



EDMUND G. BROWN, JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Ms. Rhiannon Bailard  
Pepperdine University  
24255 Pacific Coast Hwy  
Malibu, CA 90263

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
No. 7012 3460 0001 6366 0373

**TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED PEPPERDINE UNIVERSITY ENHANCED RECREATION AREA PROJECT (Corps' Project No. SPL-2015-00869), MARIE CANYON CREEK, CITY OF MALIBU, LOS ANGELES (File No. 15-149)**


Dear Ms. Bailard:

Board staff has reviewed your request on behalf of Pepperdine University (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on June 2, 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 Valerie Carrillo Zara, P.G., Lead, Section 401 Program, at (213) 576-6759.

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

Aug. 26, 2016  
Date

## DISTRIBUTION LIST

Primo Tapia (via electronic copy)  
Envicom Corporation  
4165 E. Thousand Oaks Blvd., Suite 290  
Westlake Village, CA 91362

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3883 Ruffin Rd Suite A  
San Diego, CA. 92123-4813

Aaron Allen (via electronic copy)  
U.S. Army Corps of Engineers  
Regulatory Branch, Ventura Field Office  
2151 Alessandro Drive, Suite 110  
Ventura, CA 93001

Elizabeth Goldmann (via electronic copy)  
U.S. Environmental Protection Agency, Region 9  
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75 Hawthorne Street  
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G. Mendel Stewart  
Johnathan Snyder  
U.S. Fish and Wildlife Service  
2177 Salk Ave. Carlsbad Ca, 92008

California Coastal Commission  
89 South California St., Suite 200  
Ventura, Ca 93001

**ATTACHMENT A**

**Project Information  
File No. 15-149**

1. Applicant: Pepperdine University  
24255 Pacific Coast Hwy  
Malibu, CA 90263  
  
Phone: (310) 506-4702 Fax: (310) 506-7768

2. Applicant's Agent: Primo Tapia  
Envicom Corporation  
4165 E. Thousand Oaks Blvd  
Westlake Village, CA 91362  
  
Phone: (818) 879-4700

3. Project Name: Pepperdine University Enhanced Recreation Area

4. Project Location: City of Malibu, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
34.046279	118.710917
34.046155	118.710879
34.045879	118.710903
34.045982	118.710877
34.045692	118.710931
34.04569	118.710815
34.045766	118.71073
34.045804	118.710742

5. Type of Project: Recreation Area construction within Pepperdine University Campus

6. Project Purpose: The purpose of the proposed project is to relocate an existing debris basin and stockpile and create an enhanced recreation area, including a new turf field on the Pepperdine University Campus.

7. Project Description: The Enhanced Recreation Area (ERA) project (Project) is designed to provide a new and improved recreation field, debris basin, and stockpile in the northern portion of the developed campus. To facilitate the construction of the ERA, the Project proposes an expanded fill pad up to 55 feet above grade of the existing debris basin in Marie Canyon, just north of Huntsinger Circle Drive (on the north end of the developed lower campus area), incorporating an

## ATTACHMENT A

### Project Information

File No. 15-149

existing, smaller flat pad of similar height that currently serves as an intramural field. The expanded pad would be constructed by filling an existing flood control structure with up to 173,000 cubic yards (cy) of material.

The Project will also reconfigure and relocate the existing debris basin and stockpile and ancillary structures. The new debris basin will be located 400 feet upstream from its current location and constructed with 16,000 cy of material from within the Project Site. The stockpile will be approximately 9,000 square feet with the capacity to hold approximately 4,000 cy of material and located southeast of the existing stockpile location. The stockpile will eventually hold up to 8,000 cy of material at full project buildout. Additional elements include removal and re-compaction of 35,000 cy of fill material, construction of a paved access road, a new standpipe and standpipe base, and an interim transitioning to a permanent drainage system.

Following the construction of the new debris basin, Pepperdine will commence the phased filling of the existing debris basin/flood control structure.

