



EDUARD G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Lance Mellring
Hearthstone Multi-Asset Entity C, L.P.
24151 Ventura Boulevard
Calabasas, CA 91302

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7012 3460 0001 6366 0359

TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED HERITAGE VALLEY PARKS SPECIFIC PLAN POLE CREEK SEDIMENT BASIN AND FLOOD CHANNEL IMPROVEMENTS PROJECT (Corps' Project No. SPL-2016-237), POLE CREEK, CITY OF FILLMORE, VENTURA COUNTY (File No. 16-038)

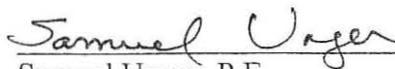
Dear Mr. Mellring:

Board staff has reviewed your request on behalf of Hearthstone Multi-Asset Entity C, L.P. (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on June 6, 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

June 20, 2016
Date

DISTRIBUTION LIST

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ATTACHMENT A

Project Information
File No. 16-038

1. Applicant: Hearthstone Multi-Asset Entity C, L.P.
24151 Ventura Boulevard
Calabasas, CA 91302

Phone: (805) 432-6238
2. Applicant's Agent: Anna Huber
R.A. Atmore & Sons, Inc
22977 Sexton Canyon Road
Ventura, CA 93003

Phone: (805) 642-2127
3. Project Name: Heritage Valley Parks Specific Plan- Pole Creek Sediment Basin
and Flood Channel Improvements
4. Project Location: Fillmore, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
34.39896667	118.90397500
34.39708611	118.90483056
34.39452778	118.90296111
34.39248889	118.90306111
34.39900833	118.90333611
34.39705556	118.90252222
34.39464167	118.90199444
34.39237778	118.90243333

5. Type of Project: Housing development and flood control infrastructure construction
6. Project Purpose: The purpose of the proposed project is to complete the remaining project activities related to the Heritage Valley Park development project (HVP). The majority of the HVP project was authorized and constructed under a previous 401 Certification (File No. 04-089). That Certification identified all project-related impacts (including the currently proposed work) and a comprehensive Mitigation Plan. Mitigation has been implemented and is currently in the monitoring, maintenance, and reporting process. The majority of project activities and impacts associated with the development, have been completed.

However, there were some project components which were unable to be completed within the timeframe of the previous Certification.

ATTACHMENT A

Project Information

File No. 16-038

The installation of bank protection, and the construction of a bridge pier and velocity dissipation structure are still required to be constructed and will be included as activities authorized under this Certification.

7. Project Description:

The Heritage Valley Parks (HVP) project was originally authorized under 401 Certification No. 04-089, which is currently expired. The original Certification included a proposed housing development and bank stabilization along Santa Clara River and Pole Creek. The housing development and associated flood control infrastructure were developed to accommodate flood control needs. The HVP project is comprised of approximately 302 acres within the City of Fillmore. Land uses include: 1) the construction of up to 750 homes, more than a hundred of which have already been completed, along with other public facilities, including an elementary school; 2) the construction of a single bridge, which will cross Pole Creek; 3) the installation of new flood control facilities, including the construction of a debris basin within Pole Creek; 4) future maintenance of the flood control facilities, bridge crossings, the central low-flow channel of Pole Creek, etc.; 5) the construction of a buried soil-cement levee that spans the project site, mainly running parallel to the Santa Clara River along the southern project boundary; and 6) development of a walking/bicycling trail, located on the top of the levee adjacent to the Santa Clara River, preserved parks, and open spaces.

The current proposed activities include the installation of bank protection along the east side/bank of Pole Creek. Riprap will be placed within and along the already graded dimensions of Pole Creek starting from the debris basin vehicular ramp and terminating at the debris basin inlet. A rip-rap pad will also be installed within the debris basin to act as a velocity (energy) dissipater. This pad will be approximately 128 feet by 98 feet. This structure will be located within the floor of the debris basin.

