



California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Arnold Schwarzenegger
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Julie Van Wagner
Environmental Management Group, Bureau of Engineering
City of Los Angeles Department of Public Works
1149 South Broadway, Suite 600
Los Angeles, CA 90015

WATER QUALITY CERTIFICATION FOR PROPOSED VERMONT AVENUE SOUTH OF PACIFIC COAST HIGHWAY (W.O. E600767) PROJECT (Corps' Project No. 2006-00867-MDC), HARBOR LAKE, CITY OF LOS ANGELES, LOS ANGELES (File No. 06-028)

Dear Ms. Dugas:

Regional Board staff has reviewed your request on behalf of the City of Los Angeles (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete August 15, 2007.

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.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-5733.

[Original Digned by] _____
Tracy J. Egoscue
Executive Officer

November 13, 2007
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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Project Information File No. 06-028

1. Applicant: Julie Van Wagner
Environmental Management Group, Bureau of Engineering
City of Los Angeles Department of Public Works
1149 South Broadway, Suite 600
Los Angeles, CA 90015

Phone: (213) 485-5754 Fax: (213) 847-0656
2. Applicant's Agent: None
3. Project Name: Vermont Avenue South of Pacific Coast Highway (W.O. E6000767)
4. Project Location: Los Angeles (Harbor City Community) , Los Angeles County

Longitude

Latitude

118° 17' 30" W
118° 17' 32" W
118° 17' 48" W

33° 47' 27" N
33° 47' 21" N
33° 47' 11" N

5. Type of Project: Road construction and widening
6. Project Purpose: During storm events, Vermont Avenue frequently floods and becomes impassable. The water forms a large pool in a topographical low spot, just along Vermont Avenue adjacent to Ken Malloy Harbor Regional Park (Park) and Machado Lake (also known as Harbor Lake) south of Pacific Coast Highway. The main purpose of this proposed project (project) is to eliminate the flooding problem.

A secondary goal of the project will be to eliminate the sidewalk jut-outs (where the sidewalk width is wider and the street is narrower) by increasing portions of the western side of Vermont Avenue between Pacific Coast Highway and Normandie Avenue.

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7. Project Description:

The project will raise the elevation of a portion of Vermont Avenue south of Pacific Coast Highway and will construct a storm drain which will convey the water into Machado Lake in order to alleviate flooding.

Currently, a single storm drain, containing a pollution removal system, conveys storm water to Machado Lake. The project will establish a second storm drain system, within the Ken Malloy Harbor Regional Park, which will also include a pollution removal system. The Standard Urban Stormwater Mitigation Plan prepared for this project, determined hydrologic flow to be 5.7 cubic feet per second. Upon assessment of the site conditions and the types of pollutants expected to be generated in the area of the project, the City of Los Angeles will install a Vortech® model 4000, or equivalent, to treat this flow. The device is designed to remove or reduce trash, hydrocarbons, sediments, and heavy metals associated with the existing commercial development that drains into the storm drain system along Vermont Avenue.

Installation of a new storm drain will involve constructing a temporary structure in the outfall area consisting of pilings and metal plates along with a dewatering system. Once the storm drain is installed, removal of the temporary structure will occur.

The outfall will be approximately 75 feet from Machado Lake within the Park. A swale will connect the storm drain outfall to the lake. The swale will contain several large boulders and riprap to dissipate storm water velocity. Additional water treatment will occur by flowing through the vegetated swale, approximately 75 feet in length, prior to entering the lake. Riprap will be grouted for approximately 15 feet from the outfall, with loose riprap installed from that point to the water's edge. The swale will be vegetated with a variety of plant species designed to further prevent erosion and filter storm water discharged at the outfall.

The City is also proposing to widen the western half of Vermont Avenue from Pacific Coast Highway to Normandie Avenue. The western half of Vermont Avenue will be widened to a half-roadway width of 40 feet with a 12-foot-wide sidewalk. The road work will be within the existing City of Los Angeles right-of-way, with the storm water drain construction being done within the property owned and operated by the City of Los Angeles Department of

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Recreation and Parks.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 07 (Permit No. 2006-00867-MDC)
9. Other Required Regulatory Approvals: California Department of Fish and Game
Streambed Alteration Agreement
10. California Environmental Quality Act Compliance: The City Council of the City of Los Angeles approved the project's Mitigated Negative Declaration on April 18, 2006, and filed the Determination with the County Clerk on October 10, 2006.
11. Receiving Water: Bixby Slough and Harbor Lake (Hydrologic Unit No. 405.12)
12. Designated Beneficial Uses: MUN*, REC-1, REC-2, WARM, WILD, RARE, WET
*Conditional beneficial use
13. Impacted Waters of the United States: Lake/Reservoir: 0.003 temporary acres (60 linear feet)
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has identified the following related projects carried out in the last 5 years or planned for implementation in the next 5 years:

Wilmington Drain Multiuse Project

This project will enhance the Wilmington Drain via a multi-step approach including storm water screening and treatment, bank stabilization, and native vegetation restoration. Non-native landscaping will be removed and replaced with appropriate native species. Storm water quality will be improved using netting systems

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that will trap trash and debris and utilize natural materials and landscaping features. Channel contouring and alignment will include gabion reconstruction, and the removal of the existing and failing rip-rap-filled gabions replaced with rounded stone-filled gabion baskets.

