Mr. Peter Champion
California Department of Transportation
100 S. Main Street
Los Angeles, CA 90012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7007 2560 0001 7889 6743

WATER QUALITY CERTIFICATION FOR PROPOSED VEN-33 SOIL NAIL WALL PROJECT (Corps' Project No. 2012-000348-TS), NORTH FORK MATILIJA CREEK, OJAI, VENTURA COUNTY (File No. 12-032)

Dear Mr. Champion:

Board staff has reviewed your request on behalf of California Department of Transportation (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on April 19, 2013.

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

Samuel Unger
Samuel Unger, P.E.
Executive Officer

May 7, 2013
Date

DISTRIBUTION LIST

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ATTACHMENT A

Project Information
File No. 12-032

1. Applicant:

California Department of Transportation
100 S. Main Street
Los Angeles, CA 90012

Phone: (213) 897-8492

2. Applicant's Agent:

Mr. Peter Champion
California Department of Transportation
100 S. Main Street
Los Angeles, CA 90012

Phone: (213) 897-0702

3. Project Name:

VEN-33 Soil Nail Wall Project

4. Project Location:

Ojai, Ventura County

Latitude	Longitude
34.4870	119.3047
34.4879	119.3046
34.4875	119.3053
34.4876	119.3052
34.4885	119.3055
34.4888	119.3055
34.4888	119.3054
34.4882	119.3052

5. Type of Project:

Soil Nail Wall Construction

6. Project Purpose:

The purpose of the project is to alleviate undermining and possible failure of the existing grouted rock slope protection along State Route 33 (SR-33) at Post Mile 15.7-15.8. Currently, segments of the slope below the road have been scoured and pose a safety hazard along SR-33.

7. Project Description:

The proposed project is located in Ventura County on State Route 33 at Post mile 15.7 to 15.8. Caltrans proposes to remove, in stages, existing grouted rock slope protection and build an approximately 500 foot long soil-nail wall in its place. An excavator with a breaker attachment will be used to break up the existing grouted rock slope protection (RSP) from the roadway, creating a bench that equipment

can be lowered into, in order to begin construction of the wall.

The wall will then be constructed from the top down until reaching bed rock, and will consist of soil nails (steel bars) drilled horizontally into the ground approximately five feet apart and then grouted into place. A wall face will then be constructed with steel mesh and concrete. The wall will be tied into the existing RSP on each end by 1:1 sloped grouted 2-4 ton RSP that will prevent stream flows from flanking the wall. The proposed wall will range in height from 20 to 30 feet tall dependent upon the depth of bedrock and height of existing roadway.

Because the proposed action will replace the existing RSP with a vertical wall, the stream channel is expected to have a widened configuration throughout much of the action area, relative to existing conditions, following completion. The widened streambed will be restored to a more natural condition that matches upstream and downstream habitat in North Fork Matilija Creek.

Natural material will be placed in the stream channel to create the 10 boulder-step structures and streambank sections between the structures. The step structures, composed of 4-ton to 6-ton boulders will be installed along the length of the soil-nail wall and tie into the existing natural step structures within the reach. Boulders of 4-tons or greater will not be removed, but incorporated into the design with oversight by the on-site engineer. Boulder-step structures will be installed at specific elevations to ensure stability, and individual boulders will be cabled allowing for natural settling. To prevent water seepage through the structures, void filler that consists of approximately 30 percent clay will be used to serve as a semipermeable layer until fine-sediment deposits seal the boulder-step structures.

Streambank sections between the boulder step structures will be compacted to 85 percent and planted with native vegetation. All material used to fill voids and backfill excavated portions of the stream channel will be compacted and sealed. Work within the stream channel will occur above the 2-year flood level and boulders of 4 tons or greater will not be removed to minimize disturbance of the stream channel.

Creek flows will be restored through the main channel after construction is complete Short-term increases in turbidity are anticipated approximately 350-feet downstream of the end of the soil nail wall during the re-watering of the stream channel and the initial rainstorms affecting areas of exposed soil within the work area.

Two types of monitoring are proposed to evaluate the effects of the constructed project and determine the need for adaptive changes to ensure the overall project objectives are met.

1. Sediment accumulation, water depth in pool, pool width and length, structural damage, number of steelhead, and photo-documentation are the monitoring parameters that will be measured to ascertain the impacts to steelhead habitat and the functionality of the step-pool system within the action area.

2. Implementation monitoring will provide baseline information before and immediately after project completion in order to determine if the project was constructed correctly and if mitigation measures were implemented. Photo-documentation of structure removal, structure installation, stream diversion, and erosion control measures will be used as a tool for evaluating implementation. Effectiveness monitoring will provide an evaluation of whether the completed project is providing an increase of attraction flows during migration periods and accessibility for fish. Field evaluation of the channel stability and the quality of riparian habitat will occur through photo-documentation and channel measurements.