Lastly, a single bridge pier will be placed within Pole Creek to accommodate a bridge for a road crossing. The pier itself will be approximately 12-14 feet long and 4-6 feet wide and will be located within the lower portion of Pole Creek. This middle pier will support a vehicular bridge crossing over Pole Creek with pedestrian access. The use of the existing and historical "Green Bridges" could be modified to be used as an architectural enhancement. This bridge will eventually connect Phase 1 of the housing development with Phase 2. These work areas contain little to no vegetation as they

ATTACHMENT A

Project Information File No. 16-038

have already been graded. The majority, if not all, of the work described above will be performed in the summer months when Pole Creek typically has no surface water within the channel. If any surface water is present, it will be routed through the debris basin bypass channel (designed for fish migration and located around the western perimeter of the basin). It is designed so that flows only enter the debris basin during a large storm event, when there is no capacity left in the bypass channel.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 13 & 25 (Permit No. SPL-2016-237)
9. Other Required Regulatory Approvals: California Department of Fish and Wildlife
Streambed Alteration Agreement 1600-2015-0273-R5
10. California Environmental Quality Act Compliance: The City of Fillmore approved the project's Program Environmental Impact Report (SCH No. 2002031079) in October 2002 and the Addendum to the EIR on October 5, 2004.
11. Receiving Water: Pole Creek (Hydrologic Unit Code: 180701020802)
12. Designated Beneficial Uses: MUN*, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, RARE, MIGR, WET
- *Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (unvegetated streambed): 0.42 permanent acres (172 linear feet)
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The HVP project was originally authorized under 401 Certification No. 04-089, which has expired. The project permanently impacted area of the Santa Clara River, along the southern portion of the project area, and Pole Creek, which bisects the project site. Pole Creek was completely altered and reconstructed to accommodate flood control needs and facilities.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- The majority, if not all, of the currently proposed work will be performed in the summer months when Pole Creek typically has no surface water within the channel. If any surface water is

ATTACHMENT A

Project Information File No. 16-038

present, it will be routed through the debris basin bypass channel (designed for fish migration and located around the western perimeter of the basin).

- Work will also not occur during precipitation events. If precipitation is forecast to occur, appropriate measures such as silt fencing and or straw wattles will be used to prevent offsite flow of sediment.

17. Proposed Compensatory Mitigation:

The Jurisdictional Habitat Mitigation Restoration and Monitoring Plan (JHMRMP) developed for the HVP project was prepared per the conditions and requirements of 401 Certification No. 04-089. The JHMRMP addresses all project impacts, including impacts related to the remaining proposed project activities. In general, the mitigation consists of several different on-site and off-site components and was initially implemented in 2006. Since that time, and through the present, the mitigation efforts have been evaluated and reported on an annual basis. The annual monitoring report for the 2015 monitoring year is currently being drafted. The active restoration aspect of the mitigation will continue to be monitored until the performance criteria are met, which is anticipated to occur by 2018. Regional Board staff have visited the site and the mitigation areas have been deemed as successful and in compliance at this time.

18. Required Compensatory Mitigation:

The Regional Board required compensatory mitigation as specified above for the Certification No. 04-089. Additional mitigation for this Certification is not required.

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. 16-038

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, the approved construction plan, 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. 16-038

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 Resources Control Board Water Quality Order Nos. 2011-0003-DWQ, for Aquatic Animal

ATTACHMENT B

Conditions of Certification File No. 16-038

Invasive Species Control; 2011-0004-DWQ, for Spray Applications; 2011-0002-DWQ, for Vector Control; and 2013-0002-DWQ, for Weed Control.

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 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. 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:

ATTACHMENT B

Conditions of Certification File No. 16-038

- 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 **all 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.
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 since the issuance of Certification No. 04-089) 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:
 - (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 a detailed schedule;

ATTACHMENT B

**Conditions of Certification
File No. 16-038**

- (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.
 - (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.

24. 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, 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)”

25. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **16-038**. Submittals shall be sent to the attention of the 401 Certification Unit.

ATTACHMENT B

Conditions of Certification File No. 16-038

26. 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.
27. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. R4-2010-0108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. 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.
28. 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.
29. 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.
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

ATTACHMENT B

Conditions of Certification File No. 16-038

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.

