



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Jonathon Frank  
32640 Pacific Coast Highway  
Malibu, CA 90265

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
No. 7015 3010 0001 9147 7444

**TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED (32640 PACIFIC COAST HIGHWAY SLOPE REPAIR) PROJECT (Corps' Project No. 2016-00224-PKK), PACIFIC OCEAN, CITY OF MALIBU, LOS ANGELES (File No. 16-089)**

Dear Mr. Frank:

Board staff has reviewed your request for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on July 8, 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  
Samuel Unger, P.E.  
Executive Officer

Aug. 5, 2016  
Date

## DISTRIBUTION LIST

Travis Cullen (via electronic copy)  
Envicom Corporation  
4165 E. Thousand Oaks Blvd.  
Westlake Village, CA 91362

Bill Orme (via electronic copy)  
State Water Resources Control Board  
Division of Water Quality  
P.O. Box 944213  
Sacramento, CA 94244-2130

Brock Warmuth  
(via electronic copy)  
California Department of Fish and Wildlife  
Streambed Alteration Team  
3883 Ruffin Rd Suite A  
San Diego, CA 92123-4813

Pamela Kostka (via electronic copy)  
U.S. Army Corps of Engineers  
Regulatory Branch, Los Angeles District  
915 Wilshire Blvd., Suite 1101  
Los Angeles, CA 90017

Melissa Scianni  
Elizabeth Goldmann  
(via electronic copy)  
U.S. Environmental Protection Agency, Region 9  
WRT-2-4  
75 Hawthorne Street  
San Francisco, CA 94105

G. Mendel Stewart  
Johnathan Snyder  
U.S. Fish and Wildlife Service  
2177 Salk Avenue  
Carlsbad CA 92008

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

ATTACHMENT A

Project Information  
File No. 16-089

1. Applicant: Jonathan Frank  
32640 Pacific Coast Highway  
Malibu, CA 90265  
  
Phone: 310.866.1970
2. Applicant's Agent: Envicom Corporation  
4165 E. Thousand Oaks Blvd  
Westlake Village, CA 91362  
  
Phone: 818.879.4700
3. Project Name: 32640 Pacific Coast Highway Slope Repair
4. Project Location: City of Malibu, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
34.040219	118.885906
34.039954	118.886234
34.03962	118.886395
34.039395	118.886642
34.039619	118.88668
34.039955	118.886642
34.040308	118.886233
34.040058	118.886389

5. Type of Project: Slope stabilization adjacent to a home along Pacific Coast Highway
6. Project Purpose: The purpose of the project is to repair and stabilize eroding slopes that support the south side of PCH and an adjacent residence. The slope erosion is occurring within an incised drainage associated with drainpipes that discharge stormwater from north of PCH, as well as from the roadway and adjacent areas.
7. Project Description: The project will repair erosion of a slope that supports Pacific Coast Highway and an adjacent residence, and replace/extend drainage pipes that convey stormwater from areas north of PCH and along PCH, add slope drainage improvements and vegetate for stabilization. Specifically, the proposed project will:
- Repair the buttress fill that supports the south side of Pacific Coast Highway (PCH) with a new 2:1 slope with 8-foot wide bench drains every 25 vertical feet;
  - Construct a soldier pile retaining wall along the southerly right-of-way of PCH to ensure stability of PCH during construction;

## ATTACHMENT A

### Project Information

File No. 16-089

- Construct a short driveway (approx. 73 ft.) within the PCH right-of-way for Caltrans trucks to pull off of PCH to conduct periodic maintenance/cleanout of the drainage pipe under PCH;
- Repair slope erosion adjacent to the existing residence with a 1.5:1 buttress fill slope;
  - Replace approx. 65 feet of an existing 24" CMP drainpipe draining areas north of PCH with a 30" RCP and extend approx. 62 feet (approx. 127 ft. total). The extended length is needed for the drain to daylight through the proposed PCH buttress fill at the base of the slope repair;
- Replace approx. 53 feet of an existing 10" CMP that drains PCH with a 14" RCP and extend approx. 10.5 feet to connect with the new 30" RCP (approx. 64 ft. total).
- Construct a rip-rap pad velocity reducer at the outflow of the 30" RCP;
- Construct a 3-ft. wide concrete down drain to convey flows from the rip-rap pad at the outflow of the 30" RCP to the south end of the slope repair area (approx. 234 feet) to prevent erosion within the buttress fill;
- Construct a rip-rap pad at the southern (downstream) end of the concrete down drain;
- Construct concrete stairs to provide access to slope repair areas for maintenance;
- Revegetate the slope repair areas.

