



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
Governor

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Mr. Jeff Pratt
Ventura County Watershed Protection District
800 South Victoria Street
Ventura, CA 93009-1610

WATER QUALITY CERTIFICATION FOR PROPOSED POLE CREEK CHANNEL INVERT REPAIR PROJECT (Corps' Project No. 2006-02114-AJS), POLE CREEK, CITY OF FILLMORE, VENTURA COUNTY (File No. 06-221)

Dear Mr. Pratt:

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 November 20, 2006.

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 Valerie Carrillo, Section 401 Program, at (213) 576-6759.

[Original signed by]
Jonathan S. Bishop
Executive Officer

February 2, 2007
Date

California Environmental Protection Agency



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

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ATTACHMENT A

Project Information File No. 06-221

1. Applicant: Ventura County Watershed Protection District
800 South Victoria Street
Ventura, CA 93009-1610

Phone: (805) 654-2040 Fax: (805) 654-3350

2. Applicant's Agent: Ventura County Watershed Protection District
800 South Victoria Street
Ventura, CA 93009-1610

Phone: (805) 477-7139 Fax: (805) 654-3350

3. Project Name: Pole Creek Channel Invert Repair

4. Project Location: Fillmore area, Ventura County
Longitude: 118° 54' 13.171" W; Latitude: 34° 23' 56.127" N
Longitude: 118° 54' 18.096" W; Latitude: 34° 24' 06.267" N
Longitude: 118° 54' 24.158" W; Latitude: 34° 24' 19.775" N
Longitude: 118° 54' 25.610" W; Latitude: 34° 24' 32.552" N
Longitude: 118° 54' 25.377" W; Latitude: 34° 24' 32.547" N
Longitude: 118° 54' 23.921" W; Latitude: 34° 24' 19.777" N
Longitude: 118° 54' 17.838" W; Latitude: 34° 24' 06.269" N
Longitude: 118° 54' 12.858" W; Latitude: 34° 24' 56.126" N

5. Type of Project: Channel repair

6. Project Purpose: The purpose of the proposed project is to repair an existing reinforced concrete lined channel that is damaged and expected to experience structural failure.

7. Project Description: Pole Creek is an intermittent stream northeast of Fillmore with a watershed of approximately 8.6 square miles. The creek discharges to the Santa Clara River about one mile south of State Route (SR) 126, along the east side of the City of Fillmore. The lower reaches of Pole Creek have been channelized to provide flood protection to residential areas of Fillmore and SR126. The first channel

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improvements were constructed in 1971 and a rectangular concrete channel was constructed that varied from 22 to 24 feet wide.

The existing channel walls are constructed of 8-inch thick reinforced concrete. The channel bottom slab consists of 9- to 10-inch thick reinforced concrete. The center of the channel is about 2 inches lower than the toe of the vertical concrete walls, which creates a low flow channel in the center. Over time, the channel has eroded from the effects of scouring by coarse sediment and rocks during high flows, exposing steel reinforcement and threatening the integrity of the channel bottom. The very steep slope of the channel—approximately 2.5 to 2.7 percent—creates high velocities that exacerbate the scouring action of gravel, cobble and sand.

The proposed repair consists of adding approximately 8 inches of high-strength, dense concrete over the entire width of the channel bottom. The repair will involve the following activities:

1. The damaged areas, including rusted re-bar, will be cleaned and sand blasted.
2. The surface of the entire channel bottom will then be roughened by about 1/4 inch.
3. Epoxy dowels will be installed at two-foot intervals to connect the new concrete slab to the existing slab and to the vertical wall.
4. Re-bar will then be installed.
5. The concrete layer will then be poured, using a high strength, high-density concrete that provides additional abrasive resistance. Approximately 4,072 cubic yards of high density concrete will be utilized.

Several options were considered for the proposed project, including only repairing damaged sections of concrete or placing steel plates over damaged areas. These solutions would not protect the remainder of the channel and the plates would be subject to rusting and other maintenance requirements.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP Nos. 3 & 33 (Permit No. 2006-02114-AJS)

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9. Other Required Regulatory Approvals: California Department of Fish and Game Streambed Alteration Agreement
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 (Replacement or Reconstruction)
11. Receiving Water: Pole Creek (Hydrologic Unit No. 403.31)
12. Designated Beneficial Uses: MUN*, IND, PROC, AGR, GWR, FRSH, NAV, POW, REC-1, REC-2, COMM, AQUA, WARM, COLD, SAL, EST, MAR, WILD, BIOL, RARE, MIGR, SPWN, SHELL, WET
- *Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (concrete-lined channel): 2.20 temporary acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has identified the following as a related project planned for implementation in the next 5 years.
- Since the existing channel capacity is inadequate and cannot contain or convey a 100-year flood event or the 50-year flood plus the required freeboard once the invert repair is completed, the District is planning to implement a project to increase channel capacity within the next 5 years. The channel modification would be complementary to the current proposed repair project, and together would ensure the structural integrity and flood protection capacity of the channel. The District is in the early stages of evaluating alternative plans for the channel modification and identifying environmental impacts.

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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:

- Pole Creek is an intermittent stream, and construction will be completed during a dry period to avoid the heaviest winter rains.
- A temporary water diversion system will be constructed at the upstream end of the project reach to divert surface flows, if present.
- A by-pass system will be installed to transfer flows through the project reach.
- The SWPPP will include a contingency plan for unseasonable heavy rain events that result in runoff through the project reach. The plan will specify how flows will bypass the work areas without discharging pollutants to the Santa Clara River. The plan will indicate how the contractor will monitor and mobilize in the event of a pending storm, and describe the location and time to implement protective measures.

17. Proposed Compensatory Mitigation:

The Applicant has not proposed any compensatory mitigation due to the temporary nature of impacts associated with the project and 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 channel cross-section and capacity will not be modified by the project.

18. Required Compensatory Mitigation:

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

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

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Conditions of Certification File No. 06-221

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 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 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. The Applicant shall not conduct any 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.
14. If rain is predicted after operations have begun, activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
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** 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 project activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
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:

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- 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.

18. The Applicant shall restore the proposed **2.2 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. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
19. The Applicant shall submit to this Regional Board a Final Project **Monitoring Reports** by **January 1st** of the year following project completion. The report 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. This report shall include as a minimum, 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 including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;

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- (e) Water quality monitoring results (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.
20. Prior to any subsequent maintenance activities within the project areas, 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 existing condition/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.
21. 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.
22. 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.

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**Conditions of Certification
File No. 06-221**

Executed on the _____ day of _____ at _____.

_____ (Signature)
_____ (Title)"

- 23. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **06-221**. Submittals shall be sent to the attention of the 401 Certification Unit.
- 24. 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.
- 25. 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. 00-108. 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. 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.
- 26. 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.
- 27. 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.

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28. *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.
29. 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.