



Los Angeles Regional Water Quality Control Board

Ms. Laura Vlk
Plains Exploration & Production Company
5640 S. Fairfax Avenue
Los Angeles, CA 90056

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7009 2820 0001 6537 7115

WATER QUALITY CERTIFICATION FOR PROPOSED TURNBULL RESTORATION PROJECT (Corps' Project No. 2012-00286-SLP), IN AN UNNAMED CREEK, TRIBUTARY TO RIO HONDO AND THE LOS ANGELES RIVER, WHITTIER, LOS ANGELES COUNTY (File No. 12-037)

Dear Ms. Vlk:

Board staff has reviewed your request on behalf of Plains Exploration & Production Company (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on May 23, 2012.

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 Dana Cole, Section 401 Program, at (213) 576-5733.

Samuel Unger, P.E.
Executive Officer

July 2, 2012
Date

DISTRIBUTION LIST

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State Water Resources Control Board
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U.S. Environmental Protection Agency, Region 9
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ATTACHMENT A

**Project Information
File No. 12-037**

1. Applicant: Laura Vlk
Plains Exploration & Production Company
5640 S. Farifax Avenue
Los Angeles, CA 90056

Phone: (323) 298-2259
2. Applicant's Agent: Megan Schwartz
Cardno ENTRIX
10940 Wilshire Boulevard, #1525
Los Angeles, CA 90024

Phone: (424) 248-2106 Fax: (424) 248-2101
3. Project Name: Turnbull Restoration Project
4. Project Location: Whittier, Los Angeles County
- | <u>Latitude</u> | <u>Longitude</u> |
|-----------------|------------------|
| 33.994581 | 118.014883 |
| 33.994591 | 118.015147 |
| 33.994036 | 118.016647 |
| 33.993086 | 118.017747 |
| 33.995361 | 118.014111 |
| 33.9944722 | 118.0147722 |
| 33.992569 | 118.0016722 |
| 33.99350 | 118.017230 |
5. Type of Project: Restoration
6. Project Purpose: The proposed project (Project) will satisfy compensatory mitigation requirements for the PXP Montebello Catchment Basin Project if approved. Successful restoration will improve and increase habitat for target species including, potentially, the coastal California gnatcatcher and riparian birds.

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7. Project Description: Implementation of this project will satisfy this Regional Board's Order No. 2004-0004-DWQ, File No. 11-153. Implementation of the Turnbull Riparian Habitat Restoration Plan (Plan) is anticipated to begin by August 31, 2012. This Regional Board approved the Plan on March 12, 2012 as well as the California Department of Fish and Game on March 3, 2012. Successful completion of this Plan, including a five-year maintenance, monitoring and reporting phase, is anticipated to be achieved, with all performance standards met in the Fall of 2017.
- The restoration area has 0.038 acres of waters of the United States, waters of the state. The unnamed intermittent stream is approximately two miles long and lies within the Rio Hondo watershed, a 142-square mile watershed defined by rugged, steep terrain of the San Gabriel Mountains in the upper reaches and much of the Angeles National Forest. The stream is a tributary of the Rio Hondo and the Los Angeles River in Los Angeles County, California.
8. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 27 (Permit No. 2012-00286-SLP)
9. California Environmental Quality Act Compliance: The proposed project was determined to be Categorical Exempt from CEQA pursuant to PRC 21080, and by the CEQA Guidelines Sections 15300, 15304, 15306, 15333. The Puente Hills Habitat Preservation Authority filed a "Notice of Exemption" for the categorical exemption with the Office of Planning and Research on April 26, 2012.
10. Receiving Water: Unnamed stream, Tributary to Rio Hondo and the Los Angeles River (Hydrologic Unit No. 405.15)
11. Designated Beneficial Uses: MUN*, GWR, REC-1, REC-2, WARM, WILD,
*Conditional beneficial use