The proposed project is being performed in conjunction with Caltrans and California State Parks, as both adjacent properties are within the proposed project area. Caltrans has approved of the engineering for this project, as their pipe is leading into the area which has scoured out and now there is significant erosion and the potential for an emergency (imminent threat to a home). In order to develop the stabilization slope, a portion of the State Park property on the northern side of the site will be filled. This fill material placement is necessary to recontour the slopes on either side of this highly erosive canyon which threatens to compromise the existing residence on the southern side. State Parks have agreed for the project to fill in a portion of their property, with the intent to stabilize this canyon.

The project will permanently impact 0.04 acres (319 linear feet) of non-wetland Waters of the State (coincident with Waters of the U.S.). All impacts to Waters of the State would be within the permanent impact area and no additional temporary impacts to jurisdictional waters would occur.

The project will repair erosional areas and stabilize slopes that will reduce currently occurring sedimentation impacts to waters, which will improve water quality in this drainage. The project has minimized impacts to waters by limiting drainage improvements to the areas necessary for slope protections, and will completely avoid the existing downstream wetland area.

## ATTACHMENT A

### Project Information File No. 16-089

In addition, repaired slopes will be stabilized by re-vegetation to hold soils in place.

8. Federal Agency/Permit: U.S. Army Corps of Engineers  
NWP No. 43 (Permit No. 2016-00224-PKK)
9. Other Required Regulatory Approvals: California Department of Fish and Wildlife  
Streambed Alteration Agreement
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302, Replacement or Reconstruction.
11. Receiving Water: Unnamed tributary to Pacific Ocean (Hydrologic Unit Code: 180701040202)
12. Designated Beneficial Uses: MUN\*, REC-1, REC-2, WARM, WILD  
\*Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (streambed): 319 permanent linear feet and 0.04 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 or planned for implementation in the next 5 years.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:  
  
The project would implement BMPs during construction to minimize impacts to waters of the U.S. including staging of equipment outside of jurisdictional waters, inspect/maintain equipment to prevent leaking fluids into waters, placement, inspection, and maintenance of appropriate erosion and sediment controls which may include straw wattles, sandbags, and silt fencing. Any soil stockpile will be placed outside of waters, with BMPs to prevent introducing sediment to waters. The project would not conduct activities in waters during a rain event should one occur.

## ATTACHMENT A

### Project Information File No. 16-089

A temporary stormwater diversion plan will consist of attaching a 14-inch diameter plastic pipe to the existing 24-inch CMP outlet, and a 10-inch diameter plastic pipe to the existing 10-inch CMP outlet to collect flows before they enter the worksite. These plastic pipes will be connected together, with the 14-inch pipe extending the length of the worksite. The 14-inch plastic pipe will be held in place by ropes along the east side of the slope repair area, dropping in elevation to the southern end of the work area, where it will end at the velocity reducing rip-rap pad, which would be constructed first. Once the permanent pipes and down drain are in place, the temporary plastic pipes will be removed.

Following construction, all repaired slope areas will be vegetated for stabilization of soils.

17. Proposed  
Compensatory  
Mitigation:

The Applicant has not proposed any compensatory mitigation.

18. Required  
Compensatory  
Mitigation:

The Regional Board will require mitigation at a ratio of 2:1 for any impacts associated with the proposed project. The mitigation may consist of restoration with planting of native species within the project areas.

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. 16-089

#### 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 maintenance plan or any 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. 16-089

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 the Land Disposal Unit 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 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



## ATTACHMENT B

### Conditions of Certification File No. 16-089

Invasive Species Control; 2011-0004-DWQ, for Spray Applications; 2011-0002-DWQ, for Vector Control; and 2013-0002-DWQ, for Weed Control.

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. 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.
16. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
17. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during 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.
18. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge (ROWD)** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste.
19. 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.
20. All project/ maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
21. 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

## ATTACHMENT B

### Conditions of Certification File No. 16-089

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 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%. A summary of the analyses and compliance above shall be included. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

22. The Applicant shall restore **all acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. Restored areas shall be monitored and maintained with native species as necessary for five years.
23. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.04 acres** of vegetation within waters of the United States by creating or restoring riparian habitat at a minimum **2:1** area replacement ratio (**0.08 acres**). The mitigation site shall be located within the Watershed unless otherwise approved by this Regional Board. The Applicant shall submit a **Proposed Mitigation Report** which shall include:
  - (a) 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.

## ATTACHMENT B

### Conditions of Certification

File No. 16-089

- (b) The type(s) of mitigation shall be described (e.g., removal of exotics and/or replanting with native species, etc.)
- (c) Success criteria shall be established.

**This information shall be submitted to this Regional Board for approval prior to any project activities which take place 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.

24. 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/(project) success/(completion) has been achieved and documented. 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 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.
25. 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.

ATTACHMENT B

Conditions of Certification

File No. 16-089

(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.

26. 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)"

27. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **16-089**. Submittals shall be sent to the attention of the 401 Certification Unit.

28. 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.

29. 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.

30. 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

## ATTACHMENT B

### Conditions of Certification File No. 16-089

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.

31. 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.
32. *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.
33. 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.

