



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Newton Wong  
California Department of Transportation  
100 S. Main St.  
Los Angeles, CA 90012

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
No. 7008 1140 0002 8671 9615

**TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED SEDIMENT REMOVAL AT LAS FLORES CREEK PROJECT (Corps' Project No. SPL-2016-00415-SJH), CITY OF MALIBU, LOS ANGELES COUNTY (File No. 15-170)**

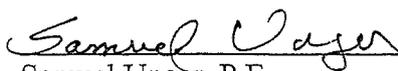
Dear Mr. Wong,

Board staff has reviewed your request on behalf of Caltrans (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on January 4, 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 2, 2016  
Date

## DISTRIBUTION LIST

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California Department of Fish and Wildlife  
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Regulatory Branch, Los Angeles District  
915 Wilshire Blvd., Suite 1101  
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WRT-2-4  
75 Hawthorne Street  
San Francisco, CA 94105

G. Mendel Stewart  
Johnathan Snyder  
U.S. Fish and Wildlife Service  
2177 Salk Ave. Carlsbad Ca, 92008

ATTACHMENT A

Project Information

File No. 15-170

1. Applicant: California Department of Transportation  
100 S Main Street  
Los Angeles, CA 90012  
  
Phone: (213) 897-2432 Fax: NA
2. Applicant's Agent: Newton Wong
3. Project Name: Sediment Removal at Las Flores Creek
4. Project Location: Las Flores at PCH PM 44.12, Malibu, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
34.037111	118.636710
34.037180	118.636727
34.037177	118.636629
34.037084	118.636596
34.036795	118.636489
34.036678	118.636454
34.036673	118.636560
34.036841	118.636614

5. Type of Project: Channel maintenance, sediment and debris removal
6. Project Purpose: Caltrans proposes to remove accumulated sediment and vegetation from the Las Flores Creek streambed located upstream, beneath and downstream of the Las Flores Creek Bridge. This clearing is critical so that Caltrans will be ready for El Nino winter storms that will cause runoff with high sediment loads that could clog the creek channels and cause flooding at Pacific Coast Highway (PCH).
7. Project Description: The proposed project is located along State Route 1, PCH, at the Las Flores Creek Bridge, between Las Flores Canyon Road and Rambla Pacifico, in the City of Malibu, Los Angeles County at post mile 44.12. The closest address is 21201 Pacific Coast Highway, Malibu CA 90265. The bridge is located a distance of approximately 200 feet from the Pacific Ocean.

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The creek allows storm water runoff to pass beneath State Route 1 to the ocean. An influx of sediment into the creek combined with dense riparian vegetation both upstream and downstream of the bridge has contributed to sediment deposition and a reduced hydraulic capacity at the bridge. This reduced capacity has increased the potential for flooding at this location. This project is needed to remove accumulated sediment, and to reduce the dense vegetation growing both upstream and downstream of the bridge to reduce sediment deposition and minimize the potential for flooding.

The project proposes to remove accumulated sediment and vegetation to restore the channel to the original design capacity. The vegetation in the streambed will be removed both upstream and downstream for a distance of approximately 50 feet from the respective edges of the State Route 1 Bridge. The actual bridge length is 76 feet, and has a width of 50 feet. The impact area of the project is 2,500 square feet above the bridge, 3,800 square feet underneath the bridge and 2,500 square feet on the other side of the bridge for a total of 8,800 square feet.

The project will require tracked equipment such as an excavator, a small bobcat-sized tracked loader, and dump trucks. At this site, a Bobcat will need to be lowered into the creek in order to push debris to a place where it can be removed by excavator then put in to a dump truck. There will be no stockpiling inside the channel.

Subsequent excavations will take place as necessary, and upon notification and approval from the Regional Board. Future sediment removal activities will need to be assessed in order to determine the flood potential.

Each individual excavation will be limited to a 30 day duration during non-winter months. If a significant rainfall occurs, such that the capacity needs to be immediately restored to prevent flooding, then work will be conducted during winter months. The excavated material (accumulated alluvial sediment deposits, gravel, rocks and silt, from the creek bed and vegetation) will be stored offsite at a legal point of disposal and will be used later for other projects. If water is present, water diversion will be performed. No work will be done in flowing water.

