

EDMUND G. BROWN JR.  
GOVERNOR  
MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Tom Hogan  
Marina Del Rey Marina  
13534 Bali Way  
Marina del Rey, CA 90292

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
No. 7012 3460 0001 6366 0236

**CONDITIONAL WATER QUALITY CERTIFICATION FOR PROPOSED MARINA DEL REY HOTEL MARINA REPLACEMENT PROJECT (Corps' Project L.O.P.), MARINA DEL REY HARBOR, MARINA DEL REY, LOS ANGELES COUNTY (File No. 13-122)**

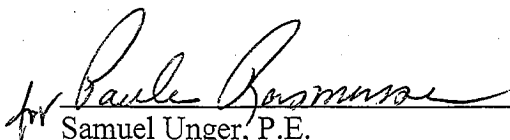
Dear Mr. Hogan:

Board staff has reviewed your request on behalf of Marina Del Rey Marina (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on April 10, 2014.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

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

Should you have questions concerning this Certification action, please contact Valerie Carrillo Zara, P.G., Lead, Section 401 Program, at (213) 576-6759.

  
\_\_\_\_\_  
Samuel Unger, P.E.  
Executive Officer

4-11-2014  
Date

## DISTRIBUTION LIST

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Jim Bartel  
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**ATTACHMENT A**

**Project Information**  
**File No. 13-122**

1. Applicant: Tom Hogan  
Marina Del Rey Hotel Marina  
13534 Bali Way  
Marina del Rey, CA 90292  
  
Phone: (949) 673-6310 Fax: (949) 673-6331
2. Applicant's Agent: Joshua Burnam  
Anchor QEA, L.P.  
130 Battery Street, Suite 400  
San Francisco, CA 94111  
  
Phone: (415) 361-5150 Fax: (206) 287-9131
3. Project Name: Marina Del Rey Hotel Marina Replacement Project (Parcels 42/43)
4. Project Location: Marina del Rey, Los Angeles County

| <u>Latitude</u> | <u>Longitude</u> | <u>Latitude</u> | <u>Longitude</u> |
|-----------------|------------------|-----------------|------------------|
| 33.981589°      | 118.445249°      | 33.980602°      | 118.443594°      |
| 33.981354°      | 118.445056°      | 33.980317°      | 118.443364°      |
| 33.981120°      | 118.444862°      | 33.980033°      | 118.443134°      |
| 33.980757°      | 118.445658°      | 33.979202°      | 118.444944°      |
| 33.980394°      | 118.446454°      | 33.978371°      | 118.446755°      |
| 33.979816°      | 118.44646°       | 33.979616°      | 118.446742°      |
| 33.979238°      | 118.446481°      | 33.980862°      | 118.446730°      |
| 33.979920°      | 118.445037°      | 33.981226°      | 118.445989°      |

5. Type of Project: Marina replacement
6. Project Purpose: The proposed project entails reconfiguring the dock layout of the currently existing marina at the Marina Del Rey Hotel to comply with current accessibility standards and to use the existing unused space within the hotel's lease boundaries.
7. Project Description: The project site is located along the Marina del Rey Channel at the western terminus of 13534 Bali Way (Parcels 42 and 43) in Marina del Rey. The location includes portions of Basins F and G within the Marina del Rey Harbor. As part of the overall hotel renovations, the proposed project consists of the demolition and subsequent

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redevelopment of the private 349-slip marina at the Marina del Rey Hotel. Significant improvements are required to modernize and optimize the facility's function and comply with current building and safety standards, specifically adhering to the Americans with Disabilities Act (ADA) and California Department of Boating and Waterways (DBW) current code and design requirements regarding dock, slip, and fairway dimensions. Changes proposed by this project were approved as part of the County of Los Angeles' comprehensive master plan to renovate multiple parcels in disrepair along the Marina del Rey waterfront.

The project will be implemented by installing slips along a new gangway to improve boat maneuverability and maximize the number of available slips in the marina. The existing timber system dock will be replaced with floating concrete docks equipped with internal utility routing. A convenient single sewer waste pump-out station, with an average disposal of approximately 300 gallons per week, will also be installed for boater convenience and to improve water quality within the harbor.

This expansion will expand the existing surface area from 82,995 square feet to 103,609 square feet (2.38 acres).

Slip configuration will also change as presented in the table below:

| Slip size     | Number of Existing slips | Number of Proposed Slips |
|---------------|--------------------------|--------------------------|
| 20-29 feet    | 125                      | 0                        |
| 30-39 feet    | 176                      | 99                       |
| 40-49 feet    | 34                       | 118                      |
| 50-59 feet    | 10                       | 30                       |
| 60-69 feet    | 2                        | 20                       |
| 70-79 feet    | 0                        | 10                       |
| 80-89 feet    | 1                        | 0                        |
| Over 100 feet | 1                        | 0                        |
| Total         | 349                      | 277                      |

During demolition and construction, the site will be accessed by the existing landside entrance on Bali Way. Barges and the hotel's parking lot will be used for staging and equipment storage. The existing structure (including piles, decks, gangways, and associated utilities) will be disassembled in water and removed. Treated timber

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will be disposed of at an approved upland disposal site.