Photodocumentation of stream-flow during periods of migration, area of accessible habitat, unforeseen adverse effects, and structural integrity will also be used to evaluate effectiveness of the project. The frequency of monitoring may vary over time and may be scheduled relative to specific flow events.

If there is catastrophic failure of one of the boulder step structures that results in a change in the step-pool geomorphology or if more than 30 percent of pools are filled with sediment reducing juvenile steelhead rearing habitat, appropriate actions will be taken in the project area.

Currently, there is a limited amount of riparian vegetation on the

	western bank due to the existing undermined RSP. With the installation of the proposed project, the streambank is expected to have an improved stream profile and native riparian vegetation, and provide an overall improvement for fish. A water diversion system will be put into place prior to the initiation of construction activities; this will include a gravel bag coffer dam constructed across the channel directly downstream of the SR-33 Bridge No. 52-44. Then, a 36 inch diameter corrugated HDPE pipe will be placed along the toe of the existing undermined RSP for over 500 feet. In areas with steep drops, the pipe will be placed on gravel bag berms for support. The project will cover 0.5 acres, or 600 linear feet. Permanent impacts to vegetated streambed will total 0.23 acres, or 500 linear feet. Temporary impacts to vegetated streambed will total 0.12 acres, or 600 linear feet. The project is anticipated to begin in June 2013, last for approximately 100 working days, and end in November 2013.
8. Federal Agency/Permit:	U.S. Army Corps of Engineers NWP Nos. 14, 33 (Permit No. 2012-000348-TS)
9. Other Required Regulatory Approvals:	California Department of Fish and Game 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:	North Fork Matilija Creek (Hydrologic Unit No. 403.20)
12. Designated Beneficial Uses:	MUN, IND, PROC, AGR, GWR, REC-1, REC-2, WARM, COLD, WILD, RARE, MIGR, SPWN, WET
13. Impacted Waters of the United States:	Non-wetland waters (streambed): 0.12 temporary and 0.23 permanent acres (600 linear feet)
14. Dredge Volume:	None
15. Related Projects Implemented/to be	In 2008, the VEN-33 Wheeler Springs Emergency Wall Repair project by Caltrans involved rebuilding an approximately 150 foot

Implemented by the Applicant:

long concrete retaining wall and repairing approximately 250 feet of undermined concrete retaining wall with shotcrete at North Fork Matilija Creek. The project involved a 500 foot long water diversion.

Caltrans has participated in the planning process for the removal of Matilija Dam.

16. Avoidance/ Minimization Activities:

The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:

- All applicable Best Management Practices for water quality shall be implemented to minimize affects to downstream areas.

- Caltrans will conduct pre-construction surveys done by a qualified botanist with experience in locating and identifying rare plants, prior to initiation of work. If any rare plants are located within the project footprint they will be re-located to a safe location as deemed by the botanist and in coordination with California Department of Fish and Game.

- Caltrans will conduct pre-construction surveys following the appropriate protocols for locating and identifying southwestern willow flycatcher and least Bell's vireo done by a qualified ornithologist, approved by USFWS prior to initiation of work. If any southwestern willow flycatchers or least Bell's vireo are found within 500 feet of the construction, no work shall begin until the nesting has been completed and the birds have left the area or Caltrans has completed formal consultation.

- Caltrans will conduct weekly surveys of the adjacent riparian zone surrounding the project site for the duration of construction activities within the creek. These surveys will be done by a qualified ornithologist with experience in locating and identifying least Bell's vireo and southwestern willow flycatcher. Should either of these species be located, work shall be halted and USFWS will be notified. Work will not resume until such time as it is determined that the birds have left the area or Caltrans has completed formal consultation.

- Exclusionary nets will be setup to exclude fish from the project site prior to installation of the water diversion. Any fish found

within the project site will be moved upstream of the project site and released. All exclusionary and removal activities will be conducted by NOAA and USFWS approved ichthyologist with experience in identifying and handling tidewater goby and southern steelhead trout.

- A Final Project Report will be submitted to USFWS, NOAA, CDFG, ACOE, and RWQCB once the project and all monitoring have been completed.

- A Stream Restoration Plan will be developed by Caltrans in-conjunction with a qualified hydraulics engineer to ensure that the morphology of the stream will not be affected in such a way as to prevent fish migration and passage through the project area.

