



EDMUND G. BROWN, JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Tully Clifford
Ventura County Watershed Protection District
800 South Victoria Avenue
Ventura, CA 93009-1610

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7008 1140 0002 8671 9530

TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED J STREET DRAIN PROJECT (Corps' Project No. 2012-00598-AJS), TŠUMAŠ CREEK TO ORMOND BEACH WETLANDS, CITY OF OXNARD, VENTURA COUNTY (File No. 15-108)

Dear Mr. Clifford:

Board staff has reviewed your request on behalf of Ventura County Watershed Protection District (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on October 26, 2015.

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

Samuel Unger
Samuel Unger, P.E.
Executive Officer

Dec. 17, 2015
Date

DISTRIBUTION LIST

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Attn: Jason Weiner (via electronic copy)
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ATTACHMENT A

**Project Information
File No. 15-108**

1. Applicant: Ventura County Watershed Protection District
800 South Victoria Avenue
Ventura, CA 93009-1610
Phone: (805) 654-2040 Fax: (805) 654-3350
2. Applicant's Agent: Angela Bonfiglio
Phone: (805) 477-7175 Fax: (805) 654-3350
3. Project Name: J Street Drain Project
4. Project Location: J Street Drain, Oxnard and Port Hueneme, Ventura County

<u>Latitude</u>	<u>Longitude</u>
34.14719	-119.18619
34.14719	-119.18593
34.14939	-119.18624
34.15154	-119.18622
34.15480	-119.18618
34.15479	-119.18581
34.15113	-119.18584
34.14887	-119.18586

5. Type of Project: Drainage channel improvements to increase flood capacity
6. Project Purpose: The purpose of the proposed project is to provide flood protection to the one percent annual chance (100-year) flood level for the area surrounding Tšumaš Creek, according to the National Flood Insurance Program (NFIP) standard. The need for such protection is evidenced by the studies that show the existing drain has the capacity to handle only a ten-year flood event without overtopping the channel. Without the increase in flood protection the local area would continue to be susceptible to flooding, as well as federal requirements to purchase flood insurance for properties within the 100-year flood zone after the Federal Emergency Management Agency (FEMA) remaps the project area in the future.

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7. Project Description:

The Regional Board previously authorized enlargement of Tšumaš Creek from existing trapezoidal to open rectangular concrete channel (File No. 12-087). The Ventura County Watershed Protection District (District) seeks to revise the project description based on public demand and Ventura County Bureau of Sanitation support to bury the channel underground so the City of Oxnard can create an overlying linear park/multi-use trail for a disadvantaged community. In February 2014, the California Department of Water Resources (DWR) awarded the District \$4,419,000 of Proposition 84 Round 2 Integrated Regional Water Management (IRWM) grant funding to offset the roughly doubled cost of constructing a three-cell buried box rather than the originally designed open rectangular channel. On January 13, 2015, the Ventura County BOS approved the Addendum to the J Street Drain EIR addressing the project modification.

Certification File No. 12-087 authorized reconstruction of the entire 2.2-mile length of channel. However, this application focuses on reconstruction of Reach 2 only, a length of 2,623 linear feet (approximately 0.5 mile). One or two applications for Reaches 3 and 4 will be submitted in the future. Reach 1 construction ended in January 2015.

Reach 2 work will include construction of a 45-foot-wide by 7-foot-tall reinforced concrete box culvert. The proposed channel will be up to four feet deeper and up to 14 feet wider than the existing trapezoidal concrete channel and covered.

Temporary wells will be installed for groundwater removal so that work can occur under dry conditions. The Regional Board issued Order No. R4-2013-0095 and Reporting Program No. CI-9921 to the District in 2013 for discharge of groundwater to surface water during Reach 1 construction; this permit remains active. The existing trapezoidal concrete channel materials will be demolished and transported to a recycling facility. Soil excavated to the new culvert's subgrade will be set aside and used for fill above the box to support the future linear park/multi-use trail landscaping. A 12 inch thick layer of sand will be placed below the box invert for subgrade and wall drain boards will be placed along the side of the box to minimize hydrostatic forces.

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No dredged material will be discharged to Waters of the U.S./State. Through widening and deepening the existing channel, the project will remove approximately 31,000 cubic yards (CY) of soil and 2,000 CY of existing concrete trapezoidal channel. This would be replaced with 15,000 CY of reinforced concrete and 6,000 CY of sand subgrade, only a portion of which will be placed within the boundaries of existing Waters of the U.S./State. Existing jurisdiction will be widened up to 14 feet, but will be covered.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
Permit No. 2012-00598-AJS
- US Fish and Wildlife Services
Endangered Species Act Section 7 Permit
9. Other Required Regulatory Approvals: California Department of Fish and Wildlife
Streambed Alteration Agreement (No. 1600-2012-049-R5)
10. California Environmental Quality Act Compliance: The Ventura County Watershed Protection District approved the project's Final Environmental Impact Report Addendum (SCH No. 2008041057) on January 13, 2015.
11. Receiving Water: Ormond Beach Wetlands (Hydrologic Unit Code: 180701030202)
12. Designated Beneficial Uses: REC-1, REC-2, EST, WILD, RARE, WET
13. Impacted Waters of the United States: Non-wetland waters (unvegetated streambed): 1.87 permanent acres, 2,623 linear feet
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The District finished J Street Drain (Tšumaš Creek) Reach 1 reconstruction in January 2015. The channel was enlarged, expanding the original extent of Waters of the U.S./State. Nearly 14,000 endangered tidewater gobies, as well as other native fish, were relocated to the Ormond Lagoon during construction.