The existing 163 wood piles will be removed and 160 new concrete piles will be installed using jetting and driving methodologies. A total of 15 existing gangways will be removed and 9 new gangways will be installed.

Construction of the new marina will begin with the installation of the new concrete piles, followed by the floating finger docks, gangways, electricity hookups, and new sewer waste pump-out station. Each activity would begin in Basin F and progress along the waterfront to Basin G.

The majority of marine habitat within the project area is subtidal soft-bottom habitat consisting of sands, silts, and clays. Hard-bottom habitat is limited to vertical retaining walls and protective riprap. The surrounding area is highly developed, and the closest nesting site for the California least tern is one mile away. Overall, the proposed project may result in temporary minimal impacts to essential fish habitat (EFH) caused by turbidity associated with pile removal and installation. Turbidity impacts will be minimized through the use of floating silt curtains and booms during appropriate phases of construction as well as through other best management practices. While shading will increase, the marine substrate in the project area is primarily unvegetated mud bottom. For these reasons, the proposed project would result in no substantial adverse effects to EFH or federally managed fisheries in California.

Neither *Caulerpa* (*Caulerpa taxifolia*) nor eelgrasses (*Zostera manna*) were observed during the survey conducted on September 6, 2013.

The hammering of piles during project construction will generate noise and vibrations that may disturb marine mammals if present in the project area. However, these impacts would be temporary, and any effects on marine mammals would be minimal as these species are highly mobile and typically do not aggregate in the project site.

To protect foraging opportunities for potential least terns in the project area, no pile driving would be performed during the foraging season (April 1 through September 1).

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8. Federal Agency/Permit: U.S. Army Corps of Engineers  
Letter of Permission
9. Other Required Regulatory Approvals: California Coastal Commissions  
Coastal Development Permit No: 5-11-131
10. California Environmental Quality Act Compliance: On November 10, 2010 a Mitigated Negative Declaration was approved for the proposed project.
11. Receiving Water: Marina Del Rey Harbor (Hydrologic Unit Code: 180701040403)
12. Designated Beneficial Uses: NAV, COMM, EST, MAR, WILD, MAR, WILD, RARE, MIGR; SPWN, SHELL, WET, REC1, REC2
13. Impacted Waters of the United States: Marina (ocean): 2.38 permanent acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years.
- In the future, the following activities are proposed: (1) demolishing and reconstructing six private leasehold marinas (Parcels 10, 21, 44, 53, and 125) and one public marina (Parcel 47), (2) demolishing existing docks and constructing a new public dock with side-by-side slips (Parcel EE), a new public 14-slip dock with a side-tie dock (Parcel 48), a new side-tie dock with a new public small craft rack system to accommodate 162 boats (Parcel 77), a new public side-tie dock at the launch ramp (Parcel 49R), (3) Constructing a new 12-slip transient dock (Parcel BW/9U), 10 new vessel pump-out locations, and two new water bus stops operated by the County of Los Angeles' Department of Beaches and Harbors.
- With the exception of the anchorage in Parcel BW, all dock reconstructions and recreational boating enhancements will occur within the existing wet lots currently occupied by existing docks and waterside improvements. These reconstruction projects are anticipated to take approximately 5 years from start to completion.

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Each is expected to occur in multiple phases, with each phase taking approximately 2 to 6 months.

#### 16. Avoidance/ Minimization Activities:

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

- The contractor shall fully understand and adhere to the terms and conditions of approvals and permits obtained as well as all project BMPs.
- All construction activities shall occur within the designated project footprint.
- Public notices shall be posted at the project site and mailed to residents in the surrounding area.
- Construction employees shall not bring pets to the construction site.
- A Minimum Monitoring Program shall be implemented at the project site to monitor suspended solids (by light transmittance measurements) during demolition and pile driving. Monitoring shall occur:
  - Monitoring will occur once at least one week prior to the start of construction operations.
  - Monitoring will occur three times each week for the first two weeks of demolition and pile driving phases of the project and weekly thereafter for a period of six weeks. If after six weeks water quality measurements have confirmed that construction activities have not resulted in an exceedance of light transmittance, then monitoring may be suspended until a change in operational activities occurs or if the construction manager reports a spill or non-compliance with established BMPs. At such time, daily water quality monitoring will resume for a period of a week and weekly thereafter.
  - Monitoring will occur once at least one week following completion of construction operations.

