



# 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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Suzanne Goode  
California Department of Parks and Recreation District Headquarters  
1925 Las Virgenes Road,  
Calabasas, CA 91302

### **WATER QUALITY CERTIFICATION FOR PROPOSED RODEO GROUNDS BERM REMOVAL AND RESTORATION PROJECT (Corps' Project No. 2006-01815-VEN), TOPANGA CREEK, LOS ANGELES COUNTY (File No. 07-004)**

Dear Ms. Goode:

Regional Board staff has reviewed your request on behalf of California Department of Parks and Recreation District Headquarters (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on July 11, 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 Signed By ] \_\_\_\_  
Deborah J. Smith  
Interim Executive Officer

\_\_\_\_ July 20, 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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## ATTACHMENT A

### Project Information File No. 07-004

1. Applicant: California Department of Parks and Recreation District  
Headquarters  
1925 Las Virgenes Road,  
Calabasas, California 91302  
  
Phone: (818) 880-0350 ext 113 Fax: (818) 880-6165
  
2. Applicant's Agent: Envicom Corporation  
28323 Agoura Road  
Agoura Hills, California 91301  
  
Phone: (818) 879-4700 Fax: (818) 879-4711
  
3. Project Name: Rodeo Grounds Berm Removal and Restoration Project
  
4. Project Location: Topanga State Park area, Los Angeles County  
  

<u>Longitude</u>	<u>Latitude</u>
118° 34' 16"	34° 2' 36"
  
5. Type of Project: Flood plain and streambank restoration
  
6. Project Purpose: The proposed project will restore the natural hydrology of Topanga Creek, provide access to the entire flood plain, and restore habitat for the endangered southern steelhead trout by removing an un-engineered man-made berm installed without permits between 1969 and 1980 by previous tenants of the property to divert the creek from flooding their rental homes. The property was acquired by California Department of Parks and Recreation (CDPR) in 2001 and this project is intended to restore the floodplain to its natural condition.
  
7. Project Description: The applicant proposes to remove a 1.8-acre berm at the southern end of Topanga Creek, and 0.01 acres of delineated wetlands with the intent to restore the natural floodplain, creek channel, and

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sediment transport systems. Hydrological analysis indicates that the removal of the berm will restore natural creek flow through this reach and reduce flood related impacts downstream.

The berm is approximately 1,000 feet long and varies in width from 40 to 100 feet, and ranges in height from 12 to 15 feet above natural creek grade.

The estimated volume of the berm is approximately 58,000 cubic yards, with a total estimated weight of 26,000 tons. Approximately 17,000 tons of the fill qualify as hazardous waste for lead contamination (possibly from crushed asphalt included in the fill), requiring disposal at a certified hazardous waste landfill. The remaining uncontaminated fill will be transported to a legal point of disposal.

Testing of the fill will be done concurrently with excavation to direct proper disposal. The berm will be removed by excavation from the top of the fill bank, requiring no intrusion by excavation equipment into the existing streambed.

The sediment build-up associated with the berm causes the stream to flow below the surface within the entire work area for much of the year. Conducting the work when the area is dry will prevent erosion into the creek, as well as associated turbidity. The 0.01 acres of delineated wetland are on the east side of the berm, and will be temporarily disturbed during the excavation; however, the removal of the berm will enable the restoration of the entire 12-acre floodplain. The berm removal will be conducted using existing areas that have been disturbed since the 1920's for staging and stockpiling. The temporary impact associated with the removal of fill material will be confined solely to those existing disturbed areas and not impact the creek channel or downstream areas. The haul route for the trucks utilizes an existing in-stream crossing. Impacts associated with use of the crossing will be mitigated by either restricting traffic to when the creek bed is dry (which it is for much of the year), or if there is any flow, installing a temporary crossing.

Biological surveys of the site have been conducted since 2001 when the property was acquired by CDPR. The berm and its surrounding area has been disturbed since the 1920's with rental homes and associated structures. These are being removed by CDPR prior to

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the removal of the berm, which will allow full restoration of the entire 12 acre impacted floodplain zone. There are no sensitive or endangered plant species that will be impacted, although the berm does surround a mature Fremonita cottonwood along with several native California sycamores and one coast live oak. Every attempt will be made to preserve these trees during the excavation, but given their locations, that may not be possible. A full mitigation planting plan has been prepared in the Oak Tree Report and Native Tree Preservation and Removal Plan. Following the removal of the berm, the disturbed area will be revegetated with native riparian plants according to the Rodeo Grounds Restoration and Revegetation Plan.

