



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Gary Crissman  
Seneca Resources Corporation  
4800 Corporate Court  
Bakersfield, CA 93311

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
No. 7014 2870 0001 4613 6271

**TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED SESPE FIELD CATCH BASIN AND WEEPER DAM ROUTINE MAINTENANCE PROJECT (Corps' Project No. 2015-00099-AJS), SESPE CREEK, CITY OF FILLMORE, VENTURA COUNTY (File No. 15-024)**


Dear Mr. Crissman:


Board staff has reviewed your request on behalf of Seneca Resources Corporation (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on September 19, 2016.

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

  
Date

## DISTRIBUTION LIST

Uliana Micovic  
InterAct  
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Ventura, CA 93003

Stephen Henry  
U.S. Fish and Wildlife Service  
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State Water Resources Control Board  
Division of Water Quality  
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Ventura Coastkeeper  
Attn: Jason Weiner  
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Regulatory Branch, Ventura Field Office  
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906 Garden Street  
Santa Barbara, CA 93101

Jessie Altstatt  
Santa Barbara Channel Keeper  
714 Bond Street  
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**ATTACHMENT A**

**Project Information  
File No. 15-024**

1. Applicant: Mr. Gary Crissman  
Seneca Resources Corporation  
4800 Corporate Ct.  
Bakersfield, CA 93311  
  
Phone: (661) 399-4270 x3551 Fax: (661) 399-7706

2. Applicant's Agent: Uliana Micovic  
InterAct  
4567 Telephone Road, Ste. 203  
Ventura, CA 93003  
  
Phone: (805) 658-5600 Fax: (805) 658-5605

3. Project Name: Sespe Field Catch Basin and Weeper Dam Maintenance

4. Project Location: Fillmore, Ventura County

<u>Lowerfour Fork</u>	
<u>Latitude</u>	<u>Longitude</u>
34.46934	118.90254
34.46934	118.90249
34.46935	118.90242
34.46943	118.90227
34.46945	118.90228
34.46941	118.90243
34.46940	118.90250
34.46940	118.90254

<u>Upperfour Fork</u>	
<u>Latitude</u>	<u>Longitude</u>
34.47046	118.90123
34.47049	118.90117
34.47053	118.90112
34.47071	118.90105
34.47072	118.90107
34.47054	118.90124
34.47057	118.90120



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accidental spill or release, weeper dams capitalize on the density difference between oil and water to trap oil on the upstream side of the dam while continuously allowing water to flow downstream. The oil is then recovered using a vacuum truck with skimmer or absorbent pads.

Each weeper dam consists of a dam slope, several drain pipes, as well as a gate to adjust stream flows. The weeper dam gate can adjust the amount of flow passing through the dam during storm events. These gates will require repair and, if needed, replacement. The drain pipes will require removal of sediment so that the pipes can freely pass water. In addition to this maintenance, the access roads to these basins will require maintenance if they sustain damage or are eroded.

Maintenance has not occurred since 2011, when the need for permits was identified.

The Project consists of conducting routine maintenance on four debris basins and associated weeper dams and other infrastructure, located along three separate creeks, by periodic sediment removal and, on occasion, by repairing the dam structures, themselves.

Project activities will include:

- Sediment removal from four catch basins located on three creeks with excavator or extend-a-hoe from stream banks during dry conditions. Hand removal of sediment, as appropriate.
- One-time stream channel erosion repair on Fourfork Creek using approximately 21 cubic yards native material from the upper weeper dam catch basin.
- Occasional repairs to weeper dam structures such as repairs to gates, welding, or replacement of rusted parts.

Accumulated sediment upstream of the weeper dams will be removed up to two times per year when sediment depth exceeds one foot in the basin. The weeper inlets will be maintained at a minimum of six inches above ground level.

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Removed material will be typically be transported from the sites by dump truck and disposed at the existing Seneca well or facility pads for segregation or use. Work will not be conducted during rain events or wet season unless emergency work is necessary to maintain the function of the dams.

Sediment removed from the basins will either be placed on existing roadside berms, transported to an off-site storage area, or, at times, be spread in denuded floodplain areas downstream to allow for gradual sediment transport to occur.

After sediment removal from the basin, the perimeter of the basin shall have gradual slopes to prevent the entrapment of any wildlife.

8. Federal Agency/Permit: U.S. Army Corps of Engineers  
NWP No. 18, 43 (Permit No. 2015-00099-AJS)
9. Other Required Regulatory Approvals: California Department of Fish and Wildlife  
Streambed Alteration Agreement  
No. 1600-2013-0240-R5  
  
USDA Forest Service Decision Memo
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15301, Class 1 (Existing Facilities)
11. Receiving Water: Santa Clara River Watershed:  
  
Fourfork Creek, tributary to Little Sespe Creek (Hydrologic Unit Code: 180701020706)  
  
Upper Maple creek, tributary to Tar Creek (Hydrologic Unit Code: 180701020704)  
  
Upper Tar Creek, tributary to Sespe Creek (Hydrologic Unit Code: 180701020704)