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12. Impacted Waters of the United States: Non-wetland waters (streambed): 0.038 temporary acres (197 linear feet)
13. Related Projects Implemented/to be Implemented by the Applicant: The proposed project satisfies mitigation requirements for the Montebello Oil Field Catchment Basin Maintenance Project, per 2004-004-DWQ.
14. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- An Erosion Control Plan will be prepared prior to implementation of any Project activities.
 - During the rainy season (October to April) or if slopes are exposed to erosion, the slopes shall be stabilized and compacted, or temporarily hydroseeded.
 - Silt fencing, hay bales, sand bags, and other methods that prevent erosion shall be implemented.
 - Ground disturbance work will cease during and immediately following storm events.
 - Erosion control measures to be installed will include straw wattles at the base of the slope and the use of silt fences during species removal.
 - No stockpiling of soil is anticipated.
 - Mechanical excavation will be limited to the extent feasible to avoid unnecessary soil disturbance.
 - Only herbicides approved for use in aquatic habitats will be used to avoid water quality impacts.
 - No project activity will occur within 48 hours of rain (before or after).
 - Following implementation of the Project, irrigation will be

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closely monitored to avoid water-induced erosion.

15. Proposed
Compensatory
Mitigation:

None. The project is restoration of waters of the state and U.S.

16. Required
Compensatory
Mitigation:

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

ATTACHMENT B

Conditions of Certification File No. 12-037

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 **prior to any discharge to waters of the State**.
2. The Applicant shall adhere to the most stringent conditions indicated with either this Certification 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, Item No. 14, Avoidance/ Minimization Activities** 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. Please contact Dr. Wen Yang of the Land Disposal Unit at (213) 620-2253 for further information regarding the disposal of solid wastes.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved

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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.
15. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during any vegetation clearing activities. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
16. 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.
17. All project and 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 and any other ground disturbances are subject to restoration and revegetation requirements, and may require additional Certification action.
18. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and 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** to this Regional Board.
19. The **Surface Water Diversion 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

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- dissolved oxygen
- turbidity
- total suspended solids(TSS)

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be measured at least once prior to diversion and then monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Downstream TSS shall be maintained at ambient levels. Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

20. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity.
21. 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.
22. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2009-009-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
23. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred provided that the Applicant notifies the Executive Officer.
24. The Applicant or their agents shall report any violation or noncompliance with the requirements of this Certification. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances.
25. *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,

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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.
26. This Certification shall expire **five (5) years** from date of this Certification.
27. If the Applicant intends to continue work in waters of the state or U.S. after expiration of the Certification, the Certification does not renew; therefore:
- (a) A new Clean Water Act 401 Water Quality Certification must be reviewed, signed, and authorized **before** work can continue; which requires:
 - (b) That a complete application as well as current application fees must be submitted **at least 90 days prior to the expiration** of the Certification.
28. 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.

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29. 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)”

30. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **12-037**. Submittals shall be sent to the attention of the 401 Certification Unit.
31. 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 **shall be submitted to this Regional Board prior to any discharge to waters of the State.**
32. The Applicant or their agents shall report any violation or noncompliance of the Conditions of the Certification as required above. 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.
33. The Applicant shall submit to this Regional Board Annual Monitoring Reports (Annual Reports) by January 1st of each year for a minimum period of five (5) years following this issuance of 401 Certification including whether or not the project has been initiated, or until project success has been achieved and documented.
34. 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.

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35. 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 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:
- (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of (whether or not work has begun on the Project);
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A general discussion of site conditions (geology, climate, 100 year 24 hour storm, and watershed specifics, etc.) relative to any project or water quality monitoring.
36. Maintenance activities within the subject drainages notification(s) shall include: (a) the proposed schedule; (b) a description of the drainage’s/basin’s existing condition/capacity; (c) the area of proposed temporary impact within waters of the State; (d) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (e) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
37. If this Certification is transferred the Applicant must notify the Executive Officer at least 30 days before the proposed transfer date of coverage under this Certification. The notice must include 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.