The distribution of endangered steelhead trout is seasonal, occurring only when flow is sufficient to provide passage opportunities. In this reach of the creek, steelhead are rarely found, but passage has been possible when flows occur following rain events between January through March. Monitoring will be done during the entire excavation procedure to ensure that there is no impact to the fish.

The berm lies in an area that has known significant cultural resources associated with the historic use by the Tongva-Gabrielinos. C DPR archeologists have conducted several studies with the cooperation and monitoring assistance of the Tongva-Gabrielino monitors within the berm itself and in the adjacent floodplain area. No culturally significant findings were made in the berm, and the removal of the fill down to the native creek bed material will be monitored carefully during the excavation by both the C DPR archeologists and a Tongva-Gabrielino monitor.

Removal of the berm will result in restoration of over 12 acres of floodplain (the berm plus the adjacent disturbed habitat), allow natural re-adjustment of the creek channel and restore natural sediment transport regimes. This will permit endangered steelhead trout to access 3.3 miles of suitable habitat that is now seasonally restricted, due to sub-surface flows associated with the berm.

8. Federal  
Agency/Permit:

U.S. Army Corps of Engineers  
NWP No. 27 (Permit No. 2006-01815-VEN)

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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 California Department of Parks and Recreation approved the project's Mitigated Negative Declaration on September 21, 2006.  
A Notice of Determination was filed by the California Department of Parks and Recreation with the State Clearinghouse on December 19, 2006.
11. Receiving Water: Topanga Canyon Creek (Hydrologic Unit No. 404.11)
12. Designated Beneficial Uses: MUN\*, REC-1, REC-2, WARM, COLD, WILD, MIGR, SPWN,  
\*Conditional beneficial use
13. Impacted Waters of the United States: Federal jurisdictional wetlands: 0.08 temporary acres (1,000 linear feet)
14. Dredge Volume: None
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Prior to construction activity, a biologist will implement a program to ensure that the construction foreman and the crew are aware of the limits of construction activity.
  - A qualified biologist will be present during grading and clearing to ensure compliance with environmental regulations.
  - The applicant will install exclusion fences utilized to isolate active construction areas from jurisdictional areas outside the development footprint.
  - Silt screen fences will be in place, to contain erosion on-site if

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needed.

- Clearing of all wetland and riparian vegetation will be restricted to within construction designated areas.
- Vehicles and construction equipment will be periodically checked to ensure that there are no leaks or defective equipment.
- All erosion control devices will be installed before initiation of construction activity and periodically inspected to ensure that the devices are effective prior to and immediately after rainfall events.
- Berm excavation will be timed to correspond with the dry season for Lower Topanga Creek.
- Five day weather forecasts will be conducted in order to identify potential storm events.
- Equipment, materials, and construction debris will be removed from the channel before storm events.
- Erosion control will be in place around stockpiled materials.
- Stockpiled areas will be located away from obvious drainage areas.
- Construction debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement, concrete hydrocarbon products, or earthen material from construction or any associated activity will not be placed or deposited outside the designated construction foot-print.

16. Proposed  
Compensatory  
Mitigation:

None

17. Required  
Compensatory  
Mitigation:

This restoration project will not require compensatory mitigation.

## ATTACHMENT B

### Conditions of Certification File No. 07-004

#### 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 polices 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. 15, are incorporated as additional conditions herein.



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### **Conditions of Certification File No. 07-004**

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 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. Prior to testing fill, submit a QA/QC plan to Rodney Nelson, with the strategy and laboratory procedures for fill testing.
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. 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. Sediment removal at each phase shall not go beyond the extent as defined in the application materials.
16. 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.
17. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities where clearing involves areas to be partially cleared (i.e. some vegetation is to remain in the same reach or in an adjacent reach). 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** 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

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### Conditions of Certification File No. 07-004

- 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.
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.

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21. The Applicant shall restore the proposed **0.01 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 not be required to provide COMPENSATORY MITIGATION to offset the proposed temporal loss of **0.01 acres** waters of the United States because over 12 acres of floodplain is being restored by the project.
23. 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.
24. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1<sup>st</sup>** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. 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 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 work;
  - (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.

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**Conditions of Certification**  
**File No. 07-004**

- 25. Prior to any subsequent maintenance activities within the subject drainages, 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 drainage's existing 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.
  
- 26. 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.
  
- 27. 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)”

- 28. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **07-004**. Submittals shall be sent to the attention of the 401 Certification Unit.

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### Conditions of Certification File No. 07-004

29. 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.
30. 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.
31. 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.
32. A copy of this Certification shall be kept at the project site during any period while project activities are being conducted, and shall be available upon request to any staff from this Regional Board.
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.

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- (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.