Reaches 3 and 4 will be reconstructed under separate certification in the future.

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16. Avoidance/ Minimization Activities:

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

Stormwater Pollution Prevention Plan

To avoid and/or minimize impacts to waters of the U.S. the project would implement construction and post-construction BMPs as identified in the SWPPP proposed for the project and in the BMPs identified by the VCWPD. A surface water diversion will be installed in accordance with the District's Water Diversion Guide.

The District will submit a completed NOI and obtain a waste discharge identification number to obtain coverage under the NPDES General Permit #CAS004002 for Discharges Associated with Construction Activity issued by the SWRCB. The contractor for the project will submit to the County a Stormwater Pollution Prevention Plan (SWPPP) and monitoring program consistent with SWRCB rules for the construction phase of the project prior to initiating construction.

The SWPPP shall contain the following specific mitigation measures designed to reduce or eliminate construction site runoff pollution:

- Construction Site Planning BMPs, including but not limited to:
 - The amount of cuts and fills shall be minimized; and
 - Temporary and permanent roads and driveways shall be aligned along slope contours. Grading operations shall be phased to reduce the extent of disturbed areas and length of exposure.
- BMPs to minimize soil movement include but are not limited to:
 - Soil stockpiles shall be contained;
 - Stabilized access roads and entrances shall be constructed in the initial phase of construction;
 - Tire wash stations, gravel beds, and/or rumble plates shall be installed at site entrance and exit points to prevent sediment from being tracked onto adjacent roadways;
 - Sediments and construction materials shall be dry-swept from finished streets the same day they are deposited; and
 - Site runoff control structures, such as earth berms, drainage swales, and ditches that convey surface runoff during construction into temporary or permanent sediment detention

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basins shall be installed and made operational in the initial phase of construction, as necessary.

- BMPs to capture sediment include but are not limited to:
 - Storm drain inlets shall be protected from sediment-laden runoff with inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, excavated inlet sediment traps, sand bag barriers, and/or other devices; and
 - Sediment shall be removed from dewatering discharge with portable settling and filtration methods, such as Baker tanks or other devices.

- **Good Housekeeping BMPs include but are not limited to the following requirements:**
 - All storm drains, drainage patterns, and creeks located near the construction site prior to construction shall be identified to ensure that all subcontractors know their location to prevent pollutants from entering them;
 - Washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site; wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands; areas designated for washing functions shall be at least 100 feet from any storm drain, waterbody or sensitive biological resources; the location(s) of the washout area(s) shall be clearly noted at the construction site with signs; the applicant shall designate a washout area. The wash-out areas shall be shown on the construction and/or grading and building plans and shall be in place and maintained throughout construction;
 - All leaks, spills, and drips shall be immediately cleaned up and disposed of properly;
 - Vehicles and heavy equipment that are leaking fuel, oil, hydraulic fluid or other pollutants shall be immediately contained and either repaired immediately or removed from the site;
 - One or more emergency spill containment kits shall be placed onsite in easily visible locations. Personnel will be trained in proper use and disposal methods;
 - Vehicles and heavy equipment shall be refueled and serviced in one designated site located at least 500 feet from the drain;
 - Temporary storage of construction equipment shall be limited

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to an area approved by the City of Oxnard, and shall be located at least 100 feet from any waterbodies;

- Dry clean-up methods shall be used whenever possible;
- Exposed temporary stockpiles of soil and other erosive materials shall be covered during the rainy season;
- Lidded trash cans shall be placed liberally around the site and properly maintained;
- All subcontractors and laborers shall be educated about proper site maintenance and stormwater pollution control measures through periodic "tailgate" meetings;
- Roadwork or pavement construction, concrete, asphalt, and seal coat shall be applied during dry weather only; and
- Storm drains and manholes within construction area shall be covered when paving or applying seal coat, slurry, fog seal, etc.

17. Proposed Compensatory Mitigation:

The Applicant has not proposed any compensatory mitigation due to the location of the project within a concrete lined channel.

The project activities are to replace the failing concrete channel which is devoid of vegetation. The existing concrete channel will be replaced with an enlarged concrete channel which will be covered. Covering this section of a Water of the United States will not change its designation as a Water of the United States but will reduce its habitat value.

18. Required Compensatory Mitigation:

Since the project impacts are within a concrete-lined channel, the Regional Board will not require any compensatory mitigation. In addition, the part of the project in reach 1 expanded habitat for the protected species tidewater goby and California least terns.

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. 15-108

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. 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.

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14. 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.
15. 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.

16. 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.
17. 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.

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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.

18. 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.
19. The Applicant shall submit to this Regional Board **Final Monitoring Report** (Final Report) by **January 1st** of the year following project completion. The Final Report shall describe in detail all of the project/construction activities performed during the previous year and all restoration efforts. The Final Report shall, at a minimum, 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) The overall status of 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 a spreadsheet format;
 - (f) A certified Statement of "no net loss" of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
20. All applications, reports, or information submitted to the Regional Board shall be signed:

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- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
21. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

"I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)"

- 22. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **15-108**. Submittals shall be sent to the attention of the 401 Certification Unit.
- 23. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
- 24. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to 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

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stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.

25. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
26. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
27. *Enforcement:*
 - (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.

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28. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application at least 90 days prior to termination of this Certification if renewal is requested.