8. Federal Agency/Permit: U.S. Army Corps of Engineers  
NWP No. 51 No. SPL-2015-00869
9. Other Required Regulatory Approvals: California Department of Fish and Wildlife  
Streambed Alteration Agreement
10. California Environmental Quality Act Compliance: The County of Los Angeles Department of Regional Planning approved the project's Final Environmental Impact Report (EIR No. RENV200700169, SCH No. 2008041123) on May 9, 2011.
11. Receiving Water: Marie Canyon Creek (Hydrologic Unit Code: 180701040204)
12. Designated Beneficial Uses: IND, NAV, REC-1, REC-2, COMM, MAR, WILD, RARE, MIGR, SPWN  
  
\*Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (streambed): 0.07 permanent acres  
Non-wetland waters (unvegetated streambed): 0.28 permanent acres

## ATTACHMENT A

### Project Information File No. 15-149

14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: Maintenance of debris basins on Pepperdine University has been authorized under several Water Quality Certifications. The maintenance of debris basins at Pepperdine University was first authorized in 1997 under Certification File No. 97-086, (Army Corps 97-00286-AOA). Certification File No. 97-086 required the continued maintenance of the 0.93 acre site (described as “on the side slopes of the Marie Canyon Debris Basin”) and creation/enhancement of a 0.718 acre site (described as “within a 1.2 acre roadway/erosional feature at Marine Canyon”). Certification File No. 08-094, (Army Corps 2007-01223-PHT) re-iterated the requirements of the 1997 401 (File No. 97-086). Certification File No. 13-148, (Army Corps SPL-2013-00484-AOA) re-iterated the requirements of the 1997 401 (File No. 97-086).
- This Project was described as a planned future action in the application, submitted November 25, 2013, for Certification No. 13-148.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- The University will file a Notice of Intent (NOI) with the State and comply with the requirements of the NPDES General Construction Permit, including the preparation of a SWPPP incorporating BMPs for construction and post-construction control of runoff.
  - The SWPPP will be prepared by a Civil Engineer for review and approval by the County for compliance with applicable TMDLs.
  - The plans will indicate a design to reduce the discharge of pollutants, including sediment, to the maximum extent practical using management practices, control techniques and systems, design and engineering, and other appropriate methods. Examples of anticipated control techniques include the following:
    - control of area runoff, including filtering devices, energy dissipaters, pervious drainage systems, and porous pavement

## ATTACHMENT A

### Project Information File No. 15-149

alternatives

- prompt re-vegetation of proposed landscaped areas; perimeter sandbagging and silt fences and/or temporary basins to trap sediment
- filter fences designed to intercept and detain sediment while decreasing the velocity of runoff
- To the maximum degree feasible, grading activities will occur during the southern California dry season.
- The relocated debris basin will be fitted with a debris wall or trash rack at the inlets to prevent floating solids from entering the storm drain.

#### 17. Proposed Compensatory Mitigation:

For the permanent loss of 0.35 acres streambed, Pepperdine will enhance 0.35 acres of streambed in Winter Canyon (1:1 ratio). Also, Pepperdine will enhance or restore an additional 0.13 acres of riparian and upland habitat. *The Winter Canyon Riparian Enhancement Plan* dated October 30, 2015 lays out the plan for the removal of invasive species and planting of native species and establishes success criteria. In addition, Pepperdine has donated \$100,000 to the Santa Monica Mountains Conservancy (SMMC) (through the Mountains Recreation and Conservation Authority) for the enhancement or restoration of an additional 0.48 acres of riparian or upland habitat.