Harbor Lake Ecosystem Rehabilitation Project

This project includes in-lake rehabilitation techniques, riparian system enhancements, and treatment best management practices in Machado Lake and associated riparian areas, the freshwater marsh, and strategic parkland areas. Proposed project elements include but may not be limited to the:

- Removal of bottom sediment from Harbor Lake
- In-lake construction of sediment settling basins
- Removal of exotic vegetation and enhancement of native vegetation
- Treatment of precipitation runoff
- Installation of trash capture devices, and
- Installation of a lake aeration system.

16. Avoidance/ Minimization Activities:

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

- The contractor shall retain eroded sediments and other pollutants on-site and not allow transportation from the site by sheet flow, swales, area drains, natural drainage, or wind.
- The contractor shall control slope and channel erosion by implementing grading during non-rainy seasons, planting and maintaining vegetation on slopes, and covering erosion-susceptible slopes.
- The contractor shall protect stockpiles of earth and other construction-related materials from being transported from the site by wind or water.
- The contractor shall properly store and handle fuels, oils, solvents, and other toxic materials so that soil or surface waters: are not contaminated,

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- The contractor shall protect all approved toxic storage containers from weather, clean spills immediately, and properly dispose of cleanup materials. Spills shall not be washed into live streams, channels, drains, or other water conveyance facilities.
- The contractor shall not wash waste concrete into the public way or any drainage system. Concrete wastes will be retained on-site until they can be recycled or taken of to a legal point of disposal.
- The contractor shall deposit trash and construction-related solid wastes in covered receptacles to prevent wetting by rainwater or dispersal by wind.
- The contractor shall not allow sediments and other materials to be tracked from the site by vehicle traffic. Construction entrance roadways will be stabilized to inhibit sediments from being deposited onto public ways. Any accidental deposition will be immediately cleaned up.
- The contractor shall contain non-stormwater runoff from equipment or vehicle washing and any other activity at the work site.
- At completion of the work, the worksite shall be cleared of debris and restored to a condition equal to or better than prior to construction.
- A Wet Weather Erosion Control Plan shall be prepared, in advance of construction, when construction activity with grading is likely to occur during the rainy season (October 1 through April 15).

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17. Proposed Compensatory Mitigation: The Applicant has proposed to restore 0.003 acres of wetland habitat onsite.
18. Required Compensatory Mitigation: The Applicant will be required to restore the 0.003 acres of wetland habitat and create or enhance an additional 0.003 acres as mitigation for the temporary impacts to waters of the state... 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 File No. 06-028

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)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.

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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 so they are 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 and/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 Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
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.

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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. 2004-0008-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. OR The Applicant shall not conduct any maintenance activities within waters of the State during a rainfall event, or at any period when site conditions would lead to excessive erosion. If any maintenance activities are to be held within five (5) days of a predicted rainfall event, the Applicant shall stage materials necessary to prevent water degradation on site, and shall ensure that all stabilization procedures are completed prior to the rainfall event.
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. Sediment removal at each phase shall not go beyond the extent as defined in the application packet.
17. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
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** 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.

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19. All project/, construction, or 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.
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)
 - 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%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be 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. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

21. The Applicant shall restore the proposed **0.003 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.

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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 also provide compensatory mitigation for the proposed temporary impacts to **0.003 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 **1:1** area replacement ratio (**0.003 acres**). As an alternative, the Applicant may provide adequate funding to a third party organization for the creation or restoration of a total of **0.003 acres** of riparian habitat within waters of the United States/Federal jurisdictional wetlands.
23. The Applicant proposes funding to a third-party organization for the creation or restoration of a total of **0.003 acres** of Lake/Reservoir habitat within waters of the United States/Federal jurisdictional wetlands. Funding shall apply to mitigation acreage only, exclusive of administrative costs. The mitigation site shall be located within the Dominguez Channel Watershed unless otherwise approved by this Regional Board. The Applicant shall submit a **Proposed Mitigation Report** which shall include:
 - (a) Documentation from the third party indicating that funds have been used for mitigation acreage only, which do not include administrative costs.
 - (b) 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.
 - (c) The type(s) of mitigation shall be described (e.g., removal of exotics and/or replanting with native species, etc.)
 - (d) Success criteria shall be established.

This information shall be submitted to this Regional Board for approval prior to any disturbance 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.

24. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
25. 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. The Annual Reports shall

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- describe the status of other agreements (e.g., mitigation banking) or any delays in the mitigation process. At a minimum the Annual Reports shall include the following documentation and answered appropriately whether or not mitigation has been performed:
- (e) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (f) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (g) The overall status of project including a detailed schedule of work;
 - (h) Copies of all permits revised as required in Additional Condition 1;
 - (i) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (j) A certified Statement of “no net loss” of wetlands associated with this project;
 - (k) Discussion of any monitoring activities and exotic plant control efforts; and
 - (l) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
26. Prior to any subsequent maintenance activities within the subject basin, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the basin’s existing condition and capacity; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
27. 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.

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(d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

28. 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)”

29. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **06-028**. Submittals shall be sent to the attention of the 401 Certification Unit.

30. 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.

31. The project shall comply with the local regulations associated with the Regional Board’s **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) 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. 99-08-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.

32. 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.

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33. 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.
34. *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.
35. This Certification shall expire five (5) years from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.