

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr Sean Donahue
2374 Cameron Ave.
Covina, CA 91724

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7007 2560 0001 7889 6941

TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED FINAL REMEDIAL GRADING AT KUNTZ PROPERTY AND PORTION OF DONAHUE PROPERTY TO REMOVE UNCERTIFIED FILL PROJECT (Corps' Project No. SPL-2016-00217-GHL), WALNUT CREEK, CITY OF COVINA, LOS ANGELES (File No. 16-126)

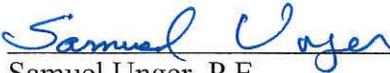
Dear Mr. Donahue:

Board staff has reviewed your request on behalf of Sean Donahue (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on December 5, 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 Dana Cole, Section 401 Program, at (213) 576-5733.



Samuel Unger, P.E.
Executive Officer

Dec. 20, 2016
Date

DISTRIBUTION LIST

Geoffrey Stokes
GeoKinetics
77 Bunsen
Irvine, CA 92618

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

Sarah Rains (via electronic copy)
California Department of Fish and Wildlife
Streambed Alteration Team
3883 Ruffin Rd Suite A
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Gerardo Hidalgo
U.S. Army Corps of Engineers
Regulatory Branch, Los Angeles District
915 Wilshire Blvd., Suite 1101
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Melissa Scianni (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. 16-126**

1. Applicant: Sean Donahue
2374 Cameron Avenue
Covina, CA 91724

Phone: (714) 642-7293
2. Applicant's Agent: Geoffrey Stokes
GeoKinetics
77 Bunsen
Irvine, CA 92618

Phone: (949) 502-5353 Fax: (949) 502-5354
3. Project Name: Final Remedial Grading at Kuntz and Donahue Properties
4. Project Location: 2376 Cameron Ave, City of Covina, Los Angeles County

| <u>Latitude</u> | <u>Longitude</u> |
|-----------------|------------------|
| 34.05843 | -117.86404 |
| 34.05841 | -117.86388 |
| 34.05832 | -117.86382 |
| 34.05831 | -117.86389 |
| 34.05837 | -117.86393 |
| 34.05841 | -117.86338 |
| 34.05832 | -117.86382 |
| 34.05831 | -117.86389 |
| 34.05837 | -117.86393 |
| 34.05843 | -117.86404 |

5. Type of Project: Fill removal and regrading
6. Project Purpose: This project (Project) will remove fill soil from the Kuntz property (2376 Cameron Avenue) and a portion of the Donahue property (2374 Cameron Avenue) in accordance with the October 14, 2015 plans and specifications by GeoKinetics. The work is intended to satisfy the LA Superior Court Final Judgment for case no. KC048793 dated July 26, 2013.

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7. Project Description: The Project will remove 215 cy of fill which was placed on the Kuntz property without authorization, and restore grade to pre-existing conditions.

The Applicant replaced an existing 18-inch culvert with a 36-inch culvert and placed fill soil in a streambed, without permits. The Judgment entered in “Donahue v. Kunz Superior Court of the State of California” filed on July 26, 2013 found that the fill soil and culvert encroached onto the neighboring property at 2376 Cameron Avenue, and the Judgment requires removal of those portions of the fill and culvert that encroaches on the Kuntz property to its original condition prior to fill placement.

The Project will remove approximately 215 cubic yards of fill and approximately 12 feet of the existing 36-inch diameter corrugated pipe. The bed, bank and channel of the stream on the Kuntz property will then be regraded and re-contoured to the original contours. Approximately 0.5 cy of non-grouted rip-rap will be placed immediately downstream of the culvert outlet as an energy dissipater.

Exposed ground within the fill removal area will be provided with native plant species hydroseed.

The contractor shall implement erosion control measures to prevent any future erosion and subsequent migration of fill onto the Kuntz property from the Donahue property.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 18 (Permit No. 2016-00217-GHL)

9. Other Required Regulatory Approvals: California Department of Fish and Wildlife
Streambed Alteration Agreement
1600-2016-0049-R5

Los Angeles County Department of Public Works – Road Division
Plan Check

10. California Environmental Quality Act Compliance: The Los Angeles Water Board has determined that the Project is exempt from review under CEQA pursuant to California Water Code of Regulations, title 14, section 15061. Specifically, the issuance of this Order and the activities described herein meet the exemption criteria under California Code of Regulations title 14,

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section(s) 15302, Replacement or Reconstruction. Additionally, the Los Angeles Water Board concludes that no exceptions to the CEQA exemption apply to the activities approved by this Order.

11. Receiving Water: Walnut Creek (Hydrologic Unit Code: 180701060402)
12. Designated Beneficial Uses: MUN*, GWR, REC-1, REC-2, WARM, WILD, WET
*Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (streambed): 0.001 temporary and 0.0005 permanent acres
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:
- During fill removal, the project area will be provided with a stabilized construction entrance consisting of metal shaker plates.
 - Gravel bags and silt fences will be placed around the perimeter of the work area.
 - Exposed ground within the fill soil removal area will be provided with native plant species hydroseed.
 - Fiber rolls will be placed and maintained along contours of equal elevation on sloping ground with a surface gradient steeper than 4:1 (horizontal to vertical) until the vegetation becomes established.

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- The “Erosion Control Plan” dated October 7, 2016 shall be implemented.

17. Proposed
Compensatory
Mitigation:

The Applicant has proposed to purchase 0.10 acres of preservation credits from the Soquel Mitigation Bank.

18. Required
Compensatory
Mitigation:

The Applicant shall purchase 0.10 acres of preservation credits from the Soquel Mitigation Bank as mitigation for temporary and permanent impacts.

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. 16-126

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.

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6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2011-0003-DWQ, for Aquatic Animal

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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, 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. 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.

17. All project 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.
18. 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 for approval. 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)

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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.

19. 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.
20. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporary loss of **0.001 acres** and the proposed permanent impacts to **0.0005 acres** waters of the United States by purchasing **0.10 acres** of preservation mitigation credits from the Soquel Mitigation Bank.

Copies of all agreements made between the Applicant and the mitigation bank regarding compensatory mitigation **shall be submitted to this Regional Board for approval prior to any project activities which take place within waters of the United States.**

21. The Applicant shall submit to this Regional Board a **Final Report** (Final Report) by **January 1st** of 2018. The Final Report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts. The Final Report 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 site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project areas;
 - (c) Copies of all permits revised as required in Additional Condition 1;

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- (d) Water quality monitoring results for each reach (as required) compiled in a spreadsheet format;
 - (e) A certified Statement of “no net loss” of wetlands associated with this project;
 - (f) Discussion of any monitoring activities and exotic plant control efforts; and
 - (g) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
22. 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.
23. 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)”

24. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **16-126**. Submittals shall be sent to the attention of the 401 Certification Unit.

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25. 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.
26. 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.
27. 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.
28. 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.
29. *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

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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.
30. 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.