For the loss of the Marie Canyon slope, upland, 0.93 acre mitigation site established in 1997, Pepperdine will preserve 5.97 acres of Little Las Flores Canyon (two contiguous parcels). The two parcels are contiguous with 72.72 acres of previously dedicated land to the west and southwest. There are three jurisdictional ephemeral drainages within the two parcels, which total 1,053 linear feet and an estimated 0.04 acres of “non-wetland” waters of the State and United States. *The Conceptual Compensatory Mitigation Plan, Jurisdictional Delineation and California Rapid Assessment Method Analysis, Marie Canyon Site Replacement* dated November 4, 2015, lays out the delineation and California Rapid Assessment Method for wetlands analyses for the Marie Canyon, 0.93 acre mitigation site established in 1997 and the 5.97 acres of Little Las

## ATTACHMENT A

### **Project Information** **File No. 15-149**

Flores Canyon preservation site. Pepperdine will donate the 5.97 acres of Little Las Flores Canyon to SMMC or will record a conservation easement over both parcels to insure their long-term preservation.

18. Required  
Compensatory  
Mitigation:

The Regional Board will require compensatory mitigation as proposed above.

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. 15-149

#### 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 Wildlife's (CDFW) 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 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. 16, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved construction plan and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.



## ATTACHMENT B

### Conditions of Certification File No. 15-149

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 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.
8. 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.
9. 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.
10. 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.
11. 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. 2011-0003-DWQ, for Aquatic Animal Invasive Species Control; 2011-0004-DWQ, for Spray Applications; 2011-0002-DWQ, for Vector Control; and 2013-0002-DWQ, for Weed Control.
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.

## ATTACHMENT B

### Conditions of Certification

File No. 15-149

13. 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.
14. 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.
15. All project 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.
16. 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)

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

## ATTACHMENT B

### Conditions of Certification File No. 15-149

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.

17. 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. 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.
18. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent loss of **0.35** acres waters of the United States by enhancing or restoring waters of the United States at a minimum **1:1** area replacement ratio (**0.35 acres**). Pepperdine will also enhance or restore an additional 0.13 acres of riparian and upland habitat. *The Winter Canyon Riparian Enhancement Plan* dated October 30, 2015 lays out the plan for the removal of invasive species and planting of native species and establishes success criteria. In addition, Pepperdine shall donate \$100,000 to the Santa Monica Mountains Conservancy (through the Mountains Recreation and Conservation Authority) for the enhancement or restoration of an additional 0.48 acres of riparian or upland habitat or otherwise ensure and additional 0.48 acres of riparian or upland habitat is enhanced or restored.

Pepperdine shall provide to the Regional Board copies of all agreements made between Pepperdine and any third party organization regarding compensatory mitigation efforts. The proposed mitigation site shall be preserved in perpetuity.

19. For the loss of the Marie Canyon 0.93 acre mitigation site established in 1997, Pepperdine will preserve 5.97 acres of Little Las Flores Canyon (two contiguous parcels). *The Conceptual Compensatory Mitigation Plan, Jurisdictional Delineation and California Rapid Assessment Method Analysis, Marie Canyon Site Replacement* dated November 4, 2015, lays out the delineation and California Rapid Assessment Method for wetlands analyses for the Marie Canyon 0.93 acre mitigation site established in 1997 and the 5.97 acres of Little Las Flores Canyon preservation site. Pepperdine will donate the 5.97 acres of Little Las Flores Canyon to SMMC or will record a conservation easement over both parcels to insure their long-term preservation.
20. 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 has been achieved and documented. The Annual Reports shall describe in detail all of the project/construction

## ATTACHMENT B

### Conditions of Certification File No. 15-149

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 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.
21. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
  - (b) For a partnership, by a general partner.
  - (c) For a sole proprietorship, by the proprietor.
  - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
22. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the

ATTACHMENT B

Conditions of Certification  
File No. 15-149

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)"

23. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **15-149**. Submittals shall be sent to the attention of the 401 Certification Unit.
24. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
25. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. R4-2012-0175. 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. 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.
26. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
27. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

## ATTACHMENT B

### Conditions of Certification

File No. 15-149

28. *Enforcement:*

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

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