



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Mark Connelly  
31559 Lobo Canyon Road  
Agoura Hills, CA 91301

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
No. 7008 1140 0002 8671 9592

**TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED PARCEL 2058-003-010 LOBO CANYON PROJECT (Corps' Project NWP No.29, SPL-2016-0043), LOBO CANYON CREEK, UNINCORPORATED LOS ANGELES COUNTY (File No. 16-005)**


Dear Mr. Connelly:

Board staff has reviewed your request for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on February 9, 2016.

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 Valerie Carrillo Zara, P.G., Lead, Section 401 Program, at (213) 576-6759.

  
\_\_\_\_\_  
Samuel Unger, P.E.  
Executive Officer

4-4-16  
\_\_\_\_\_  
Date

## DISTRIBUTION LIST

Tyler Barns (via electronic copy)  
Envicom Corporation  
4165 E. Thousand Oaks Blvd.  
Westlake Village, CA 91362

Bill Orme (via electronic copy)  
State Water Resources Control Board  
Division of Water Quality  
P.O. Box 944213  
Sacramento, CA 94244-2130

Brock Warmuth (via electronic copy)  
California Department of Fish and Wildlife  
Streambed Alteration Team  
3883 Ruffin Rd Suite A  
San Diego, CA 92123-4813

Daniel P. Swenson (via electronic copy)  
U.S. Army Corps of Engineers  
Regulatory Branch, Los Angeles District  
915 Wilshire Blvd., Suite 1101  
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Melissa Scianni  
Elizabeth Goldmann (via electronic copy)  
U.S. Environmental Protection Agency, Region 9  
WRT-2-4  
75 Hawthorne Street  
San Francisco, CA 94105

G. Mendel Stewart  
Johnathan Snyder  
U.S. Fish and Wildlife Service  
2177 Salk Avenue  
Carlsbad CA 92008

**ATTACHMENT A**

**Project Information  
File No. 16-005**

1. Applicant: Mark Connelly  
31559 Lobo Canyon Road  
Agoura Hills, CA 91301  
  
Phone: (310) 780-3247
2. Applicant's Agent: Tyler Barns  
Envicom Corporation  
4165 E. Thousand Oaks Blvd.  
Westlake Village, CA 91362  
  
Phone: (818) 879-4700
3. Project Name: Parcel 2058-003-010 Lobo Canyon
4. Project Location: Agoura Hills, Unincorporated Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
34.119081	118.808024
34.120293	118.867450
34.120250	118.806652
34.119345	118.806693
34.119367	118.807114
34.119330	118.807087
34.119989	118.807538
34.120060	118.807498

5. Type of Project: Development of single-family residence and access driveway
6. Project Purpose: Development of the proposed residence requires an additional point of ingress/egress and connection to existing utility services south of Lobo Canyon Creek. The project's purpose is to install utility infrastructure by trenching under Lobo Canyon Creek and to construct a permanent all-weather dip crossing across Lobo Canyon Creek and a tributary of Lobo Canyon Creek for site access to the single-family residence to be built on the property.
7. Project Description: The parcel is located in an unincorporated area of Los Angeles County surrounded by rural development including single-family homes and undeveloped lots.

## ATTACHMENT A

### Project Information File No. 16-005

The project will excavate a trench under an existing earthen dip crossing for the purpose of installing a utility lines and improving the crossing to accommodate all-weather ingress/egress and to meet Fire Department requirements for a driveway construction to a single-family home to be developed on the property. The proposed utility lines will cross under Lobo Canyon Creek within the centerline of the existing earthen dip crossing and will extend south off-site to a point near Lobo Canyon Road. In addition, a secondary access roadway will traverse the hillside from west to east and cross the drainage feature. A V-channel culvert with riprap north and south of the crossing will convey flows from upland areas under the proposed crossing.

The bed, banks, and the associated ruderal vegetation within Lobo Canyon Creek will be disturbed by the installation of the concrete dip crossing, utilities, and culverts. The proposed project will permanently impact a total of 0.01 acres (15 linear feet) of California Department of Fish and Wildlife (CDFW) jurisdictional habitat, coincident with 0.006 acres (15 linear feet) of non-wetland Waters of the United States. Soil excavation and disturbance will occur beneath the canopies and/or within the root zones of the western sycamores that are located within CDFW jurisdictional habitat. The trunks of several sycamore trees are not likely to be affected by construction, but they are located within approximately 20 feet of planned construction.

The bed, banks, and the associated ruderal vegetation within the drainage feature will be disturbed by installation of the access road and culverts. The proposed project will permanently impact a total of 0.067 acres (99 linear feet) of CDFW jurisdictional habitat, coincident with 0.005 acres (86 linear feet) of non-wetland Waters of the United States.

The site is predominantly covered with non-native annual grassland, chamise chaparral, western sycamore woodland, and patches of coastal scrub throughout the survey area. Oak trees meeting certain size requirements are protected by the County's oak tree ordinance.

One (1) of the plant communities within the survey area is considered sensitive by the CDFW. A ten foot buffer area has been included based on the assumption that construction activities involve the use of mechanized equipment. The limits of

## ATTACHMENT A

### Project Information File No. 16-005

grading/construction are inclusive of all proposed ground and vegetation disturbance associated with development of the project. All temporary and permanent disturbances are assumed to be located within the proposed development footprint.