- Ground water seepage within the project area will be containerized and taken offsite to prevent sediments from entering the lagoon downstream

- Caltrans will conduct pre-construction surveys done by a qualified herpetologist with experience in locating and identifying CRLF and approved by USFWS, prior to initiation of work. If any CRLF are located within the project footprint, they will be re-located to a safe location as deemed by the herpetologist in coordination with USFWS.

- Caltrans will have a biological monitor with experience in locating and identifying CRLF on-site at all times throughout the duration of construction activities in the riparian zone. If any CRLF are observed during construction work, all work will halt until a permitted herpetologist can be present to help relocate any individuals found to a safe location.

- Caltrans will incorporate all applicable Avoidance and Minimization Measures as identified in the Programmatic Biological Opinion issued by U.S. Fish and Wildlife Service to the Federal Highways Administration (1-8-02-F-68).

- Pre-construction surveys done by an NOAA approved, qualified ichthyologist with experience in locating and identifying Southern steelhead trout will be done prior to initiation of work. If any Southern steelhead trout are located, work will not

commence until coordination with NOAA has occurred.

- Caltrans will restore the creek to pre-construction conditions by replacing any boulders moved back to their original locations and blending the widened portion of the creek into the existing creek bed. This includes placing fines, gravel, rock, and boulders within the widened portion of the creek to simulate a natural stream environment as well as planting removed riparian vegetation to provide shade for the creek.

- A Water Diversion Plan shall be developed and implemented in consultation with NOAA, CDFG, USFWS, ACOE, and RWQCB to divert water through the project site to reduce turbidity and prevent sediments from entering the lagoon downstream of the project site.

- All work shall be conducted outside of the upstream migration season for winter-run southern steelhead trout. Southern steelhead trout generally begin migrating upstream during November and continue migrating through winter generally till the end of March. Work shall be conducted from June 1st, through November 1st.

17. Proposed Compensatory Mitigation:

In additin to the restoration of the creek as described in the project description, a revegetation plan, that includes native trees, shrubs and grasses, will be implemented following construction of the soil-nail wall and boulder-step structures. Revegetation will include planting white alders, Western sycamores, and arroyo willows at ratios of 4:1, 5:1, and 14:1, respectively. Rows of mulefat will be planted at the top and toe of the rock-weir structures. Larger trees to be planted include 27 24-inch box Western sycamore and 6 48-inch box Western sycamore trees will also be planted to provide immediate shade and cover.

18. Required Compensatory Mitigation:

The Regional Board will require compensatory mitigation for all permanent impacts associated with the proposed project (0.23 acres) at a ratio of 2:1 for a total of 0.46 acres. Mitigation shall consist of restoration within the streambed and streambanks in the project vicinity.

ATTACHMENT A

Project Information
File No. 12-032

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. 12-032

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 Game's (CDFG) 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 CDFG'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.

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. Please contact the Land Disposal Unit at the Regional Board for further information regarding the disposal of solid wastes.

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. 2011-0002-DWQ and 2004-0009-DWQ.

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. A Storm Response Plan will be developed by Caltrans in coordination with the contractor at initiation of project activities. This Plan shall be submitted to the Regional Board for approval within 30 days of project initiation. The plan shall include measures which will be in place to protect the project area from any water quality impacts during the days before a storm, which may compromise any diversion activities or impact project areas with flows.

16. The Regional Board will require a long-term monitoring plan to assess any geomorphological changes either upstream or downstream or through the project areas, following each storm season while the project is being completed and for a period of 5 years after project completion. The Plan shall be submitted for Regional Board approval within 6 months of project initiation.

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 project/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:

- 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 the proposed **0.12 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. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.

22. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.23 acres** of vegetation within waters of the United States/Federal jurisdictional wetlands by creating or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum **2:1** area replacement ratio (**0.46 acres**). The mitigation site shall be located within the project vicinity 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.

23. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until mitigation success has been achieved and documented. The Annual Reports shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. 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 of whether or not work has begun on the Project;

(d) Copies of all permits revised as required in Additional Condition 1;

(e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret 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.

24. 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.

25. 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)"

26. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **12-032**. Submittals shall be sent to the attention of the 401 Certification Unit.

27. 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.

28. 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 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. 2009-009-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.

29. 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.

30. 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.

31. *Enforcement:*

    (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.

    (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

    (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

32. This Certification shall expire **five (5) years** from date of this Certification.

33. If the Applicant intends to continue work in waters of the state or U.S. after expiration of the Certification, the Certification does not renew; therefore:

    (a) A new Clean Water Act 401 Water Quality Certification must be reviewed, signed, and authorized **before** work can continue; which requires:

    (b) That a complete application as well as current application fees must be submitted **at least 90 days prior to the expiration** of the Certification.