CDFW resulting from implementation of the Project, Six Flags will restore a total of 3.33 acres of riparian habitat. Restoration of riparian areas will include the creation and enhancement of dry willow scrub habitat. Additionally, 0.31 acre of upland will be mitigated; mitigation will include removal of non-native, invasive plant species, and planting of native vegetation.

To mitigate for temporary impacts to habitat under the jurisdiction of CDFW resulting from implementation of the Project, Six Flags will restore 0.97 acre of riparian habitat and 0.62 acre of upland habitat at a 1:1 ratio in the location where the impact will occur. Native tree removal in the temporary impact area will be replaced at a 3:1 ratio, which has been estimated at 3,100 trees. Replacement trees will be planted within both temporary impact and permanent impact mitigation areas.

Six Flags will place a conservation easement over the Mitigation areas as required by the Natural Rivers Management Plan for the Santa Clara River.

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8. Federal Agency/Permit: U.S. Army Corps of Engineers
Individual Permit (Permit No. 2010-00019-TS)
9. Other Required Regulatory Approvals: California Department of Fish and Wildlife
Streambed Alteration Agreement
10. California Environmental Quality Act Compliance: The California Department of Fish and Wildlife approved the project's Final Environmental Impact Report (SCH No. 97-061090) on November 30, 1998. A Notice of Determination was filed with the State Clearinghouse on December 2, 1998.
11. Receiving Water: Santa Clara River Reach 4B (Hydrologic Unit Code: 180701020403)
12. Designated Beneficial Uses: MUN*, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, WILD, RARE, MIGR, WET

*Conditional beneficial use
13. Impacted Waters of the United States: Streambed: 0.03 temporary acres (107 linear feet) and 0.003 permanent acres
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 (BMPs), including, but not limited to, the following:
- Geotextile mats will be used to cover all cut bare soil slopes until they are landscaped with the restoration plantings, and will be placed according to manufacturer's instructions.
 - Earth dikes and swales will be used at the upstream and downstream ends of the construction area to prevent runoff from leaving the construction site and entering the river.

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- Fiber rolls, sand bags, and silt fencing will be placed along the perimeter of the construction zone adjacent to the Santa Clara River to prevent stormwater from entering, and will be inspected before and after each rainfall event, and will be repaired or replaced as needed.
- A tire wash area will be provided at the exit point of the construction site to minimize tracking of dirt and dust onto Feedmill Road and then onto public streets.
- Trucks will be covered to prevent dust from escaping during transit from the construction site to any off-site destination.
- Street sweeping will be used along Feedmill Road in the vicinity if the Project to prevent dirt from being tracked onto public roadways.
- Stockpiles of construction materials and debris will be placed within a designated storage area within the overflow parking lot and transported to a legal point of disposal.
- Any waste materials generated by construction will not be stored or stockpiled in the Santa Clara River.
- All fueling will be performed in the overflow parking lot in a designated area.
- All equipment will be kept in working order and inspected each day for leaks prior to use in the river bed.
- Equipment will be staged in a containment area or other suitable barrier overnight to prevent accidental leakage of fluids.
- Spills will be cleaned up immediately.
- Absorbent spill clean-up materials and spill kits will be available onsite.
- Drip pans or absorbent pads will be used during vehicle and equipment fueling.

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- Fueling areas will be protected from storm water and runoff, and will be located at least 50 feet from the edge of the bank of the Santa Clara River. Fuels will be stored in containment basins.
- Equipment washing or cleaning will be located at least 50 feet from the edge of the bank of the Santa Clara River.
- Wash water will be contained out of the Santa Clara River.
- All litter and rubbish will be deposited in an appropriate container and hauled daily from the work area.
- Temporary sanitary facilities will be maintained in good working order, and located away from watercourses and drainages.
- Surveys for special status species within 300 feet of the Project area will be performed by a qualified biologist prior to construction, as required under the Natural River Master Plan.
- Special Status species include the coast horned lizard, western whiptail lizard, loggerhead shrike, horned lark, burrowing owl, tricolor black bird, nesting raptors and birds (if work begins within nesting season), and San Diego black-tailed jackrabbit.
- A report shall be prepared for the Corps, Regional Board, and CDFW that details the results of these surveys within 45 days of completion.
- Should any sensitive resources be observed within the impact zone or within the 300 foot survey area, the observation site will be recorded with a GPS and located on a survey map and included in the survey report.
- Should the sensitive resource be located within the work area, the biologist will delay or stop any work until the individual can be relocated safely off the project site.
- A qualified fisheries biologist will be present on site while construction is occurring along the bottom of the bank slope adjacent to the Santa Clara River, and perform the following:
 - Flag the construction limit and monitor the installation of

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BMPs along the construction limit.

- Document that construction equipment and activities stay within the designated construction limit.
- Monitor the implementation of the BMPs, notify the construction foreman of needed repairs, and monitor the repair.
- Observe the Santa Clara River for any signs of turbidity due to construction activities.
- If turbidity is observed, the monitor will determine the source, and, if due to the bank stabilization construction activities, will have the authority to halt work until the turbidity issue is resolved and the cause is remedied.

16. Proposed
Compensatory
Mitigation:

The proposed mitigation includes 0.039 acres of habitat restoration through planting of native vegetation, and habitat enhancement through removal of non-native, invasive plants.

17. Required
Compensatory
Mitigation:

The Applicant shall restore 0.039 acres of vegetated habitat as mitigation per the Six Flags Habitat Mitigation and Monitoring Plan (HMMP). See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

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Conditions of Certification File No. 14-074

STANDARD CONDITIONS

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

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

ADDITIONAL CONDITIONS

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

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Wildlife's (CDFW) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this Certification, the CDFW's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 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. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.

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14. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
15. 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.
16. 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.
17. 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.

Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.

18. 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.
19. 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.

20. The Applicant shall restore **0.03 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.
21. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporary loss of **0.03 acres** waters of the United States by creating or restoring riparian habitat at a minimum **1:1** area replacement ratio (**0.03 acres**). The Applicant shall also provide compensatory mitigation for the proposed permanent impacts to **0.003 acres** of vegetation within waters of the United States/Federal jurisdictional wetlands by creating or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum **3:1** area replacement ratio (**0.009 acres**). The mitigation site shall be located within the Santa Clara River Watershed unless otherwise approved by this Regional Board. The Applicant shall submit a **Proposed Mitigation Report** which shall include:
 - (a) 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.
 - (b) The type(s) of mitigation shall be described (e.g., removal of exotics and/or replanting with native species, etc.)

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(c) Success criteria shall be established.

This information shall be submitted to this Regional Board for approval prior to any project activities which take place 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.

22. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until mitigation success 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 and answered appropriately **whether or not** mitigation has been performed:
- (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including whether or not work has begun on the Project and a detailed schedule;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (as required) compiled in a spreadsheet format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
23. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.

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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.

30. *Enforcement:*

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

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