The bed and banks of Lobo Canyon Creek disturbed by the project will be re-contoured, as necessary, following completion of the project to ensure that the proper flow of the channels is maintained.

8. Federal Agency/Permit: U.S. Army Corps of Engineers  
NWP No. 29, SPL-2016-0043
9. Other Required Regulatory Approvals: California Department of Fish and Wildlife  
Streambed Alteration Agreement  
No. 1600-2016-0008-R5
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15303 New Construction.
11. Receiving Water: Lobo Canyon Creek (Hydrologic Unit Code: 180701040101 )
12. Designated Beneficial Uses: MUN\*, GWR, REC-1, REC-2, WARM, WILD, RARE  
\*Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (unvegetated streambed): 0.009 temporary (20 linear feet) and 0.011 permanent acres (101 linear feet)
14. Dredge Volume: None
15. 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.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- No construction activities take place within surface waters during rainfall events or within flowing water.
  - The project will implement BMPs to lessen potential impacts to

## ATTACHMENT A

### Project Information File No. 16-005

sensitive habitats, including the use of silt fencing, waddles, and other appropriate storm water pollution prevention measures.

- The project limits of disturbance will be demarked with exclusionary fencing to prevent encroachment of project activities into adjacent native habitats and to dissuade wildlife from entering the construction area. The fencing shall be marked with highly visible flagging and signed as a sensitive area. The City shall verify the fencing has been correctly installed prior to the start of ground disturbance or construction activities. The temporary fencing shall be routinely inspected and maintained in functional condition for the duration of project construction.
- All construction and maintenance activities, except in an emergency, shall be limited to the hours of 7:00 a.m. to 7:00 p.m.
- If construction lighting is required, then lighting shall be pointed away from native habitats and shall be pointed downward and shielded to the extent practicable.
- No pets shall be allowed on the project site.
- All food-related trash shall be disposed of in closed animal-proof containers.
- All trenches shall be filled within the same day, or escape ramps will be constructed if trenches are to be left open overnight.
- All project related equipment and vehicles shall be cleaned and decontaminated of weeds and soils prior to entering the project site to reduce the potential for the spread and introduction of invasive and noxious weeds.
- The Applicant will comply with the provisions of future entitlements (e.g., grading permit), including standard erosion control measures that employ BMPs.
- Erosion and sedimentation control devices such as silt fences will be installed as required by an approved SWPPP before initiation of construction activity. They will be periodically inspected to ensure that the devices are effective, as well as prior

## ATTACHMENT A

### Project Information File No. 16-005

to and immediately after rainfall events.

- Prior to initiation of construction activity, a qualified biologist shall ensure that the construction foreman and the crew are aware of the limits of construction activity and will implement an educational program.
- Five day weather forecasts will be conducted in order to identify potential storm events. Should forecasts indicate a potential storm event during construction within the ephemeral drainage, appropriate site stabilization shall be implemented as indicated by the approved SWPPP.
- Spoil sites will be located away from drainage areas and appropriate erosion control devices will be placed around stockpiled materials.

17. Proposed  
Compensatory  
Mitigation:

The Applicant has proposed to provide compensatory mitigation on-site within waters with restoration and enhancement in the creek.

18. Required  
Compensatory  
Mitigation:

The Regional Board will require compensatory mitigation for permanent impacts associated with the proposed project at a ratio of 2:1.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

## ATTACHMENT B

### Conditions of Certification File No. 16-005

#### STANDARD CONDITIONS

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

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

#### ADDITIONAL CONDITIONS

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

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Wildlife's (CDFW) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this Certification, the CDFW's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.



## ATTACHMENT B

### Conditions of Certification File No. 16-005

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 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.
8. 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.
9. 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.
10. 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.
11. 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 Resources Control Board Water Quality Order Nos. 2011-0003-DWQ, for Aquatic Animal Invasive Species Control; 2011-0004-DWQ, for Spray Applications; 2011-0002-DWQ, for Vector Control; and 2013-0002-DWQ, for Weed Control.
12. 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.

## ATTACHMENT B

### Conditions of Certification File No. 16-005

13. 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.
14. 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.
15. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
16. 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. 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.

## ATTACHMENT B

### Conditions of Certification File No. 16-005

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.

17. The Applicant shall restore **all areas** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. 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.
18. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.011 acres** of vegetation within waters of the United States by creating or restoring riparian habitat at a minimum 2:1 area replacement ratio (0.022 acres). The mitigation site shall be located on the property site 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.)
  - (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.

19. The Applicant shall submit to this Regional Board **Annual Mitigation 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 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:

## ATTACHMENT B

### Conditions of Certification File No. 16-005

- (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.
20. 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.
  - (b) For a partnership, by a general partner.
  - (c) For a sole proprietorship, by the proprietor.
  - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
21. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

"I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true,

ATTACHMENT B

Conditions of Certification  
File No. 16-005

accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
(Signature)  
(Title)"

22. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **16-005**. Submittals shall be sent to the attention of the 401 Certification Unit.
23. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
24. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. R4-2012-0175. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2012-0011-DWQ. 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.
25. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
26. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
27. *Enforcement:*

## ATTACHMENT B

### Conditions of Certification File No. 16-005

- (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
  - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
28. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application at least 90 days prior to termination of this Certification if renewal is requested.