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- Water quality measurements shall be made at three locations: 1) at a station closest to active construction activities and outside the floating silt curtain, 2) at a station 300 feet down current from the previous station, and 3) at a control station. Water quality measurements shall be made at three depths in the water column: 1) near surface (-3 feet below the surface), 2) mid-depth, and 3) near bottom (+3 feet above the substrate).
- Water quality measurements shall be obtained for temperature, salinity, dissolved oxygen, pH, and light transmittance.
- Water quality observations shall be conducted for floating material, sheen, and odor at each station.
- Water column light transmittance values from the 300 foot downstream and control station shall be compared for the near surface, mid-depth, and near bottom measurements. If a difference of 30 percent or greater is observed at any depth, then a water sample shall be collected at the depth of exceedance and analyzed for total suspended solids.
- Floating silt curtains around the work area shall be deployed and maintained to contain and limit the spread of turbidity plumes, especially during pile removal and replacement. Turbulence from crossing curtains into the channel shall be reduced and/or prevented.
- Disturbance to the ocean bottom and intertidal areas shall be minimized where permitted.
- Netting, sandbags, tarps, and/or other forms of barriers shall be placed around staging areas to prevent unpermitted material from entering the water.
- Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- All construction-related equipment shall be inspected daily and maintained in good working order to minimize the potential for hazardous waste spills. Current hazardous material spill prevention and cleanup plans shall be maintained on site. Machinery or



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materials not essential for construction shall be prohibited from subtidal or intertidal zones at all times. Hammers and other hydraulic attachments shall be placed on plywood and covered with plastic or a comparable material prior to the onset of rain to prevent run-on and run-off.

- Floating booms shall be maintained around the project site to capture floating debris. Divers shall recover non-buoyant debris as soon as possible after loss. All debris and trash shall be collected and disposed of in appropriate waste containers by the end of each construction day. Discharge of hazardous materials into the project site shall be prohibited.
- Washout from concrete trucks shall be disposed of at locations not subject to run-off. Disposal locations shall be more than 50 feet away from all storm drains, open ditches, and surface waters.
- Following project completion, the project area shall be inspected to ensure that no construction debris, trash, or materials remain and that the project has not created any hazard to navigation.
- In compliance with the Southern California Eelgrass Mitigation Policy (NMFS 2005) and Caulerpa Control Protocol (NMFS 2008), a pre-construction Caulerpa and eelgrass survey shall be completed in the project area up to 90 days prior but no later than 30 days following construction commencement. If observed, Caulerpa shall be completely eliminated and eelgrass shall require additional consultation and subsequent mitigation.
- A qualified independent biologist or environmental resources specialist shall conduct a biological survey of the project area and surrounding 500 feet within 7 days prior to demolition and construction activities and weekly thereafter through project completion. The survey shall determine the presence of certain bird species and other sensitive species, which, if identified within the area, shall result in the implementation of additional noise reduction measures.
- While Basins F and G are not primary foraging areas for the California least tern, no pile driving activities shall occur between April 1 and September 30 to avoid any potential disruption to least tern foraging.

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- Per requirements of the CDP, mollusks, echinoderms, arthropods, and other native marine animals found on the dock and piles shall be removed from the project site prior to demolition and relocated elsewhere within the harbor.
- Project workers shall not harass any marine mammals, waterfowl, or fish in the project area.

17. Proposed  
Compensatory  
Mitigation:

The Applicant has not proposed any additional compensatory mitigation.

18. Required  
Compensatory  
Mitigation:

The Regional Board will not require any additional compensatory mitigation since this will be an in-kind dock replacement project, with minimal impacts to the ocean floor or habitat. The Applicant is installing a new pumpout station, which will benefit water quality.

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. 13-122

#### 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. **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, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

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6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. 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.
8. 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.
9. 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.
10. 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.
11. The Applicant shall allow the Regional Board and its authorized representative entry to the premises to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
12. 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.
13. Ocean water quality monitoring shall be performed by the Applicant. A Water Quality Monitoring Plan in accordance with the plan submitted by the applicant and described in Item 16, Attachment A "*Avoidance/ Minimization Activities*" shall be conducted. Monitoring for the following shall be included:

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- pH
- temperature
- dissolved oxygen
- turbidity
- total suspended solids (TSS)
- visual assessment for floating particulates (oil and grease shall not be visible)

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. Monitoring shall ensure compliance with all water quality objectives specified in the 2012 Ocean Plan.

**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. Construction activities shall not result in the degradation of beneficial uses or non-compliance of any water quality objectives. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

14. The Applicant shall restore **all areas** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State.
15. The Applicant shall submit to this Regional Board a **Final Monitoring Report** (Final Report) by **January 1<sup>st</sup>** of the year following project completion. The Final Report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts. At a minimum the Final Report shall include the following documentation:
  - (a) Color photo documentation of the pre- and post-project conditions;
  - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
  - (c) Copies of all permits revised as required in Additional Condition 1;
  - (d) Water quality monitoring results (as required) compiled in an easy to interpret format;
  - (e) A certified Statement of “no net loss” of wetlands associated with this project;
  - (f) Discussion of any monitoring activities and exotic plant control efforts; and
  - (g) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.

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16. 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.

17. 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)”

18. All communications regarding this project and submitted to this Regional Board shall identify the Project **File Number 13-122**. Submittals shall be sent to the attention of the 401 Certification Unit.
19. 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.
20. 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. R4-2012-0175. 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

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the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2012-0011-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.

21. 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.
22. 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.
23. *Enforcement:*
  - (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
  - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

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