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12. Designated Beneficial Uses: MUN\*, IND, PROC, AGR, GWR, WARM, COLD, WILD, BIOL, RARE, MIGR, SPWN, WET
- \*Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (streambed): 0.22 temporary acres (509 linear feet)
14. Related Projects Implemented/to be Implemented by the Applicant: Under an emergency Streambed Alteration Agreement, Seneca removed sediments from the Fourforks weeper dam catch basins and re-worked the access road in May of 2011.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Avoidance of nesting and/or breeding birds from March 1<sup>st</sup> to September 15<sup>th</sup>. If work cannot be avoided during these times, then prior to mobilizing for project-related activities, presence/absence surveys for nesting and/or breeding bird species would be conducted by a qualified wildlife biologist and appropriate measures as identified in permits would be implemented.
  - Pre-project surveys and reporting and monitoring as required. A qualified biologist would conduct a single, site-specific, pre-project survey of the work area within a 1-2 week period prior to the start of work. The surveys shall only be required for maintenance activities that involve the removal of sediments from the basin. Pre-project surveys would include general surveys for botanical and wildlife resources within and adjacent to the project areas, including:
    - The presence of burrows that may be utilized by the American badger, San Diego black-tailed jackrabbit, and burrowing owl;
    - Work areas with flowing or standing water within as well as adjacent to the work areas would be surveyed for any aquatic

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species that may be impacted by project activities, including the coast range newt, foothill yellow-legged frog, California red-legged frog, arroyo toad, two-striped garter snake, and southwestern pond turtle;

- The location of any woodrat nest, or middens.
- In the event of identification of the presence of the above resources, appropriate measures as identified in the permit would be implemented.
- Pre-construction worker training for sensitive species.
- Measures to protect California condor.
- Post-work basins would be gently sloped to avoid the entrapment of any wildlife entering the basin area.
- Removed sediment disposal guidelines to avoid vegetation and downstream impacts.
- Water diversion and de-watering guidelines, if deemed necessary.
- Vegetation removal limits.
- Equipment maintenance and vehicle checks to prevent fluid leaks or contamination of the stream area, and prohibition of vehicle or equipment used in any water covered portion of the basins during maintenance work, where impacts can occur to aquatic species and aquatic vegetation.
- Staging/storage areas for equipment and materials are required to be outside any stream or drainage channel. Equipment operation will limited to the top of a stream bank whenever feasible.
- If measureable rain is predicted, water quality protection measures such as temporary soil stabilization (mulching, hydroseeding, mats, etc.), and sediment control devices (fiber rolls, silt fencing, sand bags, catchment basins, etc.) would be installed and maintained at the work area. No work would be conducted during rain events unless an imminent emergency



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required action to protect life or property.

- Additional water quality protections such as restrictions on deleterious materials, pollutant, and application of wet concrete cement.

#### 16. Proposed Compensatory Mitigation:

The Applicant has proposed to purchase 0.07 acres of “Wetland/Riparian Enhancement” mitigation through the Land Veritas Petersen Ranch Mitigation Bank. The proposal includes 0.03 acres of ephemeral stream re-establishment and 0.04 acres of ephemeral stream preservation.

The Applicant has calculated that of the 0.22 acres of temporary impact, 0.07 acres is vegetated streambed.

#### 17. Required Compensatory Mitigation:

The Applicant shall provide 0.07 acres of compensatory mitigation for temporary impacts vegetated streambed of which at least 0.03 acres shall be ephemeral stream re-establishment. While a full 0.22 acres will be impacted, the habitat value of the excavated un-vegetated streambed will be largely unchanged.

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. 15-024

#### 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, the CDFW'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)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. **15**, 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.
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. 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.

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14. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
15. 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.
16. 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.
17. 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.

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.

18. 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, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
19. 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.

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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)

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. The Applicant shall restore **0.22 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.
21. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporary loss of **0.22 acres** waters of the United States by creating or restoring riparian habitat at a minimum **0.32:1** area replacement ratio (**0.07 acres**). If the Applicant proposes funding to a third-party organization, then funding shall apply to mitigation acreage only, exclusive of administrative costs. The mitigation site shall be located within the Santa Clara River Watershed unless otherwise approved by this Regional Board. The Applicant shall submit a **Proposed Mitigation Report** which shall include:
  - (a) Documentation from the third party indicating that funds have been used for mitigation acreage only, which do not include administrative costs.
  - (b) The boundary of the mitigation site shall be clearly identified on a map of suitable resolution and quality and shall also be defined by latitude and longitude.
  - (c) The type(s) of mitigation shall be described (e.g., removal of exotics and/or replanting with native species, etc.)
  - (d) Success criteria shall be established.

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**This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States** and shall include copies of all agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

22. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** (Annual Reports) by **January 1<sup>st</sup>** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until mitigation success and project completion has been achieved and documented. The Annual Reports shall describe in detail all of the project and construction activities performed during the previous year and all restoration and mitigation efforts. 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:
- (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 whether or not work has begun on the Project and a detailed schedule;
  - (d) Copies of all permits revised as required in Additional Condition 1;
  - (e) Water quality monitoring results for each reach (as required) compiled in a spreadsheet 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.
23. 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.

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- (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.
24. 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)”

25. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **15-024**. Submittals shall be sent to the attention of the 401 Certification Unit.
26. 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.
27. The project shall comply with all requirements of 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.
28. 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.
29. 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

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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.

30. *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.

31. 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.