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8. Federal Agency/Permit: U.S. Army Corps of Engineers  
NWP No. 3 (Permit No. SPL-2016-00415-SJH)
9. Other Required Regulatory Approvals: California Department of Fish and Wildlife  
Streambed Alteration Agreement
10. California Environmental Quality Act Compliance: The proposed project is Categorically Exempt from CEQA pursuant to the CEQA Guidelines, Section 15301 Existing Facilities.
11. Receiving Water: Las Flores Creek (Hydrologic Unit Code: 180701040403)
12. Designated Beneficial Uses: MUN\*, REC-1, REC-2, WARM, WILD  
\*Conditional beneficial use
13. Impacted Waters of the United States: Vegetated streambed: 0.20 temporary 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:
- A qualified biologist will be present during operations to monitor construction activities;
  - All work shall cease if a listed species is spotted during work activities. Coordination with the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife will occur immediately if this situation arises;
  - All refueling activities and equipment storage areas shall be outside the banks of the creek;
  - Any clearing or grubbing of vegetation will be done outside of

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the March 1st to September 1st nesting bird season. This measure is necessary to avoid affects to nesting birds, which are protected under the Federal Migratory Bird Treaty Act and California Department of Fish and Game Codes. If clearing and grubbing of vegetation cannot be avoided during March 1st to September 1st season, the Division of Environmental Planning shall be notified two weeks prior to the planned start of work;

- All appropriate Caltrans BMPs will be utilized to prevent sediment and debris from entering the creek during construction;
- All refueling activities and equipment storage areas shall be outside the banks of the creek;
- Equipment storage areas shall be placed outside of jurisdictional areas;
- Vehicles and equipment within the project will be maintained and free of any exterior grease, oil, fuel and petroleum residues;
- Non-active equipment will not be placed within jurisdictional areas unless allowed by state and federal regulation;
- All sediment removed shall be disposed off-site to a legal point of disposal;
- A stabilized construction access will be used. A stabilized construction access is definite by a point of entrance/exit to a construction site that is stabilized to reduce the tracking of mud and dirt into public roads by construction vehicles;
- 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;
- Vehicle Equipment Cleaning procedures and practices will be used to minimize or eliminate the discharge of pollutants from vehicle and equipment cleaning operations to storm drain system or to watercourses;

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- Vehicle Equipment Fueling procedures and practices will be used to minimize or eliminate the discharge of fuel spills and leaks into storm drain systems or to water courses. 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 for vehicles and equipment shall be located outside of waters of the State;
- Vehicle Equipment Maintenance procedures and practices will be used to eliminate the discharge of pollutants to the storm drain systems or to watercourses from vehicle and equipment maintenance procedures.

17. Proposed  
Compensatory  
Mitigation:

The Applicant has not proposed any compensatory mitigation due to the temporary nature of impacts associated with the project.

18. Required  
Compensatory  
Mitigation:

Since the project impacts are temporary in nature, the Regional Board will not require any additional compensatory mitigation.

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

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#### STANDARD CONDITIONS

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

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

#### ADDITIONAL CONDITIONS

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

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit 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 maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

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

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Resources Control Board Water Quality Order Nos. 2011-0003-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.

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 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/construction/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.
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,

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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.

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 **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.
21. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** (Annual Reports) by **January 1<sup>st</sup>** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification has been achieved and documented. The Annual Reports shall describe in detail all of the project activities performed during the previous year and all restoration and mitigation efforts. 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;

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**Conditions of Certification  
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- (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.
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)

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\_\_\_\_\_ (Title)”

24. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **15-170**. Submittals shall be sent to the attention of the 401 Certification Unit.
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 the Department of Transportation (Caltrans) under NPDES No. CAS000003 and Waste Discharge Requirements Order No. 2012-0011 - DWQ. 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

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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.
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.